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Senate

The Senate met at 3:13 p.m. and was called to order by the Honorable MARK BEGICH, a Senator from the State of Alaska.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 23, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK BEGICH, a Senator from the State of Alaska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BEGICH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

APPROVAL OF THE JOURNAL OF PROCEEDINGS AND EXPIRATION OF THE MORNING HOUR

Mr. REID. Mr. President, I ask unanimous consent the Journal of proceedings be approved to date, and the morning hour be deemed expired.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—H.R. 4872, S. 3152, S. 3153

Mr. REID. I understand there are three bills now at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bills for the second time.

The legislative clerk read as follows:

A bill (H.R. 4872) to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13).

A bill (S. 3152) to repeal the Patient Protection and Affordable Care Act.

A bill (S. 3153) to provide a fully offset temporary extension of certain programs so as not to increase the deficit, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings, en bloc, to these three bills.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010

Mr. REID. Mr. President, I now move to proceed to H.R. 4872 and ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, if the Chair would indulge me a couple of parliamentary inquiries, which won't delay the process very long.

As I understand it, the budget resolution instructed two Senate committees to report changes in law to reduce the deficit by $1 billion each over the next 5 years. The reconciliation instruction states that they were to report those changes by October 15, 2009, and that those measures are then sent to the Budget Committee to report the final measure. It is my understanding that nothing has been reported to date. Therefore, my inquiry is: Has the Budget Committee reported any reconciliation legislation to the Senate pursuant to the current budget resolution, S. Con. Res. 13?

The ACTING PRESIDENT pro tempore. It has not.

Mr. MCCONNELL. Mr. President, the answer is: No, it has not?

The ACTING PRESIDENT pro tempore. Correct.

Mr. MCCONNELL. Mr. President, one other parliamentary inquiry: My understanding is, each time the Senate has taken up a reconciliation bill on the floor, a Senate committee has reported a bill to the Senate, either through the Budget Committee or directly from the committee instructed. Therefore, my question to the Chair is: Is this the first time in history the Senate will consider a reconciliation even though no Senate committee has reported a bill to the Senate?

The ACTING PRESIDENT pro tempore. It is the first time that the Chair is aware of it.

Mr. MCCONNELL. I thank the Chair.

Mr. REID. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Georgia (Mr. ISAKSON).

The PRESIDING OFFICER (Mrs. GILLIBRAND). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—56

Akaka	Burris	Durbin
Baucus	Cantwell	Feingold
Bayh	Cardin	Feinstein
Begich	Carper	Franken
Bennet	Casey	Gillibrand
Bingaman	Conrad	Hagan
Boxer	Dodd	Harkin
Brown (OH)	Dorgan	Inouye

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Johnson	McCaskill	Schumer
Kaufman	Menendez	Shaheen
Kerry	Merkley	Specter
Klobuchar	Mikulski	Stabenow
Kohl	Murray	Tester
Landrieu	Nelson (FL)	Udall (CO)
Lautenberg	Pryor	Warner
Leahy	Reed	Webb
Levin	Reid	Whitehouse
Lieberman	Rockefeller	Wyden
Lincoln	Sanders	

NAYS—40

Alexander	DeMint	McConnell
Barrasso	Ensign	Murkowski
Bond	Enzi	Nelson (NE)
Brown (MA)	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Gregg	Sessions
Burr	Hatch	Shelby
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Thune
Cochran	Johanns	Vitter
Collins	Kyl	Voinovich
Corker	LeMieux	Wicker
Cornyn	Lugar	
Crapo	McCain	

NOT VOTING—4

Bennett	Isakson
Byrd	Udall (NM)

The motion was agreed to.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

Mr. BAUCUS. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4872) to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010, S. Con. Res. 13.

Mr. BAUCUS. Madam President, for the information of all Senators—and I might ask the Senator from New Hampshire if he agrees—it is probably best to alternate the time back and forth on each side with roughly one-half hour blocks of time, if that meets the approval of the minority.

Mr. GREGG. I would suggest we do that for the first 2 hours, at least until we see how this is evolving. So the first half hour will go to the majority and the second half hour will go to the Republican side.

Mr. BAUCUS. That would be my intention.

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

Mr. BAUCUS. Madam President, this morning President Obama signed a law that will guarantee meaningful insurance reform, such as coverage for people with preexisting conditions. He signed comprehensive health care reform into law. Many of us have dreamed of that day for years. Now it is a fact. Now it is law. Now it is history. Indeed, it is historic. He signed a law that will ensure that average people without insurance will get health insurance choices just as Members of Congress do. This morning, President Obama signed a law that will control the growth of health care costs in years to come.

Today, we have before us a bill to improve the new law. We do not have before us the whole health care reform bill. We do not have to reopen every argument we had over the last 2 years. We do not have to say everything we said about health care one more time. Rather, we have a bill before us that will do a few good things.

We have before us a bill that will improve affordability by increasing tax credits to help pay for insurance premiums—increase those tax credits. We have before us a bill that will help with out-of-pocket costs for lower and middle-income families; that is, to raise the assistance. We have before us a bill that will increase aid to States to help them shoulder the costs of covering Americans under Medicaid. We have before us a bill that will give additional help to States that took extra steps to cover the uninsured before reform took place. Together, these improvements will level the playing field among States under health care reform.

We have before us a bill that will make sure no State is singled out for special treatment. We have before us a bill that will completely close the doughnut hole; that is, the coverage gap for Medicare prescription drug coverage. It is closed by the end of the budget window. We have before us a bill that will start with a $250 increase in Federal assistance toward coverage of the doughnut hole right away, this year, 2010. We have before us a bill that will fight fraud and fight waste and abuse in Medicare and Medicaid.

That is the bill we have before us today. This is not the whole health care reform bill; this is a set of commonsense improvements to that new law signed by the President earlier today. I do not expect opponents of the bill to talk about these commonsense improvements. Frankly, it is pretty difficult to understand why Senators would want to oppose these commonsense improvements. Rather, if this debate is anything like the debate so far, opponents of this bill will try to change the subject. When people look at what health reform really does, they are more likely to support it, when they separate truth from fiction, separate the wheat from the chaff. So I expect that opponents of this bill will try to distract observers from what is really going on.

Rather than talk about commonsense improvements to this bill, opponents will talk about the process. Over the 2 years we have been working on health care reform, there have been many on the other side who have sought to make the debate about process—not about what is in the bill, what improves people's lives, but about the process, the legislative process. They have sought to emphasize how messy the legislative process is—and sometimes it is a bit messy—and, of course, criticizing how Congress works is a heck of a lot easier than improving health care for the American people. Many opponents of health care reform are obsessed with process and procedure.

I am much more focused on the people whom health care reform will help. I am focused on people such as Pat and her late husband Dan from Lincoln County in the northwestern corner of Montana.

Pat and Dan used to have a ranch in southwestern Lincoln County. Dan was the fourth generation of his family to run the ranch. He grew up on the ranch, and he worked very hard every day of his life.

In 2000, the doctors told Dan he had Hodgkin's lymphoma, but Pat and Dan did not have health insurance. Dan never took a handout, and Pat and Dan thought they could handle their bills on their own. That is the way they had always lived. That is the way a lot of people—I daresay most people—live. Then the medical bills started piling up. Swallowing his pride, Dan made what he called the hardest decision of his life: he filed for Medicaid. The State told him the only way they could be eligible for Medicaid was to put a lien on their ranch. As Dan's medical bills piled out of control, Pat and Dan were forced to sell their land. Pat said the cancer ravaged her husband's body. But selling their ranch to pay for medical costs broke his spirit. That is why we need to enact health care reform.

Most bankruptcies in America these days are related to medical costs. Just think of that: Most bankruptcies in America today are related to medical costs. No one in America should have to sell everything they have, no one should have to go bankrupt just to pay medical bills.

But I am not going to let the opponents' charges about the process go unanswered either. The idea that health care reform has been some sort of rush job is a total myth. It is a myth that deserves busting.

The facts are, the Finance Committee and the HELP Committee—committees with jurisdiction on health care reform—each went through a full and transparent process to consider health care reform legislation. By that I mean fully open, totally open to the public at all points. This has been the fullest and most transparent process for any major piece of legislation in memory.

I might say, a journalist once approached me about a year ago and said: Senator, are you starting a new trend with such openness and such transparency, putting all the amendments on the Web, 8 days' notice; is that a whole new approach the Senate is going to pursue from now on?

I said: I don't know, but I think it is the right thing to do today. From the start, I wanted us to develop a bipartisan consensus package. I wanted to work together. When someone gets ill or gets cancer, he or she is not a member of one party or the other. It is personal. We have to work together. That is what the American public wants. That is what I tried so hard to do. I wanted a bill that would have broad political support across the political spectrum.

There has been a long tradition in the Republican Party in favor of comprehensive health care reform. That tradition stretches back to Theodore Roosevelt, to Richard Nixon, to Bob Dole, and to John Chafee. I believe what we set out to do and what we have done fits comfortably within the tradition of what those Republican leaders sought to do.

We began almost 2 years ago. On May 6, 2008, we held our first hearings in a series on health care reform. In fact, the Finance Committee held 11 hearings in a series in 2008 alone. We held those hearings to help Senators come to a commonsense understanding of the health care crisis; to help explain why we are in such a crisis, what needs to be done, how the various parts of our health care system work, and what parts do not work. I held these hearings purely from an educational point of view, not an ideological point of view. I held them to educate all of us on the committee to get us ready for 2009. It was clear to me this Congress was going to work very hard and pass health care reform. We sought in the last Congress to lay the groundwork for passing the bill in this Congress.

On June 16, 2008, nearly 2 years ago, Senator GRASSLEY, my good friend and ranking member of the committee, and I convened a bipartisan health reform summit at the Library of Congress. We called it ''Prepare for Launch, Health Care Reform Summit of 2008.'' Chairman Ben Bernanke was there. Other notables were there. It was a full-day conference with members of the Finance Committee from both sides of the aisle to help us better understand how to solve our health care reform crisis. I was very impressed that all day long most Senators stayed. Late in the afternoon, I counted a majority of Senators on both sides still there asking questions of experts.

Senator GRASSLEY and I have brought some of the best minds in the country together to discuss health care reform. Senators from both sides of the aisle have engaged in open and constructive discussion.

Then right after the 2008 election, on November 12, 2008, this Senator released an 89-page blueprint on health care reform. I have it right here. We named it ''Call to Action: Health Reform 2009.'' It was a comprehensive framework for health care reform. We posted that blueprint on the Internet for all to read.

The ideas in that white paper reflected the broad consensus of thinking among health care efforts. We searched far and wide. What is the best thinking; what do other countries do. While looking at what other countries do, we clearly wanted to come up with a uniquely American solution. We are America. We are not Canada. We are not Great Britain. We are not Ireland. We are America. We spent about $2.5 trillion on health care in America with public Medicaid, Medicare, and the Children's Health Insurance Program and private, commercial health insurance. I wanted to maintain that same balance with a uniquely American solution. They are reflected in this white paper.

The ideas in that white paper remain the foundations of health care reform that became law this morning. That is a strong statement to make, but it is true—almost all the ideas all committees on both sides of the Congress have enacted and what are in the bill the President signed today.

Of course, there are changes here and there. But the basic foundation in that white paper—this white paper right here that was put together in November 2008—remains the foundation of the health care bill that became law this morning.

The ideas behind our health care reform legislation have been available for all Senators and the public to consider for more than 16 months.

The Washington Post called our white paper ''striking in both its timing and scope.'' The Washington Post said:

> Rarely, if ever, has a lawmaker with his clout moved so early—eight days after the election of a new president—to press for such an enormous undertaking.

Then in April and May of last year, Senator GRASSLEY and I released three bipartisan health care reform policy papers on the three major areas of reform. What are they? First, delivery system reform; second, insurance coverage; and third, options for financing. Once again, we made these papers public and posted them on the Finance Committee's Web site.

Senator GRASSLEY and I convened three open, televised bipartisan roundtable discussions with experts on those subjects. We held several day-long meetings of Finance Committee Senators to discuss the topics of those policy papers.

On April 20, 2009, the New York Times reported:

> In setting forth detailed ''policy options'' and inviting public comment, Mr. BAUCUS and Mr. GRASSLEY set a precedent for openness.

On May 18, 2009, the newspaper Politico reported on our efforts to build consensus. Politico said that my ''frequent progress reports to reporters always include some discussion of keeping peace in the delicate alliance of Republicans, Democrats, industry, labor, physicians and consumer advocates.''

That is so true. From the outset, I worked hard to keep all the groups talking to each other. That was a shortcoming back in the early nineties when health care reform fell apart, when the groups proposed the bills. By ''the groups,'' I mean consumer groups, hospitals, labor, medical device manufacturers, nursing homes—all the groups. I called up their CEOs and kept talking with them constantly: What do you think? A problem here? Let's make an adjustment. Stay at the table. Don't walk away from the table. Suspend judgment for 5 minutes. Let's find a way to put this together that is in everybody's best interest, America's best interest, if this passed.

I had more than 142 meetings, both one on one and in groups, to discuss health care reform with Senators on both sides of the aisle. In all, those meetings added up to more than 150 hours of discussions.

I tried to work out a bipartisan package with the Finance Committee. I started, as I always do, with the ranking Republican member of the Finance Committee, my good friend, CHUCK GRASSLEY. Since the Finance Committee and the HELP Committee share jurisdiction over health care, Senator GRASSLEY and I agreed we wanted to include the ranking Republican member of the HELP Committee, MIKE ENZI, and our colleague, JEFF BINGAMAN, who is also a member of both those two committees. As well, we reached out to the chairman of the Budget Committee, KENT CONRAD, and the ranking Republican member of the Small Business Committee, Senator OLYMPIA SNOWE, both of whom are also members of the Finance Committee. Both Senators CONRAD and SNOWE have a long history of working across the aisle to reach a consensus. We also reached out to Senator Kennedy, then-chairman of the HELP Committee. We had meetings with him, all the relevant chairmen and ranking members together, meeting over in the other part of the Capitol with Senator Kennedy. How gracious he was and how he wanted to work together. He was not trying to do it for Ted Kennedy but for people who needed health care. It was very touching.

It ended up we had a group of six Senators—three Democrats and three Republicans. We worked hard. We rolled up sleeves and plowed through the issues. We met 31 times for 63 hours over the course of 4 months.

Many have said we met too long. Many said I should have broken up my discussions with my colleagues. But I wanted to go the extra mile. I wanted to try. I wanted to bend over backwards. I wanted to do everything I could to reach a bipartisan consensus. Why? Because that is the right thing to do.

That group of six Senators came very close to an agreement. We did not end up reaching an agreement among all six of us, but I took the product of those bipartisan discussions, areas of tentative agreement, and made them the starting point for our committee markup; that is, the group of six helped forge through immense hours of discussing major improvements on our thinking.

We converted that product into a committee mark. I made that mark public and posted it online on the Finance Committee's Web site on September 16, 2009. That was a full 6 days before the markup and 4 days longer than committee rules require.

For the first time in history, on September 19, the Finance Committee

posted online every amendment submitted to the clerk. We posted the full text of all 564 amendments. Members of the committee and the public had 3 days to review the amendments and prepare for the markup.

Our Finance Committee markup stretched over 8 days. They were fully public. We worked well past 10 p.m. on most of the those days. The markup was the longest that the Finance Committee has conducted on any bill in 22 years.

Prior to the markup, I accepted 122 amendments as part of a modified chairman's mark; 26 of those amendments incorporated into the mark came from Republican colleagues.

During the markup, the committee considered 135 amendments. The committee accepted 41 amendments and rejected 55.

On October 2, 2009, a full 11 days prior to a committee vote on the bill, I posted online the mark, as amended.

On October 13, 2009, the Finance Committee ordered the bill reported by a bipartisan vote of 14 to 9.

The majority leader then melded the Finance Committee and HELP Committee work products into a single bill. The majority leader moved to proceed to the bill on November 19 of last year. We had a full and open debate on the bill on the Senate floor, and on December 24 of last year, Christmas Eve, more than a month later, the Senate finally passed health care reform.

I have taken some time to detail the long legislative history of this effort, and I did so because I believe that any fair observer of this legislative history will draw three conclusions: One, we tried mightily to work with our Republican colleagues to reach a broad consensus bill. We went the extra mile. We bent over backwards, and for a variety of reasons, our Republican colleagues simply did not want to be part, in the end, of this effort.

Two, nobody rushed this bill. This has been a full and deliberative process—about 2 years. There is no way that health care reform was ''rammed'' through the Congress. No way. Not true.

Three, we have conducted a process more open than for any other major piece of legislation in the modern Senate. But opponents of the bill have tried to raise as many charges as they can. They have tried to throw as much mud at this effort as they can, hoping that something sticks.

Their latest attack has been to criticize the use of the budget reconciliation process for the bill before us today. Some have charged that using reconciliation is somehow unusual. They argue that using budget reconciliation for health care is somehow unheard of. And they argue that we never use reconciliation for major bills. Nothing could be further from the truth.

Is reconciliation unusual? The answer is clearly no. Budget reconciliation is a pretty common process in Congress. Since Congress began using the budget reconciliation process in 1980, some 30 years ago, Congress has passed some 23 reconciliation bills—23 in the last 30 years. Thus, most years have seen reconciliation bills. It is an exceptional year that Congress does not pass a reconciliation bill.

What about health care? Is health care something unusual for reconciliation? Once again, the answer is no.

The nonpartisan Congressional Research Service took a survey of the 22 reconciliation bills that made it through Congress to the President's desk. Of those 22 reconciliation bills, CRS, the Congressional Research Service, identified 12 of them with titles or other major legislative components pertaining to Medicare or Medicaid Programs. In other words, most reconciliation bills have addressed health care. Once again, it is the exceptional case where a reconciliation bill does not contain health care matters.

What about major health care legislation? Is major health care legislation in reconciliation unusual? No. Once again the answer is no. CRS counted the number of pages in the law books on health care that the reconciliation process has put there. It was not a small number. CRS found that bills enacted using the reconciliation process contributed some 1,366 pages on health care to the Statutes at Large. CRS found that the average reconciliation bill with health care in it contributed some 124 pages to the Statutes at Large.

Pages in Statutes at Large have more words than bills do, so these pages reflect far more pages than in bill text.

Let's consider some of the major changes through health care that Congress has enacted in the last 30 years. There is COBRA, a health insurance program for people who lose their jobs. Congress enacted the COBRA health insurance program as part of a reconciliation bill. COBRA stands for the Consolidated Omnibus Budget Reconciliation Act—reconciliation. A Republican-controlled Senate passed the COBRA health insurance program as part of reconciliation in 1986. Since then, three later reconciliation bills have amended the COBRA continuation coverage rules. Congress changed COBRA in reconciliation bills in years 1989, 1990, and again in 1993.

Another one of the largest health care expansions that Congress enacted in the last 30 years was the Children's Health Insurance Program, otherwise known as CHIP. Once again, we enacted it—you got it right—in reconciliation. Congress enacted CHIP as part of the Balanced Budget Act of 1997. Once again, it was a Republican-controlled Senate that passed the Children's Health Insurance Program as part of reconciliation in 1997.

Then there is the Medicare Advantage Program. Medicare Advantage, or Medicare+Choice they called it then, was a major change in Medicare, introducing private insurance companies into the system. Once again, a Republican-controlled Senate passed that in reconciliation in 1997.

It is hard to think of a major health insurance expansion that has not involved reconciliation. Sure, there were some. But it is an exceptional case where Congress enacts major changes to health care outside of reconciliation. When you think about it, that makes more sense. Congress created the budget reconciliation process to affect the budget, and any competent budget economist will tell you that health care cost growth is the biggest financial challenge facing our Nation. The President and other commentators on our fiscal plight make that statement repeatedly.

If you want to address the budget in a significant way you need to address health care. Health care is exactly what the budget process was designed to address.

Why did Congress create the budget process this way? Simple: Congress created the budget process so that Congress could make fiscal policy with a simple majority vote. The Congress that created reconciliation wanted to ensure that future Congresses could vote budget matters up or down, yes or no. Is it unusual for anything this large to have been passed in reconciliation? Once again, the answer is no. In terms of dollars and cents, the biggest reconciliation bill by far was the 2001 Bush tax cuts. The 2001 reconciliation bill worsened the deficit by more than $550 billion over the first 5 years. That was a reconciliation bill.

Not far behind was the 2003 Bush tax cut. That reconciliation bill worsened the deficit by more than $430 billion over the first 5 years.

In terms of policy changes, it is hard to match the two Bush tax cuts. But another measure that came close was the 1996 welfare reform bill. Once again, that was a reconciliation bill. The 1996 welfare reform bill was the most sweeping revision of poverty programs since the Great Society. Once again, that reconciliation bill was passed by a Republican-controlled Senate.

It is hard to say that we have not done big things in reconciliation. In sum, it is not as though we sneaked health care reform through the Senate. We passed it with an exhaustive open process and the Senate passed health care reform with a supermajority. We passed it with 60 votes.

Now all that remains to be done to complete health care reform is an up-or-down vote on this final bill. This last step in the health care reform deserves to get a simple majority vote. That is all that needs to be done to finish the job of reforming health care.

Let me return to what this bill would do. This bill would help to make health care more affordable for people who do not have it and improve upon the Senate bill which the President signed this morning. We do it for people such as

Carmen and her daughter Merilee, from Paulson, MT. Carmen had insurance, but she still had problems with coverage and costs. Before March 2008, Carmen had insurance with a $5,000 deductible. She found herself avoiding care because of the high deductible. She and her daughter Merilee waited until they knew they needed help before they went to a doctor—certainly, with a deductible that high, $5,000. At one point Carmen's daughter contracted a urinary tract infection. Wanting to avoid the high deductible, Carmen and her daughter decided to wait a day and see how it goes, but her daughter did not get better. She needed to get care. Since it was Saturday and there was no urgent care open for 50 miles, the only option was to go to the emergency room. The hospital bill to Carmen was for $500, but her insurance company refused to pay it. Carmen appealed, asking them to pay the $70 insurance would normally pay for urgent care and Carmen would pay the remaining balance, but her insurance company still denied her claim.

When Carmen broke her fingers, her insurance company refused to pay for treatment. The insurance company paid only for x rays, even though Carmen was entitled to $650 of first-dollar coverage for accidents. Carmen paid for her own treatment, but she gave up on the therapy because it cost too much. Carmen's fingers will never fully heal.

In March 2008, Carmen switched to another insurance company and lowered the deductible to $2,500. Remember, the last policy was a deductible of $5,000. Last month, Carmen received notice that her premiums would go up by about 32 percent. Carmen will have to keep her premiums down by decreasing her coverage. It is a strategy she has been using for years.

We fight for health care for people such as Carmen and Merilee. We fight for health care for people such as William and Erinn, from Red Lodge. Erinn lost her father William when he was only 59 years old because their insurance company denied and delayed his bone marrow transplant until it was too late. William taught school for more than 30 years. He thought he had good insurance through his retirement package. The doctors told William he had leukemia, but the doctors were able to treat it with oral chemotherapy for a long time.

In 2002, the doctors determined that William would need more advanced chemotherapy. He underwent chemotherapy as long as he could and then the doctors determined he would need a bone marrow transplant. The insurance company paid for all the preparations, testing, and treatment leading up to the transplant, but the insurance company denied the procedure itself.

Mr. President, I note I am running out of my half hour here. Let me say I will conclude here by noting that this is why we fight for people. This is why this health care bill is before us, for people such as Carmen and Merilee, Pat, and many people across this country who deserve much better. We are at the very end here, about to pass this legislation. The President signed the bill this morning. This is just to make it even a little bit better. It is a normal process, an open process. I urge all my colleagues to quickly pass this and help a lot of people and get on to other matters.

I thank the Chair.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from New Hampshire.

Mr. GREGG. I wish I could stand here and agree with the Senator from Montana. I wish as I looked at these bills that passed the House, and now we are getting the trailer bill, the buy-it bill, the bill that was used to purchase the votes in the House to pass the big bill, so I could say: America's children are going to be better off; that the people who have health care issues in this country are going to be better off. But that is impossible to say.

Why is it impossible to say? Because this bill as it passed the House was an atrocity. It was an explosion of government the likes of which we have never seen in this country. It grows the Government by $2.6 trillion and in the process it will interfere with almost every American who has private health insurance and how they get their insurance. It will take Americans who have health insurance today and it will push them out of that health insurance as the small employers across this country decide they can no longer afford it. It will say to Medicare recipients: We are going to cut your Medicare by $1 trillion when this is fully implemented—$1 trillion. We are going to take that money and we are going to use it to fund a brandnew entitlement over here for people who are not on Medicare, who are not seniors, and we are going to use it to expand other entitlements for people who are not on Medicare and who are not seniors.

Then the Medicare recipients who have seen their program reduced by $1 trillion are going to be left with a program that remains on a path to insolvency, a path which will inevitably lead to lesser quality of care for people who get Medicare because providers will find themselves forced out of the system. People who are on Medicare Advantage will virtually find that insurance plan is eliminated.

This bill has a lot of major problems, the big bill that passed the House. Now we get this trailer bill, this buy-it bill, which was used for purposes of getting votes in the House. This bill aggravates the fundamental problems of the bigger bill the President signed today. This bill adds more costs, creates more taxes, and will reduce Medicare's viability in a more significant way. Yet it is called good policy. It is very hard to understand that.

When you look at these bills as a combination, especially when you put them in the context—thrown on this train was the nationalization of the student loan program, where 19 million students today are going to be forced into the process of getting their loans through the Federal Government instead of through their local banks, their community banks. When you look at this in that context, what this bill is about—and the President has been very forthright about this—it is a massive explosion in the size of the government, growing the government for one fundamental purpose: because this administration believes a bigger government creates prosperity.

We do not believe that on our side of the aisle. We believe there are a lot of good things that could have been done to make health care better. I have offered a proposal to do that. Other Senators—Senator BARRASSO has a proposal to do that. They would have all addressed the health insurance issues of making sure that everybody could get coverage if they have a preexisting condition. All these strawmen that are being thrown up as the reasons why this bill had to be passed would have been taken care of if a more reasonable bill had been passed. But what would not have happened would be this massive explosion in the size of the Federal Government which we will inevitably pass on to our children, a government they cannot afford.

Under this bill, the cost to the Federal Government, which has traditionally been about 20 percent of our gross national product, will jump up to about 25, 26, or 27 percent of our gross national product. It will be unaffordable as a result of this.

But they claim they pay for it. The way they claim they pay for it primarily is to cut Medicare by $1 trillion when fully implemented. This seems fundamentally unfair to the people on our side of the aisle. We all recognize that Medicare has serious problems. It has a $36 trillion unfunded liability.

We all recognize that Medicare recipients depend on that program. So if we are going to adjust Medicare payments, cut them as they do in this bill, eliminate programs such as Medicare Advantage for all intents and purposes, then those savings, as a matter of fairness, should stay with the Medicare system. I mean, that is what should happen. Those savings, which are huge in this bill—and I respect the fact that my colleagues on the other side of the aisle stepped up and made this massive attempt to cut Medicare. That was quite a decision on their part. But what they did was they took these savings, which should have gone to giving senior citizens a stronger and more vibrant program, they took them and they started a brandnew program and brandnew entitlements and expansions of other existing entitlements, none of which have anything to do with Medicare or senior citizens. So essentially they are funding this program, in large part, on the backs of the seniors of this country without doing anything substantive which will, in the long run, have made Medicare more solvent. In

fact, they basically doubled down on the problem because we know Medicare is headed into insolvency, and then they created these new entitlements.

We know the record of the government around here on the issue of entitlements. We always underfund them. The promises are made, but they are never kept. So this will all end up rolling into a giant ball, like a huge, massive asteroid headed to Earth which is basically going to land on our children's head as debt. That is what we have headed toward us here.

We already know we have a government we cannot afford. The debt of this country is going to double in the next 5 years under the President's budget, and it is going to triple in the next 10 years. The President's budget is going to get to a level of unsustainability within 5 to 7 years. We are already seeing the warning signs. The Chinese are telling us they might not want to buy our debt, and they are the ones who are financing us. Moody's says we may have to have our ratings looked at. Even Warren Buffett's debt today, this week, for the first time, sold at a better premium than U.S. debt. What does that mean? People have more confidence that Warren Buffet will pay them back than the United States. It is a pretty serious sign when the United States is supposed to be the best creditor in the world.

What this bill does at its core on fiscal policy is to radically expand the size of government. And we all know it will not be paid for, so we all know it will significantly—probably radically—expand the debt our children are going to bear. Inevitably, we are not going to pass on to our children a healthier country fiscally; we are going to pass on to our children a sicker country fiscally. Are we going to get better health care for it? I seriously doubt it.

I think we will hear from Dr. BARRASSO about how he sees this affecting health care, and other Members of our side of the aisle who have some expertise in this area. Inevitably, when you start these major government programs, which essentially amount to quasi-nationalizations of different areas of the American economy, you end up with less quality. It is inherent in having the government run things.

So the first amendment we are going to offer here today is to try to straighten out this incredible inequity we would be paying for these new entitlements for uninsured Americans and for people on Medicaid with senior citizens' dollars by cutting the Medicare Program by over $1 trillion when fully implemented. So we have an amendment which essentially says this: You cannot reduce the Medicare spending if CBO cannot tell us that the other expenditures in this bill are paid for with something other than Medicare. It is a hard-and-fast commitment that Medicare savings will go to benefit Medicare, and that should be our purpose.

AMENDMENT NO. 3567

I know some of my other colleagues wish to talk on this issue. First, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. COBURN, proposes an amendment numbered 3567.

Mr. GREGG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To prevent Medicare from being raided for new entitlements and to use Medicare savings to save Medicare)

At the end of subtitle B of title I, add the following:

SEC. _____. PREVENTING THE IMPLEMENTATION OF NEW ENTITLEMENTS THAT WOULD RAID MEDICARE.

(a) BAN ON NEW SPENDING TAKING EFFECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Health and Human Services are prohibited from implementing any spending increase or revenue reduction provision in either the Patient Protection and Affordable Care Act or this Act (referred to in this section as the ''Health Care Acts'') unless both the Director of the Office of Management and Budget (referred to in this section as ''OMB'') and the Chief Actuary of the Centers for Medicare and Medicaid Services Office of the Actuary (referred to in this section as ''CMS OACT'') certify that they project that all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts will be offset by projected gross savings from the Health Care Acts.

(2) CALCULATIONS.—For purposes of this section, projected gross savings shall—

(A) include gross reductions in Federal spending and gross increases in revenues made by the Health Care Acts; and

(B) exclude any projected gross savings or other offsets directly resulting from changes to Medicare made by the Health Care Acts.

(b) LIMIT ON FUTURE SPENDING.—For the purpose of carrying out this section and upon the enactment of this Act, CMS OACT and the OMB shall—

(1) certify whether all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts, starting with fiscal year 2014 and for the following 9 fiscal years, are fully offset by projected gross savings resulting from the Health Care Acts (as calculated under subsection (a)(2)); and

(2) provide detailed estimates of such spending increases, revenue reductions, and gross savings, year by year, program by program and provision by provision.

Mr. GREGG. I have defined what the amendment's purpose is: to make sure that Medicare reductions in this bill, things that directly impact seniors, such as reducing their provider payments, so probably fewer doctors will see them, or eliminating things or dramatically reducing Medicare Advantage—if we are going to do that as a Congress, those savings have to go to benefit Medicare, not to create new programs no matter how worthy they may be.

I see many of my colleagues rising wishing to talk about this. I ask unanimous consent to be able to proceed as if in a colloquy.

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

The Senator from Tennessee.

Mr. ALEXANDER. If I might ask a question of the Senator from New Hampshire, the President's budget said it would cost $371 billion over 10 years to properly pay for doctors who see Medicare patients. I believe the Congressional Budget Office says the number was over $250 billion. Can you imagine a comprehensive health care bill that improves Medicare without paying doctors to serve Medicare patients? Can you then explain to me how you can possibly say the bill does not add to the Federal deficit if it does not include paying doctors to serve Medicare patients?

Mr. GREGG. Well, the Senator from Tennessee has asked an excellent question, which is, How can you pass a health care reform bill and leave off the reform that is necessary to pay the doctors to see their patients and claim you are actually covering the cost of health care? And CBO has scored that at about $250 billion, maybe as high as $350 billion. It is simply ignored. It is as if paying doctors is not part of health care reform, and therefore it has been ignored by the majority. But if you wanted to properly score the cost of this bill, you have to add back in that $250 to $350 billion. Obviously, that puts them in a very tight debt situation, deficit situation, even under the gamesmanship which was used to get to the score in the first place, which, as we all remember, was you score it 10 years of income, 10 years of taxes, 10 years of spending cuts, against 6 years of actual programs. That is how they got the score they claim. The real score on this bill is $2.6 trillion of new spending, and it is a massive expansion of the deficit, much of which will be caused by the failure to fix the doctor issue.

Mrs. HUTCHISON. Mr. President, I would ask the Senator from New Hampshire how it is that we can cut back on Medicare for our seniors, and I would like for him to talk about the impact especially on rural hospitals because rural hospitals serve a larger number, percentage-wise, of Medicare patients. In my home State of Texas, 29 percent of all of our hospitals are located in rural areas.

I received a letter from the Texas Organization of Rural and Community Hospitals, which represents 150 rural hospitals in the State, saying: We fear the Medicare cuts, as proposed, could disproportionately hurt rural hospitals, which are the health care safety net for more than 2 million rural Texans.

I would ask the Senator from New Hampshire if, in his State and from what he is hearing from other States, they are likewise concerned about the impact on our rural residents who are

Medicare patients and the cuts to hospitals that are going to be really disproportionate when you look at the big picture, and for what purpose? Fewer people served, and that is supposed to be health care reform?

Mr. GREGG. Well, the Senator is absolutely right. This is going to have a huge impact, especially on rural hospitals that have heavy Medicare populations because those populations will find their providers are no longer able to make enough money to exist.

We actually have one of the leading Members of the Senate here, who is a doctor, who provided health care in a rural setting and is just recently out of the field, so to say, who might be able to comment, to add even more expertise on that.

Mr. BARRASSO. I would absolutely like to do that because Wyoming clearly is a rural State, long distances between patients and the hospitals.

This Sunday, just 2 days ago, I was visiting the Elk Horn Valley Rehab Hospital in Casper, WY, down the road from the Wyoming Medical Center, to see a friend of mine, Ted Lee. Ted is now in his eighties. Ted is a veteran of World War II. Ted actually drove a Jeep for Eisenhower, who was a general at the time, and Ted has been back to Washington as part of the Honor Flights, as we honor our World War II veterans.

Ted had fallen at home on the Wyoming ice and snow and had broken his hip. His wife Jackie called my wife Bobbi and me at home over the weekend to say: Ted is in the hospital. Would you stop by?

Ted is a terrific guy. I repaired his shoulder. I operated on his leg, when, at the age of 70, he jumped from an airplane to show he could still jump out of a plane with a parachute. And I replaced both of Jackie's knees. I know these people like family.

I went to the hospital to see Ted, and he said: What are those people in Washington thinking? What are they thinking?

Ted is very sharp. He said: I paid in. I fought for my country. I put my money into Medicare. Why are they taking my Medicare money, not to save Medicare but to start a whole new government program—a whole new government program for people who did not pay into the system, did not fight for their country, on and on. What is wrong with the people in Washington? What are they thinking? Don't they realize that it is our money, we paid in, we are expecting care, and now all of a sudden they are going to take Medicare money and start a new government program.

Ted said—and he knows; this is a guy who follows us—they are going to take it from the hospitals, and he had just been in the hospital; they are going to take it from Medicare Advantage, $120 billion, because there are a lot of people in Wyoming who see the advantages of signing up for Medicare Advantage; they are taking it from the home health care agency, and Ted is likely to need home health care help when he gets home. It is a lifeline to allow him to stay out of the hospital and at home. He also knows it is going to cut a lot of money from nursing homes. We are trying to keep Ted out of a nursing home. But he understands clearly that these Medicare cuts are going to affect doctors, hospitals, nursing homes, home health agencies, even hospice providers, and all of that money is going to be taken away not to save Medicare, which he knows is going to be broke in 2017, but to start a whole new government program.

When we get to the specifics of rural hospitals and rural health—and I see my colleague from Nebraska, who is a former Governor of Nebraska.

There was a front-page story in the New York Times a few months back: ''For Elderly in Rural Areas, Times Are Distinctly Harder.'' Times are distinctly harder. And they quote a woman from Oshkosh, NE, who says: ''One foot in the grave, the other sliding.'' One foot in the grave, the other sliding.

So I ask my colleague and friend from Nebraska, who has served as Governor—lots of rural areas in Nebraska—in Nebraska does the Senator see these same concerns where folks here in Washington are taking money away from our seniors on Medicare, money they depend on for their health care, to start a whole new government program? And it is fundamentally not right, and that is why we are bringing this amendment.

Mr. JOHANNS. I so appreciate the opportunity to speak to this issue because this is enormously important for our rural States.

We took a look at this bill. We tried to give it a good, fair look in terms of its impact on Nebraska. If I might, let me cite some statistics, and you can repeat these statistics whether you are in Texas or Tennessee or Wyoming or wherever. Two-thirds of our home health agencies, if this bill—well, this bill became law today—two-thirds will be operating in the red by 2016, home health agencies. So what does that mean? Here is what it means: Back home in Nebraska, if you are in a major city such as Omaha, Lincoln, Kearney, whatever, it appears to me that you are probably going to get through this pretty reasonably. However, if you are in a rural area, you are going to lose service. They are going to pull in on the services to these rural areas. Why? Because they can't afford to send a home health person out 50 or 75 or 100 miles.

We asked ourselves, What would be the impact of this bill on nursing homes? Again, we have rural nursing homes all over our State. This is exactly what has happened in other States. People want to spend their elderly years in their community or near their community. These nursing homes are fighting to stay open today; they will take a $93 million hit. We are going to have nursing homes close in Nebraska.

Hospitals and hospice will also experience major reductions.

To those Nebraskans who are on Medicare Advantage, 35,000 Nebraskans are going to see a cut in the amount of money they receive only exacerbated by what we are talking about today.

If I might, let me anticipate an argument. I know, because you have been watching this, somebody from the other side is going to say: Come on, MIKE. This is the way it works. We extend the life of Medicare.

The Actuary in CBO has looked at that, in a rather amazing analysis, and said: Yes; right. What you are doing is double counting the same dollar. This comes from CBO, but I can take the same from CMS. CBO said: The key point is, the savings to the HI trust fund, under the Patient Protection and Affordable Care Act, would be received by the government only once, so they cannot be set aside to pay for future Medicare spending and at the same time pay for current spending.

That is exactly what they have tried to do here.

Mr. GREGG. If the Senator will yield on that point, CBO also says: In effect, the majority of the HI trust fund savings, under the big bill which was signed today and the reconciliation proposal which we are dealing with today, would be used to pay for other spending and, therefore, would not enhance the ability of the government to pay for the future of Medicare benefits.

The amendment we have at the desk does the opposite. It will allow us to use any savings to pay for Medicare benefits and enhance the strength of the trust fund.

Mr. JOHANNS. That is exactly why I stand here today—to bring honesty to the accounting. If you bring honesty to the accounting, you can see what we are doing to the American people.

A former CBO Director recently said: Fantasy in, fantasy out. They will only score what is laid in front of them. They had this gimmick laid in front of them which is what they had to score. I applaud what this amendment does because what it is saying is: Let's cut through all this. Let's score this honestly. If we have savings in Medicare, let's keep that money in Medicare. Believe me, that is the right way to go about this. This idea of double counting the same dollar makes no sense whatsoever.

Mr. GREGG. The Senator is right. It is important to note that one program under Medicare will be absolutely devastated. I understand Texas has a lot of people in that program. Maybe the Senator from Texas could speak to that.

Mrs. HUTCHISON. The Senator from New Hampshire is correct. That is why I strongly support the amendment at the desk. The bill will wipe out Medicare Advantage, make no mistake about it. Texas has 500,000 people who pay into Medicare Advantage because

it gives them extra things that they don't get under Medicare, such as eye care and eye glasses and things that are so important. In fact, what is so interesting about the bill before us, the reconciliation bill, is it actually increases the cuts in Medicare Advantage over and above what was in the Senate bill.

Mr. GREGG. It takes that money out of Medicare and uses it to fund a new entitlement for people who are not on Medicare and have never paid into Medicare.

Mrs. HUTCHISON. Exactly; taking away way from seniors who tried to do something a little bit better for themselves, mostly in rural areas. It cuts them even more than the Senate bill the President signed today: $200 billion in cuts to Medicare Advantage. It will obliterate the Medicare Advantage Program for so many of our seniors, in the millions across the country. In fact, here is a statistic: Between 2003 and 2007, more than 600,000 beneficiaries in rural areas joined the Medicare Advantage Program, a 420-percent increase in Medicare Advantage, because seniors saw it was a better deal for them and they decided to take it.

Mr. ALEXANDER. I wonder if I might ask the Senator from New Hampshire, I hear it often said by supporters of the bill, which became law today, that we on the Republican side are overstating it when we say there are Medicare cuts. Don't I remember that the Director of the CBO testified that fully half of those on Medicare Advantage would see their benefits cut by a bill such as the one that became law today? Don't one out of four recipients of Medicare subscribe to Medicare Advantage? Can we not expect for at least one out of those four Medicare Advantage beneficiaries to have their benefits affected by this law?

Mr. GREGG. The Senator is absolutely right. The original number under the original bill was 11 million seniors would lose their Medicare Advantage. That number has to go up now because, if this bill passes, it increases the cut to Medicare Advantage. Again, it takes that money and funds bringing people onto the system who don't have insurance coverage today but who are definitely not seniors and who have never paid into the Medicare trust fund.

I see the Senator from Idaho rising. Does he wish to speak?

Mr. RISCH. Mr. President, I came to the floor to join in this. I can't understand this. It amazes me that the other side thinks the American people are so stupid that they are going to believe you can take $500 billion out of Medicare and that it is going to be good for the American people and that it is going to be good for the system. In addition, what has been discussed about this phony smoke-and-mirrors accounting, the American people understand this. Most importantly, we have heard from the American people over and over: Don't touch our Medicare. When they say ''our Medicare,'' they mean our Medicare. This isn't a gift from the Federal Government. There was a bipartisan coalition of Republicans and Democrats who brought the Medicare system online in America. They made a contract with the American people. If you work, you are going to contribute into the Medicare trust fund, and your employer is going to contribute into the Medicare trust fund. It is going to be there for you to be used when it is necessary for Medicare purposes.

My office is flooded with phone calls saying: You politicians, leave your hands off our Medicare.

I have watched this process over the years and have seen people try to raid Medicare for substantially less than what we are talking about here. We are talking about $½ trillion that is being stolen from Medicare. Where is the media on this? They tout this bill, that it will do this and it will do that. Nobody ever talks about the downside of a $½ trillion theft from Medicare. The American people are smart. They understand what is being done.

Anyone who supports this is going to pay the price for this in November. I guarantee you, your seniors at home, even young people and people who are middle-aged who are looking forward to Medicare are going to ask: Did you vote to steal money from my Medicare?

You better be ready to answer that question. Don't give them an answer with the smoke and mirrors, that by double accounting somehow taking $½ trillion out is going to make Medicare better. The American people are smarter than this. You are going to find that out this fall.

Mr. GREGG. Remember, the only way that can be avoided, the only way this bill and the bill that was just passed today, signed today by the President, can be kept from taking Medicare funds to fund new initiatives that have nothing to do with Medicare, such as insurance fraud and the expansion of Medicaid, is to pass this amendment. This is it. If you don't vote for this amendment, then you are voting to raid Medicare for the purpose of using that money for some other purpose which has nothing to do with Medicare. Basically, you are funding this bill on the backs of seniors.

How much time do we have remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. GREGG. I know the Senator from Tennessee wanted to conclude.

Mr. ALEXANDER. Mr. President, I conclude by congratulating the Senator from New Hampshire for a very straightforward amendment. As I understand it, it says: If you are going to take any money out of Medicare, it has to be spent on Medicare.

Mr. GREGG. That is correct.

Mr. ALEXANDER. It can't be spent on some new government program.

Mr. GREGG. You can't create a new program until you can prove it is paid for with something other than Medicare money.

Mr. ALEXANDER. You have reemphasized that $½ trillion is coming out of Medicare and that it will affect the benefits of one-fourth of those who have Medicare Advantage. What you are trying to do is simply say: If there are savings in Medicare, spend it on Medicare because Medicare is going broke. This will help keep it solvent.

Mr. GREGG. That is the only fair thing to do for the seniors of America who are facing a system which has a very significant unfunded liability and which they paid into for all their lives and have a right to assume will be solvent and not have it used as a piggy bank for other programs which the other side of the aisle thinks are important but which have nothing to do with Medicare.

As I understand, the Democratic side now has a half hour and then we have a half hour.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Montana.

Mr. BAUCUS. Senator HARKIN wishes to speak, but allow me to make a few points clear. The amendment offered by the Senator from New Hampshire is a killer amendment. It kills the bill. It is that simple. It basically is an amendment that kills the health care bill that just became law that the President signed this morning. This is a debate we had when we were on the bill. The Senate has already considered the arguments made by the Senator from New Hampshire and others. The Senate decided against those arguments. The Senate has decided to pass health care reform, as has the House of Representatives, and the President signed it. So this, in a certain sense, is a stale argument. This is an argument after the bill has already been passed. It makes more sense to make these arguments beforehand, not after.

Second, what is the effect? Let me read from the amendment. It says: The Secretary of the Treasury and the Secretary of Health and Human Services are prohibited from implementing any spending increase/revenue reduction provisions in the bill just signed by the President unless certain conditions occur. That means no spending to fill the doughnut hole. That means seniors will still have to spend more on drugs. That means no spending to help States cover Medicaid expenses for the expanded population. That means States will be left high and dry. That means no primary care payments to primary care physicians, whether it is Medicaid or Medicare. That means no tax credits for Americans who are struggling to buy health insurance. That means no payments to help struggling Americans make the out-of-pocket costs. It makes no sense. This is an example of why this is a killer amendment.

I strongly urge my colleagues to recognize we have had this debate already. This is not new. They have not said anything new. This debate occurred while we were considering health care reform. The Senate has considered

those arguments, has listened to those arguments. We debated this amendment already back and forth. The Senate decided by a vote not to accept those arguments. So we are talking about something that is history. It has already passed. In a certain sense it is irrelevant.

On the other hand, this amendment is relevant on reconciliation. This amendment is an attempt to kill the bill. I strongly urge my colleagues to reject this amendment.

Don't forget, our bill includes financial incentives for doctors and hospitals to collaborate and coordinate care for seniors. I thought that is something we wanted. This amendment says: No, you can't do that. We can't come up with financial incentives for doctors and hospitals to collaborate. This does not happen often enough in Medicare today. We need to have more collaboration. We need doctors and hospitals to work better together. We need some demonstration systems. We need pilot projects to help us find ways to better pay doctors and hospitals based on quality of care and less on quantity of care. There is nobody who disagrees with that statement, at least nobody who has given a lot of thought to health care reform. This amendment would stop that. It would prevent us from trying to find a way to reduce health care costs which are eating us alive, eating up family budgets, eating up company budgets and also public budgets, in terms of Medicaid and Medicare, unless we get health care costs under control. The way to do that is to change the delivery system. I think that is the game changer in the bill; frankly, one of the most important parts of the bill. But—no, no, no—this amendment says you cannot do that. You cannot begin to take the steps necessary in the long term to start reducing health care costs.

Our bill also—the underlying bill, which this amendment would kill—reduces Medicare spending by reducing hospital readmissions. I thought we wanted to do that. I thought we wanted to reduce the hospital readmissions. This amendment would, in effect, say: No, you cannot do that.

Better coordination of care again means patients do not have to come back to the hospital because of complications, because of allergies and problems post surgery. What else does the underlying bill do? It keeps more money in the Medicare accounts by making smart reforms to the program. Fewer funds will be spent simply by paying doctors for quality of care and not quantity of care—by cutting out wasteful overpayments to providers and private insurance companies that do not add value to patients, and by creating an innovation center within the Medicare Program so that groundbreaking ways to deliver health care better are discovered more often and put in place without delay.

That is a very important point. We need to have, by creating an innovation center within the Medicare Program, groundbreaking ways to deliver better health care. We have to spend some money on these new demonstration and pilot projects so we can have a much better health care system.

Mr. President, I now yield the remainder of the time in this half hour to the chairman of the HELP Committee. I yield time under control on the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, thank you very much. I thank Chairman BAUCUS for yielding me this time.

I listened with great interest to the distinguished senior Senator from Montana as he recounted the extraordinary lengths to which Democrats went on his committee in soliciting bipartisan Republican support in the drafting of the health reform bill in the Finance Committee.

On both the Finance Committee, which Senator BAUCUS chairs, and on the Committee on Health, Education, Labor, and Pensions, which I chair, the majority party insisted on a process that was consistently open, transparent, and inclusive.

At every step, the Democratic majority acted in good faith. Republican Senators were fully involved during public committee hearings and markups, as well as in private discussions and negotiations. The ideas and amendments of Republican Senators helped to shape the substance of the bill in a multitude of ways.

In the HELP Committee, in 2008 and 2009, we held 47 bipartisan meetings on health reform, including 14 bipartisan roundtables, 13 bipartisan committee hearings, and 20 bipartisan walkthroughs on the bill.

Then the HELP Committee spent nearly 3 weeks during June and July marking up the bill—June and July of last year. To be exact, our markup spanned 13 days and a total of 54 hours. We went out of our way to accommodate our Republican colleagues who offered over 200 amendments. We accepted 161 Republican amendments on our bill. By any standard, this was an extraordinarily open and inclusive process.

I must point out that Democrats in good faith and in the best spirit of bipartisanship insisted on this inclusive process, despite numerous public statements by some Republican Senators to the effect that their game plan was to delay and obstruct and filibuster and kill the bill. Indeed, the junior Senator from South Carolina famously said:

> If we're able to stop Obama on this, it will be his Waterloo. It will break him.

Even in the face of that, we said, nonetheless, that is just one person. We are going to have an open and inclusive process.

Many critics have said that Democrats pursued inclusion and bipartisanship to a fault. They have criticized us for consuming many months negotiating with Republicans, accepting their amendments, accommodating their ideas and objections, even in the teeth of their public declarations that they intended to kill the bill.

For the record, I am proud of the fact that we went the extra mile to include Republican Senators and to incorporate their ideas and input. It was the right thing to do, even if the hand of cooperation and bipartisanship we extended was rejected.

With passage of the Patient Protection and Affordable Care Act, the 111th Congress has made history, just as previous Congresses did in 1935 by passing Social Security and in 1965 by passing the law creating Medicare. Each of those bills marked a giant step forward for the American people, and each was stridently opposed by defenders of the status quo. But in the end, a critical mass of Senators and Representatives rose to the historic occasion. They voted their hopes and not their fears. And—as we now know in retrospect—they passed laws that transformed America in profoundly positive ways.

The health reform law President Obama signed earlier today will also transform America in profound and positive ways. Indeed, it already has. Despite all the talk recently about how our Nation has become divided and ungovernable, we have proved not only that we are governable, but also that we still have the capacity to take charge of our destiny and to act with boldness and vision.

One prominent commentator said passage of the health reform bill is ''a victory for America's soul.'' I could not agree more. Yet this new law is fully paid for. Indeed, it helps to reduce the deficit by $143 billion in the first decade, and by a whopping $1.2 trillion in the second decade. That is deficit reduction.

Yes, this new law includes important and long overdue measures to crack down on abuses by health insurance companies—abuses that leave all Americans, including those with insurance, just one illness away from financial catastrophe. No longer will health insurance companies be able to cancel your insurance when you get a serious illness. No longer will they be able to impose lifetime caps or annual caps on their payoffs. No longer will they be able to systematically discriminate against women by charging higher premiums just because—just because—you are a woman. No longer—once this bill becomes fully operational—will they be able to deny coverage based on preexisting conditions.

In addition, the new law includes a whole array of provisions promoting wellness, prevention, and public health—something I have personally championed for many years. This will finally begin to change the paradigm from our current sick care system to a true health care system—one that keeps people healthy and out of the hospital in the first place. This bill will begin to recreate America as a wellness society, focused on healthful lifestyles, good nutrition, physical activity, and

preventing the chronic diseases that take such a toll on our bodies and on our budgets.

There has been a lot of talk about bending the cost curve in health care, and there have been a lot of different ways people have suggested on how we bend the cost curve. Quite frankly, I think the one biggest way we are going to be able to bend the cost curve is by focusing more on prevention. We know how to do it. We know it works. We know it saves money. We have good data on this. If you do not believe me, ask Pitney Bowes and what they did to their bottom line. Ask Safeway corporation what happened to their bottom line in terms of health care costs when they put in place widespread prevention and wellness policies. So we have private companies out there that are doing wonderful things we could be doing nationwide, and we can have the same kind of savings nationally for America as these private companies have for their bottom line.

There is one more critical reform in this new law. It includes the Community First Choice Option, which represents a major advance in allowing people with disabilities and older Americans with chronic conditions to remain in their homes and with their family and community. It will increase access to medical examination and diagnostic equipment designed to accommodate people with disabilities.

Here I want to speak to all of my friends in the disability community in America. After the passage of the Americans with Disabilities Act in 1990, the next big hurdle was to break down the discrimination that exists in Federal law that pertains to people who are eligible for institutional care but who would rather live in their own homes and in their communities. Right now, under Federal law, if you qualify for institutional care, Medicaid must pay for that—must pay for that. If, however, you do not want to live in an institution, and you want to live on your own, near your friends or your family in the community, Medicaid does not have to pay for that. Yet we know that for every one person in a nursing home, we can support three people with disabilities living in the community.

So we have tried ever since 1990 to change this. We had the first bill in the mid-1990s. It was called MiCASSA, the Medicaid Community-Based Attendant Services and Supports Act. We tried for a long time to get that. We could never get it done. Then in the last few years, we changed the name of it to the Community Choice Act, and we still could not get that done.

Last year, at about this time, I paid my first visit to President Obama in the White House. I wanted to have a personal meeting with him to talk about this one issue; that if we are going to do health care reform, we cannot leave people with disabilities behind, and the one thing that matters most is to ensure that people with disabilities have their own choice about where they want to live. If they want to live in an institution, fine. But if they would rather live by themselves in the community, with their family and their friends, they ought to have that choice. President Obama agreed with that, and so began the long process.

There is one part of the bill that not too many people know about. I say to my friends in the disability community, we have finally overcome the obstacle. In this bill is the Community First Choice Option, which will allow the Federal Government—beginning in October of 2011—to begin to pay to States an increased part of their Medicaid payment so people with disabilities can choose where they want to live—not where the government tells them they have to live.

To me, this is a profound change in how we are going to treat people with disabilities in our society. This is one of the landmark disability rights parts of this bill, and not too many people know about it. But I think after the signing of the bill today, people in the disability community all over America will know it is in there.

So these are important landmark reforms that benefit all Americans. But, as a commentator put it, the new health care reform law is also a victory for America's soul. At long last, we are realizing Senator Kennedy's dream of extending access to quality affordable health insurance to every American. We are ending the last shameful bastion of legal discrimination and exclusion in our country.

I have stated this before when people said: What are you talking about, discrimination, well, over the decades, we have outlawed discrimination in our country on the basis of race, color, national origin, based on gender. We have outlawed discrimination also based on disability with the Americans with Disabilities Act in 1990. But until now—think about it—it has been perfectly legal to discriminate against our fellow Americans because of illness, because of sickness—to exclude tens of millions of our citizens from decent health care simply because they cannot afford it. Think about that.

I hear some people talking about setting up pools: They are going to have a pool here and a pool here—a pool for the elderly, a pool for high risk—a pool here and a pool there; different people get in these different pools. My friends, that is nothing more or less than blatant discrimination. Are we not all one American family? That is what we said when we passed the Americans with Disabilities Act. This is our family. It should not be shunted aside, separated out. We said the same thing on the basis of race years ago with the Civil Rights Act, on the basis of gender, national origin.

With the signing of the bill today, we have said no longer are we going to discriminate against people because they are sick. Think about that. No longer are we going to discriminate against people simply because they are sick. This is a profound change in the way we are going to deal with each other as a society.

So when President Obama signed that bill this morning, he set in motion a series of changes that will tear down these last barriers of discrimination and exclusion. That truly is a great moral victory. And it is a victory for America's soul. It is a victory that every American can be proud of.

On that score, I certainly include our Republican friends. In the end, not a single Republican in either the House or the Senate voted for health care reform. I say that is unfortunate. But, make no mistake, Republican ideas are much a part of this new law. In our committee, the HELP Committee, which I chair, Republicans were full-fledged participants, as I said. They offered 210 amendments. We accepted 161—many of them making substantive contributions to the bill.

As others have pointed out, our national health reforms are similar in many respects to the very successful reforms undertaken by Republican Governor Mitt Romney in the Commonwealth of Massachusetts.

I fully predict that, as with Social Security and Medicare, the changes in the new health reform law, as they become better known and take effect, will win overwhelming bipartisan support among the American people.

In the near term, however, it is disappointing that some Republican legislators—I think maybe taking their cue from the more extreme voices on talk radio or Fox TV—are pledging to repeal this new law. In fact, the distinguished minority leader, the Republican leader, a couple of weeks ago in a press conference said if we pass this bill, their motto was going to be ''Elect Republicans and We'll Repeal It.'' This strikes me as bad public policy and, quite frankly, bad politics.

Do Republicans really want to repeal the ban on denying insurance coverage due to preexisting conditions? Do they really want to repeal the ban on insurance companies cancelling your policy if you get sick? Do they really want to repeal the ban on annual and lifetime benefit payments? Do they really want to repeal the dramatic shrinking of the doughnut hole? Do Republicans really want to take away from the American people the fact that now in law your child can remain on your policy until the age of 26? Do they want to take that away from you? Do they want to take away from you the right you have now—the right under law—that no matter how sick your child gets—maybe born with a disability, maybe born with an illness—the insurance company cannot discriminate against your child based on a preexisting condition? That is the law of the land. Do Republicans really want to take that away from you?

I would strongly advise against these scorching tactics. This health reform

bill has been passed and signed into law. It is now time for the bitter partisan rancor to stop. It is time to move forward united as an American people, just as we did on Social Security and Medicare. It is time to put politics aside and put our country first.

Today we have before us this reconciliation bill that includes a number of modifications to strengthen the reform bill President Obama signed earlier today. The bill he signed earlier today was the exact same bill we passed on Christmas Eve of last year. But there is something else. This reform bill also includes reforms in the student lending program that in their own way are also profound and historic.

Let me mention a few of these provisions that will build on the new health reform law. This reconciliation bill will make health insurance—as Senator BAUCUS said earlier, all families between 133 percent and 400 percent of poverty will see lower health care costs. The bill will shrink and notably do away with the doughnut hole in the Medicare prescription drug program. We have new provisions cutting back on waste and fraud in Medicare and Medicaid. In fact, these are some ideas proposed by Republicans at the White House summit, and we put it in the bill. It increases funding for community health centers by $2.5 billion, new consumer protections for employer-provided health plans that are grandfathered in by the health reform law.

In addition, the bill includes a provision that is critically important to ensuring that our health care providers and hospitals are fairly reimbursed. Many folks know Medicare varies reimbursement based on geography. That means many rural States such as Iowa, Oregon, Arkansas, Minnesota, and many others are reimbursed at much lower rates than urban areas regardless of the quality of the services they provide. This bill helps to right that, to address the geographic disparities, both for doctors and hospitals. In addition, we have received a written guarantee from Health and Human Services Secretary Kathleen Sebelius for further action to reform Medicare reimbursement rates.

This will finally move us to a fairer, more effective reimbursement model that emphasizes quality over quantity. I said this reconciliation bill includes both health care and education provisions. The education title of the bill includes landmark provisions to make college more affordable and accessible. It does so by eliminating tens of billions of dollars in wasteful subsidies to banks, redirecting most of that money to low-income college students in the form of increased Pell grants. The status quo in student lending is just incredibly wasteful. It is like a bizarre Rube Goldberg process that makes no sense.

Think about the present system. The Federal Government pays fees to private banks to make entirely risk-free loans using taxpayer money. The loans, which are already guaranteed by the Federal Government, are then sold back to the Federal Government. The banks pocket tens of billions of dollars—taxpayers' dollars—in fees and totally risk-free profits. This is a brazen case of corporate welfare—a huge government giveaway to bankers and to Sallie Mae. It is time to end it. This bill does. Simply put, this bill cuts out the middleman, saves $61 billion over the next 10 years, and gives it to students. The remainder we have invested, as I said, in more generous Pell grants.

We reduce the deficit by $10 billion. We have deficit reduction in here. We increase the Pell grants from now, from 2010 to 2017, from $5,550 to $5,975, and then we put in a cost-of-living increase on Pell grants based on the Consumer Price Index. This $36 billion includes an investment of $13.5 billion right now for the Pell grants—right now—to fill a hole in the Pell grant. That would increase student aid this year for students going to college, low-income students who need that help. It also invests $2.5 billion in Historically Black Colleges and Universities. It also provides money to student services so they can support students and give them the support they need to stay in school and to graduate—money to help nonprofits do that.

So, again, this reconciliation bill builds on and strengthens the health reforms signed into law by President Obama today. As I have said many times in the past, I look upon the health care bill we passed in December as a starter home, something on which we can build now and in the future. We make modifications now, and we will make them in the future. We can always make modifications. It is a bill, a law. We can make changes as we go along. So we are making some of those fixes today to bridge some of the differences between the House and the Senate, to make some needed changes.

The Congressional Budget Office, again, says deficit reduction will be $143 billion in the first decade, an additional $1.2 trillion in the second decade—big deficit reductions.

I am sorry the Republicans seem to take pride in their reputation as the party of no. We all remember William F. Buckley's conservative motto; William F. Buckley, the father of the conservative movement. He said: The role of conservatives is ''to stand athwart history yelling stop.'' Well, that is exactly what our Republican colleagues did by filibustering and trying to kill health care reform. That is exactly what they are trying to do now—to obstruct and kill this reconciliation bill. But it will not succeed. We are going to get the reconciliation bill done. We are going to get it passed, and we are going to move beyond. We are going to move beyond the rancor and the bitterness and bring our American family together. We will bring them together so everyone is guaranteed the right to health care and that we stop the abusive practices of the health insurance industry we have seen in the past.

So, by any measure, this bill is good for the American people. It is good for students. It is good for our colleges, our community colleges, our private colleges in getting rid of the guaranteed loan program and going to a direct loan program. It is also good for the health of the American people.

As I said at the beginning, this bill is good for the soul of America. It is good to remind us that we are, once again, an American family; that no one should be discriminated against simply because they are sick or have an illness or because fate has dealt them a blow by becoming disabled. That is what this bill is about more than anything else. It is time to get on with it, get it passed, and move on.

I yield the floor.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Montana.

Mr. BAUCUS. Madam President, how much time is remaining on this half-hour block?

The PRESIDING OFFICER. No time remains for the Democrats.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, we are about to hear from Senator MCCAIN who has an amendment dealing with a number of these special deals that are in this bill. First off, this bill is an outrage on the body politic to begin with, the way it was handled. It was drafted in a secret room, behind a secret room, behind a hidden door somewhere over on the majority side. It was brought out on Saturday night, put on our desks. We were told we had to vote on it on Christmas Eve. Then it was sent to the House. The House didn't get to amend it. They sent it to the President. But in order to get it passed in the House, they had to do this trailer bill which we are dealing with tonight, and which I call the buy-it bill, where they went around and bought votes. A lot of votes were bought around here using the buy-it bill method.

Senator MCCAIN has sort of been the conscience of the Senate on this type of issue, where there are targeted benefits for special States which aren't appropriate and have nothing to do substantively with the bill. Therefore, we should address those openly. We haven't had a chance to do that because our side has never been allowed to amend anything around here on this bill of any substance.

So it is Senator MCCAIN's intention, when he gets here, to offer an amendment dealing with one of these, or maybe a series of these situations where there were special deals cut which have been given certain names, such as the ''Cornhusker kickback'' and the ''Louisiana purchase'' and the Florida ''Gator aid.'' So I believe that is what Senator MCCAIN is here for, and we are looking forward to it because it is appropriate that we bring out into the light these deals which no American had a chance to participate in

other than that small cadre in that small room—as I said, the hidden room behind the hidden room behind the hidden door.

Certainly, they didn't go through any committee, these deals. They didn't come across the floor of the Senate, these deals, and they didn't go through the floor of the House, and they should be voted on as to whether they are appropriate.

Mr. ALEXANDER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. GREGG. Madam President, I ask unanimous consent to proceed as in a colloquy.

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

Mr. ALEXANDER. Madam President, could Senator MCCAIN be allowed to lead the colloquy? I ask unanimous consent that Senator MCCAIN be allowed to lead the colloquy.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ALEXANDER. Madam President, I am glad to see the Senator from Arizona who has been a consistent proponent of openness in government. I heard the Senator from New Hampshire say that a lot of these sweetheart deals hadn't been voted on. I wonder if we may have a chance to vote on them soon, I ask the Senator from Arizona.

Mr. MCCAIN. Madam President, I thank my friend from Tennessee. May I say I am going to offer an amendment that would remove some of the remaining sweetheart deals. To be honest with my colleagues, I don't think we are going to find out all of what was in this 2,733-page legislation for a long time.

As you know, it is that size, and it takes an expert, even though I read the bill, to go from one point to another. For example, it took us a long time to figure out that the State of Connecticut has a $100 million deal to build a hospital in Connecticut.

Now, you wouldn't know that at first glance, but after going through it, you figure out it is there. There are a lot of provisions in this 2,733-page piece of legislation that we will find, but we are going to try to get rid of some of them in this amendment, which is, by the way, a commitment I thought had been made but obviously was not.

The most egregious have been removed. The ''Cornhusker kickback'' has been removed, and I believe the ''Gator aid'' provision has been removed as well. But we certainly have a number of others that remain in the bill, and we will be finding them in the future.

I ask my colleague from New Hampshire, is it in order for me to propose the amendment? What is the parliamentary situation?

Mr. GREGG. As I understand it, the majority would like to see the amendment, which is certainly reasonable. We will give them a copy of the amendment, and then hopefully at the end of our debate time we will be able to set my amendment aside. We will get a copy.

Mr. MCCAIN. I say to my friend from New Hampshire, while we are on the subject, it is not only the sweetheart deals that are carved out for individual Members, the latest being additional Medicaid funding for Tennessee hospitals, which was just added, I understand, within the last 48 hours or so, but there is also the part that is really hard for us to amend, as I am sure the Senator from New Hampshire knows—for example, the PhRMA deal, the deal that was cut for the pharmaceutical manufacturers.

The Senator from New Hampshire may remember that back in August, there was a story in the New York Times:

> Drug industry lobbyists reacted with alarm this week to a House health care overhaul measure that would allow the government to negotiate drug prices and demand additional rebates from drug manufacturers.
>
> In response, the industry successfully demanded that the White House explicitly acknowledge for the first time that it had committed to protect drug makers from bearing further costs in the overhaul. The Obama administration had never spelled out the details of the agreement.
>
> ''We were assured: 'We need somebody to come in first. If you come in first, you will have a rock-solid deal.' '' Billy Tauzin—

By the way, I understand he has a salary of over $2 million a year—

> the former Republican House member from Louisiana who now leads the pharmaceutical trade group, said Wednesday: ''Who is ever going to go into a deal with the White House again if they don't keep their word? You are just going to duke it out instead.''
>
> A deputy White House chief of staff, Jim Messina, confirmed Mr. Tauzin's account of the deal in an e-mail message on Wednesday night.
>
> ''The president encouraged this approach,'' Mr. Messina wrote. ''He wanted to bring all the parties to the table to discuss health insurance reform.''

I say to my friend from New Hampshire, while we are awaiting approval of this amendment from the other side, how many deals were cut with PhRMA? What were the deals cut for the AMA? What were the deals cut with the hospital association? What were the deals cut with all these other organizations that have caused Americans to be so unhappy with this process we have gone through?

There really is not any way, I say to my colleague from New Hampshire, that I can amend the PhRMA deal. We tried to have drug reimportation from Canada. We tried to have pharmaceutical companies compete for Medicare recipients. As Mr. Tauzin said:

> ''We were assured: 'We need somebody to come in first. If you come in first, you will have a rock-solid deal' ''. . . .

I don't know whether it was the President found himself on the road to Damascus or what caused the conversion from then-Senator Obama who strongly supported drug reimportation from Canada for prescription drugs to the administration now opposing it.

AMENDMENT NO. 3570

Anyway, I understand my amendment has been agreed to.

I call up the McCain-Burr-Coburn amendment.

Mr. GREGG. I believe the Senator has to set my amendment aside.

Mr. BAUCUS. The Gregg amendment is already pending. I understand Senator MCCAIN would like to ask unanimous consent that the pending amendment be set aside so that his amendment could then be in order. If so, I have no objection.

The PRESIDING OFFICER. Is there an objection to setting aside the pending amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3570.

Mr. MCCAIN. Madam President, I ask unanimous consent that the reading of the amendment dispensed with.

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

The amendment is as follows:

(Purpose: To eliminate the sweetheart deals for Tennessee, Hawaii, Louisiana, Montana, Connecticut, and frontier States)

At the end of subtitle F of title I, add the following:

SEC. 1502. ELIMINATION OF SWEETHEART DEALS.

(a) REPEALS.—Effective as if included in the enactment of the Patient Protection and Affordable Care Act, the following provisions are repealed:

(1) SWEETHEART DEAL TO PROVIDE TENNESSEE WITH MEDICAID DSH FUNDS.—Clause (v) of section 1923(f)(6)(A) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(A)), as added by section 1203(b) of this Act.

(2) SWEETHEART DEAL TO PROVIDE HAWAII WITH MEDICAID DSH FUNDS.—Clause (iii) of section 1923(f)(6)(B) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(B)), as added by section 10201(e)(1)(A) of the Patient Protection and Affordable Care Act.

(3) SWEETHEART DEAL TO PROVIDE LOUISIANA WITH A SPECIAL INCREASED MEDICAID FMAP.—Subsection (aa) of section 1905 of the Social Security Act, as added by section 2006 of the Patient Protection and Affordable Care Act.

(4) SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.—Section 10324 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(5) SWEETHEART DEAL GRANTING MEDICARE COVERAGE FOR INDIVIDUALS EXPOSED TO ENVIRONMENTAL HAZARDS IN LIBBY, MONTANA.—Section 10323 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(6) SWEETHEART DEAL FOR A HOSPITAL IN CONNECTICUT.—Section 10502 of the Patient Protection and Affordable Care Act.

(b) ELIMINATION OF SWEETHEART DEAL THAT RECLASSIFIES HOSPITALS IN MICHIGAN AND CONNECTICUT TO INCREASE THEIR MEDICARE REIMBURSEMENT.—Section 3137(a) of the Patient Protection and Affordable Care Act, as amended by section 10317 of such Act, is amended—

(1) in paragraph (2)—

(A) by striking ''FISCAL YEAR 2010'' and all that follows through ''for purposes of implementation of the amendment'' and inserting ''FISCAL YEAR 2010.—For purposes of implementation of the amendment''; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (3).

Mr. MCCAIN. Madam President, I thank my colleague, the Senator from Montana, for his courtesy.

This amendment removes some of the remaining egregious sweetheart deals contained in the health reform legislation. It removes the following items from the health reform legislation: additional Medicaid funding for Hawaii hospitals; additional Medicaid funding for Tennessee hospitals; the ''Louisiana purchase'' provided special Medicaid funding for Louisiana; special Medicare funding primarily for reclassified hospitals in Michigan and Connecticut; the UConn proposal that provides $100 million for a Connecticut hospital; the frontier funding provision providing new Medicare money for Montana, South Dakota, North Dakota, and Wyoming; the provision allowing for certain residents in Libby, MT, to participate in a new Medicare Program.

Let me say that I believe many of these proposals, including the Libby, MT, proposal, may be worthwhile, but what are they doing in a health care reform bill? What is the purpose except to put in a special deal for a favored group? They may need this help. They may possibly very badly and urgently need it. It seems to me, if that were the case, we could make that argument and provide the people in Libby, MT, the ability to participate in a Medicare Program as it stands. It is something that is not in keeping with health care reform.

The funding for Hawaii hospitals is there.

I want to say a word about the ''Louisiana purchase.'' The Senator from Louisiana comes down and forcefully and very convincingly argues that this is very needed for the State of Louisiana, and Louisiana was hit by Hurricane Katrina. I point out that the State of Mississippi was also hit and devastated by Hurricane Katrina, but we do not have anything in here for the State of Mississippi. I know the Governor of Mississippi would argue that the devastation on the Mississippi coast was equally as terrible as that for Louisiana. Instead, we have $300 million providing special Medicaid funding for Louisiana.

There are also States, including my own, that have suffered devastating acts of God, acts of nature also from time to time.

Here we are at the eleventh hour with a situation where there are still these backroom deals done that possibly we could address with an amendment. The other deals we cannot because they were side agreements, such as the pharmaceutical companies I just read from, such as the deal with the American Medical Association, the ones with the hospitals, the others that were cut in order to get Members to come on board and support this legislation. This provides for an opportunity to remove these provisions from the bill.

Comments made by Senator REID's office:

You will find a number of States are treated different from other States. That's what legislation is all about. It's compromise. We worked on a number of things to get different people's votes. There are many things you will look at in this legislation and say: I wonder why that happened? A lot of times you think something was done and, oh, that's how you got their vote. Most of the time, that's really not true. Some of the time it is.

If I could quote to my colleagues again the recent article from March 21 called ''Inside the Pelosi Sausage Factory,'' I quote from the Wall Street Journal article:

Never before has the average American been treated to such a live-action view of the sordid politics necessary to push a deeply flawed bill to completion. It was dirty deals, open threats, broken promises and disregard for democracy that pulled ObamaCare to this point, and yesterday the same machinations pushed it across the finish line . . .

As for those who needed more persuasion: California Rep. Jim Costa bragged publicly that during his meeting in the Oval Office, he'd demanded the administration increase water to his Central Valley district. On Tuesday, Interior pushed up its announcement, giving the Central Valley farmers 25 percent of water supplies, rather than the expected 5 percent allocation. Mr. COSTA, who denies there was a quid pro quo, on Saturday said he'd flip to a yes.

Florida Rep. Susan Kosmas (whose district is home to the Kennedy Space Center) admitted that in her own Thursday meeting with the president, she'd brought up the need for more NASA funding. On Friday she flipped to a yes. So watch the NASA budget.

Democrats inserted a new provision providing $100 million in extra Medicaid money for Tennessee. Retiring Tennessee Rep. Bart Gordon flipped to a yes vote on Thursday.

Outside heavies were enlisted to warn potential no votes that unions and other Democrats would run them out of Congress.

The list goes on and on.

Again, eight times the President of the United States said in the campaign that all negotiations on health care reform would be conducted with C–SPAN cameras in the room. He said: We will find out who is on the side of pharmaceutical companies, who is on the side of the voters. Unfortunately, these deals were made out of the view of the C–SPAN cameras—in fact, behind closed doors.

This is a pretty simple amendment. I repeat, it removes the additional Medicaid funding for Hawaii hospitals; additional Medicaid funding for Tennessee hospitals; the ''Louisiana purchase;'' special Medicare funding primarily for reclassified hospitals in Michigan and Connecticut; $100 million for a Connecticut hospital; the frontier funding provision providing new Medicare money for Montana, South Dakota, North Dakota, and Wyoming; and the special provision for Libby, MT.

I know, again, that people will stand and defend each one of these provisions. They are provisions that were not allowed or provided to every other State in America. That is what makes them a special deal. That is what makes Americans think that the way we do business around here is not in their interest. It makes Americans believe we are cutting these deals in order to secure votes. Whenever these deals are cut, then the residents of other States are the ones who foot the bill.

I hope my colleagues will consider this amendment and remove all of these remaining provisions. I cannot assure my colleagues or my constituents that we have found them all, but at least it is a step in the right direction.

Mr. GREGG. Will the Senator yield for a question?

Mr. MCCAIN. I will be glad to.

Mr. GREGG. It seems to me that what the Senator is trying to do is get back to what the other side claimed they were doing, which is health care reform. What the Senator is trying to do is take out of this health care bill a lot of special walking-around money events that did not have anything to do with health care reform; they just had to do with getting a vote—getting a vote here, getting a vote there. If they were going to do real health care reform, then it should rise and fall of its own weight. It should not require that these special deals be put in there to get a vote, should it?

Mr. MCCAIN. I believe all of my colleagues are of the highest integrity, honorable people. I respect and admire their service to their States and the Nation. But there is no doubt, I say to my friend from New Hampshire, there is no doubt that these kinds of provisions in a 2,700-page piece of legislation create the appearance that some States are favored over others because of either the influence of their elected representative or in order to secure those votes. That is the appearance the American people have when we find these earmarks in legislation which are somehow inserted without votes, without debate, without discussion, and there they are.

Mr. GREGG. I guess my point is, independent of these amendments, Members should be able to vote on this bill up or down without these amendments in it. These amendments are extraneous to health care reform. The core of health care reform has nothing to do with any of these amendments. As the Senator from Arizona says, they may be worthwhile in some instances, but they are not tied to the purpose of this bill, which was allegedly health care reform; isn't that correct?

Mr. MCCAIN. I totally agree. Again, I pointed out a short time ago—as in the day before yesterday—what was the rationale for adding $100 million in extra Medicaid money for Tennessee? Why, after a year of debate and discussion on this, all of a sudden $100 million extra for Medicaid is deemed necessary for the State of Tennessee? This is what arouses the suspicion of the American people, I say to my colleague.

There will be a stout defense of every one of these. But the point is that if they are done in the regular authorization and appropriations bills, and certainly not in the name of health care

reform, they are extra money. Where is the reform in $100 million for a hospital in Connecticut? What does that have to do with reform? Nothing.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time to the Senator from Wyoming?

Mr. MCCAIN. I yield to the Senator from Wyoming such time as he may consume.

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. BARRASSO. Madam President, it is a privilege to be here on the floor with my colleague from Arizona because he talks so well on this topic and he knows it so very well. He knows how to read this legislation and look through the nooks and the crannies.

I will tell all of you and my colleagues that I spent some time Sunday visiting my friend, a veteran from World War II, in the hospital. He broke his hip and he is recovering and he is bothered by a lot of things. He said what are the people in Washington thinking? He is recovering from his surgery and he said why are they taking my Medicare money to start a new government program and how in the heck did they get all of those votes that they needed to get this bill passed? He said has it been vote buying, sweetheart deals, a culture of corruption in Washington?

Those are the questions being asked by people all around this country which is why this bill, when it was brought to the floor in the House, what we have seen is that half of the people of America are vehemently opposed, strongly opposed to the bill and fewer than one in four supports it.

The thing that touched the nerve of the American people before Christmas was the ''Cornhusker kickback.'' That actually has not been taken out of the bill. What they have done is said let's spend more money and give that same special sweetheart deal to other States around the rest of the country. So that actually is still in there. Yet the President said we are not going to have any special deals. It happened when Senator MCCAIN and I were at the White House for this summit and Senator MCCAIN asked the specific question of the President, he said, What about all these deals.

He said they should come out.

Yet we see today that not only have many of those deals not come out, there is a whole list of additional sweetheart deals put in to get this bill through the House of Representatives. The people of Wyoming are asking why.

Mr. GREGG. Will the Senator from Wyoming on that point yield because I think he has made a very important point. I was not at the summit but I would like the Senator from Arizona to relate to us what the exchange was with the President on the issue of those sweetheart deals because I think if the President's position is they should be out and they don't have anything to do with the fundamental reform exercise, shouldn't they be out?

Mr. MCCAIN. I would say to my friend, I had the exchange with the President specifically over the so-called ''Gator Aid'' amendment because 330,000 citizens of my State were enrolled in Medicare Advantage who are going to be placed at a great disadvantage because we had carved out a special provision for 800,000 citizens of Florida who were under the Medicare Advantage Program.

By the way, I remind my colleagues that I proposed an amendment to remove that on this floor from that bill. Does anybody really believe that if it had not been for the publicity surrounding these special deals that they would have voluntarily taken out the 800,000-person carve-out for the State of Florida? I do not think so because I proposed an amendment to take it out and it was defeated. It was kept in on a party-line vote.

Fortunately I brought it up at the White House with the President and the President agreed it was not a good idea. So, after voting to keep it in, after defeating an amendment that—I tried to remove it—fortunately there was enough publicity, there was enough focus on it that it forced them to take it out.

Unfortunately, there is not enough focus on the hospital in Connecticut and these other provisions which are special deals.

Mr. BARRASSO. So here we are. We are looking at a bill, in my opinion, having practiced medicine for 25 years, taking care of families all across the State of Wyoming, that is fundamentally going to be bad for patients, bad for providers, our nurses and our doctors, and bad for payers, the people who are going to pay the bill, the American taxpayers. That is why Warren Buffett, when he looked at this whole piece of legislation, said it is time to eliminate about 2,500 pages of the nonsense and focus on cutting costs.

In my opinion, having looked at this and visiting with other physicians and hospital administrators, it looks to me that with the bill the President signed into law today, which cuts Medicare by $500 billion, not to save Medicare but to start a whole new government program, which raises taxes by another $500 billion on American families, I believe this bill, still loaded with sweetheart deals, is going to cause people to see that their own insurance premiums are going to go up, their taxes are going to go up, and they are going to find out that the quality of their medical care is going to go down.

We saw it in Massachusetts where, with the result of this program, a program very similar, it is now the most expensive State in the country for health insurance. It is breaking the budget of the State and people have to wait 42 days to get a physician. Yet the President says we are going to cover more people and he is going to do it by cramming 16 million more Americans onto Medicaid, a program in which many doctors will not even see those patients because the reimbursement is so low.

I see my colleague from New Hampshire and I said that is what I am hearing in Wyoming. Is that what we are hearing in New Hampshire? And then maybe our friend from Arizona has different thoughts.

Mr. GREGG. It absolutely is, and the doctor has described it personally, from his own personal experience and that is a lot of doctors are not going to see patients, especially on Medicaid or Medicare, because the reimbursement rates are so low.

There is a philosophical issue here of whether a bill should be filled with these sweetheart deals, but there is a practical issue too. I can't imagine why anybody on the other side of the aisle would be against eliminating these sweetheart deals other than the people who come from these States that benefit from them. This is not going to be extraordinarily disruptive to this bill. If this amendment were to pass, which took out these various deals which should not be in the bill to begin with, the bill goes back to the House. The House doesn't like these deals. Heck, they are for Senators. I suspect the House would be happy to have these deals come out so they will repass the bill without these deals.

Why not vote this amendment? Why not positively vote this amendment? There is no logical reason not to do it other than, I guess, nobody wants to let any amendments pass that deal with this bill in any way, even if they are extraordinarily reasonable amendments such as this, on which there should be unanimity, except for the folks who benefit from the specific deals.

Mr. MCCAIN. Madam President, I wish to summarize by saying I hope we will take out these deals. I hope every time we find another one in this 2,733-page legislation, we will take it out too. But I hope also that my friends on the other side of the aisle and the President of the United States will learn a lesson. Next time you want to sit down and enact a major piece of legislation, bring us in in the beginning. Bring us in so we can have true bipartisan negotiations, and any allegation to the contrary is patently false. I know because I have been involved in bipartisan negotiations and this is what happens when you have to go around shopping for votes to finally put you over the top. The American people, with the election of a new Senator from Massachusetts, have rejected this process. They have rejected this process.

Let's listen to the people of this country who say they want these things out. That is not how they want the Congress of the United States to do business. Let's take them out. Let's stop this legislation and let's start from the beginning and let's fix health

care in America. And, certainly, let's all pledge to stop doing these kinds of backroom behaviors that the American people have grown sick and tired of.

Mr. GREGG. Madam President, I congratulate the Senator from Arizona, again, for being the voice of conscience for this body relative to making sure we are playing straight with the American people and their tax dollars by not allowing these types of special deals to be put into bills. He has a long and very strong record in this area. This amendment—I cannot imagine why it would be opposed.

I understand that the 2 hours which we had time agreements under has basically been completed. I suggest for the next 2 hours we continue with this same course of action, if it is agreeable to the Democratic manager. We have a half hour on the Democratic side, a half hour on our side; a half hour on the Democratic side, a half hour on our side. Is that acceptable?

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. At this point let's keep it to 1 hour; a half hour to each side and we can go back and revisit it.

Mr. GREGG. So the next hour will be divided 30 minutes with the majority and 30 minutes with the minority.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I am sorry, was there consent?

The PRESIDING OFFICER. There will be 1 hour equally divided, with the majority having the first half hour.

The Senator from Arizona has 1 minute remaining.

Mr. MCCAIN. I will summarize again. These deals were cut for special situations. We have had disasters all over America. We had a disaster in the State of Mississippi. There was nothing in this for the State of Mississippi, which was struck by Katrina as well. The fact is it was also done in a managers' package. There was no debate, there was no discussion. I certainly, and the rest of this side, was not told about it and I was not the only one.

It was a deal that was cut. These deals have all got to be removed. I certainly will support doing anything necessary to help any State in America that is struck by a disaster, not just Louisiana, but Arizona and California and every other State that has been. But I will not do it by inserting a special provision in what is supposed to be a health care reform bill.

I urge my colleagues to remove all of these sweetheart deals.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I yield the chairman of the Budget Committee, Senator CONRAD, 20 minutes from our time in opposition to the McCain amendment.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I thank Chairman BAUCUS for his extraordinary leadership in legislation that became the law of the land today with the signature by the President. That is the bill that came out of the Senate. It came out of the Finance Committee, it came out of the HELP Committee. This bill went to the House, was passed and was signed into law by the President today.

This was the headline from the New York Times yesterday: ''Congress Sends White House Landmark Health Overhaul.'' Landmark health overhaul indeed it is.

The Senate is now turning to a separate reconciliation bill passed by the House. That bill includes modifications to the comprehensive reform measure President Obama signed today.

These are changes that have been negotiated with the House. This health care fixer bill represents a limited and appropriate use of the reconciliation process. And the reconciliation bill also includes certain education provisions to make college more affordable, and to support higher education.

I want to begin by highlighting the impact of the comprehensive bill passed by the Senate on Christmas Eve, passed by the House over the weekend, signed into law by the President today. That bill meets key reform benchmarks. It is fully paid for and in fact reduces both the short- and long-term deficits. It expands coverage to 94 percent of Americans. It promotes choice and competition. It contains critical insurance market reforms and bans the denial of coverage based on preexisting conditions. It contains delivery system reforms that will bring us better quality at lower cost.

Here is what this health care reform bill will mean for my State of North Dakota. It ends insurance abuses. Insurers will no longer be able to deny coverage for you or your children because of preexisting conditions or raise premiums when you get sick.

It provides tax breaks for small businesses. Small businesses will get tax credits to help buy coverage for their workers.

I had a Republican businessman tell a friend of mine over the weekend that he has had to stop coverage of his employees, although he would like to extend it to them, but believes that this bill now will allow him to once again provide insurance coverage to his employees.

It insures young people. Young North Dakotans will be able to stay on their parents' health insurance until they are 26 years old. It expands coverage. North Dakotans will get more choice and tax credits to make health coverage more affordable. It helps workers. Workers will be able to change jobs without fear of losing health care coverage. It improves Medicare. Seniors will get preventive services without copayments, and the gap in prescription drug coverage will be eliminated. It lowers costs. Premiums for the same level of coverage will be lower after health care reform than they would have been without it.

Despite claims from some of my Republican colleagues that this health care reform adds to the deficit, it does not. The Congressional Budget Office, which is the official scorer, has said that the comprehensive bill signed by the President today reduces the deficit by $118 billion over the first 10 years. As I will show later, when you add in the impact of the reconciliation bill before us now, the total deficit reduction in the first 10-year period is $143 billion. It is not my estimate, not the Democratic Party's estimate, not the Democratic leadership's estimate; that is the estimate by the nonpartisan Congressional Budget Office that officially scores legislation before this Congress.

This reform continues to reduce the deficit in the second 10 years. Here is what CBO said in its analysis of the reform signed into law by the President today:

> CBO expects that the legislation would reduce Federal budget deficits over the decade after 2019 relative to those projected and under current law, with a total effect during that decade that is in a broad range between one-quarter and one-half percent of GDP.

To translate that into dollar terms, that would be a reduction in the deficit in the second 10 years of $650 billion to $1.3 trillion. And now we have the happy ability to inform our colleagues that with the reconciliation bill added in, the total deficit reduction will be one-half of 1 percent of GDP in the second 10 years or $1.3 trillion.

This health care reform package also expands coverage. Again, I am referring now to the bill signed into law by the President today because that bill alone expands coverage to 94 percent of the American people by building off the existing employer-based system. It creates State-based health exchanges for individuals and small businesses. It provides tax credits to help individuals and small businesses buy insurance. It expands Medicaid eligibility while providing additional assistance to the States to pay for it.

This health care reform also includes dramatic reforms in the health insurance market—measures that will positively impact millions of Americans. It prohibits insurers from denying coverage for preexisting conditions. It prohibits insurers from rescinding coverage when people get sick. It bans insurers from imposing lifetime caps and unreasonable annual limits on health care benefits. It prevents insurers from charging more based on health status.

This reform package signed by the President today takes a number of important steps to improve the quality of care. It covers preventive services. It provides incentives for healthy lifestyles. It promotes the adoption of best practices and the use of comparative effectiveness research to find out, on a scientific basis, what actually works. Who is against using something that actually works?

It includes delivery system reforms that encourage quality over quantity

of care—something health care economists have told us is the single most important part of this package. These delivery system reforms do not get a lot of attention, but they have the potential to dramatically improve our long-term health outcomes. These reforms include accountable care organizations, primary care payment bonuses, readmissions, hospital value-based purchasing, comparative effectiveness research, a CMS innovation center, an independent payment advisory board and payment bundling—all of them recommended by Democratic and Republican health care economists who told us these are the things that can fundamentally change our system to lower costs over time and improve quality.

You would not know it from listening to some of the coverage, but this health care reform has widespread support among health care experts and health care organizations in my State of North Dakota. This legislation has been endorsed by the North Dakota Hospital Association; the North Dakota Medical Association, representing our State's doctors; the North Dakota Nurses Association, representing our State's nurses; the North Dakota AARP, representing our State's seniors; the Community Health Care Association, and on and on.

There has been a lot of misinformation spread about this health care reform package, so I want to take a moment to say what is not in this plan. It does not include government-run health care. There is no government takeover. This is private insurance, not government insurance. It includes no cut in guaranteed benefits for seniors. The Medicare savings overwhelmingly are savings from providers negotiated with providers. Why would they agree to hundreds of billions of dollars in lower payments than they were expecting—in other words, less of an increase than they were anticipating? Because they know, with 30 million more people insured, that their costs will be reduced and they can afford less of an increase. It includes no death panels. It includes no coverage for illegal immigrants. It includes no expansion of Federal funding for abortion services.

I would like to briefly address the reconciliation bill that is before us now. Remember, we have already passed comprehensive reform. That was done on Christmas Eve. That was passed by the House this weekend. That was signed into law by the President today. What is before us now is a reconciliation package. It includes limited modifications or fixes to the comprehensive health care bill which passed earlier. It is fully paid for and includes additional deficit reductions over and above the comprehensive bill that became law today. This reconciliation bill follows the requirements of reconciliation by including budget-related provisions only, no proposed changes on strictly policy matters.

Here are key health care fixes in this bill: It improves the affordability of health care. It eliminates the gap in Medicare drug coverage, also known as the doughnut hole. It adjusts the amount of Federal aid going to States for Medicare, and also States are treated the same. Despite the rhetoric on the other side, let's be clear on Medicaid. All States are treated the same. It further reduces overpayments to Medicare Advantage, and it takes additional steps to reduce waste, fraud, and abuse.

Here are key education provisions in the reconciliation bill as well: It expands Pell grants to make college more affordable. It eliminates bank-based student lending, which saves, according to CBO, $61 billion of taxpayer money that can then be redirected to actually support students. I thought that is what student aid was about, to support students. It supports historically Black colleges and extends funding for higher education.

Some of my colleagues of the party opposite have described reconciliation as an obscure and rarely used procedure. The fact is, it has been used 22 times, 16 times when they were in control of the Senate. And we are using reconciliation to appropriately reduce the deficit, unlike our friends on the other side, who used the process to pass unpaid-for tax cuts that resulted in much higher deficits.

Here is how Senator GREGG justified the use of reconciliation by the then Republican majority in 2005 in its effort to open the Arctic National Wildlife Refuge to drilling. He stated:

> Reconciliation is a rule of the Senate set up under the Budget Act . . . The fact is, all this rule of the Senate does is allow a majority of the Senate to take a position and pass a piece of legislation [and it does it with a simple majority vote.] Is there something wrong with majority rules? I do not think so. The reason the Budget Act was written in this way was to allow certain unique issues to be passed with a majority vote. That is what is being asked for here.

That is the quote of Senator GREGG, who was then chairman of the Budget Committee. He said: It allows a simple majority vote. He asked: What is wrong with that? It is interesting now to hear the other side say that somehow that is wrong.

As I noted, this reconciliation bill will add further deficit reduction to the health care reform estimate. Here is CBO's estimate of the combined effect of the bill signed into law by the President today and the bill that is before us now. It shows that the deficits will be reduced by a total of $143 billion over the first 10 years—$143 billion. That is according to the Congressional Budget Office. The two measures taken together will continue to reduce deficits in the second 10 years and beyond.

Here is what CBO said in its cost estimate:

> . . . [T]he combined effect of enacting [the Senate bill] and the reconciliation proposal would . . . be to reduce federal budget deficits over the ensuing decade [beyond 2019] relative to those projected under current law—with a total effect during that decade in a broad range around one-half percent of GDP.

That translates into dollars of $1.38 trillion. One-half percent of GDP in the second decade is $1.3 trillion of deficit reduction—not million, not billion; trillion—$1.3 trillion dollars of deficit reduction, according to the Congressional Budget Office.

Anybody who does not want additional deficit reduction ought to vote no. Those who want to reduce the burgeoning deficit and debt ought to vote aye.

This health care reform bill does not represent the end of the story. It is a beginning. But it is an important beginning, one that reduces the deficit and reduces the debt—not according to Democrats, not according to Republicans, but according to the nonpartisan Congressional Budget Office, which has the responsibility of giving us objective analysis. That is their job. They do it well.

This bill, combined with the bill signed earlier today by the President, reduces the deficit by $1.3 trillion. In addition, it has these critically important insurance and delivery system reforms that every health care economist who came before us said would, over time, make a meaningful difference in reducing health care costs for American consumers.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CONRAD. I would like to end by talking about a matter that has been brought up by some on the other side, the so-called frontier amendment. The frontier amendment was offered openly here on the floor of the Senate by my colleague, Senator DORGAN. Everybody had a chance to review that amendment. It does not affect one State; it affects five States. Some of the States are represented by just Republican Senators. In fact, two of the States are represented just by Republican Senators. One of the States is represented by one Democrat and one Republican, the other two by two Democrats. This is certainly not a partisan amendment.

Why was it offered by my colleague, Senator DORGAN? It was offered because these five States are at the bottom in Medicare reimbursement and have been for many years. They are the most rural States in the Nation. The way the formula works, those States have been penalized.

Let me just say that in my State, to treat the exact same illness, the hospitals in my State get one-third to one-half as much as the more populous States in the country to treat the exact same illness.

When we go to get technology, we don't get a rural discount. In fact, we pay more because we are buying in smaller order quantities. When we go to attract a doctor or nurse, they don't say to us: Because you get one-third or one-half as much in Medicare reimbursement, we will only charge you one-third to one-half as much to come

to your State or to stay in your State. That isn't what happens.

I have had the major hospital administrators in my State say: Unless health care reform fixes this, we are going to begin to have to lay off people and to begin to reduce services, and reduce them dramatically, because we can no longer survive getting reimbursement for the majority of our patients because, remember, the majority of the patients in these rural hospitals are Medicare-eligible patients. They are getting one-third to one-half as much as the more populous States, the hospitals in the more populous States, to treat the exact same illnesses.

That is not fair. That is fundamentally an issue for health care reform. That is why this amendment is included, and that is why it deserves to be retained.

I thank the chairman of the Finance Committee for his extraordinary effort. I am in my 24th year here. I have never seen a Member put in the kind of concentrated and focused effort as the chairman of the Finance Committee did on this bill—hundreds of hours of his personal time over a year and a half to get a good package, a responsible package.

I also thank CHRIS DODD, chairman of the HELP Committee, for his exceptional efforts; and certainly our leader, HARRY REID, for bringing the two together in a way that enjoyed the unanimous support of the Members on our side of the aisle. That is a remarkable accomplishment.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Montana.

Mr. BAUCUS. Mr. President, speaking on the bill, I thank my friend from North Dakota for his kind statement. Knowing all the hours and days and weeks, months that we spent on this bill, I thank him because my good friend has been there for most of those hours and weeks and months spent on this bill. I thank him very much for that observation, as well as Senators HARKIN and DODD and the ranking members, too, in many respects.

I yield 5 minutes to the Senator from Louisiana from the time under our control on the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. I thank the chairman and add my compliments to him for his extraordinary leadership over the last several months in managing this very important piece of legislation through the process, a major piece of legislation that garnered 60 votes on the floor of the Senate.

The Chair knows because he has worked on many pieces of legislation, even in his short time in the Senate, but his longer time in the House, how difficult that is, particularly on an issue such as this that has eluded our country time and time again. Even though great attempts were made by extraordinary Presidents and wonderful Congresses in the past, this victory has eluded them. But we are close to capturing it now.

I thank the chairman of the Finance Committee. He probably spent more time, except maybe for HARRY REID himself, on ushering us to this point. I was in many of those meetings, and his patience was inspirational, as was his steady hand when things got tough. I thank him, and I also thank the chairman of the Budget Committee. No one has a better command of this budget in this entire body than KENT CONRAD. He has spoken in some detail and depth about the significant cost reductions and deficit reductions that will occur because of our work.

I came down to speak specifically about the amendment just offered by the Senator from Arizona. I actually went to the desk to get a copy of it because I wanted to read it for myself. This amendment is a stunt. It doesn't deserve the time I am going to give to explain the portion of it that refers to Louisiana. The reason I say it is a stunt is because it is actually written for television or the Internet. It is not written for any serious debate. In my view, it is beneath the Senator from Arizona who at one time was a candidate for President. The reason I say it is a stunt is because the word ''sweetheart'' is actually written in this amendment.

Normally, the only time I see that word is when my husband sends me a dozen roses on Valentine's Day, which he does most years. But to actually draft an amendment like this that actually uses the words ''sweetheart deal'' is an insult to the people of our country, and I would expect more from him.

I have tried to explain this to him privately on any number of occasions. I have provided him and his staff with every document they have ever requested. I am here to say one more time, the people of Louisiana do not deserve the derision from him or from any member of the Republican team, my Republican allies, because of asking for a correction in a formula that would have been devastating to the State of Louisiana or to any State that experienced the kind of catastrophic disaster we did.

This amendment that I got on might have been unknown to Senator MCCAIN, but it was not a secret. How would I know that? Because actually I called a press conference with the Governor of Louisiana, Republican Governor, and announced it. That is why I know it wasn't a secret. We didn't have one press conference together; we had three.

As I have explained to the Senator from Arizona, just because he didn't know about it doesn't mean it was a secret. There are lots of things that happen in Washington—it is a big place; it is a big country—that he doesn't know about. This is one of them.

There were three press conferences called, and our entire delegation wrote a letter, a public letter, which I have given to every reporter who has asked for it, asking for consideration for this.

No. 3, how would I know it is not a secret? Because my legislature, which is represented by 50 percent Republican and 50 percent Democrat, unanimously passed it in a public forum. So the people of Louisiana, whom I represent, believe me, are sick and tired of hearing their name dragged through the mud. You want to drag a name through the mud, drag mine. But leave the people I represent out of it.

When the health care debate came forward and we recognized, at the Governor's request—I ask for a minute more.

Mr. BAUCUS. Off the bill.

Ms. LANDRIEU. When the health care debate started, our Governor recognized that without this change, the State of Louisiana would lose somewhere about $450 million because, under the formula that was calculated, which is done publicly, the Federal Government declared that the Louisiana per capita income had increased 40 percent. It has never happened in the history of the United States. No State in no year in no decade—even with the gold rush, even with discovering oil, even with the greatest inventions of the world—no State's income has ever gone up 40 percent. And ours did not. The people I represent are not richer because of Katrina; we are poorer.

I will not back up a minute to ask for help for them. All I have asked in this bill, and we have gotten, despite the effort on the other side to undo it, and we will not undo it—all we are asking for is to let us pay the same Medicaid match that we have paid for the last 10 years, as long as I know. Louisiana pays 30 cents; the Federal Government pays 70. Our people are covered.

I ask for 30 more seconds, and I promise I will end here. We are not asking for special treatment. We are asking just to pay the same amount of Medicaid as we have paid for the last 10 years. It was not done secretly. It was not done behind closed doors. It was not done to buy my vote. My vote was given to this bill because this bill deserves it, because it is a very good piece of legislation.

I told the leader I would vote for it whether this was in it or not. I am tired, but I am not going to sit down and not defend the people of my State.

The other Members can speak about what they wanted. This is not a sweetheart deal. It is a stunt from a Senator I would expect more from.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I have very little time left, perhaps maybe a minute or two. I will use it. But I want to speak more on this subject at a later time. I might also inform my colleagues that the next half hour, which is allocated to the Republican side, will expire at around roughly 6:40. At that time, we will try to work out an agreement where we trade, both sides, half hour per side.

I alert colleagues, if they wish to speak on this reconciliation bill, in about 30 minutes we will try to set up an arrangement for colleagues to speak.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 55 seconds.

Mr. BAUCUS. I think it more prudent not to use those 55 seconds but to keep it. I will let the Senator from New Hampshire allocate time.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAPO. Mr. President, I would like to respond to a couple comments just made and then at the first available option, I will file a motion to recommit the bill. Before I get into a discussion of this motion, I would like to respond to the argument that is consistently made that the health care legislation that was signed by the President today and is supplemented by this reconciliation bill is going to actually result in deficit reduction.

What we need to understand is that among the many other pieces of this bill, ultimately it will result in growing the Federal Government by about $2.6 trillion over the next 10 years. This chart shows graphically or pictorially what will happen.

You will notice I have had to mark out the numbers there and change the 2.5 to 2.6. That is because under the original bill it was 2.5. Now with the bill before us today it is going up, not down, to $2.6 trillion of new spending.

There are only a few ways you can claim that is going to result in a reduction of our deficit. Nobody denies it is going to result in a massive increase in the size of the Federal Government, regardless of the other portions of this bill.

How does a $2.6 trillion increase in spending result in deficit reduction? First, because there are massive new taxes in this bill that go along with this increase in spending that are offset against it. Secondly, because there are massive cuts in Medicare, over $500 billion, $610 billion of new taxes, $529 billion of new Medicare cuts, which results in about a $1 trillion offset, about $1.1 trillion of offset. How do you get to the rest of the offset to claim that this bill is deficit neutral or reduces the deficit?

That is what I call the gimmicks. For example, $29 billion of Social Security revenue is raided from the Social Security trust fund and allocated to this bill. The CLASS Act, which has been called a Ponzi scheme by Members of the other side of the aisle, is adding another $70 billion of revenue. The Medicare cuts are actually counted twice because they are not used to sustain the Medicare system. They are used to finance a brandnew entitlement system in this bill.

When you sort through it all, if you stop the gimmicks, and if you do the math with the gimmicks taken out, we don't have deficit reduction. We actually have a deficit increase, about $619 billion of increased deficit under this bill.

I think we need to get the facts all out in front of us and discuss them. But I want to talk specifically for just a moment now about the motion I am going to make. The motion I am going to make is the same motion I made when we debated the main health care bill last December. It is a motion that simply helps us make sure this bill complies with the President's promise.

What did the President promise? The President has said multiple times—and here is one of his quotes:

> I can make a firm pledge . . . no family making less than $250,000 will see their taxes increase—not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes . . . you will not see any of your taxes increase one single dime.

That was the President's pledge.

When I brought this motion—when we debated the original health care bill that was signed into law by the President today—it was attacked and actually defeated on the floor on the grounds that to do so, to adopt my motion, would result in killing the bill. It would destroy the bill. All my motion did was say, let's temporarily send this bill back to the committee, have them strip out all of the taxes that hit the middle class—families making less than $250,000—and bring the bill right back to the floor. I was told that would kill the bill, that would gut the bill.

Well, first of all, if that was going to gut the bill, then that is a concession that the bill is full of taxes on families who make less than 250,000. As a matter of fact, that is true. Again, the bill before this reconciliation bill was analyzed by the Joint Committee on Taxation, and their conclusion—not mine—was that by 2019 at least 73 million American households earning below $200,000 will be paying more taxes because of the taxes imposed by this bill—that $610 billion of taxes that is used to help claim that this bill does not increase the deficit.

Well, what happened last time when we debated it? It was attacked because it would gut the bill if we took these taxes out of it, and my motion was defeated.

There was another argument made against the motion at that time; that is, the bill we were debating was not actually a tax increase, it was a tax cut. The way that argument went was: We have more tax cuts in the bill than we have tax increases. The only way that argument could be made is by saying the subsidies that are provided to low-income individuals in our country are tax cuts, even though they do not pay any taxes. Yet, all of the subsidies in the new entitlement program were counted as tax cuts, and they were offset against the true tax increases that are going to be paid by the middle class in America; and the argument was made it was a tax cut.

Well, first of all, it is not a valid argument. There are $610 billion of new taxes in this bill. Secondly, I do not think that is what President Obama was talking about. He did not say: I will not raise your taxes more for some people than I will cut them for someone else. He was saying he would not raise taxes, and that this bill would not be allowed to be used as a vehicle to do so.

Let's get back to the main argument that was made against my motion before; that is, it would gut the bill. Well, that cannot be true anymore. The bill was signed into law by the President today, so it is law today. And now I think it is time for this Congress to simply fix the problem. All we have to do with my motion—when I am allowed to have an opportunity to propose it—is to commit this bill to the committee and have the committee take out all the taxes that apply to individuals who make less than 200,000 and families who make less than $250,000.

It is very straightforward. You can argue that there are not such taxes in the bill, and if there are not, then my motion will not do a thing to the bill. But the reality is, the vast majority of the taxes in this bill are going to be paid by the middle class. By the Joint Tax Committee's analysis, 73 million households in America are going to be paying these taxes, and all this motion does is say let's get back to the President's pledge and do what the President said. Let's take out of the bill the taxes that are going to be slamming the middle class in America as this bill becomes law.

With that, Mr. President, I would be glad to yield to any of my colleagues here on the floor who would like to make comments on this issue. Senator RISCH, my colleague from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Thank you, Mr. President.

I rise in support of my distinguished colleague from Idaho. He has brought to the floor the language that the President of the United States gave to the American people in order to convince them to vote for him for President of the United States. It was a serious promise. It was a serious commitment. He said: I will not increase the taxes on individuals making less than $200,000 a year or families making less than $250,000 a year. My good friend from Idaho points out there are numerous provisions in this bill that break that promise.

I am disappointed the President has done this. I am disappointed he will not take responsibility for it. I am disappointed he did not point it out when he signed the bill. He talked only about the good things it did. The President should—he really should—keep the commitment he made to the American people. If we are going to have a country where people have faith in their government, particularly in its Chief Executive, they have to believe what he said.

My good friend from Idaho has indicated he is going to bring a motion to

commit the bill to get all of these out of there. I want to talk about one that is very focused. I am only going to talk about one of these taxes the President of the United States is raising on people who make less than $200,000 a year. The reason I bring this one to the floor is this is a direct assault on some of the most vulnerable people in this country.

This particular increase in taxes is on 14.7 million people who earn less than $200,000 a year and who have had substantial medical bills during the year. How this bill does it, it simply changes the percentage which you can deduct on your income tax return if you incur medical expenses. It is not a slight amount. It is $15 billion that this tax takes from some of the most vulnerable people in America.

The President of the United States promised he would not raise taxes on people who made less than $200,000 a year. He made that promise, and this provision in the bill—in the bill that has been signed into law by the President—breaks that promise, and it breaks the promise not just on people who make $200,000 or less a year, but it breaks the promise as to the most vulnerable people in America.

The provision in this bill the President signed into law this morning affects 14.7 million people. Today, 14.8 million people take this deduction. They are people who have been injured, people who have been sick, people who suffer from diseases, and they take this deduction because the Congress of the United States has deemed it appropriate that when you expend this kind of money, and you are in this vulnerable a position, you should be entitled to deduct it from your taxes. This bill changes that.

When the President of the United States put the pen to that bill this morning, it was in direct violation of his pledge not to increase taxes on people who make less than $200,000 a year.

So what do we have here? We have a bill that is reaching into the pockets of 14.7 million Americans and taking directly out of their pocket $15 billion, in direct contravention of the promise the President of the United States made to the American people when he stood up and asked them to elect him. Not only does it do that, it hurts the most vulnerable people in America.

My fellow Senators, I urge that you vote for this motion when it comes up for a vote. And it will come up for a vote. It will help constituents in every single State in America. It will put that $15 billion back in the pockets of some of the most vulnerable people in America. It will restore the promise the President of the United States made to these 14.7 million people—many of whom voted for the President, and voted for the President believing he would take care of them and see that their taxes did not increase. We can help the President keep his promise that he broke this morning when he signed that bill.

I yield to my good friend, Senator BROWNBACK.

Mr. BROWNBACK. I thank the Senator.

I rise to support my colleague from Idaho on this motion. I think this makes sense. The Senator from Idaho is helping the President fulfill a campaign promise. It made sense to everybody across the country. I have looked at it, and I do not think we should raise taxes, period. I think it is taking money out of the economy. But he said: I want to raise some taxes on people making over $200,000. Everybody heard it and thought: OK, that is not me, so I will vote for that. I like that idea.

I want to take a particularly narrow piece of this that is in the bill that we have wrestled with in this body for some period of time, and that is the issue of the alternative minimum tax. That was passed years ago. It was supposed to be a tax on wealthy people who were avoiding paying income tax. So we put it in place and said: Well, people who are wealthy should not be able to plan their way out of paying income tax, so we are going to put this alternative minimum tax in, and it is going to be on a set amount of money.

It was not indexed for inflation over time. So now, 10 years later, all of a sudden, there are a number of people—because of inflation happening over a period of time—who get brought in under the alternative minimum tax, to where we then fight about it in this body as to how we are going to do the AMT fix. That is an annual debate we have here.

Well, this tax on Medicare plans, or on the health care reform plans, where, OK, it is not supposed to tax people who make below $200,000—which I agree with, even though there are pieces in here that do—with inflation, over a period of time, you are going to see a large number of people, in 2009 dollars, making $200,000 or below who get taxed because of inflation and its value. We are looking at a situation in the country now, with the monetary policy—lots of money out in the money supply, with the Federal Government's excessive spending, huge amounts: $1.5 trillion in deficit spending—that the likelihood of inflation coming along is pretty high. Maybe it does not come this year, but it does next year.

We normally run somewhere around a 3-percent inflation rate anyway. You get that stoking up. Here is a chart the Joint Economic Committee staff has done about what happens over a period of time when you do not index for inflation, and this bill is not indexed for inflation.

So all of a sudden you end up having the middle class, and even people currently determined as poor, actually paying the wealthy tax, and it is because of the lack of indexing for inflation over time. So you end up over a period of time having people currently classified as poor paying a wealthy tax—unless you adopt something such as the Crapo motion that says if you are making below this figure, you do not get taxed, you are not going to get taxed.

This actually ends up being pretty substantial and hitting a large number of people over time, to the point where you are going to have a large group—again, this is from the Joint Economic Committee: For every low to middle-income family with a tax cut, three low to middle-income families have a tax increase.

The President said: That is not what I am going to do. I am not going to raise taxes on people who are low or middle income. Unless you adopt the Crapo motion, you are going to have this taking place. So I think this makes sense overall to fix the bill. It certainly does not kill the bill. The bill is signed into law, as Senator CRAPO pointed out. You cannot kill the bill now. I think it should be repealed, but I certainly think we should not be having people taxed who are making below $200,000. We should not be having them taxed now. We should not be having them taxed into the future, even though that is actually now built into the bill and part of its pay-for provision.

But let's be sincere with the American public. Let's fulfill this piece. Unless you adopt the Crapo motion, we are not going to be able to guarantee that to the American public.

I think this is a very commonsense amendment. I think this is one that helps deal with the problems in the underlying bill. I think it is one that is honest with the American public, and it is certainly one I hope we can pass.

I would ask my good friend from Idaho to address this issue from, as you put this forward, has the administration said: Yes, we agree with you because this is what we said on the campaign trail and this only fulfills the promise. Maybe they have offered you an Executive order, that you could get this by Executive order.

Mr. CRAPO. Well, I would say to my colleague from Kansas that I have not had any direct response from the White House, although when I made these speeches and when I made the motion when we debated the original bill, there were some responses on the Web that indicated that, in fact, I was not correct in my facts. The argument was made at that time that, in fact, the bill we were debating did not have—was not a tax increase bill, it was a tax cut bill. You probably heard my response to that argument earlier.

The way the defenders of this bill claim it is a tax cut is, they take all the subsidies that are being provided for this new entitlement that is created in the bill, administer those through the IRS, and then claim that those are tax cuts and that they outweigh the tax increases that are included in the bill and that, therefore, the bill is a net tax cut. As I said earlier, first of all, the President was not talking in net terms. He didn't say: We

will raise taxes for this group more than we will cut taxes for this group.

Leaving that aside, the fact is, I don't think most Americans fall for that. Most Americans don't think that the subsidy which is scored as spending is a tax cut.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Might I ask my friend if he wishes to have the pending amendment set aside so his motion can be made in order?

MOTION TO COMMIT

Mr. CRAPO. Mr. President, if that would be allowed, I ask unanimous consent to set aside the pending amendment to offer a motion to commit with instructions that I have here and which I submit to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I have no objection. I ask unanimous consent that if the time is consumed, the motion be set aside at that point.

Mr. GREGG. Reserving the right to object, I do not believe any time has been consumed on this motion.

Mr. BAUCUS. I think that is correct. When the time is consumed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Idaho [Mr CRAPO] moves to commit the bill H.R. 4872, to the Committee on Finance with instructions to report the same back to the Senate within 3 days with changes that provide that the combined effect of this Act, and the Patient Protection and Affordable Care Act, shall not result in an increase in Federal tax liability for any individual with adjusted gross income of less than $200,000 or any married couple with adjusted gross income of less than $250,000.

Mr. CRAPO. Mr. President, could I ask how much time remains on our side?

The PRESIDING OFFICER. There is 1 hour, equally divided, on the motion.

Mr. GREGG. Mr. President, I believe we were functioning under an agreement where the Republican side had one-half hour and the Democratic side had one-half hour. How much time is available under that agreement to our side?

The PRESIDING OFFICER. There is 9 minutes remaining.

Mr. GREGG. I thank the Chair.

Mr. CRAPO. Mr. President, I would ask, at this time, if my colleague from Tennessee or any of our other colleagues have anything further to say at this point on the motion.

Mr. BROWNBACK. Mr. President, I do. If we are going to grow the economy of the United States, we need to provide some sort of tax certainty. We have learned over our history that when we deal with taxes, people don't react if they think things are up in the air—if they look at it and they say: I don't know, my taxes may go up or down, I will sit on the sideline.

One of the things the Crapo amendment does that provides some certainty to it is to say: OK, if you are in this category, this is what your taxes are going to be. It isn't going to go up on you. When people can provide a level of certainty on tax policy, typically, then people are more willing to act. Because they say: Yes, maybe I will go out and I can invest and I will do this as a small business. This will help investment. We have a climate right now where people are not willing to invest because they don't know what the rules are. They don't know what their tax rates are going to be, so they are sitting back. This will help provide that level of certainty. So I hope we will do this as a way to help the economy, as a way to fulfill the President's promise, as a way to help fix the bill and do what the President said he wanted to see done and to help grow the economy and give some certainty on our tax policy.

With that, I yield back to my colleague from Idaho.

Mr. CRAPO. Mr. President, I thank the Senator from Kansas. I wish to go back and summarize now as we conclude, unless the Senator from New Hampshire has any comments to make at this point.

Mr. GREGG. I wish to congratulate the Senator from Idaho for bringing this forward because there has been a lot of representation as to what this bill does, and much of it has been, regrettably, inaccurate. Certainly, one of the most inaccurate representations is that people over $250,000 are the only people who are going to pay for this.

The Senator from Idaho is absolutely right. This is going to be paid for by people who have incomes well under $200,000. There is going to be a significant tax increase for a lot of Americans. Equally important, premiums are going to go up for a lot of Americans, which is the equivalent of a tax increase.

I can't understand how anybody could vote against his motion, which essentially says: Let's hold the administration to its language, which says if you have income under $200,000 for an individual and $250,000 as a couple, you will not be required to pay taxes under this bill.

They have represented that is their position. They should have no problem at all with supporting the Senator's motion, and it makes it legally binding. I congratulate the Senator for his motion.

Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. There is 7 minutes remaining.

Mr. GREGG. Mr. President, I believe the way we are proceeding is we proceed on our side.

Mr. BAUCUS. Yes.

Mr. CRAPO. Mr. President, I would conclude in the last 7 minutes. If any of my colleagues wish to jump in, please let me know.

I wish to go back to where we started. As I indicated, when I brought this very same motion to commit during the debate on the health care legislation in December in the Senate, the response was not that these taxes aren't in the bill but that to take these taxes out of the bill would kill the bill. Why would those taxes being taken out of the bill kill the bill? Because it would expose the cost of the bill, because the argument that the bill is not a deficit—that it actually reduces the deficit—would evaporate if you take out the massive taxes that are included in the bill. That is why it was considered to be such a dangerous amendment then.

I personally believe that for us to adopt legislation the President has signed into law that grows the Federal Government by $2.6 trillion, dramatically increases the role and control of the Federal Government over our health care economy, cuts Medicare by $500-plus billion, and then engages in gimmicks of trying to adjust the numbers in the budget in order to make it appear that there is no deficit increase is the wrong way to approach this legislation, regardless of one's opinion of the merits otherwise of the substance of the bill.

The bottom line is, this is a massive growth of the Federal Government, massive increase in control by the Federal Government, financed by hundreds and hundreds of billions of dollars of taxes that are going to be paid by the middle class in America as defined by the President: those who make less than $250,000 as a family or $200,000 as an individual. Again, all this motion would do is to say: Let's take out those taxes. If they don't exist, then it would not do anything to the bill. If they do exist—and, as I said, they do—then they would be taken out of the bill and we would not be putting the massive cost of this phenomenally large growth of the Federal Government on the backs of the middle class in America. Again, the argument that was made in December cannot fly today because today the bill is law. It cannot be argued that to support this motion would kill the bill.

The bill has passed the Senate, passed the House, and has been signed into law by the President. What we need to do now is to make sure the bill does not violate the President's pledge that nobody in America will see their taxes go up.

I wish to again read that pledge: The President's own words were:

I can make a firm pledge . . . No family making less than $50,000 will see their taxes increase . . . Not your income taxes, not your payroll taxes, not your capital gains taxes, not any of your taxes . . . You will not see any of your taxes increase one single dime.

Well, that is simply not the case, and it is not the case to the tune of hundreds and hundreds and hundreds of billions of dollars that this class of people—the middle class as defined by the President—are going to be called upon to pay.

That is only during the first 10 years of this bill. If you start looking further

out, as we get into the second 10 years of this bill, the amount of taxes the American people will pay rises exponentially into the trillions and trillions of dollars as you get further out. Yet we are expecting them to carry the burden of this bill, when they were promised—and I am sure many voted in the last election on the basis of this—they would not see their taxes go up.

Again, it is a very simple motion. The motion simply says: Let's take the bill back to committee and take out any of the taxes that apply to individuals making less than $200,000 and families making less than $250,000. I urge all my colleagues to support this motion.

If there is any time left for any of my other colleagues who wish to make a statement——

Mr. RISCH. Mr. President, how much time does the minority have?

The PRESIDING OFFICER. There is 1 minute remaining.

Mr. RISCH. Very briefly, I wish to speak about one of these tax increases for 73 million people. This morning when the President signed the bill, he bragged about how they were going to give subsidies to 13 million people so they can buy insurance. He is absolutely right. But as frequently happens, we didn't get the whole story. The whole story is there are 163 million Americans who are not going to get that subsidy and whose taxes are going to go up. How many of those make under $200,000 a year? There are 73 million Americans who make under $200,000, from that little sleight of hand, who will see a tax increase.

Thank you.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, in the spirit of back and forth, I ask unanimous consent that the next hour be equally divided, one-half hour on each side, and the first half hour to be allocated to the majority side and the next half hour to the Republican side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I yield myself 3 minutes to speak on the motion.

I wish to make clear that this bill reduces taxes in the amount of about $460 billion for Americans who will get tax credits for buying health insurance. That is a huge, big tax reduction: about $460 billion in tax credits to people buying insurance. I don't think I have heard much about that from the other side of the aisle, but it is a fact.

In addition, small business gets very large tax credits for offering health insurance—large, very large incentives. It is up to 35 percent, if I recall correctly, the first couple years, and then it moves up to a 50-percent tax credit for the employers' half of the health insurance that the employer will be providing. Those are huge, big tax cuts.

One other point that I think is very important to make. It is true, in certain cases, taxes will go up for some Americans who may be making less than $200,000. But why? Because they have more money in their pocket. When you earn more money, your taxes go up, and you can earn more money because health insurance is going to be less expensive. Companies are going to compensate you with health insurance that is less expensive and reward you with more wages. That is what CBO says. Don't take my word for it. That is what the Congressional Budget Office says. So when wages go up, guess what. Sometimes taxes go up when wages go up. On a net basis, Americans are going to be better off. They are going to be wealthier. Their health insurance is going to be less expensive. For those, we are finding that because health insurance is less expensive, their employers want to compensate the employees, so they compensate them with higher wages, and higher wages will mean some increase in income taxes. So I wish to be very clear, that is what is happening.

Also, I wish to make a third point, basically that gets lost esoterically, but the reconciliation bill lowers the high-premium excise tax in the underlying bill. By doing so, that means those wages will not increase as much as they otherwise might but, rather, it is offset with an increase under an income but only for Americans earning above $200,000 individually and families above $250,000. I wish to make it clear this is a big tax cut for Americans.

CBO has also said—not directly on point—but CBO also said there will be a big reduction in deficits and debts this decade and the next decade.

The other side likes to make it sound as if it is a big tax increase. It is not. It is a tax cut. It is a tax increase for some Americans, but those Americans in the main earn more than $200,000.

I yield 15 minutes to the Senator from Vermont from the time on the bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, this is the dawn of a new day of hope for tens of millions of Americans who have fallen through the cracks—or who worry with good reason that they may fall through the cracks—of our broken health insurance system.

The signing into law of comprehensive health insurance reform by President Barack Obama is a defining moment in our history, ranking with the creation of Social Security and Medicare.

Reforming the health insurance system has been talked about for decades. This has been an arduous process, but it has proven that change is possible, even with the pitched opposition of entrenched and powerful special interests. America again has risen to meet one of its foremost challenges and to renew its promises.

America has some of the best health care in the world, if you can afford it. Millions of families in Vermont and across the Nation worry that they are just one paycheck away from medical and financial disaster. This is a new dawn for them.

Wherever I travel in Vermont, I am often stopped in the grocery store, at church, on the street or at the gas station to listen to personal, wrenching stories, like the woman from Winhall who needs to spend $500 a month on prescriptions but who would be uninsured if not for her husband's job. She is working two jobs just to make ends meet and to afford their health care costs. Or the small business owner who works 6 and 7 days a week but still can't afford the blood tests her doctor recommended. If she becomes sick she will lose her business and her home. Or the man from central Vermont who told me of his sister-in-law who lost parts of both her feet because she did not have health insurance. When she needed medical attention, she waited, hoping things would get better. By the time her family was able to step in, she had to be rushed to the emergency room for amputations. This is a new dawn for them.

I grew up in my family's small business in Montpelier. I know that business owners want to attract and keep good workers and many want to be able to offer health insurance options. Spiraling insurance costs are rapidly taking that option away. Some of the most immediate and far-reaching reforms in this new law are the tax credits that will help small businesses continue to offer insurance to their employees. This is a new dawn for small business owners and for those who are self-employed.

This week the Senate is already working on improvements to this legislation. These include closing the Medicare donut hole in the next several years, making coverage more affordable, and creating a more equitable distribution of Medicaid reimbursements to States like Vermont that have acted early on reform.

Health insurance reform has prevailed through the grueling gauntlet of obstructionism erected by defenders of the status quo. One remaining gauntlet remains in the Senate, where partisan opposition has prompted an effort to derail these further improvements to this law—improvements that many of these opponents say they support. Opponents of reform already have wasted much of the public's time over the last year by provoking arguments over their distortions about what health reform really means. Last summer the American people endured myths about ''death panels'' and other falsehoods about what reform would mean for families across the country.

It is no wonder that while Americans vastly support the individual components of these bills they remain skeptical when asked about the hazy concept of ''comprehensive reform.''

The building blocks of health reform are more popular than the sum of the plan's parts. Polls show public unease

about the hazy concept of ''comprehensive health reform'' but solid support for what is in the plan.

This paradox recently was put to a real life test, with a vote on a reform I proposed to repeal health insurance companies' antiquated exemption from the antitrust laws. These are the pro-competition rules that apply to virtually all other businesses, to help promote vibrant markets and consumer choice. Competition and choice help lower costs, expand access and improve quality.

I launched this effort last fall, built a hearing record to examine its merits and worked to build bipartisan support. House leaders late last year added it to their plan. And last month it became the first stand-alone part of the health reform package to pass on its own, in a strong bipartisan vote of 406 to 19. To me this is the latest proof that, appearances aside, there is much common ground in the health reform plan—more than partisan opponents or the insurance industry would have the public believe.

Insurance companies, of course, will continue to lobby like crazy to keep from being covered by the antitrust laws. No surprise there. The rules they have operated under have been stacked in their favor.

Some have argued that doing nothing is the ''safe,'' option, but it is anything but safe. Health policy experts and economists across the political spectrum agree that the rapidly increases in health costs will hurt everyone—costing us more, driving up Medicare's budget, cutting back coverage, and preventing businesses from being able to afford offering insurance to their workers. Without reform, in the next decade half of all nonelderly adults at some point will find themselves without coverage. If we do nothing, the same insurance coverage a family had in 2008 will nearly double to $24,291 by 2016, soaking up a whopping 45 percent of median family incomes.

We have seen all too well what would have happened if we had not acted to pass comprehensive reform. Just last month, insurance companies planned a series of premium hikes as large as 39 percent in one State. Last year the five largest for-profit insurance companies booked $12.2 billion in profits, and they raised the average family premium three times faster than wages. One company alone, WellPoint, is hiking rates by double digits in 11 States, while their profits are up 91 percent. Meanwhile, even with soaring profits, insurers continue to drop sick people from their rolls, spend less on care, and avoid competition.

Vermont, a State that has led the way on many health insurance reforms, is not immune from the rising costs of health insurance. On Town Meeting Day a few weeks ago in Vermont, town officials in Hartford reported that the community's health insurance rates last year jumped by a third, forcing them to lay off town workers.

Despite dire warnings of ''government takeovers'' and other charged rhetoric, this bill in reality is a solidly American solution to our health insurance crisis. The new law largely builds upon our current system and reforms parts that are not working well, while maintaining much of what Americans like.

Now that this bill is law, annual caps on coverage are eliminated. Insurance companies are now barred from dropping people from their plans, even if they have paid their premiums, simply because they have gotten sick. Denying children health insurance coverage because of preexisting conditions is now illegal, and parents are now allowed to keep their children on their health insurance policy until a child's 26th birthday. And now that comprehensive reform has become law, a down payment has been made toward completely closing the so-called donut hole for seniors on Medicare, by providing a $250 rebate for those in the Medicare Part D coverage gap.

In addition to the immediate improvements to our health insurance system, over time this bill will make further improvements and also will eventually insure 95 percent of our population, while making a substantial investment in our economic vitality in the years ahead. In addition to ending the discriminatory insurance company practices of denying coverage because of preexisting conditions and canceling coverage when beneficiaries get sick, the new law will lower costs for small businesses and will help prevent medical bankruptcies by removing any arbitrary limit on annual or lifetime ''caps'' on medical expenses. This bill also is the largest deficit reduction measure many in Congress have ever cast votes on. The Congressional Budget Office estimates that comprehensive reform will reduce the federal deficit by $143 billion through 2019, and by more than $1 trillion in the decades to come.

These comprehensive reforms also will test ways to reduce health care costs while improving quality. The bill contains pilot initiatives for efforts like Vermont's Blueprint for Health, under which patient care is coordinated to reduce unnecessary hospital visits and to keep patients healthy. Other programs will test various ways to pay doctors and hospitals that could be more efficient than the current fee-or-service structure. A greater emphasis on prevention—long championed by the late Senator Edward Kennedy and Senator TOM HARKIN on the Health, Education, Labor, and Pensions Committee—will reduce preventable deaths and hospitalizations.

I am also proud that the bill explicitly prohibits discrimination on the basis of race, color, national origin, sex, disability or age in any health program or activity receiving Federal funds. These protections were necessary to remedy the shameful history of invidious discrimination and the stark disparities in outcomes in our health care system based on traditionally protected factors such as race and gender. The nondiscrimination provision makes clear that the enforcement mechanisms from other statutes prohibiting discrimination in federally funded programs, such as title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972, apply with equal force to federally funded health programs and activities. I worked closely with Majority Leader REID to include these protections in the Senate bill to ensure that all Americans are able to reap the benefits of health insurance reform equally, without discrimination.

The bill the President signed into law and that I supported is not without its problems. But it succeeds in adhering to the core principles I sought at the beginning of this debate. It gives Americans affordable access to health care coverage, it reduces costs for families, businesses and government, and it protects consumers' ability to choose doctors, hospitals and insurance plans. Many other substantial social policy reforms such as Medicare and Social Security were improved through actual experience after they were first enacted. For instance, Social Security as passed did not contain disability insurance—a significant oversight, which was rightly remedied later. While this plan might not make every reform we think necessary, we have the ability to modify and improve it in the months and years ahead.

In fact, the reconciliation bill now before the Senate includes a series of improvements to comprehensive reform that I strongly support. The bill will fully close the prescription donut hole that forces thousands of seniors across the country and in Vermont to pay out of pocket for necessary prescriptions until their expenditures reach a catastrophic level. Immediately, Medicare beneficiaries who fall within the hole will receive a $250 rebate in 2010. By 2020 the donut hole will be closed completely, and beneficiaries will receive 75 percent discounts on brandname and generic drugs. The reconciliation package eases the cost-sharing for individuals purchasing insurance on the exchange, and it offers more generous tax credits for those with the lowest incomes who still have trouble affording health insurance. The largest employers will be fined more heavily for the failure to offer insurance to their workers.

The reconciliation package furthers the strong antifraud provisions Senator KAUFMAN and I worked to incorporate into the Senate-passed bill. Among other steps, it increases our investment in fighting health care fraud by providing $250 million over the next decade to investigate and prosecute the people who drain our health care system of billions of dollars each year, driving up costs and risking patient lives. It also streamlines procedures to review Medicare payments before they

are made to ensure that we identify and stop fraud as quickly as possible. These antifraud initiatives build on the impressive steps the Obama administration has already taken to improve health care fraud prevention and enforcement, and on the real progress represented by the antifraud provisions adopted by the Finance and HELP Committees. I was pleased to be able to contribute to all of these efforts.

Like many sweeping reforms of our history, this legislation will likely be improved in the coming years as these reforms are implemented. For example, I will continue to push for a public option and for repeal of the health insurance industry's antitrust exemption, in order to promote competition, choice and lower prices.

The people of Vermont have given me the honor of representing them in the Senate for 35 years. I have joined in many debates that were contentious, yet ultimately productive. As we leaf through the pages of history, we can read of the many times when Congress has shown its remarkable ability to rise up to reflect the conscience of the Nation.

As many here have noted, our dear friend Senator Ted Kennedy would have been remarkably proud of the President and this Congress for passing reform that was unachievable for so many before us. Ted reminded all of us in a letter written to President Obama what the stakes are in this debate. He wrote, ''What we face is above all a moral issue; that at stake are not just the details of policy, but fundamental principles of social justice and the character of our country.''

When the dust settles and emotions are calmed, I believe this effort will be viewed as a credit to this good and great Nation and its people. This President and this Congress have responded to a pressing national issue and have proven once again our ability rise above partisanship and act with the purpose of advancing a pressing national interest.

I am proud of this latest proof that change is possible in this great country when a pressing national interest is at stake. And I am proud to have had the honor that Vermonters have given me to represent and advance their interests in this effort.

This really is a new day of hope for tens of millions of Americans who have fallen through the cracks or who worry they may fall through the cracks of our broken health insurance system.

When President Barack Obama signed the comprehensive health insurance reform bill this morning, I could not help but think as I sat there that this ranks with the creation of Social Security and Medicare. We have talked about reforming health insurance for decades, but it has not been done. Of course, it has been an arduous process, but it has proven that change is possible even when you have had the pitched opposition of entrenched and powerful and, I might say, very wealthy special interests. America rose to meet one of its foremost challenges and to renew its promises.

America has some of the best health care in the world if you can afford it. Millions of families in America and in Vermont worry that they are just one paycheck away from medical and financial disaster. This is a new day for them.

I ask all those Members of Congress who fought so hard against this health care and voted against it, are they willing to give up the great health care system they have as Members of Congress, that they can buy as Members of Congress, and trade places with the millions of Americans who cannot buy the great health care system Members of Congress have? I have not heard a single one of them who voted against giving help to these millions of Americans say they would give up their own.

Whenever I travel in Vermont, whether it is at the grocery store, church, on the street, or at a gas station, I often stop to listen to personal and wrenching stories, such as the woman from Winhall, VT, who needs to spend $500 a month on prescriptions but who would be uninsured if not for her husband's job. She is working two jobs to make ends meet and to afford the health care costs, or the small business owner who works 6 and 7 days a week but she still cannot afford the blood tests her doctor recommended—if she becomes sick, she will lose her business and her home—or the man from central Vermont who told me of his sister-in-law who lost parts of both of her feet because she could not afford the simple care that would have saved her feet because she did not have health insurance. When she needed medical attention, she waited, hoping things would get better, knowing she could not afford to go to the doctor. By the time her family was able to step in, she had to be rushed to the emergency room, not for a cure but for amputations. This is America. I do not hear a single Member of Congress saying they are ready to give up their insurance they are able to buy through the Senate or the House of Representatives and trade places with this woman.

I grew up in my family's small business in Montpelier, a printing business. I know small businesses want to try to keep good workers, and many want to offer health insurance options, as my parents did, but spiraling insurance costs are taking that option away. Some of the most immediate and far-reaching reforms in this new law are tax credits that will help small businesses continue to offer insurance to their employees.

Health insurance has prevailed through the grueling gauntlet of obstructionism erected by the defenders of the status quo—worse than anything I have seen in my years in the Senate. One gauntlet remains in the Senate, where partisan opposition has prompted efforts to derail these further improvements to this law. It is no wonder that while Americans vastly support the individual components of these bills, they have been skeptical when asked about the hazy concept of comprehensive reform.

Some have argued that doing nothing is a safe option. Last month, insurance companies planned a series of premium hikes, as large as 39 percent in one State. Last year, the five largest for-profit insurance companies booked $12.2 billion in profits and they raised the average family premium three times faster than wages. One company alone, WellPoint, is hiking rates by double digits in 11 States, while their profits are up 91 percent. Meanwhile, even with soaring profits, insurers continue to drop sick people from their rolls, spend less on care, and because they have an exemption in antitrust laws they avoid competition.

Now that this bill is law, annual caps on coverage are eliminated. Insurance companies are now barred from dropping people from their plans, even if they paid their premiums, simply because, gosh, they got sick—the reason for which they bought health insurance. Denying children health insurance coverage because of preexisting conditions is illegal. Parents can keep their children on their health insurance policies until they are 26 years old.

I think of the people who worked so hard on this legislation. I see Chairman BAUCUS and Chairman DODD on the floor. We would not be here without the two of them. I think we must continue and we must be able to make this final step.

The people of Vermont have given me the honor of representing them in the Senate for 35 years. I have joined in many debates that were contentious yet ultimately productive. As we leaf through the pages of history, we can read the many times when Congress has shown its remarkable ability to rise up and reflect the conscience of the Nation. This body especially should reflect the conscience of our Nation.

As many here have noted, our dear friend Senator Ted Kennedy would have been remarkably proud of the President and this Congress for passing reform that was unachievable for so many years before. He reminded all of us in a letter written to President Obama what the stakes are in this debate. He wrote:

> What we face is above all a moral issue; that at stake are not just the details of policy, but fundamental principles of social justice and the character of our country.

When emotions are calmed, I believe this effort will be viewed as a credit to this good and great Nation and its good people. The President and the Congress have responded to a pressing national issue. They have shown we can rise to the challenge before them.

I am proud to have had the honor Vermonters have given me to represent and advance their interests in this effort. I am glad to say to my fellow Vermonters: Now the day comes when

you have the opportunity to have the kind of insurance we Members of Congress have. I am sorry some have voted to deny that to you. This Senator votes to give it to you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 15 minutes to the chairman of the Banking Committee, also the de facto chairman of the HELP Committee, the great Senator from Connecticut, who has devoted countless time and creativity in helping shape the HELP Committee version of health care reform. Along with the Finance Committee, we have the HELP Committee. Chairman DODD has been terrific.

Mr. LEAHY. Mr. President, I ask unanimous consent that what time I did not use be yielded back to the chairman.

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

Mr. DODD. Mr. President, let me first of all thank my great friend from Montana, Senator BAUCUS. We arrived in the Congress of the United States together on the same day, back about 35 years ago. We have been friends for 35 years. We arrived in the Senate at different times. He got here a little before me. We have been in this institution for 30 years. I cannot describe in the limited time I have what a difference he has made—the fact we are here debating, finally, the last piece of this legislative effort to give the Americans what they have sought for more than a century, and that is the basic right to health care.

I always found it somewhat ironic in a way that we in this country provide for those accused of criminal offenses the right to a lawyer, the right to an attorney. I believe in that. I think it is correct. But isn't it somewhat ironic that the same country that would provide you with a right to a lawyer if you are charged with a criminal defense cannot provide you with a doctor if your child is sick? There is something fundamentally wrong with that, in my view.

For the first time, we are on a track that will correct that error. Henceforth, in the years to come, they can mark the calendar date of March 23, 2010, when for the first time in American history an American President signed into law a bill that will provide Americans the opportunity to live free from the fear that they or their loved ones will be faced with a health care crisis and they will not have the capacity, without bankrupting themselves or watching a loved one lose their life or become chronically or permanently ill or sick because they could not afford it, to see a doctor.

I rise today on this very historic day to thank my friend from Montana, to thank the terrific staff of the Finance Committee, to thank the members of the Health, Education, Labor, and Pensions Committee, chaired by my great pal and friend Ted Kennedy for so many years. I was asked to take over last summer and to work through the efforts of that committee to participate and contribute to our part of this bill. On July 16 last summer, we completed our work.

I see my friend MIKE ENZI here. We worked together on issues over the years. LAMAR ALEXANDER, my friend from Tennessee, as well is part of that committee. While we did not come together on final passage of that bill, I wish to express my gratitude to them and their staffs as well for the contributions they made to this product. Even though they might not be anxious to acknowledge the contributions, they made contributions. I am grateful to them and, of course, my staff as well—Tamar Magarik Haro and Jeremy Sharp, as well, who is with me on the floor today, along with many others who did a fabulous job in providing us with support and assistance.

We heard the word ''historic'' with regard to this legislation. Sometimes those words are thrown around a little too lightly, in a little too cavalier fashion to describe other events. Today truly is historic. I have been here 30 years, and I cannot think of another day quite like it in the annals of our Nation to provide, at long last, the ability to have a national health care plan. For tens of millions of ordinary citizens, the passage of this bill means more than just a page in history, of course. It means real security for older Americans who rely on Medicare and still need help paying for prescriptions. It means relief for small business owners who are forced to choose between cutting off benefits and laying off the workers they need so much in their operations. It means an end, more than anything else, to the sleepless nights when fathers and mothers worry about how to pay for a cancer treatment or a child's checkup.

My colleagues know I am a late bloomer in the father business. I have a 5-year-old and an 8-year-old. I started a little late in this business of parenthood.

Two weeks ago, my little 5-year-old was pretty sick. She got a stomach virus. She was throwing up quite a bit, about every 20 minutes or so. We called our family doctor. He said I should get her up to Children's Hospital emergency room, about 7 o'clock on a Saturday night. She was terribly dehydrated—not uncommon when this happens. She spent the next 18 hours in the hospital getting hydrated.

I wanted to share with my colleagues what that emergency room was like that evening. Again, I have a health plan. All of us do—8 million Federal workers. We have pretty good coverage. I am grateful for that. I walked in, put that card on the table, and things began to move. My daughter was going to get the kind of treatment she needed.

But that room was filled with a lot of people that night, people with no health care, people showing up well beyond a point you would want to see a physician because they did not have the resources to do it. That goes on every single night and day all across our country. If anybody has doubts about it, I urge you, in the break coming up, the 2 weeks, if you have a chance, to go by late in the evening to an emergency room in a hospital in your area. You will encounter what I did a few Saturday nights ago when I took my young daughter to receive the kind of help she needed.

I kept on thinking that night that my daughter was not unique in getting a stomach virus and getting dehydrated. How many other children in this city or across America that night had parents sitting around, sleepless, wondering whether that child was going to get better, knowing they were getting more dehydrated and putting them at great risk of spiraling down, putting them at greater and greater risks, not knowing what to do, not having the resources to do it, not having that kind of health care, not having the money and insurance to pay for it, and wondering when they were going to show up in the emergency room to take care of that child. That goes on every single day in America, in the United States of America, in the 21th century.

This bill does not solve all of those problems, but the idea that we can lift the burden of fear from those families, those people who work hard—remember, a majority of all the bankruptcies last year occurred because of a health care crisis in that family, and a majority of those people who went bankrupt because of a health care crisis had health insurance. These were not people without insurance; it is just the copays were so high, the deductible so high that they were going to get in financial trouble before the insurance would even kick in. We are not just talking about the uninsured. Even people with some insurance find themselves in that situation. So my daughter is fine today and doing well because I didn't have to worry about the cost of her care. I have a good health care plan. But for other families across this country who don't have that security, that sense of confidence that if their loved ones end up ill or need attention or care, that unless they have the kind of coverage and the ability to pay for it, their child might not have had the same outcome that mine did. That shouldn't happen in this country.

So for us in Congress, the passing of this legislation represents more than just the culmination of a century-long movement for reform. It began with Teddy Roosevelt. I regret today that President Obama didn't mention Richard Nixon. He mentioned Roosevelt and Truman and Bill Clinton, but Richard Nixon tried as well to get national health care. He is not recognized often for it. People only talk about him in a negative sense. But Richard Nixon tried this. It was Democrats and Republicans who tried to get this done.

What this effort represents is proof that while progress is not easy, neither

is it impossible, and that, maybe more than anything else, is important about what we saw today.

As President Obama said, we didn't come here to the Senate, to the Congress of the United States to fear the future; we came here to try to shape it. And despite the complexity of the problems, the political power of those stubbornly defending the status quo, and even the refusal of many in this community to acknowledge the urgency of reform, that is exactly what we have done.

A broken health care system is not the last challenge we are going to face now as a nation or as a Congress. Far from it. Today, our Union became a little more perfect, but is still far from it. There is still much to do to help American families build better lives for themselves. But, Mr. President, I hope when we again find ourselves at moments of great national import—and we will and we are—we can look back not at the polls or the petty partisan fights that too often contaminate our debates and that always seem to stand in the way of progress, but rather at the fact we rose above them and we acted—and we acted, Mr. President.

We have a chance again to act this evening or tomorrow, as soon as this process comes to an end, by voting up or down on the legislation designed to make this good law even a better one. If you strip away the overheated rhetoric, the false claims that have become commonplace during this debate, this bill is nothing more than a set of commonsense fixes. Let me quickly remind my colleagues and others what they are.

The commonsense fixes will extend the solvency of Medicare. The bill will fill the so-called prescription drug doughnut hole and lower premiums for seniors. Another commonsense fix will extend to all insurance plans the consumer protections in the newly passed health care reform law. It will end the lifetime caps on benefits to people. It will also provide the guarantees that your coverage would not be taken away if you get sick and includes a prohibition on excessive waiting periods, and the extension of coverage to adult children up to the age of 26. It will ban discrimination against people with preexisting conditions. These commonsense fixes will increase the tax credits that help low- and middle-income families pay for insurance, boost funding for community health centers, strengthen provisions for cracking down on waste and fraud in the Medicare and Medicaid systems.

Mr. President, these commonsense fixes will improve the shared responsibility of policies, ensuring that employers and individuals do their part to keep the country healthy, both physically and economically. It includes valuable protections as well for hospitals and physicians, and more fairly distributes Federal funding among the States so that State governments aren't overburdened at a time when it is already rather difficult to balance those budgets. It revises revenue provisions in the law to take some of the burden off middle-class families and put it on the pharmaceutical industry, which can afford to bear those burdens.

On top of all these commonsense fixes, it includes a badly needed, fully-paid-for investment in Pell grants enabling more Americans to go to college and get the education they need to compete in the 21st-century world in which these children will face. The bill increases Pell grants, I know my colleagues know, up to $6,000 by 2017. Hardly enough, in many cases, to pay for the ever-growing cost of education, but it can make a difference. It links scholarship amounts to the cost of living so they never again have to fall behind, and all of us know how valuable that can be. Because the legislation switches to the far less expensive direct loan program, it will also reduce our deficit by more than $10 billion over 10 years.

Now, that is what is in this bill. Those are the commonsense fixes. If you don't like the health care bill, fine; but don't tell me what we are doing is a bad idea. I think it takes a good law and makes it a better law, and I hope we can get broad-based support for these provisions.

I know some of our friends have made plans to spend the rest of the week delaying passage of this bill. I would hope they not engage in that. I don't think it serves our interests. Vote against it, if you want, and let us get on with the other business we have before us. To go through some marathon voting for the sake of delaying the process I don't think does a great service to this great institution. That is not what we are sent here to do.

That is all you are going to witness, unfortunately, Mr. President, if this goes on for a protracted basis over the next couple of days—one cute little amendment after the other to see if it can embarrass colleagues to vote on something that may cause people to worry about their sense of sanity in all of this. Yet all it is designed to do, and nothing else, is but one thing: to delay voting for the provisions included in this commonsense fix.

Mr. President, I hope, again, that we can move on to other business; that the large issues in front of us require us all to work together. As the chairman of the Banking Committee, I have the responsibility of trying to bring to this floor some reforms in financial services. I am blessed with wonderful members on my committee—Democrats and Republicans. There is a growing desire in our committee, I think, to do just that. My intention is to try to do just that in the coming weeks, working with my friends on the Republican side as well as my colleagues on the Democratic side of the aisle. It is a big set of important issues, and that is what we ought to be doing.

That is what we did on this bill. Unfortunately, we were forced to do it as one party, not as a Senate acting together, and I am saddened by that fact. But my sadness is overwhelmed by the sense of joy that I have that this Congress, this President, was able to sign into law one of the most historic pieces of legislation ever adopted by any Congress in the 200-plus-year history of our Nation. I urge my colleagues to support this reconciliation bill.

With that, I yield back any time I may have to Senator BAUCUS for some later consideration that he may need.

I see the chairman has arrived back out here, and I yield the floor.

Mr. BAUCUS. Mr. President, how much time remains?

The PRESIDING OFFICER. There remains 3½ minutes.

Mr. BAUCUS. Mr. President, I would like to speak a few minutes on the amendment offered by the Senator from Arizona with respect to the declaration of a public health emergency.

Under the 1980 Superfund law, an administration has the authority to issue a public health emergency whenever it determines based on science that there is a certain part of the country for which that declaration makes sense. It applies to anyplace in the country. An earlier administrator, Christine Todd Whitman, was about to declare a public health emergency in Libby, MT, because the conditions were so dire. Frankly, I read the e-mail traffic between her office—HHS—and the Bush administration in the White House.

The White House put the kibosh on that declaration. The EPA, based on the science, was going to make that declaration. Administrator Jackson has now made that declaration based on the science.

There is more asbestos contamination in Libby, MT, on a per capita basis than any other place in the country. It is appalling. People are dying of asbestos-related diseases and mesothelioma. Tremolite is the form of asbestos that is present. It is so sad. It is a small town, a poor town. The company, W.R. Grace, has left them high and dry. There was a criminal trial against its officers for intentionally contaminating Libby. Frankly, that did not result in a successful criminal prosecution but, in my judgment, having read lots of transcripts of hearings, it is clear a declaration of a public health emergency is not only valid, but this is a company, frankly, that should have been brought to justice. In fact, they moved assets off the books so they would be judgment proof. W.R. Grace is a very bad company, in my judgment.

Anyway, this law applies to all States in the Nation—all States—where, based on the science, the EPA Administrator thinks a public health emergency should be declared at a certain site that is then required by the law. Screenings are then allowed and medical treatment is allowed to people who would otherwise not get any, or get very little because the company has cut back on any health care benefits they had.

So this is, in a sense, health care reform. These are people who don't get health care. They have been left without health care. There is no coverage, frankly. They have this so-called preexisting condition because they have asbestos-related disease. I think it is only proper these people in Libby finally get their due.

My time has probably expired, but I could go on and on and on about this sad situation and how much these people deserve to have at least some health care that they would otherwise not receive.

Mr. President, I believe now the time is to be allocated to the Republican side.

The PRESIDING OFFICER. The majority time has expired.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I am going to rise to offer an amendment in a while to protect American workers from the punishing job-killing taxes in this reconciliation bill. My amendment would send this flawed bill to the Finance Committee with instructions to report back a bill without an employer mandate and with an offset.

Mr. BAUCUS. May I inquire of my good friend if he has a copy of his amendment so we could see it. Before I make a request to set the current pending amendment aside, I would like to see the amendment.

Mr. ENZI. I thought a copy had been delivered to you.

Mr. BAUCUS. Maybe it has. Let's just check to be sure we have it.

Mr. President, I suggest the Senator proceed with his argument on his amendment.

Mr. ENZI. That is all I was going to do for the moment, is present the argument and then offer the amendment.

Mr. BAUCUS. OK.

Mr. ENZI. Of course, this process we are going through seems like Groundhog Day to me. I worked on health care with Senator Kennedy for 3 years. We came up with some principles that translated into what is on my Web site: 10 steps that would actually solve health care and do what the President promised.

I am the ranking member on the Health, Education, Labor and Pensions Committee, so I went through the markup on that. As far as any predesign or drafting prior to the markup, I had no opportunity to do that. We were given a bill and told: Here it is. If you want, you can do amendments. Well, it was put together pretty fast, so there were typos in it. We thought maybe we ought to help solve those, and as a result there were 150 amendments that were accepted, but none of substance except a couple.

One of those amendments accepted was one that Senator HARKIN and I both cosponsored. It became a part of the bill, and that was the Safeway plan that would have provided some prevention. It would have given companies the ability to provide incentives to their employees to do prevention.

Like I say, it wound up in the bill. But when it was printed on September 17, it was not in the bill anymore and we never had a vote on it. I don't understand how that can happen, and that is why I say this feels a little like Groundhog Day because we keep trying to get things in there.

I was part of the group of six, and one of the things I asked for was the Gregg amendment that we had earlier, which said Medicare money ought to just go to Medicare. And I keep seeing these side deals made, which is the amendment Senator MCCAIN did.

Each time we have been presented with the bill and they said: Here it is, take it or leave it. We tried to do amendments. The amendments don't wind up in it. The way it gets passed is by having side deals made. I am not familiar with that kind of legislating. It is foreign to me and I don't think it is the right thing to do.

I also went to the White House summit. Again, the President said: Tell us your ideas. And we did. Every time a Republican presented ideas they were rebutted immediately. My idea of a listening session is the person putting it on does a little preamble and explains the format they are going to do and then they actually listen. At the end after a listening period, when people have had a chance to voice their opinions, the leader, which in this case would have been the President, says: Here is what I learned today or: Here is what I didn't learn today. Instead, what we got was a pitch for why we ought to accept the bill the way it was and that is exactly the way it has progressed every step of the way.

Here we are again, another Groundhog Day, trying to do some amendments that will make this a better bill. In fact, it will make it a bill that will work; a bill that will be sustainable. Right now I am trying to save business in America, particularly small business, at a time when our Nation's unemployment rate is 9.7 percent. Millions of Americans have lost their jobs and millions more go to work every day, worried about keeping the job they have. Many States are seeing double-digit jobless rates which are weighing heavily on their local economies. Businesses of all sizes are struggling to keep their doors open and are finding it harder and harder to make payroll.

When our Nation's businesses struggle, workers and their families struggle just as much if not more. American workers depend on a strong economy to create jobs that help them feed their families and build their dreams. Unfortunately, the employer mandate in the reconciliation bill will only make it more difficult for America's businesses to hire and pay their workers.

This reconciliation bill being pushed through the Senate contains $52 billion of new taxes—that used to be big money—$52 billion of new taxes on business, businesses that cannot afford to provide health insurance, especially at the higher rate being required. The bill has in it a Federal minimum standard that is better than 50 percent of the insurance that Americans already have. If you don't think your rate is going to go up, if you have something that is below that Federal minimum standard and you like it, too bad. We are going to force businesses to buy better insurance than what they already have, and if they do not, they get to pay $52 billion in new taxes. Most employers do provide insurance for their employees, but there are some that cannot afford to.

What does health care reform mean to those businesses that cannot afford health insurance? Unfortunately, health care reform for them will mean higher taxes. These are the same businesses that are barely making it today, they are the same businesses that are currently laying off workers in order to keep the company afloat. They are the same businesses that are cutting shifts to prevent further layoffs and cutting wages to keep their employees on the payroll—and much of that is with the agreement of the employees. They understand. They are with a small business. It is more like a family. They understand what the consequences are of new taxes and new requirements and new regulations and it scares them. They make concessions so they can continue to work. They are working fewer hours than they used to work. Productivity is up but there are less hours.

The problem we have is that Congress doesn't understand business, especially small business. I go and visit Wyoming most weekends. I travel a different part of the State and one thing I like to do is get into some businesses and find out about them. I found out most businesses look pretty simple until you scratch the surface a little. We get a completely different opinion here because we print our own money, but that doesn't happen out there in the business world. They have a lot to take into consideration. They have to figure what it costs them to be in business and they have to make sure they bring in a little more revenue than it costs them if they are going to stay in business.

An example of that is, if you take a six-pack of soda, the store charges you $2. They didn't make the soda and it didn't appear magically out of thin air. The store had to buy it from a distributor. That costs money. The distributor had to buy it from a bottler and the bottler had to buy the water, the sugar, and the flavoring to make the soda. You add up all those purchases plus the costs of renting and heating space, paying people and paying taxes, and you get the price. They have to come up with that kind of price in order to stay in business.

Nobody sells it for cost, not for very long. They can't. If they sell a product at the price that is the same as it costs them to buy the product, rent the space, pay the employees, and pay the taxes, they don't make any money. They go out of business.

One of the things we hear about around here is all the greedy businessmen there are. That is not how you get to set your price. There is competition out there that forces you into the lowest price you can charge and stay in business. If that were not the case, if greed were the answer, why doesn't a loaf of bread cost $10 or $50? The simple answer is no one would pay that price. You have to be able to sell the product in order to stay in business and it has to come in at a cost that you can afford.

One of the things we are doing here with this employer mandate is piling more costs on the businesses. Economists have told us repeatedly that the new job-killing taxes in the reconciliation bill will be paid on the backs of workers. The Congressional Budget Office has repeatedly said that workers will bear the brunt of an employer mandate. In fact, CBO has said that the $52 billion in new job-killing taxes will result in a corresponding reduction in wages, and if the worker doesn't make enough money to cover the new taxes, that worker will be at risk of losing his or her job.

Low-income workers have been particularly hard hit by the current economic conditions. Low-income workers are typically employed by small businesses and see the demand for their services fluctuate wildly with the ups and downs of the economy. These low-income workers typically have less formal education and have an even harder time trying to find any job. In fact, workers without a high school diploma have a 50-percent higher unemployment rate than workers with higher education levels.

The current economic situation for young, relatively unskilled workers is dire. They are facing an increasingly difficult job market that is flooded with older, more qualified workers. Unfortunately, the job-killing taxes in the reconciliation bill will actually make their situation worse.

The bill creates incentives against hiring low-income workers and unskilled workers. In fact, we have a problem in this country right now with businesses being concerned about what kind of additional regulations are going to come out of this body and the one at the other end of the building. So they are not hiring people. They are waiting to see what it is going to cost them. If the cost is too high, they will not hire people so we will not be able to absorb those people who are already without jobs.

According to the Congressional Budget Office, employer mandates such as those included in the reconciliation bill would ''reduce the hiring of low-wage workers.'' Harvard Professor Kate Baicker reported that as a result of an employer mandate, ''workers who would lose their jobs are disproportionately likely to be high school dropouts, minority and women.''

So with the unemployment rate highest among high school dropouts and minorities, this bill would actually make their situation worse. The job-killing taxes in this bill fall disproportionately upon the people who are struggling the most, putting their jobs at risk and making it even more difficult to find a new one. At a time when Americans across this country are looking for signs of an economic recovery, the Senate should be debating a bill that helps the situation, not makes it worse.

I offer this amendment to protect American workers from new job-killing taxes that will lower wages and cut jobs. Senators can make a statement right now and support American workers who are facing the toughest job market since the Great Depression. I urge my colleagues to vote in favor of my amendment.

My motion is at the desk. I ask to call it up.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. Mr. President, reserving the right to object, I ask once the time on the Enzi motion has expired, the motion be set aside until a time to be determined by the leaders.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

MOTION TO COMMIT

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. ENZI] moves to commit the bill H.R. 4872 to the Committee on Finance with instructions to report the same back to the Senate within 1 day with changes that strike the employer mandate that will lower wages and increase unemployment and add an offset.

Mr. ENZI. I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I am proud to take the floor to support the motion from my good friend, the Senator from Wyoming. I can understand his frustration, having been through what he described in the process in the committee where this bill allegedly was marked up—although it is unrecognizable. The things that he was able to get in and thought were in disappeared. He also has another committee on which I join him and that is the Small Business Committee. So there is no one better than an accountant from Wyoming who has small business experience and who has served on the HELP committee in drafting this legislation to outline the problems with this bill.

We have not even heard him speak at great length about his background in accounting, but this bill, filled with gimmicks, 10-year taxes and 6-year spending, is overwhelming. But he is correct when he says that the cost, according to CBO, will fall on the backs of the workers, the costs of the employer mandate, and they will fall disproportionately on young workers, teenage workers, particularly minority teenage workers who have a very high unemployment rate now. He said, and I would have to agree with him, it appears that Congress doesn't understand how small business works. Clearly the administration doesn't.

When you look at how this bill was done on Sunday, House Democrats accomplished what we thought was unimaginable—they successfully passed the health care boondoggle that the Democrats passed here on Christmas Eve where they stuffed our stockings with a partisan 2700-page bill chockfull of political payoffs, kickbacks, and sweetheart deals, some of which my friend from Arizona mentioned.

But this Sunday the House Democrats ignored the will of the American people and on a party-line vote passed this $2 trillion bill that will increase health care costs, raise taxes, and cut Medicare for seniors. Despite the story Democrats are now trying to sell to the American people, this $2 trillion bill is one the President has now signed into law containing the ''Louisiana purchase,'' a sweetheart deal for Connecticut hospital, and several more deals on the side, in exchange for votes and so on. It is one that the American people do not want. They say no to this government takeover.

I stand with the American people who say repeal the bill and replace it with the things we need. We need to repeal the bill and enact real health care reform that will lower health care costs and not break the banks of taxpayers or take Medicare from seniors. That is exactly what we propose to do. I joined several colleagues in cosponsoring a bill that would repeal this monstrosity because we need to get back to business, to give the American people the health care reform they deserve—not the bill they don't want.

This Christmas Eve health care bill is not the only legislation to which the American people have said no. They also do not want the so-called reconciliation bill which is going to force the American people to reconcile themselves to even higher taxes, even more cuts in Medicare. This is the kind of thing that will not fix the problems of the American people, it will make them worse. If you thought cuts to seniors in the previous bill were bad enough, this reconciliation will cut services even more and taxes will go up. But as my colleague from Wyoming said, right now we need jobs. That is what the American people are telling me they want. They cannot be any clearer. One in ten Americans is unemployed. A fellow Missourian, Harry Truman, once said, for those people it's not a recession but a depression.

With these kinds of dismal unemployment numbers it is no surprise that polls keep telling us that they want jobs created, not the government to take over health care.

It is not just the people in Missouri who have been stopping me on the street. I get e-mails, phone calls, and

letters to my office. But they stop me wherever I go, from a grocery store to the post office to restaurants. They do not want this job-killing bill. They want a job-creating effort.

They do not want this monstrosity of a health care bill. Unfortunately, the majority in this body and the other body have ignored their demands. This bill undermines the employer's ability to create jobs and by extension it extends the recession and all of the misery associated with it.

Most people, I would hope, would recognize that small business is the engine that creates the jobs in the United States. People who are informed, as we would hope Members of this body are, know that most small businesses are taxed as individuals, as proprietorships, partnerships, or sub-S corporations. That is why the small business tax relief in 2003 cut taxes and led to the creation of 8 million new jobs.

Despite what some of my colleagues on the other side believe, it is not the government, not a massive government stimulus bill that creates jobs in the private sector. In fact, the massive stimulus bill discouraged it, and the reconciliation bill will be even a bigger blow to job creation.

And the timing, when unemployment is still too high, is a perfect storm because the 2003 tax cuts are expiring. So these small businesses are already facing one boost in their taxes, and now they are going to get several more. Pair these two and the effect is that Congress is piling an overwhelming burden on small business.

The tax on health insurance will result in increased premiums. However, these who are self-insured, like big businesses and not-for-profits, like labor unions, are exempt from this tax. It is not going to hurt them. This means those who are forced into the fully insured market, such as small businesses, will bear the burden of the premium increases.

The President and the majority may tell you they are giving tax credits to help small business. Well, they are not going to be fooled by that. The tax credit expires after only 5 years. If you have 11 employees and hire another one, it starts phasing it out, so you cannot have your business grow. If you raise the salaries, you lose the benefits.

The reconciliation bill makes things worse. It increases the penalty under the employer mandates from $750 to $2,000 per employee, on top of all of the other taxes. If you are already offering your employees insurance in this high-cost market and the government decides it is not good enough, they hit you again, if it is too expensive. If that was not bad enough, both full-time and part-time employees will be counted. The majority wants the American people to think they are not really hurting business with this reconciliation bill. They like to talk about sticking it to or raising the taxes on the wealthy.

They want the American people to believe—and I believe the American people are too smart and know—that these new taxes are going to just hit the CEOs of Fortune 500 companies or professional athletes or entertainers, wealthy lawyers, Hollywood moguls, and international finance speculators. That is what they charge.

But what my colleagues on the other side of the aisle will not tell you is the collateral damage will destroy small businesses. Who are the ''rich'' the Democrats want to target? As high as 79 percent, some figures say, of those paying taxes at the highest rate have a large part or at least a small part of their income from small business. Small business is the backbone of the country and represents 99.7 percent of all employer firms; over half of all private sector employees are in small business; 44 percent of the total U.S. private payroll; and small business generated over 64 percent of the net new jobs over the past 15 years.

Despite this importance of small business, we are facing a new employer mandate which the Enzi-Bond amendment would strike. I urge my colleagues to have a heart. Understand that the people they are hurting are not just small businesses, it is the people who work for small businesses or who would work for small businesses who will be denied the chance to get a job in small business because of the increasing costs this bill puts on them.

This bill takes away incentives for small businesses to keep the workers they have, to hire and expand. Some of these small business owners who think now is not a good time to expand their business or hire more people cite the political climate as the second most cited reason they are not doing it, after poor sales.

The government is literally prohibiting economic growth. Small businesses are struggling. They are struggling in this economy to be able to offer affordable health insurance. I have worked for years with people such as Senator ENZI and other colleagues to get small businesses permission to go together in nationwide purchasing pools and buy their insurance in the national market like the big employers and the unions do so they can get better rates, get the administrative savings.

Well, we cannot get it through. This would be the time to do that. It would not cost the taxpayers anything. It would save taxpayers money. Allow people to purchase health care across State lines. You can see auto insurance advertised, and they cut through competition to get you the best deal. Would not my folks in Missouri who are having trouble affording health care like to look for a national health plan? They would love it.

If you care about the jobs in this country and the future of the economy, you cannot vote for this reconciliation bill which would further devastate one of our most important job-creating sectors. It is not only a bad bill, it will make the struggling market worse.

Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. There is 6 minutes remaining.

Mr. BOND. I want to add one other thought. In the 20 years I have been in the Senate, I have traveled around the world. I have seen remarkable changes that have come from countries throughout the world, particularly after the fall of the Soviet Union. With the fall of socialism and communism, countries around the world immediately began to look to the United States as the economic model.

They saw our progress. They saw what we were doing because of the system we had. Our free enterprise system demonstrated that successful businesses, successful entrepreneurs can provide opportunities. This is a classic case of a rising tide lifting all boats. That is why countries from some of the least developed to the reasonably well developed want to mimic our system. They are not looking to Denmark or Sweden with their very high tax rates as a model; they see the difference between a government-controlled economy and a free economy with appropriate government regulation.

They know in the free economy, the free marketplace, entrepreneurs can go forward and come up with an idea, take a risk, risk their fortune, risk their ideas, and go out and make money that will allow them to hire more people and provide benefits for the community.

Unfortunately, when our President says health care should be the model for the role of the government in the economy, I am afraid he is talking about the European Socialist model which has demonstrated that the economy does not grow as quickly as the U.S. economy. They have high levels of unemployment.

What does government-created high unemployment do? It generates more social welfare and transfer payments. These transfer payments put pressure on governments to raise taxes even higher, make more people dependent on the largesse of the Federal Government, and further depress the incentive for entrepreneurs, men and women with good ideas who want to build a job and want to hire people.

Last year's stimulus program did a tremendous job of putting more people on government payrolls; that is, the Federal, State, and local level. But did not do much to create jobs in the private sector. I believe the private sector in America has historically been vibrant. It will create jobs despite increasing government taxation, deficits, and regulations. They may do that for a while, but I can tell you that the number of jobs will necessarily be far less than what the free market system could create if it were not inflicted with this increasing government burden on businesses.

Using history as our guide, health care and the reconciliation bill and the other proposals the majority has

planned are likely to lead to a longer recession, continued high unemployment, and a lower standard of living for all Americans than would otherwise be possible. That is the source of the anger among the public.

No one is against health care reform. You can tell that from the angry people. I have met the clerks in a store, in a hardware store, who say: Do not take away my health care. I want some reforms, but I do not want to lose my health care. That person, I told her, she would lose her health care. She would not be able to use the same plan. I said: I agree with you. I want to stop this bill. I want to get commonsense reforms that will really help more people get insured, get better deals, and do it without raising costs, and cutting Medicare.

Americans understand what this type of health care reform will do to the good health care system we have now, what it will do to our economy. There is a real danger. The people understand. That is why they are angry. I will tell you, they are angry. They are angry at me. They call my office and they are yelling at me.

I said: I am on your side.

They said: I know, but we are angry. We do not want to see it go through.

They are concerned and we are concerned about our families, about the economic prospects for our children and grandchildren because they are going to be carrying the burden on their backs of the heavy spending we do today.

I see my colleague from Wyoming rising. I will end my remarks here.

Mr. ENZI. I thank the Senator from Missouri for his passionate remarks. He was the former chairman of the Small Business Committee before he moved to the chairman of the Intelligence Committee. You can see the passion and his understanding, former Governor, and one of Jaycee's ''10 outstanding young men.'' I appreciate him raising the issue of small business health plans. We have exchanges, we have the Shop Act, we have some other things, co-ops, in the bill. But we should have put in more opportunities for competition. Increased competition brings prices down. So I thank the Senator for mentioning that.

I believe our time has expired?

The PRESIDING OFFICER. The minority's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the next hour of debate be equally divided, as we have been doing, back and forth, with the first half under the control of the majority, the second half under the control of the Republican side.

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

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from Illinois from the time on the Enzi amendment.

Mr. DURBIN. I thank the chairman of the Finance Committee for his leadership on this issue and I thank my colleagues for joining in this debate. We are now starting the end of the fourth hour, into the fifth hour of this debate.

I have listened to many of the speeches that have been given. They are not only good, they are familiar. They are familiar because most of the speeches which we have heard on the floor are critical of the Health Care Reform Act which passed the House of Representatives on Sunday night and was signed into law by the President this morning.

Now, I can understand why some on the other side of the aisle did not like that. They did not vote for it. But the fact is, to come before us in this Chamber and to attack that now law of the land is to ignore why we are supposed to be here. We are here with a reconciliation bill that is basically designed to reduce the budget deficit.

We have several provisions in this reconciliation bill which have not been addressed by most of the speakers on the other side. For example, did the Republicans oppose the reconciliation provision that makes health insurance premiums more affordable for those in lower income categories? That is what is in the reconciliation bill. If they oppose that, then they should come out and say just that.

Do they oppose the expansion of community health clinics across America, more than doubling the number of community health clinics so there is more primary care so every family has a family doctor? Do the Republicans oppose that? Do they oppose family doctors for every family? If they do, step up and say so.

Do they oppose the efforts in this bill to close the doughnut hole; in other words, to make sure that seniors under Medicare have help in paying for prescription drugs they do not have today? I have yet to hear the first Republican say he opposes it. Yet that is what the bill is before us.

So the news flash to the Senate Chamber is, this morning the President of the United States of America signed into law the health care reform bill. To come before us and renew this debate is to ignore the measure that we are supposed to be considering, the reconciliation bill.

I haven't heard all the speeches on the floor, but I want to know if the Republicans oppose the provision in the reconciliation bill that ends a $60 to $80 billion subsidy for banks across America on student loans. Do you think that subsidy for banks is good? If it is, stand and say so. I think it is bad. It adds to the cost of loans. It adds to the debt of young people. We eliminate it. If they think banks should enjoy this subsidy, let's hear it. Stand and address the provisions in this bill. But they haven't done it.

Instead, what they have done is to file, at latest count, some 22 or 24 amendments. Remember, this is a reconciliation bill about reducing the budget deficit. I leave it to those following this debate to decide whether these Republican amendments are serious efforts to address the budget deficit or something else. Here is one we have seen so many times before by one of the Republican Senators, attacking the ACORN organization. Unfortunately, this Senator's newspapers have not been arriving on a timely basis because if they had, he would know this organization is going bankrupt. But he wants us to stop on this health care debate, stop on this budget deficit debate, and go back and flog ACORN again, as they languish in bankruptcy court. Common sense tells us that doesn't have a thing to do with health care reform or budget deficit reduction. It is a political amendment.

Here is an amendment by a Republican Senator to prohibit prescription coverage of Viagra for child molesters and rapists. I am not making this up. There is a fertile mind somewhere on the staff of the other side of the aisle dreaming up gotcha amendments. Here is one, Viagra for child molesters. Let's see if they will vote against that. Common sense tells us that doesn't have anything to do with health care reform or reducing the budget deficit. It is a political amendment. It is unfortunate.

Here is one Members should be held accountable for, but the question is, Why would you debate it on this bill? An amendment to require all Members of Congress to read a bill before voting on the bill. I have been asked repeatedly: Did you read the health care reform bill? The answer is yes. I think our constituents should ask us that question. But are we going to make it the law of the land? Who is going to monitor the reading of these amendments and bills to make sure every page is read by every Member of Congress? Is this a commonsense amendment or is this a political amendment?

Here is an amendment by a Republican Senator. You tell me what this has to do with health care reform or budget deficit reduction: to call for a referendum in the District of Columbia on gay marriage. What does that have to do with health care reform? The answer is nothing.

What we are going to face in the next few hours or days, whatever it happens to be, are more and more amendments such as this that are not serious amendments. They don't deal with health care reform. They don't deal with the budget deficit. They deal with somebody's idea of a political gotcha, to offer an amendment to try to trap Members.

I don't think we are going to fall for that. I think Members on this side of the aisle realize what is at stake. We need to pass this reconciliation bill so we can help pay for health insurance premiums for those in lower income categories, extend the reach of community health clinics, close the doughnut hole, make sure we are helping States pay for the new Medicaid burden they will face. I thought the Republicans were in support of that. Obviously, they are not.

There is one point I would like to add. I have heard so many speeches by Republican leaders, including the Republican minority leader, that the reason why this whole effort is wrong is because the American people oppose health care reform. Another news flash: I wish to share with the Members of the other side of the aisle a poll announced today. When people were asked, after passage of the health care bill in the House of Representatives, whether they believe it is a good thing or bad thing that Congress passed the bill, good thing, 49, bad thing 40. By a 9-percentage margin, the American people say it was a good thing to do. America's emotional reaction on the bill, 50 percent enthusiastic or pleased, 42 percent angry or disappointed. I wonder if my Republican colleagues are now going to amend the premise that we should follow the opinion polls of America, now that the bill is passed and the American people, a majority, support this. Are they now going to change their position on whether opinion polls should drive our votes? I thought that was a pretty simplistic analysis to start with.

Here is what it come down to. Many of us went to the White House today to watch the President sign a bill that will be historic in nature. Similar to Social Security and Medicare, it extends the reach of health care protection and peace of mind to millions of Americans who don't have it. It was a hard-fought battle; I will concede that point. The fact is, at the end of the day, we won that battle. The President signed that bill, and it is the law of the land. The so-called Republican repealers, the ones who are going to run down in the next election to repeal it, better come and explain to small businesses across America, almost 4 million that are going to qualify for tax credits to help pay for health insurance. I heard all the comments from the previous speaker from Missouri, the Senator talking about be sensitive to small business. By opposing that bill, he opposed tax credits for almost 4 million small businesses. That bill will also extend health insurance to 30 million Americans who don't have it, Americans who, when they get sick and get treated, pass their bills along to other people. Those 30 million will have health insurance. That means less of a burden on those of us with health insurance to pick up their cost.

I say to my colleagues on the other side of the aisle: The political amendments don't make sense. Most of the American people have had enough of them, amendments about ACORN and gay marriage on a bill on health care. It doesn't fit. Common sense tells us we should not be delaying the Senate's final decision on a critically important bill. If the Republican side of the aisle was waiting for American public opinion to express itself, the American people have spoken. They think we did the right thing in passing this bill on health care reform, and the President did the right thing signing it into law this morning. They don't want to repeal this help. They want all the help they can get for affordable health insurance for quality care.

I yield the floor.

Mr. BAUCUS. Mr. President, I yield 10 minutes off the bill to the Senator from Michigan, Ms. STABENOW.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I thank the chairman of the Finance Committee, with whom I am honored to serve, and colleagues who have been working very hard on this initiative, as all our colleagues have. I wish to talk first about what is in front of us because it is true that today is a historic day. The President signed a very important bill, passed by the House and the Senate, that lays the groundwork for what we all believe should happen in terms of making sure every family has a family doctor and that we tackle the costs that are crippling businesses and the country. What we have in front of us now is a bill to make a good bill better. That is what we are doing. We are making a good bill better with what we are doing right now. It is tackling the issue of cost.

We are saving money in this bill we will be voting on, saving money for middle-class families by making health care more affordable, saving money for seniors by making their prescription drugs more affordable, and saving money for our children and grandchildren because this is the largest deficit-reduction effort we have seen in many years—in fact, since President Clinton brought us into balance when the Democrats were last in charge.

We know from the Congressional Budget Office and we now have 43 leading health economists who all agree that health care reform will reduce the deficit, about $143 billion in the first 10 years and over $1.2 trillion in the next 10 years. This is important, as we go forward and get our House in order, to bring down the deficit and focus on jobs and other parts of the economy that are so important.

What are we talking about, as our colleagues talk about the broader bill that has already been signed into law? What does that bill mean for families and businesses? First, starting right now, today, I was very pleased to author a provision to make the small business tax cut immediate. So as of today, for this year, small businesses are going to receive up to a 35-percent tax cut to help them afford health insurance. In my State, health care is very much about saving jobs. Health care costs are costing us jobs. We have too many small businesses getting a 20- or 30- or 40-percent premium increase notice. They are deciding: Do I keep people employed and cut the health insurance or do I pay the health insurance increase and lay people off?

That is what is happening all across America. Our bill this year now begins a 35-percent tax cut for businesses that have 10 or fewer employees and a tax cut for those up to 25 employees. Four years from now, that tax cut goes up to 50 percent. So it starts at 35 percent and goes up to 50 percent of the cost for small businesses to help them pay for health insurance.

Right now we are going to begin to see the largest effort to provide community health centers that our country has seen. Approximately 10,000 neighborhoods, communities across the country will have the opportunity and funding to create a community health center so people who have lost jobs don't lose their health insurance, so people who don't today have health insurance will have a place to go to take their children to see a family doctor rather than to an emergency room. It is estimated we will be able to serve 25 million people by this effort that is starting today.

Starting today, seniors are going to receive immediate help for their prescription drugs, if they are caught in that gap in coverage that has been called the doughnut hole. We are going to be closing that doughnut hole over time.

What happens next? We are going to see lower costs for early retirees. This is a very important matter in the State of Michigan and other places where we have people being required or forced to retire at 55 because of losing their job or because of cost-cutting efforts. I was proud to join with Senator KERRY in an effort to create a way to lower the cost for employers that have early retirees on their health insurance or for early retirees themselves, between 55 and 65. We will be bringing down the cost of health insurance for people. That is very important.

No preexisting conditions for children. Insurance companies will not be able to block parents from getting insurance for their children. That is pretty important. Young people are going to be able to stay on their parents' insurance until age 26. I wish that one was a little bit higher. I kind of missed that one myself. But the reality is, for a lot of young people and a lot of parents, this is a very big deal. It is very important. I am surprised colleagues would want to repeal something that would take that away.

We have, starting this year, a set of insurance reforms that will say the insurance companies can't cancel your insurance if you get sick. I have so many people who have said to me: I have insurance, but then all of a sudden somebody gets sick, and they find out a technicality. They get dropped. We are going to hold insurance companies accountable in a way that has not happened before in this country. We are going to eliminate lifetime limits on coverage. It is not your fault if you have cancer and you need treatments for a long period or you have some other kind of disease. There should not be artificial caps and lifetime limits.

What this is about for us is that it is time to stand for middle-class families

and small businesses. That is what we are doing. That is what we are doing by lowering costs, by saving money for families, saving money for seniors, saving money for future generations, for our children by lowering the deficit, by focusing on small businesses, where most of the people who don't have insurance are working. They are working in a small business that can't find affordable insurance.

In the short run, we will help them with tax cuts and, 4 years from now, a larger insurance pool so they can buy from the private sector in a larger pool, such as big business does. That will bring down costs. This is about standing for middle-class families, standing for small businesses.

What we are seeing, unfortunately, on the other side of the aisle, as the distinguished assistant majority leader informed us, are all kinds of amendments. First, they have nothing to do with health care, nothing to do with this bill. They are all about games. I say to colleagues on the other side of the aisle: Don't play games with Americans' health care. Do not play games with the lives of Americans who are counting on us to finish the job—to pass the bill in front of us, to make a good bill better, to be able to save money for Americans, and to be able to get this job done.

We do not need more political games. I think the American people have seen enough. Frankly, I do not blame them for being frustrated about what happened and all that we have gone through in the last year. I share that frustration. They expect us to get things done. Frankly, they are not caring what configuration gets that done in terms of the vote. They want us to get things done.

So I would ask colleagues to drop the games. We are going to get a lot of different kinds of amendments that are designed to embarrass, designed to hold things up. I would ask colleagues to please stop the games. Do not play games with Americans' health care.

In conclusion, I would simply say again, health insurance reform is about a family doctor for every family. Isn't that what we want—the ability to know that when you tuck the kids in tonight, if one of them gets sick, you are going to be able to call the doctor, you are going to be able to care for your children, you are going to be able to get insurance for them, and you are going to be able to know that your children are going to get the care they need because you have a family doctor?

That is what this is about, fundamentally. It is about a set of values that starts from the premise that everybody in America, every family, should have a family doctor. This bill in front of us completes that task and sets us on the road to fulfill that vision. I urge colleagues to vote for this bill, put aside the games, and let us get on with the business of our country.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from California, Mrs. BOXER, off the bill.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

In 1912, a Republican President named Teddy Roosevelt ran for the Presidency on a platform that promised national health care reform. Today, I had the privilege of watching President Barack Obama sign into law a landmark bill that is being perfected today in the legislation now before the Senate. It was quite a moment. The Senate health care reform bill the President signed today gives small businesses tax credits to help them purchase insurance for themselves and their employees. In my State of California, that is 400,000 businesses that will have access to tax credits.

The new law is very important to early retirees because it will ensure lower insurance rates, and we will see a high-risk pool so that in my State, and all States, adults who cannot get insurance because of a preexisting condition will be able to do so.

The bill the President signed prohibits preexisting condition exclusions for children. So if you have insurance, but your child has asthma or diabetes or something else, and they cannot get covered, that discrimination is over. It ended today. The new law will cover preventive services such as mammograms and vaccinations at little or no cost.

This bill is so important—I should say this law because it is now the law—is so important for our people. It will create new community health care centers throughout our States, and we will see primary care doctors serving in those community health care centers, and nurses. It will require 80 percent of premium income to be spent on our health care—not on outrageous bonuses for the CEOs. They cannot say that overall they have spent 50 percent on us, the policyholders, and 50 percent on themselves. That is called medical loss ratio, and we have fixed it in this law.

Seniors on Medicare will get free preventive care, and we have a new, voluntary, long-term care insurance program that people can buy into starting in 2011.

In 2014, even more things are added to this extremely important list of benefits. Health insurance exchanges will open so that there is a marketplace for businesses, families and individuals to go. It is going to help us make better choices and have more choices. It provides tax credits to help individuals and families with incomes below $88,000 to purchase insurance through the exchange. So this has a lot of benefits for our working families and our middle-class families. We go up to $88,000 for a family of four. It expands Medicaid to cover families earning less than $29,000. Now it is a much lower level. So these are very good things.

The bill before the Senate now—this is our unfinished business. We need to make a good bill better, and that is what we are doing today. How do we do it? The bill before us entirely closes the gap in Medicare drug coverage. It starts with a $250 rebate to those senior citizens who are in that doughnut hole, that payment gap. In my State, it is about 800,000 senior citizens. Imagine, 800,000 senior citizens in my State, when we pass the bill, will get $250—each one of them, if they have fallen into the coverage gap.

It allows young people to stay on their parents' insurance until they are 26. That happens this year. How many stories have we heard about young people who may have—I use asthma as an example—who get kicked off their parents' health care? They have to. An insurance company says: We are not going to insure you, and they are in deep trouble. The bill before us today says to an insurance company: No more rescissions. That is a cancellation of a policy when you get sick. You can not do that anymore. And no more lifetime limits on your plans. Because a lot of times when people get sick—they did not read the fine print—they find out they are up against a limit. If they have a serious condition such as cancer, they may reach that limit. What happens is, they have to, in many cases, sell their home, sell their possessions, and they declare bankruptcy. No more. Insurance companies cannot do that—once we pass this bill tonight, and once it is signed.

So there are many good things in the bill the President signed today—things that are very important to our families and very good things to make that bill better in the bill before us.

I hope we are not going to see the kind of tactics that some on the other side have said they are going to use, by offering amendments that have nothing to do with anything except killing this very important bill.

I want to say, there are so many improvements in this bill. For example, Medicaid. My State will be able to put millions of people on to Medicaid—1.7 million people, to be exact. And my State, as all other States, will get 100 percent reimbursement for that in the years 2014, 2015, and 2016.

We are going to see 32 million more people in our Nation have access to health insurance. The Medicare trust fund will be extended by 9 years. My State benefits greatly. There are many ways I have already discussed. But I want to lay this out. By 2014, up to 7 million Californians will finally have access to health insurance, and it will reverse a horrible trend, year after year people not able to get it.

I want to spend a moment to address Republican concerns that the process was partisan. I think it is important to note over and over again that the bill that was signed by the President today, that is going to help so many of our people, contains 147 Republican amendments. Let me repeat that. The

bill the President signed today contains 147 Republican amendments.

For example, there is an amendment by a Republican colleague that all Members of Congress and their staff have to enroll in the exchanges. That is in the law. There is an amendment by another Republican Senator to allow premium rates to vary by tobacco use. That was accepted and is now law. There is an amendment to ensure that the voluntary long-term insurance program, the CLASS Act, remains solvent over 75 years. We have taken those amendments. They are now law.

Now my Republican friends are saying they want to repeal the bill. This is going out all across the airways. They want to repeal the bill. And they say if a lot of us lose, and they can get more votes here, they are going to repeal the bill. So I want to ask a few rhetorical questions.

Which of the protections in the bill do they want to repeal? Do they want to repeal the end of gender rating, where women have had to pay much more than men? Do they want to repeal the protections for our children, who will now have coverage even if they have a preexisting condition? Do they want to repeal free prevention services, such as vaccinations or mammograms? Do they want to repeal the prohibition on lifetime caps on insurance policies? Or maybe they want to repeal the $250 rebate for prescription drug costs to seniors.

Well, do they want to repeal other things? There is a law now that says you cannot get kicked out of your insurance plan when you get sick. That is the one I described before: no rescissions. Do they want to repeal that? Or maybe they want to repeal generous tax credits for small businesses.

I guess they want to repeal all of these things because they said they want to repeal the entire law. But I would urge them to stand up and tell their constituents exactly which of these provisions they want to repeal. I want to put it on the RECORD that I look forward to that battle because I can tell you the letters to my office are saying: Please, please protect us. We feel vulnerable.

I wish to state at this time that this bill reduces the deficit in addition to doing all these other things. In closing—and I would ask how much time I have?

The PRESIDING OFFICER. Thirty seconds.

Mrs. BOXER. OK. I would say, in closing, that a lot of fear has been injected into this debate. And you are going to get a barrel of it coming up. There is one thing to fear, and that is doing nothing. It is unsustainable. Mr. President, 14,000 people lose their health insurance every day; 1,400 in my State. Sixty-six percent of bankruptcies are linked to a health care crisis. Mr. President, 45,000 Americans die every year because they have no health insurance.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. So let's do something. Let's do this. Let's finish the job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Thank you, Mr. President. I ask unanimous consent to proceed in a colloquy with a number of my colleagues.

The PRESIDING OFFICER. Against which block of time will this be charged?

Mr. BARRASSO. The next 30 minutes for the Republicans.

The PRESIDING OFFICER. Off the bill?

Mr. BARRASSO. Yes.

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

Mr. BARRASSO. Thank you, Mr. President.

I come to discuss an amendment that has to do with the fact that—as I read this bill, as I talk to my colleagues who are physicians, as I talk to Senators—I believe this bill that was signed into law, as well as the reconciliation bill that is before this body right now, is going to significantly increase the cost of health insurance premiums paid by American citizens.

I am bringing up an amendment tonight that says if the Department of Health and Human Services certifies that premiums will rise faster under this Democratic health care bill signed into law, and the reconciliation bill, than they would under current law, then the provisions of the bill will sunset. Because we have been promised—the American people have been promised—that by passing this law, what would happen is that the cost of their own health insurance premiums would go down. The President of the United States promised it. The President of the United States, while campaigning, talked about that, made that promise, and then early in his term said he would actually lower the premiums for families by an average of $2,500 per family for the cost of their health care insurance. That is what the President said.

So then the bill is written behind closed doors. People had very little input. That bill came out, and then Senator RICHARD DURBIN, the Democrat from Illinois, the majority whip, comes to the floor on March 10 and says: Anyone who would stand before you and say, Well, if we pass health care reform, next year's health care premiums are going down—which is what the President has said—anyone who says that I don't think is telling the truth. He went on to say: I think it is likely they would go up—they would go up. What we are trying to do, he said, is slow the rate of increase.

Well, only 2 days before Senator DURBIN said that on this floor, the President was in Glenside, PA, and he said: Our cost cutting measures mirror most of the proposals in the current Senate bill which reduces—he said—reduces most people's premiums.

Mr. MCCAIN. Mr. President, may I ask my colleague whether he recalls when at Blair House our colleague from Tennessee began the discussion with the President and our Democratic colleagues, and he said at that time that the Congressional Budget Office said premiums would increase from 10 percent to 13 percent for individuals purchasing health insurance? That comes out to $2,100 more for a typical family. The President challenged that, as you may recall, and said: Well, we are going to settle this before the end of this—what later turned out to be 7 hours of fun.

So what was the answer to that, I ask Dr. BARRASSO. What was the answer? Was Senator ALEXANDER correct when he quoted the Congressional Budget Office that premiums would increase by 10 percent to 13 percent for individuals purchasing health insurance or was the President correct by saying that was not true?

Mr. BARRASSO. Well, Senator ENZI, who has joined us on the floor, was also sitting with us that day at Blair House, and my recollection and from doing the research afterward and the press reported that Senator ALEXANDER was correct. Individuals buying health insurance in the individual market would see their health insurance premiums go up by 10 percent to 13 percent if this bill becomes law, and the President signed it into law today.

So the American public needs to know that their insurance premiums are going to go up as a result of what the President signed today, and I am bringing up an amendment opposed to that.

Mr. ENZI. That is exactly what was concluded in that Blair House meeting. It was supposed to be a listening session, but nothing appears to have been listened to. Nothing was included from any of the multiple suggestions the Republicans made there.

About the 10 percent to 13 percent that premiums are going to increase, there is a very important addition to that. It is 10 percent to 13 percent more than if we did nothing. The President keeps talking about how we need to do this bill because health care costs are escalating dramatically. And they are. But they are going to escalate even faster—10 percent to 13 percent more—than if we did nothing.

Mr. MCCAIN. Could I ask Senator ENZI, then, what was the President referring to? In fairness to the President, what was he referring to when he challenged the assertion of the Senator from Tennessee that individual premiums would go up by some 10 percent to 13 percent?

Mr. ENZI. I am not exactly sure what he was referring to. He has used that in the numbers speeches, just as they keep using the number that this bill will reduce the deficit by $138 billion. Again, you have to read the rest of the sentence and find out that is if we don't take care of all of the things we normally take care of, such as the doc fix, which is going to cost $300 billion, which more than uses up that money.

Mr. MCCAIN. So it seems to me pretty legitimate to hold the President and the sponsors of this legislation to their word; that is, if it doesn't increase the premiums, then they are true to their word, but if it does increase premiums, then the American people have not been told the truth. Therefore, this legislation should be scrapped and we should start all over.

By the way, may I add one point? I have grown a little weary—a lot weary—about when they say to do nothing will do X, Y, and Z. We are not talking about doing nothing. We are talking about medical malpractice reform. How does anybody excuse the fact that there is not medical malpractice reform in this legislation? There is only one answer. It is that the trial lawyers control this legislation, and that is disgraceful.

Mr. GREGG. If the Senator will yield, I think it is important to understand why the premiums go up so that the argument that they don't go up can be pointed out as being really transparently inaccurate. The reason the premiums go up is because under this bill, Americans who have health insurance will be forced to buy more expensive health insurance. They are going to be forced to buy health insurance which is at a much higher level of coverage for a lot of things which many Americans simply don't need and therefore don't buy it today. They are going to be required to buy that higher cost health insurance, and that is going to force up the premiums.

This is a classic, top-down you do what the government says relative to what type of health insurance plan you are going to be able to buy plan, which we should expect from this administration. But we should not deny that it has an immediate impact on the cost of that health insurance and that CBO has said—as both Senators from Wyoming have so accurately pointed out, CBO has scored this as increasing the premiums for individuals because of that; is that not correct?

Mr. BARRASSO. That is absolutely correct. The nonpartisan Congressional Budget Office says it is going to go up. The Joint Committee on Taxation says people are going to have to end up paying more in health care premiums than if there was no bill at all. The Chief Actuary for the Centers for Medicare and Medicaid Services said the same, as did eight additional private sector studies. They all confirm that the health care reform bill signed into law today will drive insurance costs up greater than if there was no bill at all signed into law.

There are mandates we are putting on young people who are going to be forced, many of whom are going to be forced to buy insurance, forced by this law—all of them are going to be forced to buy insurance that many of them don't need, many of them don't want, and many of them can't afford, because they are going to have to buy levels that are far in excess of what they might want. It is going to be very expensive, as many of them are going to be subsidizing others because of what is called the community rating and the way this whole program has been set up.

Mr. MCCAIN. May I ask the Senator from New Hampshire—just a personal point. Suppose we had decided to do away with the tax benefit for employer-provided health insurance and given every American family a $5,000 refundable tax credit. Would we have then been able to provide the ability to acquire insurance to some 30 million Americans?

Mr. GREGG. Yes, I think the Senator is right, and the type of insurance they would have gotten would have been the type of insurance they wanted. If you are a young person today and you are not buying health insurance, it is probably in many instances not because you can't afford it. In fact, it is estimated that of the uninsured population, of the 47 million uninsured, approximately 20 million have incomes over $70,000, and they can afford insurance. They just simply decided they are not going to buy it.

If you gave them this refundable tax credit, what they could buy is a catastrophic plan so they could assure themselves of coverage in the case of that accident or that catastrophic disease that might wipe them out financially, and it would probably be more tailored to what they want as opposed to what some bureaucrat here in Washington wants or what the President of the United States wants or what somebody here on the other side of the aisle decided they should have.

Mr. LEMIEUX. If my colleague will yield, this is really a bait-and-switch. During the campaign, President Obama said this is about lowering the cost of health insurance. We know the cost of health insurance has gone up 130 percent in the past 10 years. The debate was: Don't you want your health insurance to be lower? And the American people said: Sure, yes. Of course they did. The switch is what this is all about, which is putting more people into Medicaid. It will put 15 million more people into a program that is failing; a program where Walgreens in Washington State is no longer taking Medicaid; a program where doctors are no longer taking Medicaid. It is not health care reform if the doctor is not in. But for the rest of Americans, the 159 million people who have health insurance, their costs aren't going to go down. In fact, their costs are going to go up.

I ask my friend, the Senator from Arizona, who comes from a State where there is a population just like Florida with a lot of seniors, what do we say to our seniors, our seniors who are now going to have a cut in Medicare of $500 billion-plus to finance this big expansion in Medicaid? How do we justify that to them?

Mr. MCCAIN. And the program, I am sure Dr. BARRASSO and Senator ENZI would agree, that is going to be cut the most is a program called Medicare Advantage where seniors do have some relative choice as to what type of care they wish to receive. Fortunately, the 800,000 enrollee carve-out has been removed because of the national attention it got.

Mr. BARRASSO. There is an advantage to Medicare Advantage. That is why people signed up for it, as 11 million Americans have. The advantage works with coordinating care, prevention of illness and disease. That is why people want to be in that program. But now the President is eliminating it.

My colleague from Florida talked about the 15 million people dumped onto Medicaid, and the New York Times reports that as Medicaid payments shrink, patients and doctors drop out. The President is not only dumping on 15 million through the health care bill, with the bill we are discussing right now, the reconciliation bill, it also adds another million people to those rolls dumped into Medicaid.

Mr. MCCAIN. So perhaps the worst fraud being perpetrated in this entire legislation is the doc fix. No one who is an expert on health care believes we are going to cut physicians' payments for treatment of Medicare enrollees by 21 percent. No one. Yet that is calculated in so there can be this phony actual reduction in the deficit.

Mr. BARRASSO. And for the ginned-up numbers we have been presented by the Democrats to work where they say we have actually helped lower the deficit, for it to work, in the next couple of months they would have to cut doctors' fees for all of the Medicare patients they take care of by 21 percent and then keep those fees frozen at that low level for the next 10 years. Now, is that going to happen? But if it doesn't happen—and I ask the accountant from Wyoming as opposed to the surgeon from Wyoming—from an accounting standpoint, can you do that?

Mr. ENZI. The Senator from Wyoming not only is correct that we are going to have a huge problem, but something that is new in the reconciliation bill besides this 21 percent that, of course, we are going to have to fix and that is going to cost us $300 billion—and all of the proposals so far have not paid for that proposal—they slipped in a little cliff in there for Medicaid this time, too, and in 2 years we are going to drop off a cliff with Medicaid just the same way as Medicare. Does anybody believe we won't fix that? That is going to drive up the deficits too.

Wasn't everybody promised catastrophic care as one of the Presidential promises? It kind of fascinates me that Medicare doesn't have catastrophic care unless you buy Medicare Advantage, and then you can have the catastrophic care. But we are trying to get rid of Medicare Advantage now and force all of those people into a different kind of insurance.

I appreciate the Senator from New Hampshire mentioning mandates. Yes,

they are going to require you to have a lot more different kinds of insurance than you might want to have. We are going to say: The Federal Government knows best, and this is the minimum insurance you can have, and you are going to have to buy it or we are going to put a mandate on you—another mandate.

This is the mandate for what you have to get in health care, but there is also going to be a mandate that says every single person has to buy insurance. There are a lot of people right now who make a good living, who are healthy, who don't think they need insurance and won't buy it. They will pay the penalty up until the time they have a preexisting condition, and then they will jump into the market and that will drive up the price for everybody else.

So there is a whole lot of accounting finagling that is going on to make different statements possible. But it is going to drive up the premiums, it is going to cause people to get more insurance than they want to get, and it is going to cause everybody to have to get insurance whether they want to or not.

In the history of the United States, we have never had the Federal Government tell anybody they had to buy something. We have set up safety measures in their purchasing to protect them, but we haven't said you have to buy it. In this case, we are going to say you have to buy it, and there are a whole bunch of people who say that is unconstitutional.

Mr. LEMIEUX. If the Senator will yield on a point made by my friend from Wyoming, isn't it amazing that the Federal Government is going to penalize—send an IRS agent to tax you if you don't buy health insurance, if you fail to take it out. Has the Federal Government ever, in the history of our country, penalized a person for failing to act? That is why we have these folks around the country who are experts in the Constitution, folks such as my attorney general in Florida, Bill McCollum, who is going to bring a lawsuit against this bill because the commerce clause has never been interpreted to say your failure to do something is in the realm of Congress. Imagine this, if you can say to somebody: Your failure to purchase health insurance is within the role of the Federal Government. Why can't the Federal Government say you have to go to the gym or you have to eat your broccoli? What can the Federal Government not do if it can do this? It is beyond the Framers' intention. It is beyond any of the Supreme Court law.

When you think about our relationship to our government, we are supposed to have the rights. Our Declaration of Independence says we have the rights and we give them up to the government. The government is with the consent of the governed. But in this situation, it seems the Democrats believe the government knows best.

I wish to make one other point about this cost issue. In the last 10 years, health insurance has gone up 130 percent. The reason why this bill will not control the cost of health care is because it takes the consumer out and keeps the consumer out of the equation. The consumer has no motivation to reduce the cost of health care.

We did not do the tax credit idea that the Senator from Wyoming mentioned, which would put the consumer back in the game, make the consumer conscious of prices, and make a competitive environment that would actually reduce health care costs.

I wonder if my colleague and friend from Wyoming might speak to that point because I know he was very much involved as author of this idea of giving us tax breaks.

Mr. ENZI. I appreciate the Senator from Arizona bringing that up because when he mentioned tax credits in his campaign, he was chastised by now-President Obama, saying that cannot happen, that is terrible. You will find that slipped into the bill anyway. So far, it just catches the top insurance people. They are going to be taxed—no, they are not going to be taxed because it is shoved in as a hidden tax, so it does not expose they are actually doing what the Senator from Arizona was suggesting. It is going to be a hidden tax the company is going to have to pay, but the company is going to take it out on the employee. It is another way they are going to tax and tax, raise prices or lower benefits.

The price on insurance is going to go up because right now the insurance companies are trying to protect themselves. On the one hand, they have been protected a lot in this bill. We are accused of helping out the insurance companies, but take a look at some of the stuff that helps out the insurance companies with the individual mandates, the employer mandates and those things. At the same time, they are being threatened that they are going to be price fixing.

I was in the shoe business with my wife. When we first went into the shoe business, Nixon was talking about fixing prices. In response, the companies immediately raised the price of shoes 50 percent, and then every time they were allowed to raise the price again, they did. Within 1 year, shoes cost twice as much as before. That is what happens when government interferes. This is government interference. It is going to cause premiums to go up and prices to go up.

The other side says: Don't worry about it, there are subsidies. From where are the subsidies coming? Oh, yes, we are going to take $½ trillion from Medicare and put it in new programs which are subsidies, and besides that, we are going to come up with $½ trillion in taxes and that is going to go for the new subsidies. Does anybody in America believe you can put in new programs at a cost of $1 trillion and it is not going to cost any of us a dime? Of course not. The seniors know it and the people who will be paying the premiums are going to know it and the companies are all going to know it.

Whom are they going to be mad at? They are not going to be mad at Republicans because not a one of us voted for it. On this reconciliation bill, I don't think they are going to be mad at us on it either. They can see what is happening. Premiums are going to go up, just as the other Senator from Wyoming mentioned.

AMENDMENT NO. 3582

Mr. BARRASSO. If I may interject, that is why I have an amendment at the desk that deals with this specific aspect in the bill that is going to cause premiums to go up higher, in my opinion, than if nothing were done at all. If that actually happens because the President and the Democrats have promised something different, then we ought to sunset the entire bill. With that, I call up the amendment that is at the desk.

The PRESIDING OFFICER. Is there objection?

The Senator from Montana.

Mr. BAUCUS. I ask unanimous consent that once the time on the Barrasso amendment expires——

The PRESIDING OFFICER. The Senator from Montana does not have the floor.

Mr. BAUCUS. Can the Senator from Montana ask unanimous consent for the floor?

The PRESIDING OFFICER. The Senator from Wyoming has the floor. There is a unanimous consent request pending to offer an amendment. Is there objection?

Mr. BAUCUS. Reserving the right to object, will the Senator agree to modify as follows: that once the time on his amendment expires, the amendment be set aside until a time to be determined by the leaders.

The PRESIDING OFFICER. Does the Senator so modify his request?

Mr. BARRASSO. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. BARRASSO] proposes an amendment numbered 3582.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that Americans can keep the coverage they have by keeping premiums affordable)

At the end of subtitle B of title II, insert the following:

SEC. 2___. AFFORDABLE PREMIUMS AND COVERAGE.

The implementation of the Patient Protection and Affordable Care Act (and the amendments made by such Act) shall be conditioned on the Secretary of Health and

Human Services certifying to Congress that the implementation of such Act (and amendments) would not increase premiums more than the premium increases projected prior to the date of enactment of such Act.

Mr. BARRASSO. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 7½ minutes remaining.

Mr. BARRASSO. Mr. President, we have a number of colleagues on the floor, and we believe absolutely this amendment is critical because it goes specifically to the heart of the promises that have been made to the people of our home States and the people of the country.

The promise made to the 85 percent of Americans who have coverage they like is that their costs would actually go down. But yet as I travel around my State and around the country, I see people are very worried that this bill that cuts Medicare for our seniors, raises taxes on all is loaded with sweetheart deals, is going to cause their health insurance premiums to go up at a time when they believe the quality of their care will go down.

Mr. GREGG. Will the Senator yield?

Mr. BARRASSO. Yes.

Mr. GREGG. I wish to make one point I hope is obvious to everyone. This amendment simply says that if the premiums rise faster than what they would under current law, then the bill will not go into effect. Isn't that what it says?

Mr. BARRASSO. That is exactly what it says.

Mr. GREGG. It is basically reinforcing what the other side of the aisle claims and what the President claims. Why should there be any opposition to something that basically puts into place the language which enforces what the President has claimed he is doing and what the other side of the aisle is claiming they are doing? Can the Senator from Wyoming think of why there would be opposition to this amendment?

Mr. BARRASSO. It should be unanimously accepted, with all sides agreeing because that is what the promise was to the American people when this bill was brought forth and when the President first addressed the Nation, that he wants to get the cost curve down, the cost of insurance down to $2,500 per American family. We just want to hold folks to the promises that have been made to the American people.

The American people have spoken overwhelmingly and loudly in opposition to the bill that has come out from behind closed doors for them to finally see and try to understand all the machinations and maneuvers. They ultimately looked at it and in overwhelming numbers said: We don't want this for ourselves, for our families, for our neighbors or for our country. Yet it was crammed down the throats of the American people.

I bring up this amendment tonight to say that I wish to hold those who voted for this bill to the promises they made to the American people. If, in fact, insurance premiums go up faster because this bill has become law than they would have gone up without this bill, then the law is no longer in effect.

As I look to colleagues from other States, I imagine this is what you hear in Florida when you head home for the weekend: What have we been promised? What are we going to get? How are we going to hold people to the promises made?

Mr. LEMIEUX. I thank my good friend and doctor for bringing up that point. My constituents in Florida say we care about the rising cost of health insurance, so I think the Senator's amendment is exactly on point.

If this bill makes the situation worse, it should not go into effect. Why would any of the 100 of us not support the Senator's amendment if we are not going to control the cost of health insurance? That is what we are supposed to be about. That was supposed to be the No. 1 goal.

It is a great amendment. I certainly will support it. I hope all our colleagues do. I think the challenge to our colleagues on the other side of the aisle is I know they do not want to take any of our amendments. I know they just want to cram this through and get it done so it does not have to go back to the House of Representatives. But the duty of our friends on the other side of the aisle is as always, as it is our duty, to enact good laws and make things better.

If there is an amendment such as this one that is good for the American people, it is their duty, I respectfully suggest, to vote in favor of it, even if it has to be sent back to the House of Representatives. Because when we go home to our constituents, they are going to ask us: Did you lower the cost of health insurance?

I am going to have to go home to more than 3 million Floridians on Medicare who continue to question me and say: Why are they taking $½ trillion out of our Medicare? Why is there now $200 billion coming out of the Medicare Advantage? Over the next 12, 24, 36 months, I am not going to enjoy the conversations with my constituents, even after my time in the Senate is through, who come to me and say: Why can't I go to Medicare Advantage anymore? Why did they shut down that program? Why can't I keep the health insurance the President told me I could keep? Why did my employer drop me?

The estimate is that 33 percent of folks on Medicare Advantage by 2015—this is Rick Foster saying this—are going to lose it. We have more than 1 million people on Medicare Advantage in Florida—more than 1 million. These are going to be tough questions to answer.

I applaud my colleague, the good doctor, for bringing this forward. It is exactly the right thing to do. I hope our colleagues on the other side of the aisle will have the courage to accept these amendments that are in the best interests of the people of the country.

Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. There is 2 minutes remaining.

Mr. BARRASSO. Mr. President, we continue tonight to bring forth to the American people our concerns about a bill that I believe from my years of practice in medicine, taking care of families in Wyoming, and now as a Senator for the last several years, is going to be bad for patients, it is going to be bad for providers, the nurses and the physicians who take care of those patients, and it is going to be bad for payers, people who pay for their health insurance, people who pay taxes in this country, the taxpayers of this country as a bill continues down the road which is going to contribute to the debt, contribute to the deficit and, as I hear, week after week at home in telephone and townhall meetings, the debt is the threat.

Our spending at this point is unsustainable. It is irreversible. It is irresponsible. I bring this up to say we cannot pass bills in the Senate and have them signed into law which promise one thing and do something very different—promises to help people and ends up hurting our Nation, hurting our economy, hurting our jobs, hurting the opportunity to hire more people with mandates, hurt young people who are trying to buy insurance because their rates are going to go up.

This is a bill that is going to cost all of America in ways in the decades to come that, from a financial standpoint as well as a health standpoint, are going to be detrimental to our Nation.

I say with my colleagues on the floor, please, take a very serious and close look at this amendment because the American people should not be promised one thing during a campaign and during a bill being written and then when it comes into law, they are going to see something very different, which is going to be detrimental to them, much more expensive for them, for their families, and impact on the kind of care they want for themselves and their families. That is why when I have townhall meetings in Wyoming and other States and people raise their hand, they think the cost of their own care is going to go up and the quality of the care is going to go down.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that we have an additional hour available, one-half hour each side, as has been the practice.

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

Mr. BAUCUS. I yield 10 minutes to the Senator from Washington, Mrs. MURRAY, off the bill.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, throughout this debate, I have come to

the floor to share the stories of families and small business owners from my home State of Washington who were suffering under our broken health care system.

I talked about Washington State small business owners, from Kitsap and Kennewick—good people who wanted to cover their employees but who could not afford to continue to pay the skyrocketing premiums. I spoke about mothers and fathers in Seattle and Spokane, grandmothers and grandfathers east of the Cascades and the west—men and women from every part of my State, some barely holding on to their health insurance and some with no coverage at all.

I told the stories of so many people from so many different backgrounds, but each one of them shared a common thread: the health care system we have today didn't work for them. It failed our families one way or another over and over again.

I have received well over 10,000 letters from Washington State residents, and too many of them share that theme: stories of coverage dropped when they needed it most, premiums going up at rates of 20 or 30 or 40 percent, seniors struggling after falling into the doughnut hole. Terrible stories—stories of loved ones who were lost, of children and patients, brothers and sisters, stories about what they had to go through before they passed away—battling insurance companies, losing their coverage, fighting for their care, never giving up but fighting against powers too great for them to bear.

That is why I have fought so hard to reform our broken health insurance system—to fight for our families who need help, to level the playing field for people who just need a little support—for families with real struggles and real problems that we can work together to help. And that is why I am so proud to stand here today and say to those families, and so many others, that although we have not fixed everything that is wrong with our health care system overnight, we have taken a real step forward for people across my home State of Washington and across America.

Today, when President Obama signed health insurance into law, a number of significant improvements kicked in, and some of the worst practices of those insurance companies were tossed into the dustbin of history. Great changes went into effect immediately for families and small business owners, for children and seniors in Washington State and across the country.

Now that this bill is signed into law, if you ever worried about losing your coverage when you or a family member got sick, you don't have to worry anymore. It is no longer allowed. Now that this bill is signed into law, no family ever has to worry about the unreasonable and unfair lifetime caps on coverage that we have seen from insurance companies in the past. Now that this bill has been signed into law, never again will families have to fight for the preventive services they paid for and they deserve—families such as the Labrums, from Port Orchard, WA. Joseph Labrum sent a letter to me about his wife who went to her doctor complaining of pain in her breast. A mammogram failed to show anything, but she personally wasn't convinced. She knew something wasn't right and she knew there was a history of breast cancer in her family. So she asked for an MRI, but her doctor told her that her insurance company wouldn't pay for it, and she just couldn't pay for it on her own. After 3 years of fighting with her insurance company, 3 years of pain and uncertainty, she was finally able to convince them to take that test. By that time, her cancer had grown to 8 centimeters and required a full mastectomy, chemotherapy, and 8 weeks of radiation.

Joseph told me that he is convinced if his wife's care had been up to her doctor and not her insurance company she would have been cured with a minor lumpectomy and wouldn't have had to go through so much pain and suffering.

The bill President Obama signed into law today makes sure that starting today insurance companies will be required to cover preventive services with little or no cost on the part of Washington State patients. Starting today, Washington State families will have access to new streamlined assistance to help them appeal services that have been denied or not covered adequately by their insurance companies. This is going to help anyone who has ever felt buried under a blizzard of forms and denials, and it will start helping our families right away.

For small business owners, starting today, the health insurance market will begin working better for them. Starting today, people such as Mark Peters, the owner of a small technology company in Port Townsend, WA, will be able to better afford care for his employees. Months ago, Mark wrote to tell me that he offers insurance to his employees. He does the right thing. But last year, he got a letter from his insurance company raising rates by 25 percent. Mark told me his small business can't sustain increases like that. No business today can.

In our current health insurance system, small businesses are often at the mercy of the insurance company. They lack the leverage, they lack the negotiating power of larger firms, and they can't afford to hire a human resource department to spends days fighting and haggling for better rates. But those days are coming to an end. Starting today, thanks to the bill President Obama signed, small business owners such as Mark will immediately qualify for the first phase of a tax credit program to help them purchase insurance for their families and for their employees. That credit that will kick in immediately is up to 35 percent of the employer's contribution to coverage, which is going to make a huge difference for almost 100,000 small business owners in my State of Washington right away.

Starting today, if you are a young person or a senior citizen, you will also be helped immediately. Over 159,000 Washington State seniors who fall into that doughnut hole are going to have their brand-name prescription drug costs cut in half starting right away. The law that passed begins to close this destructive coverage gap, and the bill we are discussing today finishes the job and closes that doughnut hole once and for all.

Starting today, insurance companies are going to be required to permit young people to stay on family policies until the age of 26, which is especially important, I must say, now that so many young people are having trouble finding that first job. Again, real help for real people right away. That is why I supported this law, and that is why I fought so hard to get it.

We have been talking about reforming the health insurance system for a long time. Many leaders in this country have tried to fix this broken system. Each of them has failed. But today, thanks to the bill President Obama signed, we begin the move toward real reform—reform that will help families such as the Labrums and small business owners such as Mark Peters, and seniors and young people in Washington State and across the entire country; reform that will help people immediately, starting today, and that will move our families one step closer to lower premiums, more choices, and, at long last, the health care security and stability Americans deserve.

Starting today, things are looking brighter for millions of Americans who have waited far too long for the help they need and deserve.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 10 minutes to the Senator from New Jersey, Mr. MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I thank the distinguished chairman of the Finance Committee for his work on this bill and the bill the President signed earlier today.

Mr. President, the time has come—historic health care has passed this Congress, the President has signed it into law, and the American people will live healthier, safer, more secure lives because of it. Now we come to the floor again, called upon once more, to finalize this historic legislation and make it even better. Once again I ask my colleagues on the other side of the aisle to take their place on the right side of history and end the obstructionism, stop the fear mongering, the apocalyptic predictions, and think about what they are about to do through the long lens of history.

Think of the legacy you want to leave. Think of your grandchildren. Think of all those who will look back a generation from now, maybe two generations, as we did with Social Security and Medicare, the Civil Rights Act, the Voting Rights Act, and ask: How did you vote? Think of what you will say then, and think of what you will tell your children and your grandchildren.

Will you look them in the eye and say you stood up for our families against the big insurance companies and voted for one of the greatest pieces of reform legislation in history? That is exactly what this bill will do. It will change the lives of millions of Americans, just as Social Security and Medicare changed the lives of Americans, and thank God they did. Those two pieces of legislation defined who we are as a people and the strength of the American community, each of us working for the betterment of all of us. It is our obligation, it is our duty, it is our call to history to leave a legacy of hope and health security for every American family.

Now, there are those who stood steadfast against Social Security at a time when millions of seniors were facing ruin in this country—when old women were selling apples on street corners, and seniors who had played by the rules and worked hard all their lives found themselves with nothing and no health care at a time in life when they needed it the most. The concept of Social Security and Medicare, as we know, was a long time coming, but it was the right thing to do. It was a Democratic proposal derided by those who used the same arguments then that they are using today against this legislation: Beware, a government takeover, socialism; the insurers will do the right thing.

Well, they have not. The difference between us then and now is that our friends on the other side of the aisle believe the business of government is to protect big insurance companies. But we believe the business of government is about our people—their lives, their hopes, their dreams for a better, safer, healthier, more secure life for themselves and their families. This is the debate on the floor today, just as it was when we debated Social Security, Medicare, and every other major piece of historic legislation that benefitted people over big business.

The health care needs of our families must prevail over what we see on the floor still today—the delay, the obstructionism, the almost irrational fervor to stand in the way of change that is being driven by talk shows and tea partiers in unacceptable outbursts of demeaning language and behavior such as we saw on the steps of the Capitol this past weekend against an American hero such as John Lewis, which will be judged harshly by history.

Let us be clear: Republicans have said no for a century, and once again we hear a resounding no to changing a broken system. I want to say yes. I want to say yes to the people of New Jersey, and let that be our legacy to those we represent. I want to tell the 1.5 million people of New Jersey who are uninsured and the 326,000 who have individual market insurance that they will now have access to affordable health care coverage.

I want to say to the 854,000 New Jerseyans that they will now qualify for tax credits to purchase the health coverage they need and deserve.

I want to say yes to preventive services for 1.3 million seniors in New Jersey who don't have those services today. I want to say yes to the 227,000 seniors in my State who will finally have their drug costs under the Medicare Part D doughnut hole covered over time.

I want to say yes to the tax credits for 107,000 New Jersey small businesses that will be eligible for tax credits to offset their premium costs.

I want to say yes to $14 billion in tax credits and cost-sharing tax credits for New Jerseyans to purchase private health insurance, many for the first time.

I want to say yes to an estimated $9 billion more for Medicaid that New Jersey would receive in this reconciliation bill, which is $580 million more than the original Senate-passed version.

I want to stand and say yes to basic commonsense protections that stop insurance companies from making health care about the bottom line and not the lives of people.

I want to say yes to stopping insurers from denying coverage for preexisting conditions—something that you have no control over, something that happened to you in your health and now stops you from getting health insurance.

I want to say yes to stopping companies from canceling policies when people get sick.

I want to say yes to ending lifetime limits on coverage.

I want to say yes to all of that and leave a legacy of hope to all the families who would benefit from this legislation. Yet it seems the only answer we get from those who have been against this legislation from the beginning is, let's start over. But we are not starting over. It is the law of the land now.

Not only do they want to say no to it, well, they want to repeal it. They want to repeal all of those things. They want to take away those rights that now exist for all Americans as a result of the President's signature. They want to take that away from you. The fact is, hard as it may be for some to realize or accept, Americans voted for change in their lives, change so that they would not have all of these obstacles to the health care of their families and themselves, and that is the change that is being delivered.

Affordable, accessible health care is now the law of the land, and this reconciliation bill makes it even fairer and more affordable for middle-class families. It helps seniors, protects consumers, it eliminates waste and fraud, and it further reduces our national deficit. This bill will eliminate special deals no matter how many times we hear bumper sticker slogans shouted from those who see health care reform in terms of their own political future rather than what is right for America. It makes health care insurance accessible to low- and moderate-income families who never thought they would be able to afford health care for themselves and their children.

It extends the prohibition on dropping people when they get sick and they need it the most and the requirement to provide coverage for nondependent children up to their 26th birthday, starting 6 months after enactment.

It attacks waste and fraud in Medicare and Medicaid by cracking down on abusive billing practices for hospitalization services, and it strengthens Medicare prepayment reviews to reduce abuses in the system and therefore help build the system.

The time has come once again to be counted. The time has come to take a historic vote once again, to take our place before the lens of history as our predecessors did on Social Security and Medicare and think of what we will tell our grandchildren. History will judge whose side you were on and the legacy we will leave. Voting yes gives young people, such as 24-year-old Christopher Joyce of Old Bridge, NJ, who had no insurance from work and suffered a massive stroke in January that left him paralyzed, barely able to speak, an opportunity to be on their family's policy instead of leaving the family on the verge of losing their home.

Vote yes and never again will a mother and father in America awaken in the middle of the night with a sick child and look at each other knowing they cannot afford the medical care their child needs.

Vote yes and never again will a man, woman or child in America be discriminated against because they are sick or once had something an insurance executive decided was a disqualifying preexisting condition.

Vote yes and never again will an insurance executive be able to make medical decisions instead of a doctor to manage risk for shareholders and hold the bottom line above the lives of people.

Vote yes and Christopher Joyce would have the health insurance he needed to save his family's home.

Vote yes and we will change things for the better for every American family. That is what this bill is all about. It is about a legacy of hope and opportunity and health care security and that is why I will be casting a ''yes'' vote on reconciliation.

I yield the remainder of any time I have and yield the floor.

The PRESIDING OFFICER (Mr. BROWN of Ohio). The senior Senator from Montana is recognized.

Mr. BAUCUS. I yield 5 minutes to the Senator from Maryland off the bill.

Mr. CARDIN. I thank the Senator for his incredible leadership in our successful completion of health insurance and health care reform. This was a special day, to be with the President of the of the United States when he signed into law the law with which the United States will finally join every other industrialized nation in the world in providing universal health insurance coverage, universal access to health care.

The best news is, we can improve it. We can improve that legislation with the bill that is currently before us. With this bill and the bill the President signed, 32 million Americans who currently do not have health insurance will be insured; 95 percent of Americans under the age of 65 will have health insurance. The good news is, we do this by reducing the Federal budget deficit which we need to do. We all know we need to do that—$100 billion over the next 10 years, over $1 trillion over the next 20 years.

It provides immediate help to small businesses and individuals so people can get insured immediately. For small businesses, if you are under 25 employees, you can get help; 10 or under you can get a tax credit this year, up to 35 percent of the premiums for covering your employees. Then, when the health exchanges come into effect, small companies can get credits up to 50 percent of the premiums they pay.

It provides immediate help for our seniors. I can't tell you how many seniors have talked to me about the dilemma of filling their prescriptions or paying their food bills or cutting pills in half. This year, with the bill the President signed, with the improvements we make to the underlying bill today, seniors will receive a $250 check to help cover the prescription drug costs if they fall within the doughnut hole. Under the bills, we completely eliminate, over time, the so-called doughnut hole seniors fall into and have to pay 100 percent of their prescription drug costs. That will be gone.

Under this legislation, there will be immediate help for individuals who have preexisting conditions to go into a community-based risk pool so they can get affordable health care now as a result of the passage of these bills. Under this legislation, we take on the abusive practices of private insurance companies. Effective within 6 months of enactment, no further discrimination against children with preexisting conditions; extending coverage for young people up to the age of their 26th birthday; ending the rescission of a health insurance policy because a person gets sick; banning lifetime limits on your insurance protection and starting down the path of restricting eliminating annual limits that are unreasonable. All that is included in the legislation we are talking about, providing immediate help to American families to find affordable health care.

Then we add also access to emergency care. I am particularly pleased with these provisions because these were additions, amendments I offered to extend this to emergency care, so insurance companies cannot deny you coverage for going to an emergency room if you had the symptoms where a prudent layperson should go to the emergency room, where you can pick your own primary care physician, where you can take an independent appeal from a decision of an insurance company that is contrary to what you believe is right.

Then, starting in 2011, we start telling insurance companies there is a limit as to how much they can take from your insurance premiums and use for their bureaucratic administrative costs or profits, that they have to put the money back into benefits for you, between 80 and 85 percent. If they do not, you get a refund, a rebate from your insurance company because they have taken too much in premiums from you. That is all in this legislation.

We build upon the community health centers. I particularly wish to thank Senator SANDERS for his leadership. Community health centers are critical to access to care. That is in this bill and it takes effect immediately. These are important changes.

I am also very pleased about the provisions added to this bill in an amendment I offered for minority health that will set up in the Department of Health and NIH a division of minority health so we can start to deal with the disparity in health care in America in a more aggressive way, in a more continuous way, so we can truly provide equal access to health care for all Americans.

The bill the President signed was great. This bill improves upon that. I urge my colleagues, let's take pride in what we were able to do collectively, let's improve it with the bill that is before us. It will help our seniors with prescription drugs, it will reduce the deficit further, make health insurance more affordable, and it will help our States in payment of Medicaid. I urge my colleagues to support the legislation and with that I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired. The senior Senator from Delaware is recognized.

Mr. CARPER. How much time do we have on our side?

The PRESIDING OFFICER. The Senator has 6 minutes 5 seconds.

Mr. CARPER. Mr. President, I would like to take a few minutes, before our Republican colleagues return to the floor, to talk about some provisions in the legislation the President signed today that are not very well understood but I think could be of real help in reining in the growth of health care costs. I have said all along—a number of my colleagues have heard me say this before—it is all well and good we want to extend coverage to people who don't have it. There are way too many people who do not have it. But if all we do is extend coverage without reining in the growth of costs, we will not do it for very long.

Among the provisions that I think are especially noteworthy—one, if a person turns 65 next month and they become eligible for Medicare, they are offered, under current law, at least before today's signing of the bill, the opportunity to get a once-in-a-lifetime deal, an annual physical. Under the law of the land until today, that was it. Under Medicare, if they live to be 105, they would not get another physical paid for by Medicare.

I have been getting annual physicals as a naval flight officer, and naval midshipman before that, for 27 years in all. I have had a lot of annual physicals. I think one of the reasons I am a fairly healthy guy is because of that and the feedback from annual physicals. We have a lot of people who never got an annual physical and one of the reasons why is it is not covered under your health insurance coverage. Under the legislation the President signed today, if a person turns 65 and becomes part of Medicare, they get an annual physical; in the next year, another one; in the year after that, if they live to 75 or 85 or 95 or, God bless them, 105, they will get a lot of annual physicals. I think that has the potential for addressing one of the real shortcomings in our health care system in this country. We don't do a very good job in primary care and part of primary care is, frankly, physicals from time to time. We are going to address that.

Another provision in the legislation that has not gotten a whole lot of attention—some but not a lot—is what can we do to incentivize people to take better care of themselves. It is all well and good that we want doctors to get more and nurses and hospitals, and so forth, and go after insurance companies, but what are we doing to incentivize people to take better care of themselves? If you look at a lot of countries where people have better health care than we do, one of the reasons is they take better care of themselves.

Something that has always fascinated me is, how do we figure out how to harness market forces for the delivery of health care? How do we harness market forces and incentives to drive good public policy behavior? We know it is not good for people to be overweight. How can we encourage them to lose weight? One of the things in the underlying bill is a provision that says, I think starting next year, we are going to have a provision requiring menu labeling. What do you mean by menu labeling? If you happen to be a restaurant company with 20 or more restaurants around—if you have a restaurant company and have restaurants in 20 or more sites around the country, you have to start, next year, putting on the menu board in the restaurant how many calories are in the items they serve. If they have a menu, you have to put it on the menu, how

many calories they serve. It doesn't mean people will not go in and order 3 or 4,000 calories to consume, but people are going to start thinking about it. It will be a reminder.

Another provision in the legislation that I think is especially noteworthy is to build on something already in the current law but to make it, I think, stronger. We all know people who needed to lose weight and they go on a diet and join a gym or something. They stop. They start. They stop. They exercise for a while, go on a diet and then fall off the wagon and go back to their old habits. You know people stop smoking and they do it for a while and then they start stealing cigarettes from people and eventually they go back full time. What we are trying to do with our legislation is to say: Look, if companies have employees, they know they are overweight, they want to encourage them to lose weight, let them offer a premium discount.

In the legislation, the President said today employers can offer premium discounts of as much as 30 percent for their employees for whom they are providing health insurance. If they are overweight, if they are losing weight and keep it off, if they are smoking and stop smoking and continue to stop smoking, if they have high cholesterol or high blood pressure and they can control those and continue to control those, they can get premium discounts of as much as 30 percent. Everybody in this Chamber today, we all know people who have tried to lose weight, lose it for a while and then go back the other way. We know people who try to stop smoking, they do it for a while and then they go back. What our legislation does is say we want to put more money back in the pockets of people who do what is the right thing for them to do for their own personal health, and by doing that, they actually bring down the health care costs of their group, the place wherever they are working. I think those are ideas that make pretty good sense.

Let me ask the Presiding Officer how much time is left on our side.

The PRESIDING OFFICER. The Senator from Delaware has 50 seconds.

Mr. CARPER. Fifty seconds? The last thing I want to mention is our Presiding Officer is from Ohio. He has been to Cleveland many times. I spent some time in Ohio as well. One of my return visits to Ohio last year was to go back to the Cleveland Clinic to see how they are able to provide better health care for less money than a whole lot of other health care delivery systems. It is because they and the Mayo Clinic and Geisinger and others focus on the same kind of model, better focus on primary care, focus on prevention. All those patients have electronic health records. All the docs are salaried employees. They don't get more money if they do more tests or more MRIs or more this or that. It is a better model. What we do in our legislation signed by the President today is we incentivize a lot of other folks providing health care to use the same models.

With that, my time has expired.

The PRESIDING OFFICER. The time of the Senator from Delaware has expired. The senior Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask the pending amendment be set aside, if that is necessary.

Mr. CARPER. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. CARPER. We just request to see a copy.

Mr. GRASSLEY. I will discuss the amendment while that is going on.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 3564

Mr. GRASSLEY. First of all, if the amendment can be called up, it is 3564. I would like to have Senator ROBERTS added as a cosponsor.

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

Mr. GRASSLEY. Mr. President, I worked for years to pass what is called the Congressional Accountability Act, which was signed into law by President Clinton in 1995. I worked so hard to get that bill passed because I strongly believe that Congress should live under the same laws it passes for the rest of the country.

If you remember, prior to 1995 Congress had exempted itself from 12 different pieces of legislation, starting with the Fair Labor Standards Act of 1938. Now, of course, we in Congress, as employers, have to live by the same laws as the ABC Company of Des Moines, IA, as an example. So the same principle applies to some parts of this bill.

That is why I offered an amendment during Finance Committee markup to require that Members of Congress and congressional staff get their employer-based health insurance through the same exchanges as our constituents. Part of that original amendment that I got adopted back then is in the bill the President signed today. And that amendment was adopted without objection, let me say, so it had consensus support. I am hoping the majority will support a similar amendment for the President, the Vice President, senior White House staff, political appointees from the Cabinet and sub-Cabinet, but, of course, not civil servants within the executive branch of government.

Also, my amendment would close a loophole that was added behind closed doors—meaning the closed doors of the majority leader's office, Senator REID, during the time that he was merging the Finance and HELP Committee bills. That loophole would exempt staff from committee and leadership offices from being required to use the exchanges even though individual offices of individual Senators and their staffs and the Senators would still be covered.

Now, you know, it takes a lot of chutzpa behind closed doors to say: Well, you know, it is okay for the Members' offices and the Members' staff and the individual Senator, but it is not okay for committee staff, it is not okay for leadership staff. Somehow, they are a heck of a lot better than the rest of us. So it would also bring that back to a level playing field for everybody here on Capitol Hill because most of our constituents would find it pretty unbelievable that the President, his closest advisers, and some staff remain untouched by the reforms they pushed for the rest of the country.

To put it simply, President Obama's health care reform will not apply to President Obama or other people, political appointees, within the executive branch. The message the White House, then, is sending to the grassroots of America is that it is good enough for everybody else but not for political appointees in the executive branch of government. So is it really any wonder, then, why most Americans oppose this effort?

Last December, I tried to correct the inequity that I talked about of leadership staff and committee staff, but the effort to apply any new law to the administration was objected to by the Senate majority leader at that particular time. In other words, I didn't get a chance to get a vote on it. But there is no justification for such a double standard. That is blatantly wrong. It is only fair and logical that top administration officials who fought so hard for passage of this overhaul of America's health care system experience it themselves. If it is as good as promised, they will know firsthand. If there are problems, they will be able to really understand those problems, as they should, just as the Congressional Accountability Act teaches each of us Senators, who have to live under the same laws as the rest of the country, that somehow we have to experience them, and then we know what it takes for small businesses to live by the civil rights laws, the wage and hour laws—I can't remember all 12 laws that we exempted ourselves from that we are not now exempted from.

We need to understand grassroots America. What is wrong with Washington is it is an island surrounded by reality, and we have to bring some of the common sense of the rest of the country inside here where we work all the time because the only business in Washington is government, and everybody in government is in the way. Everybody outside of Washington is pulling that way. And we have to make sure that the people in the wagon at least understand the problems of those pulling the wagon, and I think this will be one way to do it.

I ask unanimous consent request that the pending amendment be set aside so that can I offer amendment No. 3564, the amendment I just talked about.

The PRESIDING OFFICER. Is there objection?

Mr. CARPER. Reserving the right to object, would the Senator modify his unanimous consent request to provide that once all time has been used on the Grassley amendment, the amendment be set aside until a time designated by the leader?

The PRESIDING OFFICER. Does the Senator from Iowa so modify his request?

Mr. GRASSLEY. I am fine with that.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. ROBERTS, proposes an amendment numbered 3564.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To make sure the President, Cabinet Members, all White House Senior staff and Congressional Committee and Leadership Staff are purchasing health insurance through the health insurance exchanges established by the Patient Protection and Affordable Care Act)

At the end of subtitle A of title I, insert the following:

SEC. 1006. PARTICIPATION OF PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.

(a) IN GENERAL.—Section 1312(d)(3)(D) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(D) PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.—

''(i) IN GENERAL.—Notwithstanding chapter 89 of title 5, United States Code, or any provision of this title—

''(I) the President, Vice President, each Member of Congress, each political appointee, and each Congressional employee shall be treated as a qualified individual entitled to the right under this paragraph to enroll in a qualified health plan in the individual market offered through an Exchange in the State in which the individual resides; and

''(II) any employer contribution under such chapter on behalf of the President, Vice President, any Member of Congress, any political appointee, and any Congressional employee may be paid only to the issuer of a qualified health plan in which the individual enrolled in through such Exchange and not to the issuer of a plan offered through the Federal employees health benefit program under such chapter.

''(ii) PAYMENTS BY FEDERAL GOVERNMENT.—The Secretary, in consultation with the Director of the Office of Personnel Management, shall establish procedures under which—

''(I) the employer contributions under such chapter on behalf of the President, Vice President, and each political appointee are determined and actuarially adjusted for age; and

''(II) the employer contributions may be made directly to an Exchange for payment to an issuer.

''(iii) POLITICAL APPOINTEE.—In this subparagraph, the term 'political appointee' means any individual who—

''(I) is employed in a position described under sections 5312 through 5316 of title 5, United States Code, (relating to the Executive Schedule);

''(II) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

''(III) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

''(iv) CONGRESSIONAL EMPLOYEE.—In this subparagraph, the term 'Congressional employee' means an employee whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

Mr. CARPER. Would the Senator yield for 30 seconds? One of the things Senator GRASSLEY and I have endeavored to do in working on this legislation in the Finance Committee is to try to figure out what works to rein in the growth of health care costs and improve outcomes.

Where we agree is on one of the best ideas that is in our bill—the idea of large purchasing pools that we modeled after the Federal Employees Health Benefits Plan. We know that we as Members and our staff have to be part of the exchange. The idea is to create large purchasing pools in all of our States and even regional purchasing pools as well.

Mr. GRASSLEY. Without a doubt.

Mr. CARPER. I am glad that provision has survived so far, and I hope it will go on. I wish we could implement it sooner.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. I rise this evening in support of the Grassley amendment, and I appreciate that my colleague has brought this forward. We had an opportunity to discuss this months ago in the HELP Committee.

The fact is, the health care bill that is now law creates these State exchanges where all non-Medicaid and Medicare individuals will go to purchase their health insurance. And included in the exchanges are Members of Congress and their personal staff, who are required to join these exchanges in order to obtain their health care benefit.

But as the Senator from Iowa has mentioned, the rules that apply here—the rule that came to my mind when we were discussing this is this rule we were all taught as young children: Do unto others as you would do unto yourself. Unfortunately, I think what we see with this new health care law is that it fails to adhere to this rule.

So what you are going to have under this new law is every American will have to be part of this new health care exchange. But who is going to be left out? Who is going to be excluded? Well, the law itself here is pretty clear in terms of the definitions. It says Members of Congress, congressional staff. Congressional staff means all full-time and part-time employees employed by the official office of a Member of Congress, whether in Washington, DC, or outside of Washington.

But let's think of whom it does not include. It does not include the President, it does not include Cabinet members, it does not include members of the White House senior staff, it does not include committee staff that we may have. As the ranking member on the Energy Committee, I have committee staff for that. As the vice chair of the conference, I have leadership staff. But neither my committee staff nor my leadership staff would be covered under this new law. In other words, many of the chief architects of this health care law were apparently, very conveniently, omitted from any requirement of being within the health exchange.

So, again, whether it is the Cabinet members, the White House senior staff, the committee members, the leadership staff, you have to ask the question, Why have they been left out of this? Why is there a double standard? And if you are not asking that question, is it just a glaring omission or is there something else? Is this yet further evidence of what we are seeing that was done in the back rooms, the outcome of the late nights, the backroom deals that certain staffers who might perhaps work for the majority leader or certain staffers who work for the White House get to be treated differently than every other American out there? I do not think that is what we intended here.

As I mentioned, during the HELP Committee markup, I supported an amendment that was offered by Senator COBURN that most Democrats on the committee did not support. But it would require Members of Congress and their staffs to be included in the health care exchange. And the conversation that was had at the committee at that point in time, certainly by Members on the Republican side, was: Hey, if it is good enough for my constituents, if it is good enough for the people of the State of Alaska, then it ought to be good enough for me, it ought to be good enough for the President. But what we see is the President and the House and the Senate leadership offices who have pulled this bill together have conveniently left themselves out from being subjected to this provision.

So I appreciate Senator GRASSLEY bringing up this issue, pointing it out, pointing out that there are omissions. There are perhaps convenient omissions. I am not one to say whether it has been convenient or not, but it does raise the question, So what else has been left out? What else is contained within this bill that might be viewed by others as a special deal?

Earlier on the floor, Senator MCCAIN came and, along with many of our colleagues, kind of outlined some of those special deals about which I know people in Alaska are quite concerned.

They are like, wait a minute, if you are going to move health care reform in the manner you have, make sure it is even, make sure it is equal, make sure people are treated fairly and in a manner that we think and we recognize is consistent.

So I think we need to ask ourselves certain questions about what is in and what is out. We know there is certainly more spending—more spending in terms of the proposal. We know we have gone from $200 billion in spending to now $2.6 trillion in spending. We know there are more entitlements, we see that repeated and repeated, $115 billion in new entitlement spending, bringing the combined new spending in the proposal to $1.2 trillion. We know there are more taxes. We know there are more Medicare cuts. We know there are more gimmicks. You know, these are why the folks back home are saying: Wait a minute, these are the types of things you have promised us, and now you are telling us there are some good provisions in this bill, you are going to like this bill once you get to know it.

Some of my colleagues will tell you Medicare patients will now see free preventive services. I admit that sounds great. I am all for making sure we have screenings, whether they be mammograms or preventive services. But I have to ask the question, in a State such as Alaska where we face such an incredible crisis when it comes to access to care, to primary providers, knowing that we now have this bill before us, this new law of the land, how many of the few primary care doctors in my State are going to be accepting those new Medicare patients to provide them these wonderful preventive services, these free preventive services?

According to experts, not only in Alaska but in many parts of rural America, Medicare patients are not going to have a provider who will be willing to take them on. We have a think tank in the State, the Institute of Socioeconomic Research, that has said that seniors in low-payment Medicare States are going to be forced to wait in line. They have said: Independent of the doc fix, in Alaska, seniors are at risk for long lines to see a primary care doctor and overflowing to community health centers and hospital emergency rooms where existing capacity is highly likely to be quickly overwhelmed and long wait times become increasingly common. They go on to say that additional insured patients are going to hurt the existing Medicare beneficiaries, again, because of the access issue.

What we will have done is, we will have been able to issue that card, we will be able to say, yes, this is now available to you. But if you still can't get in to see the provider, then what have we provided for these seniors other than the card? That is not access. My mom used to tell us: If it sounds too good to be true, it is probably too good to be true. We are going to be spending a fair amount of time in these next few days and in the next many hours going through so many aspects of this reconciliation bill, trying to understand what is in it, what is not in it, who it applies to, and how it applies.

I am hopeful tomorrow I will have an opportunity to talk a little bit more about not necessarily the health care side of this reconciliation bill but one way in which the health care reforms are going to be paid for, and that is on the backs of students; students who have taken out loans, who, as we eliminate the Federal Family Education Loan program, the FEL program, essentially we are going to be helping to pay these young people. These some 19 million young people who take out student loans are going to be paying for the cost of the health care provisions contained within this bill. Is that right? Is that fair?

There is so much that needs to be discussed, that needs to be uncovered. Because what we have before us within this reconciliation bill is more of the same in terms of the bad provision that passed this Senate on December 24—more taxes, more cuts to Medicare, more hits to our seniors and our small business people. It was not good in the Senate bill. It is made worse in the reconciliation provision. Our job tonight and in the intervening hours is to make sure that the American public fully understands that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Please tell me how much time remains on this side.

The PRESIDING OFFICER. The Senator from Iowa has 15 minutes remaining.

Mr. GRASSLEY. I thank the Chair.

Mr. President, I know many folks look at this week's debate as the end of the process. I know some people look at the conclusion of this week with relief. I look at it with regret, regret for the opportunity squandered and regret for problems that we must now address. Our health care system is in need of reform. Our health care system spends too much, leaves too many people without coverage, and doesn't provide quality care that it should. We had an opportunity to do something about it the right way. We could have passed a bill with broad support in Congress and among the American people. That opportunity was lost. This process started in a bipartisan fashion. In 2008, the Finance Committee held a health care summit. The committee brought in experts from all over the country and all over the health care spectrum. We held numerous hearings. In 2009, the Finance Committee put together bipartisan roundtables and walk-throughs of the critical issues in creating this health care legislation.

Throughout the summer of 2009, six of us worked together in a bipartisan fashion to try to reach an agreement that could achieve broad-based support, because we felt that is traditional of social change in America, to be bipartisan. This was a restructuring of one-sixth of the economy. Doing that ought to be done not on a partisan basis, not on a slight bipartisan basis, but on the basis of a broad consensus. Somewhere along the line, though, getting it done quickly became more important than getting it done right. Was it when the HELP Committee produced a partisan draft that would have cost more than $2 trillion? Was it when the House slammed bills that were outright government takeovers through committee? Every year I hold 99 townhall meetings, one for each county in Iowa. When I went home last July and August, I found anger back home in my State. People were mad. People were fearful. They saw a government that took over General Motors, took over banks, spent us into mind-boggling debt. My people were worried about the direction of this country. Nothing has happened since August that has improved that situation.

While Americans get up every morning worried that the struggling economy may cost them their jobs, Congress has been hyperfocused on health care reform. This hyperfocus has led Congress to abandon bipartisanship and make some very questionable deals in the name of just getting it done. Congress had an opportunity to enact something the American people could support, but congressional Democrats and the White House seemed so focused on making history, they stopped actually listening to the American people. All the backroom deals, the budget gimmicks, and broken promises made it clear they are willing to go to any length to pass any bill, just any bill.

Health care reform will raise taxes by a half a trillion dollars. It will cut Medicare by more than a half a trillion dollars and not strengthen Medicare, but doing it solely to create a new and unsustainable entitlement program. Of course, it will cause health insurance premiums to go up even more than they are already going up. Rather than bringing the country together around some commonsense reform, it has driven the country farther apart at the very time we need to come together, especially for economic recovery efforts and the creation of jobs.

Health care reform legislation should have been done with broad-based support. Now, of course, this excessive bill is law. An opportunity has been lost. This legislation will raise taxes by a trillion dollars.

This is not the end, not by a long shot. Now the process of cleaning up the mess begins. Hopefully we can get some of these changes started this week in this very bill before the Senate. Because Congress will be back to fix challenges created by this bill. The Medicare physician payment problem, for one, is still out there. It will cost more than $300 billion to fix. Neither the bill the House passed Sunday nor this reconciliation bill addresses that very major problem. Congress will have to come back and fix it.

Another problem: Medicare is still going bankrupt. Hundreds of billions of dollars were taken out of the Medicare Program and were not used to improve the solvency of that program. Even the President has now acknowledged that you can't count the savings to pay for the new entitlement and to improve Medicare solvency, something I tried to tell this body many a time. Now the President says it. I hope people who avoided this last time are listening to the President. Congress will have to come back and fix it.

There are billions of dollars of cuts to Medicare providers in the health care reform bill that are totally unsustainable. Providers will not be able to survive if these cuts go into effect. A cynical person might suggest some providers supported the bill knowing there would be an influx of dollars to pay for new coverage, knowing that they would have years to stave off the corresponding payment cuts. So as I have said before, Congress will have to come back to this 2,700-page law the President just signed and fix it.

The bill gets half of the new coverage through the Medicaid Program. Everybody knows that Medicaid is threadbare to begin with. Adding 16 million people to Medicaid with tens of billions of dollars of unfunded liability for States is not going to improve that program. The reconciliation bill has a farcical 2-year payment increase for physicians in Medicaid that ends with a 50-percent cliff. No one has yet explained to me how that is supposed to improve the program. Congress will have to come back and fix it.

The bill prohibits health plans from denying coverage of preexisting conditions for kids under 19, starting 6 months after enactment. Sounds very positive; right? But in the rush to get things done, the majority failed to notice that prohibiting preexisting condition exclusions but allowing insurance companies to still deny kids entirely will end up in more kids being denied coverage.

Finally, the health care reform bill included a long-term care entitlement called by the acronym the CLASS Act. The CLASS Act is a fiscal disaster waiting to happen. When it starts to run out of money, when the insurance death spiral hits the program, the taxpayers will be on the hook to fix it. Congress will have to come back and fix it. Congress will have hundreds and hundreds of billions of dollars of problems to come back and fix.

I yield the floor.

AMENDMENT NO. 3567, AS MODIFIED

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent to call up and modify my amendment which is pending at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3567), as modified, is as follows:

At the end of subtitle B of title I, add the following:

SEC. _____. PREVENTING THE IMPLEMENTATION OF NEW ENTITLEMENTS THAT WOULD RAID MEDICARE.

(a) BAN ON NEW SPENDING TAKING EFFECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Health and Human Service are prohibited from implementing any spending increase or revenue reduction provision in either the Patient Protection and Affordable Care Act or this Act (referred to in this section as the ''Health Care Acts'') unless the Chief Actuary of the Centers for Medicare and Medicaid Services Office of the Actuary (referred to in this section as ''CMS OACT'') certifies that all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts will be offset by projected gross savings from the Health Care Acts.

(2) CALCULATIONS.—For purposes of this section, projected gross savings shall—

(A) include gross reductions in Federal spending and gross increases in revenues made by the Health Care Acts; and

(B) exclude any projected gross savings or other offsets directly resulting from changes to Medicare made by the Health Care Acts.

(b) LIMIT ON FUTURE SPENDING.—For the purpose of carrying out this section and upon the enactment of this Act, CMS OACT shall—

(1) certify whether all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts, starting with fiscal year 2014 and for the following 9 fiscal years, are fully offset by projected gross savings resulting from the Health Care Acts (as calculated under subsection (a)(2)); and

(2) provide detailed estimates of such spending increases, revenue reductions, and gross savings, year by year, program by program and provision by provision.

Mr. GREGG. I express my appreciation to the Senator from Montana for allowing me to do this at this time.

I understand we will have some agreement; is that correct?

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield 12 minutes off the bill to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, today we took a historic step forward toward a healthier America. I am proud that the Senate is debating the reconciliation bill this evening, fulfilling our pledge to make some crucial adjustments to the Senate bill we passed in December. The reconciliation bill before us will make the newly minted reform bill even better. It will provide stronger subsidies for low- and middle-income working families so they can afford insurance. That means fewer people getting primary care in emergency rooms. It will limit the number of families affected by the excise tax on high-cost plans and address geographic disparities in Medicare. It will finally close the Medicare prescription drug doughnut hole so that so many of our seniors no longer will have to choose between eating or taking medicine.

But let's be honest, even with these changes, it still is not perfect. We will continue to improve it because there are always things we cannot foresee. Look, we are still making adjustments to Medicare 40 years later. When Medicare passed, there was also ample opposition, not dissimilar to what we are hearing about this bill. Opponents said Medicare would be a government takeover of health care. But today you will not find a single senior in Minnesota who wants to give up his or her Medicare.

In fact, just in these past few months, I am so pleased that so many of my colleagues on the other side of the aisle have spoken out in favor of Medicare and of strong benefits for seniors. I am confident, similar to Medicare, support for health care reform—which is already strong—will continue to grow with time as people understand how helpful it will be to working families.

Unfortunately, many people have been scared by the misinformation that has been used to try to defeat reform. For example, there is an important point that has been lost in the overblown and apocalyptic rhetoric these past few months: This bill is not a government takeover of health care. In fact, it is an expansion of private coverage, with millions more Americans covered by private insurance companies.

Let me say this again. The Patient Protection and Affordable Care Act expands private insurance. Since we are giving these companies a huge influx of new business, we have to hold them accountable. We do that by improving regulation of these companies by making sure they keep patients as their highest priority. Our bill ends preexisting condition exclusions, no more lifetime and annual caps. Mental health services will be covered, and companies will not be able to kick people off their plans when they get sick.

The truth is, in my State, there are a lot of good things happening in health care already. But even in Minnesota we need help. We have people who cannot afford their coverage, rising costs, and a huge State budget deficit.

I support this bill because it helps Minnesota in all the ways we need right now—incentives to advance State innovation and instant relief to cover low-income Minnesotans in Medicaid. This is helpful at a time when the State legislature is struggling to make ends meet. For Minnesota small business owners who are stretched but want to cover their workers will have access to tax credits this year, in 2010. I am also very pleased that this bill will begin to fix one of the most flawed elements of our current system: Medicare reimbursements.

Our system punishes—punishes—high-quality Minnesota providers, such as the Mayo Clinic, by paying them less because they provide efficient, low-cost care. The Senate bill includes provisions that I fought for with my colleagues, Senators CANTWELL and KLOBUCHAR, to reward value not volume in Medicare.

Thanks to my colleague, Representative MCCOLLUM of Minnesota, we have a commitment from Secretary Sebelius to continue to expand these efforts to hospitals and nursing homes.

I am proud to represent Minnesota at this historic time and to have contributed to improving the health of this country for future generations. Our new law, improved by the reconciliation bill, will be a major victory for Minnesota families.

But if this reconciliation bill passes, we will also be scoring a double victory for working families. In addition to expanding access to health care, this bill will make it less expensive for working families to send their kids to college. By cutting out the middleman from the student lending system, we are able to increase funding for Pell grants and make it easier for college graduates to repay their loans. Not only are these measures fully paid for, they will also reduce the deficit.

Under the current Federal Family Education Loan Program, or FFEL, the Federal Government pays lenders enormous subsidies to entice them to lend to students. Then, on top of that, the government guarantees the loans so there is virtually no risk to the banks—just taxpayer-subsidized profits. This is not a private enterprise program, as the banks would like you to believe. It is corporate welfare, masquerading as private enterprise.

The good news is that there is a better way to run the government loan program than keeping banks on the dole. It is called direct lending, and it slashes $61 billion in costs by cutting out the middleman and lending to students directly.

This idea is hardly new. In the early 1990s, Senator David Durenberger of Minnesota, a Republican, joined with Senator Paul Simon of Illinois, a Democrat, in a bipartisan effort to end the wasteful practices of the bank lending program. They were able to give colleges the option of switching to direct lending, but the bank lobbyists thwarted their efforts to eliminate the bank subsidy program altogether.

Today, I am proud to be continuing Senator Durenberger's fight to eliminate wasteful bank subsidies. I am also proud that the University of Minnesota is leading the way. The U of M was one of the first universities in the Nation to switch to direct lending. I recently met with students and administrators at several U of M campuses, and they told me that the direct lending program is working very well. Not only does it provide students with the same benefits as the bank subsidy program at a lower cost, but it also reduces the administrative headaches of financial aid officers by decreasing the number of entities they have to deal with.

To be blunt, our choice is simple. We can continue to waste billions to line the pockets of banks or we can use that money to help low-income and middle-class kids go to college. I certainly do not want to go home to Minnesota next week and explain to my constituents that the Senate decided to keep forking over their hard-earned tax dollars to banks rather than help their kids go to college.

For many families, it is the opportunity to send their kids to college that is at stake. Most of the money that would be saved from switching to direct lending would be used to strengthen the Pell grant. Pell grants give over 8 million low-income and middle-class students the opportunity to realize the dream of attaining a college education.

Pell grants hold a special place in my heart because of the opportunity they gave my wife and her family. When Franni was 17 months old, her father died in a car accident, leaving Franni's mom widowed at age 29 with five kids. My brother-in-law Neil went into the Coast Guard and became an electrical engineer. But all four girls went to college, and they were able to do it with a combination of scholarships and Pell grants.

Unfortunately, since then, the purchasing power of the Pell grant has declined dramatically. Thirty years ago, the maximum Pell grant covered 77 percent—77 percent—of the cost of attending the average 4-year public college. These days, it only covers 35 percent.

This economy has made a bad situation worse. Many of the students and families I have met in Minnesota are struggling with high tuition and a tough economy. The average Minnesota student graduates from college with over $25,000 of debt. Job losses and cutbacks have left many middle-class families barely hanging on. That means more students who depend on Pell grants have to spend more hours at work and away from their studies to help pay for their education.

Unfortunately, the economic crisis has also increased the demand for Pell grants, as more families have fallen on tough times. The increase in demand has left us with a $19 billion shortfall in the Pell grant program. If we do not fix this shortfall, nearly 600,000 students could lose their Pell grants entirely. Another 8 million students could have their grants cut by almost 60 percent. This would be catastrophic for those students and their families.

In this economy, it would be an unforgivable failure for Congress to allow Pell grants to be cut in half. It would also be shortsighted, since we know that within a decade 75 percent of all new jobs will require a college education. A national switch to direct lending is simply the right thing to do for our students, for our families, and for our economy.

So I wish to urge my colleagues to stand for what is right and support this reconciliation package that further improves our health care system, puts kids in front of banks, and reduces the deficit.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. Mr. President, on behalf of Senator BAUCUS, I yield myself up to 20 minutes and that Senator BROWN be recognized for up to 10 minutes and that the time be charged against the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, on this historic day, I rise to speak, as I have many times before, about our historic opportunity to turn away from the path of fiscal crisis and toward the difficult and vital work of bringing down the costs of health care.

After the wild and unsustainable borrowing of the Bush era, we now face an era of limited resources, in which every last dollar is needed to spur economic recovery, create jobs, and restore economic security for all. Economists agree with virtual unanimity that the needless and excessive cost of health care is the heaviest weight dragging down America's economic growth.

In 1955, the year I was born, the Nation spent $12 billion annually on health care. Last year, we spent $2.5 trillion—$134 billion more than the previous year, the largest year-to-year increase in history, and 200 times what we spent the year I was born. That spending constitutes a stunning 17.3 percent of our Nation's entire gross domestic product—also the highest level in our history.

The cost of our Republican colleagues' desire to do nothing would have been impossibly high. In my home State of Rhode Island, a family of four would have faced more than $26,000 in premiums for family health insurance in 2016. Last year, premiums for Medicare Advantage nationally jumped an average of 14.2 percent—just in 1 year. Indeed, this escalation is unsustainable, but it is not inevitable.

A great deal of health care cost is nothing more than waste—waste resulting from a status quo that is irrational, disorganized, and often downright greedy and mean. The only good news about all this waste and excess cost is that we know where to look for savings. In the reform bill signed by President Obama today, we deploy every tool at our disposal to reap those savings.

This health care debate has been enveloped in—indeed, sometimes blinded by—a blizzard of numbers: CBO reports, actuarial analyses, projections upon estimates upon projections. Too often, my colleagues on the other side pluck out only those figures that serve their purpose—their purpose to delay and ultimately defeat this bill for their insurance company friends.

However, I believe that a fair view of the evidence demonstrates that this reform bill will do more to lower health care costs, reduce the deficit, and free up precious resources in the private sector than any reform has ever done before.

Let me start with the budget deficit. In its most recent report, CBO projects that the bill, combined with the package of improvements that is now before the Senate, will reduce the deficit by $138 billion over the next decade. Economists in the Commonwealth Fund have estimated that the bill will reduce the deficit even more dramatically by $409 billion over the next 10 years. In the second decade, CBO projects that the combined bills will reduce the deficit by a broad range around one-half percent of GDP. One-half percent of GDP is $1.3 trillion over 10 years, a significant achievement in deficit reduction.

Let's look at another number the critics too frequently ignore: savings in Medicare and Medicaid spending from innovative reforms in the delivery of health services, particularly increased efficiencies, improved quality, and the elimination of wasteful spending. Both CBO and the CMS Actuary estimate those savings at roughly $490 billion, nearly $½ trillion over the next 10 years. The economists at the Commonwealth Fund peg that number over half a trillion dollars, at $576 billion. Examples of this are found in CBO's forecast that an independent, nonpartisan commission of experts with authority to determine payment rates under Medicare will save the Treasury $13.3 billion over a 10-year period. CBO also credits Medicare payment reforms that seek to limit hospital readmissions and hospital-acquired infections with $7.1 billion in savings, and incentives that encourage physicians to group together in cost-saving organizations with $4.9 billion in savings. We know these things work because places such as the Mayo Clinic in Minnesota are out there doing that right now.

Not only does this bill protect the Medicare trust fund and preserve Medicare benefits, it also reduces spending growth in the outyears. The savings I have been talking about are not just a one-off proposition and then back on the spending growth ratchet; this bill reshapes the delivery system so that Federal health care costs should never grow at this outrageous rate again. CBO and Commonwealth Fund economists find that the bill reduces the Medicare rate of growth by 2 percent. President Obama's Council of Economic Advisers estimates that the bill will:

> Reduce the annual growth rate of Federal spending by a percentage point in the upcoming decade and by an even greater amount in the subsequent decade—

which would increase national savings and improve the long-run performance of the U.S. economy, in their words.

Widening the focus from public programs to the economy as a whole, the challenge posed by wasteful health care costs expands. The President's Council of Economic Advisers recently released an updated report in which they concluded that: Annual waste and inefficiency in the health care status quo approaches 5 percent of GDP, $700 billion—billion with a ''b''—$700 billion every year in waste and inefficiency. Set aside for a moment duplicative tests, lost medical records, unnecessary treatments, and uncoordinated care for chronic patients and look just at the administrative overhead of the private insurance market. As we know, the administrative costs for Medicare run about 3 percent to 5 percent. Overhead for private insurers is an astounding 20 percent to 27 percent. A Commonwealth Fund report indicates that private insurer administrative costs increased 109 percent from 2000 to 2006, more than double in 6 years, and my colleagues can just imagine the mischievous purposes to which all that bureaucracy is being put.

The McKinsey Global Institute estimates that Americans spend roughly $128 billion annually on excess administrative overhead of private insurance companies—$128 billion every year. Then, of course, there are those duplicative tests: lost medical records, unnecessary treatments, and uncoordinated care for patients. Because of all of this waste in the system, the Council of Economic Advisers concludes that:

> [i]t should be possible to cut total health expenditures about 30 percent without worsening outcomes . . . which would again suggest that savings on the order of 5 percent of GDP could be feasible.

Remember, again, that 5 percent of our Nation's gross domestic product is $700 billion a year.

They are not alone. Other experts agree. The New England Health Care Institute reports that as much as $850 billion in annual excess costs: ''can be eliminated without reducing the quality of care.'' Former Treasury Secretary O'Neill has written recently that the excess cost is $1 trillion a year. And the Lewin Group, which is often cited by my colleagues on the other side of the aisle here, finds that we burn up over $1 trillion a year through excess cost and waste in our broken health care delivery system.

Whether it is $700 billion a year or $1 trillion a year, it is a big savings target—bigger than anything discussed by CBO—and the tools to achieve these potential savings are in this bill. Analysts of all stripes agree that this bill does more than any previous measure to relieve the economy of this dead weight of waste and excess health care costs.

The Commonwealth Fund has projected that our bill will reduce the annual growth of national health expenditures—that is the amount that the private and public sector spend on health care every year—by 0.6 percentage points annually—$683 billion over the next 10 years. The Council of Economic Advisers writes that ''total slowing of private sector cost growth'' will be approximately 1 percentage point per year.

Why does this happen? This happens because the bill begins to restructure, streamline, and modernize our disorganized and illogical medical delivery system. It changes outmoded payment systems that you will pay for good health care outcomes, not just more procedures. It funds comparative effectiveness research so you will know whether something works before you pay for it. It creates financial incentives for low-quality but high-cost providers to improve their performance, and for transparency so you will know who they are and you can avoid them. It makes investments in wellness and prevention to reduce costs by keeping you healthy in the first place. It improves the coordination of care for chronic care and multiple diagnosis patients. Anyone with a family member in that situation knows how difficult trying to organize their care is. It starts demonstration and pilot projects in Medicare to create quality-based efficiencies in health care delivery that will spread out to the private sector.

Such investments in quality of care pay proven dividends. For example, I often talk about the Keystone Project in Michigan which reduced infections, respiratory complications, and other medical errors in Michigan's intensive care units. It didn't even go to all of the intensive care units. Just in the participating ones, it saved more than 1,800 lives, over 140,000 days that patients would have spent in the hospital—140,000 saved patient days—and, of course, over 271 million health care dollars, saving lives and saving dollars.

In my home State, the Rhode Island Quality Institute has taken this model statewide with every one of our hospitals participating, and we are already seeing hospital-acquired infections and costs declining: a 16.5 percent decrease in mortality and a statewide mortality rate almost 21 percent lower than the national average, saving the State's health care system $6 million overall so far.

Analysts agree that there is a big savings opportunity, and many agree that we are taking the right approach to tackling it. But they also agree that the amount of savings we can achieve is uncertain. Why? Why is it uncertain if the tools are in the bill to achieve the savings? It is uncertain because administering and applying these tools effectively will be essential. Remember: We have never before taken aim at this target. We have never launched such a battery of innovative reforms, even though experts have been advocating them in some cases for decades. Success will depend on the quality of executive management, how dynamic we are in bringing these innovative tools to bear on a problem. The quality of executive management with innovative tools is simply not something that CBO knows how to score. It is not something they can do.

CBO Director Doug Elmendorf has conceded in a letter to Budget Committee Chairman KENT CONRAD:

> Changes in government policy have the potential to yield large reductions in both national health care expenditures and Federal

health care spending without harming health.

Many experts agree on some general directions in which the government's health care policy should move. Many of the specific changes that might ultimately prove most important cannot be foreseen today and could be developed only over time through experimentation and learning.

That is Doug Elmendorf: experimentation and learning.

That sounds an awful lot like the example used by Dr. Atul Gawande, one of our most thoughtful commentators on this subject, who analogized health care to the agricultural sector. He wrote about the agricultural sector:

That [it] was strangling the country at the beginning of the 20th century . . . The government never took over agriculture, but the government didn't leave it alone either. It shaped a feedback loop of experiments and learning and encouragement for farmers across the country.

Experiments and learning. How did that work out? To continue with Dr. Gawande:

The results were beyond what anyone could have imagined. Productivity went way up. Prices fell by half. Today, food is produced on no more land than was devoted to it a century ago and with far greater variety and abundance than ever before in history.

The strategy works because United States agencies were allowed to proceed by trial and error, continually adjusting policies over time, in response not to ideology but to hard measurement of the results against social goals . . . Pick up the Senate health care bill—yes, all 2,074 pages—and leaf through it. Almost half of it is devoted to programs that would test various ways to curb costs and increase quality . . . The bill is a hodgepodge. And it should be.

Here is how he wraps things up. He says this:

We crave sweeping transformations. However, all the current bill offers is those pilot programs, a battery of small-scale experiments. The strategy seems hopelessly inadequate to solve a problem of this magnitude. And, yet—history suggests otherwise.

David Cutler is a widely respected Harvard health care economist. He wrote in the Wall Street Journal recently that:

[o]ver the past year of debate, 10 broad ideas have been offered for bending the health care cost curve. The Democrats' proposed legislation incorporates virtually every one of them.

Professor Cutler gives the bill ''full credit'' on six of the cost control ideas and ''partial credit'' on three, including ideas regularly championed by my colleagues on the other side, such as combating fraud and abuse in the Medicare system and reform in the medical malpractice liability system.

The only area in which Cutler gives the bill zero credit is in its failure to include a public option. It is hard for our colleagues on the other size to criticize us for that since it is the thing they fought the hardest against. As codrafter with the distinguished Presiding Officer, Senator BROWN of Ohio, I deeply regret that provision was excluded. Perhaps on another occasion we will have the chance to revisit that issue. But 9 of the 10 cost control mechanisms are in this bill, and the 10th was a public option our colleagues opposed.

David Cutler concludes that ''[w]hat is on the table is the most significant action on medical spending ever proposed in the United States.'' In spite of the uncertainty described by CBO Director Elmendorf, Cutler estimates that the reforms will save ''nearly $600 billion over the next decade and even more in the subsequent one.''

Nobel laureate Paul Krugman agrees that ''there's good reason to believe that [CBO's] estimates are too pessimistic. There are many cost-saving efforts in the proposed reform, but nobody knows how well any one of these efforts will work. And as a result, official estimates don't give the plan much credit for any of them. . . . Realistically, health reform is likely to do much better at controlling costs than any of the official projections suggest.''

Recently, three more respected health economists—Len Nichols of George Mason, Ken Thorpe of Emory, and Alan Garber of Stanford—described the bill's cost controls as vital, a significant improvement on the status quo. As Professor Thorpe neatly described it:

Under the do-nothing scenario, everything gets worse.

And MIT professor Jonathan Gruber, one of our leading health economists, said this of the bill's cost control measures:

I can't think of a thing to try they didn't try.

I ask unanimous consent for an additional minute.

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

Mr. WHITEHOUSE. Professor Gruber said:

I can't think of a thing to try that they didn't try. They really make the best effort anyone has ever made. Everything is in here. . . . You couldn't have done better than they are doing.

When the do-nothing crowd on the other side argues that this bill is a cost disaster, that it has no master plan, I urge that American ingenuity, through experimentation and learning, can overcome the toughest challenges, not through command and control but through a flexible, dynamic, and persistent exercise—experimentation, learning, and encouragement.

I will close by urging President Obama to specify a savings target for his administration to achieve. I have before recommended setting the target at $200 billion in annual savings by 2014. That should be conservative and easy to achieve. But a clear and specific goal will wheel the vast apparatus of Federal bureaucracy more rapidly toward the comprehensive change we need.

When President Kennedy announced in September of 1962 that America would strive to put a man on the Moon, he set a specific target. He did not say he was going to bend the curve of space exploration; he said he would put a man on the Moon. What he said about that is this:

We choose to do such things not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win. . . .

Health care cost is a challenge we are indeed willing to accept, it is one we cannot afford to postpone, and it is one which we can and must and will win.

I thank the Presiding Officer for his courtesy. I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Ohio.

Mr. BROWN of Ohio. Mr. President, I thank you for the work you did on this bill that the President signed today to bring costs under control in our health care system, to do what we need to do to insure 32 million people, to provide consumer protections this bill offers, and to give these tax breaks immediately to America's small businesses.

One of the most important components of that is the work you and others in this Chamber did to bring costs down in this health care system, the costs that afflict taxpayers, the costs that afflict small businesses, the costs that afflict, in effect, our ability to compete around the world, and the costs that come directly out of people's pockets, those who have health insurance and those who do not, and the huge burdens of costs. We are finally on a track to do the right thing. I thank the Presiding Officer, the Senator from Rhode Island, Mr. WHITEHOUSE.

I will speak for just a few minutes. I have come to this floor since July, as we voted the health care bill initially out of the Health, Education, Labor, and Pensions Committee, night after night mostly for the last 7 or 8 months, to share letters from Ohioans with my colleagues. There are a couple of things these letters have in common.

In most cases, these letters are written by people who have had significant problems, generally have lost their insurance or are paying so much it is hardly insurance. These letters typically come from people who a year or two ago would have told you they were satisfied with their insurance; they thought it covered what they needed. Then something happened. They either lost their job or lost their insurance or had a child born with a preexisting condition and could not get insurance for her or him or they got very sick and their care was very expensive and the insurance company cut them off or the insurance company realized they were going to be expensive—they perhaps had a preexisting condition and they were getting more expensive—or they were getting older and the insurance company found a way by charging them so much. They could not cancel the insurance, so they thought perhaps they could force the letter writer—the insurer—to cancel the insurance.

The other thing they had in common so often was so many of the letter writers were 60, 61, 62 years old and said: I can't wait until I get on Medicare because I can trust Medicare; I know Medicare is stable; it will be there for me. It is a strong government program, not socialism. Government is simply the insurer. The government has made such a difference in the lives of so many senior citizens because the Medicare Program worked.

As the Presiding Officer knows—just a little history of this institution and this bill—the same arguments that were used this year against this health care bill were used against Medicare in 1965: socialism, government takeover. Back then, it was the John Birch Society. Today, it is the tea parties. They said: A government bureaucrat will get between my doctor and me. It was not true about Medicare; it is not true now.

The public clearly sees through this. That is why this Congress passed this bill, and that is why the President today—and one of the most important things professionally in my lifetime by a long shot, maybe the most important thing as I watched the President of the United States today sign this legislation.

Let me share three or four letters from Ohioans to give you an idea what this bill means to people whom it affects. We on this floor hear the debate and the partisanship and see the obstructionism from the other side, and who is going to win, Republicans or Democrats. The reason we are doing this bill is these letters. That is why it matters. You will see this.

David from northern Ohio:

My best friend's husband is a hemophiliac. He has had a pretty scary life and could be just one bleed away from death or financial ruin. They are about to hit their cap for their employer-provided insurance and have very few choices to seek out other insurance because of his preexisting condition. They have done everything that people should do—they have worked hard, put money aside for retirement, and only used their insurance when it was absolutely necessary. I can't imagine—

She writes about her friend—

the fear they must constantly feel. Please stand firm and remember those whose voices are small individually, but are strong standing together.

Health reform will help families such as David's friend's family because it will get rid of lifetime limits and arbitrary annual caps on benefits. In this case of the man who has hemophilia and his wife, they know if their health care gets too expensive, under the present system or at least the system before today, before the President signed the bill, they know they can lose their insurance if it gets too expensive. They will not have any coverage then. Under this bill, insurance companies simply can no longer do that.

Diane from Cuyahoga County writes:

We have a small business that has been in the family for many years. But after doing well, our situation is precarious because of the high cost of health insurance.

In the last few years, we have continually downgraded our health insurance coverage. We are struggling to pay our health care bills and, of course, have no dental or eye coverage.

Putting children through college, paying health insurance, and trying to keep the business afloat makes life difficult.

That is what has happened with so many small businesses. They struggle to insure themselves and their employees. In one small business, the small business has 10 employees, and if one person gets really sick and it is very expensive—cancer or something else—that company so often has to cancel their insurance simply because they cannot afford it, and their employees, even though they were not very sick, lose out.

In so many cases, as Diane points out, the insurance people do have has more and more holes in it. She said: We continually downgraded our health insurance.

This bill, starting tomorrow—the President signed it today—will help by offering small businesses tax credits so employers can offer coverage to their employees. This is the first major impact this bill will have.

This bill will take a while because we want to implement it correctly and quickly enough to help people but not so quickly that we will make significant mistakes.

The first thing this bill does is provide tax incentives to small businesses, such as Diane's, so they can actually write good insurance policies for themselves if they are self-employed and for themselves if they have a business, and with their employees.

The last letter I will share is from Cynthia from Hocking County, Logan, OH, southeast of Columbus:

My son-in-law is 40 years old with a serious medical condition that makes it extremely difficult to get around. My daughter is 42 years old and on disability. . . .

Neither of them can work and make supplemental income. They have to spend so much on medication that they are not able to pay their house payments and may have to file for bankruptcy. They also have a 16-year-old son to support. Who doesn't want to send their child to college and help him have a better life? But where will that money come from if they can't pay the bills now?

Please continue to fight for the middle and lower middle class families who insist that we be treated fairly and with dignity. We just want good insurance like lawmakers in Washington have.

This plan with the insurance exchange was based on the Federal employee plan that most Senators and Congressmen have, that most Federal employees have. This bill will provide for those who are lower income than we are, significantly lower income than we are, for people who are making $10,000, $20,000, or $30,000, or $50,000 a year, even a little more than that. It will provide them with subsidies so they can afford health insurance. We want everybody to be insured.

We know right now that every American who has insurance pays about $1,000 extra—a tax for all intents and purposes—pays $1,000 extra to pay for the care of people who don't have insurance and go to the hospital. Somebody has to pay for that. It is being spread around to everybody who has insurance. That extra $1,000 will no longer happen to any significant degree because as everybody in this country or almost everybody gets insurance, people will be paying for themselves. They will get subsidies with their low income. If they have a little more money than that, they will pay everything themselves. That is why this legislation makes so much sense.

Today, we saw the President of the United States move this country forward—tax breaks for small businesses, no more preexisting conditions for a child, no more exclusions to keep a family from getting insurance. If your 22-year-old son or daughter comes home from college and cannot get a job with insurance, that daughter or son can stay on the insurance plan of their parents until they are 26.

There are a whole lot of important things. Senior citizens, starting next year, will be able to get a physical every year without a copay, making sure our senior population stays healthier longer. We begin to close the doughnut hole so seniors, with the bill that was passed a few years ago that gave the drug companies a whole lot more money than it helped seniors—at least we are fixing that bill so seniors will see that doughnut hole closed. All of those things are part of the legislation in the next year or so as it takes effect.

This is the right thing for our country. It is an honor and a privilege to represent Ohio and to have an opportunity to vote for this legislation and to push it to work for public health.

If we look back, President Truman, when he spoke to the Congress in 1946, spoke about the importance of health care. Now 65 years later and 10 Presidents later, it has happened. It is a good day for our country, and we celebrate that. Most importantly, it gives people such as Cynthia from Hocking County, Diane, the business owner in Cleveland, and David in northern Ohio the opportunity to get on with their lives in a much more workable, practical, happier way.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, section 301(a) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, aggregates, and other appropriate levels and limits in the resolution, and make adjustments to the pay-as-you-go scorecard, for legislation that is deficit-neutral over 11 years, reduces excess cost growth in health care spending, is fiscally responsible over the long term, and fulfills at least one of eight other conditions listed in the reserve fund.

I find that H.R. 3590, the Patient Protection and Affordable Care Act, which

Congress cleared on March 21, 2010, fulfills the conditions of the deficit-neutral reserve fund to transform and modernize America's health care system. Therefore, pursuant to section 301(a), I am adjusting the aggregates in the 2010 budget resolution, as well as the allocation to the Senate Finance Committee.

I ask unanimous consent to have the following revisions to S. Con. Res. 13 printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301(a) DEFICIT-NEUTRAL RESERVE FUND TO TRANSFORM AND MODERNIZE AMERICA'S HEALTH CARE SYSTEM

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532,579
FY 2010	1,614,208
FY 2011	1,936,581
FY 2012	2,140,285
FY 2013	2,320,247
FY 2014	2,562,348
(1)(B) Change in Federal Revenues:	
FY 2009	0,008
FY 2010	−51,778
FY 2011	−152,050
FY 2012	−220,108
FY 2013	−195,090
FY 2014	−71,310
(2) New Budget Authority:	
FY 2009	3,675,736
FY 2010	2,906,707
FY 2011	2,845,376
FY 2012	2,837,658
FY 2013	2,988,148
FY 2014	3,207,977
(3) Budget Outlays:	
FY 2009	3,358,952
FY 2010	3,015,321
FY 2011	2,969,841
FY 2012	2,871,685
FY 2013	2,992,262
FY 2014	3,181,127

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010—S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301(a) DEFICIT-NEUTRAL RESERVE FUND TO TRANSFORM AND MODERNIZE AMERICA'S HEALTH CARE SYSTEM

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,237,336
FY 2010 Outlays	1,237,842
FY 2010–2014 Budget Authority	6,857,897
FY 2010–2014 Outlays	6,857,305
Adjustments:	
FY 2009 Budget Authority	0
FY 2009 Outlays	0
FY 2010 Budget Authority	8,500
FY 2010 Outlays	3,130
FY 2010–2014 Budget Authority	−7,510
FY 2010–2014 Outlays	−31,710
Revised Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,245,836
FY 2010 Outlays	1,240,972
FY 2010–2014 Budget Authority	6,850,387
FY 2010–2014 Outlays	6,825,595

Mr. CONRAD. Mr. President, section 301(a) of S. Con. Res. 13, the 2010 budget resolution, permits the chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, aggregates, and other appropriate levels and limits in the resolution, and make adjustments to the pay-as-you-go scorecard, for legislation that is deficit-neutral over 11 years, reduces excess cost growth in health care spending, is fiscally responsible over the long term, and fulfills at least one of eight other conditions listed in the reserve fund. In addition, section 303 of S. Con. Res. 13 permits the chairman of the Senate Budget Committee to adjust the allocations of a committee or committees, aggregates, and other appropriate levels and limits in the resolution, for legislation that makes higher education more accessible and affordable, including expanding and strengthening student aid, such as Pell grants, and that does not increase the deficit over either the period of the total of fiscal years 2009 through 2014 or the period of the total of fiscal years 2009 through 2019.

I find that H.R. 4872, the Health Care and Education Reconciliation Act of 2010, fulfills the conditions of the deficit-neutral reserve funds for health care and higher education. Therefore, pursuant to sections 301(a) and 303, I am adjusting the aggregates in the 2010 budget resolution, as well as the allocations to the Senate Finance Committee and the Senate Health, Education, Labor, and Pensions Committee.

I ask unanimous consent to have the following revisions to S. Con. Res. 13 printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010–S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301(a) DEFICIT-NEUTRAL RESERVE FUND TO TRANSFORM AND MODERNIZE AMERICA'S HEALTH CARE SYSTEM AND SECTION 303 DEFICIT NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In billions of dollars]

Section 101	
(1)(A) Federal Revenues:	
FY 2009	1,532.579
FY 2010	1,612.278
FY 2011	1,939.131
FY 2012	2,142.415
FY 2013	2,325.527
FY 2014	2,575.718
(1)(B) Change in Federal Revenues:	
FY 2009	0.008
FY 2010	−53.708
FY 2011	−149.500
FY 2012	−217.978
FY 2013	−189.810
FY 2014	−57.940
(2) New Budget Authority:	
FY 2009	3,675.736
FY 2010	2,907.837
FY 2011	2,858.866
FY 2012	2,831.668
FY 2013	2,991.128
FY 2014	3,204.977
(3) Budget Outlays:	
FY 2009	3,358.952
FY 2010	3,015.541
FY 2011	2,976.251
FY 2012	2,878.305
FY 2013	2,992.352
FY 2014	3,181.417

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010–S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301(a) DEFICIT-NEUTRAL RESERVE FUND TO TRANSFORM AND MODERNIZE AMERICA'S HEALTH CARE SYSTEM AND SECTION 303 DEFICIT NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,245,836
FY 2010 Outlays	1,240,972
FY 2010–2014 Budget Authority	6,850,387
FY 2010–2014 Outlays	6,825,595
Adjustments:	
FY 2009 Budget Authority	0
FY 2009 Outlays	0
FY 2010 Budget Authority	1,500
FY 2010 Outlays	500
FY 2010–2014 Budget Authority	15,400
FY 2010–2014 Outlays	15,310
Revised Allocation to Senate Finance Committee:	
FY 2009 Budget Authority	1,178,757
FY 2009 Outlays	1,166,970
FY 2010 Budget Authority	1,247,336
FY 2010 Outlays.	1,241,472
FY 2010–2014 Budget Authority	6,865,787
FY 2010–2014 Outlays	6,840,905

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010–S. CON. RES. 13; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301(a) DEFICIT-NEUTRAL RESERVE FUND TO TRANSFORM AND MODERNIZE AMERICA'S HEALTH CARE SYSTEM AND SECTION 303 DEFICIT NEUTRAL RESERVE FUND FOR HIGHER EDUCATION

[In millions of dollars]

Current Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,612
FY 2009 Outlays	−19,258
FY 2010 Budget Authority	4,529
FY 2010 Outlays	1,575
FY 2010–2014 Budget Authority	50,562
FY 2010–2014 Outlays	44,706
Adjustments:	
FY 2009 Budget Authority	0
FY 2009 Outlays	0
FY 2009 Budget Authority	−370
FY 2010 Outlays	−280
FY 2010–2014 Budget Authority	−6,780
FY 2010–2014 Outlays	−1,680
Revised Allocation to Senate Health, Education, Labor, and Pensions Committee:	
FY 2009 Budget Authority	−22,612
FY 2009 Outlays	−19,258
FY 2010 Budget Authority	4,159
FY 2010 Outlays	1,295
FY 2010–2014 Budget Authority	43,782
FY 2010–2014 Outlays	43,026

Mr. CONRAD. Mr. President, as chairman of the Committee on the Budget, pursuant to section 313(c) of the Congressional Budget Act of 1974, I ask that the following list of reconciliation provisions considered to be extraneous and subject to the Byrd rule be printed in the RECORD. The inclusion or exclusion of a provision on the following list does not constitute a determination of extraneousness by the Presiding Officer of the Senate.

The list follows:

EXTRANEOUS PROVISIONS OF H.R. 4872

None.

MORNING BUSINESS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

FAA REAUTHORIZATION

Mrs. HUTCHISON. Mr. President, I would like to thank my colleagues for their work on the Reagan National perimeter rule issue.

Last week, I sat down with several interested colleagues in an effort to try and find a path forward on this issue. As a result, we have the modified Ensign amendment before us.

I would like to say a few words about the intent of that amendment. I am one who is sympathetic to the concerns of from my friend from Virginia, Senator WARNER, who also serves as a member of the Senate Commerce Committee. While in a somewhat different position, in the past, I have had similar issues raised concerning my home State of Texas, and I recognize well that the impacts of dealing with a decision to change the status quo are enormously difficult.

With that in mind, I believe we have come up with a compromise proposal that meets the concerns of my Western State colleagues and others and tries to address, to the extent possible, my friend from Virginia's concerns.

The modified Ensign amendment is a simple solution to a complex problem. The amendment would allow any air carrier with existing ''inside'' the perimeter large hub airport slots into Reagan National the ability to ''convert'' those slots to any community ''outside'' the perimeter, with each air carrier being capped at 15 round trip operations eligible for conversion.

By utilizing the idea of ''conversions,'' we don't add any new flights to the airport, but we do give the air carriers the opportunity to better utilize their networks. I am hopeful we can take that concept and message to the House in the next round of the legislative process on this bill.

I thank Senators ENSIGN and KYL, as well as Senators DEMINT, BOXER, MCCAIN, ROCKEFELLER, DORGAN, and WARNER for their work on this very important issue. I remain hopeful that the final version of this FAA reauthorization bill will include a consensus agreement on this issue, and allow the opportunity for direct service to our Nation's Capitol for a number of communities that are eager for such service.

AIG SEVERANCE PAYMENTS

Mr. GRASSLEY. Mr. President, I recently asked Secretary Geithner why the Treasury Department is allowing AIG to pay millions of dollars of severance pay to executives given the billions of dollars of taxpayer assistance AIG has received.

At one point I even said that AIG has the American taxpayer over a barrel and that AIG has outmaneuvered the administration.

Mr. Kenneth Feinberg, the Treasury Special Master for executive compensation, insisted he was not outmaneuvered by AIG. As it turns out, he was not outmaneuvered by AIG. Instead, he was outmaneuvered by Secretary Geithner. Let me explain what I mean.

In February, 2009, we enacted the Recovery Act. The law required Secretary Geithner to take control of the runaway executive compensation at companies that the American taxpayer bailed out.

Congress provided Mr. Geithner with several tools to accomplish this critical job.

By far the most important and most flexible tool Congress gave Mr. Geithner was a general mandate to require bailed-out companies like AIG to meet ''appropriate standards'' for executive compensation.

This rule was applicable to compensation already in place, compensation in the future, and compensation for all executives, not just a handful of the most senior executives.

What happened to this tool?

Well, even before the law was passed the bonuses, retention awards, and incentive compensation were ''grandfathered.''

That means that while one part of the statute banned them for a handful of senior executives, another part said they had to be paid if the payments were based on a contract that existed in February 2009.

We all remember the outrage when people learned that this provision was quietly added by the Senate drafters on the other side of the aisle because it required AIG to pay massive bonuses in March 2009 and again earlier this year.

Secretary Geithner was quoted in the press at the time saying that ''Treasury staff'' worked with the Senate drafters on the grandfather carve-out. Well, the damage was done.

The grandfather loophole was law. You might say the American taxpayer was outmaneuvered by Treasury staff too.

The President instructed Secretary Geithner to ''pursue every single legal avenue to block these bonuses and make the American taxpayers whole.''

The next step required Treasury to implement the law and use the tools Congress gave Mr. Geithner to put the brakes on runaway executive compensation at firms where taxpayers are footing the bill.

What did Treasury do?

One thing Treasury apparently did was hire a Wall Street executive compensation lawyer from a firm that specializes in helping highly paid executives maximize their pay, but more about that later.

Despite the public outcry over the loophole, which permitted AIG employees and others to walk away with millions, Treasury wrote a regulation that actually expands the loophole even further.

That's right, in the face of overwhelming public outrage, Treasury quietly worked to expand the loophole! Let me explain how they did that.

The grandfather provision in the law that Congress enacted protected three things: bonuses, retention awards, and incentive compensation. It did not protect severance. Let me repeat: it did not protect severance.

But in what appears to be an effort to protect severance agreements despite the statutory language, the regulations Treasury drafted expanded the term ''bonus'' beyond its normal meaning.

Unlike bonuses, severance payments are intended to ease someone out the door, not reward them for doing a great job. Severance is basically the opposite of a retention bonus.

But, after Treasury drafted the regulation, suddenly, severance payments were also protected by the grandfather loophole, just like bonuses. Treasury must have known exactly what it was doing.

AIG had an executive severance plan that dated back to March 2008. It was just the sort of contract the grandfather provision would protect if Treasury expanded the loophole.

And what was the impact of the Treasury regulation on the bottom line? What did American taxpayers have to pay?

Because of this regulation, AIG recently paid two of its executives $1 million and $3.9 million in severance pay. We don't yet know how many others have received severance or may receive it in the future.

As the law was passed, these payments would not have been protected by the grandfather provision because they were not a bonus, retention, or incentive payment.

But Treasury officials took care of that. Rather than setting appropriate standards for executive severance payments generally, as the law passed by Congress required, the regulation leaves AIG free to pay excessive severance payments to many of its executives. Then, the American taxpayer gets the bill.

The Recovery Act told Mr. Geithner that he ''shall'' require each bailed-out company to meet appropriate standards for executive compensation. This command covers all types of executive compensation for all executives, not just bonuses for the most senior executives.

It is a command, not a suggestion. And the grandfather provision that protects certain bonuses does not apply to this more general provision.

But the Treasury regulation almost completely ignores this mandate. It does address one form of executive compensation. The regulation bars tax gross-up payments for senior executives.

That is the practice of allowing the company to pay the executive's income taxes for him. Now don't get me wrong—tax gross-up payments should be banned for companies that were bailed out, and I am glad to see that this was done.

But Congress gave Mr. Geithner a powerful tool that should have been

used to curb other types of inappropriate executive compensation as well.

That includes tax gross-ups, extravagant severance payments, and other goodies to which Wall Street thinks it is entitled.

Secretary Geithner should have used the tool as it was intended. It is like using a big tractor to plow a little flower garden.

There is nothing wrong with banning tax gross-ups or planting flower gardens, but you could have done so much more with the tool you had.

If Secretary Geithner had done what he was directed to do in the law, we would not be witnessing this spectacle.

AIG is paying multimillion-dollar severance payments at taxpayer expense to executives who chose to resign rather than work for the maximum salary of $500,000 per year set by the Special Master.

This is a scandal as far as I am concerned. The American taxpayer, as well as Mr. Feinberg, was outmaneuvered by Secretary Geithner and his staff. And it all happened before the Special Master's first day on the job.

There is another troubling matter that I must address. I mentioned earlier that the Treasury Department hired at least one Wall Street executive compensation lawyer from a firm that specializes in helping wealthy executives maximize their pay.

There is nothing wrong, as a general matter, with hiring talented people with expertise in technical legal subjects to draft regulations and administer the law.

But there are some red flags here that need a little sunshine. We need to be sure that the people working on these issues at Treasury have dealt with any potential conflicts of interest carefully and openly.

Recently I learned that at least one Treasury official previously worked for Wachtell, Lipton, Rosen and Katz, a top Wall Street law firm. Wachtell, Lipton has represented at least two former AIG executives.

The firm's job was to look out for the interests of the executives, not the shareholders. They were paid to make sure the compensation contracts, including severance provisions, were as generous as possible for their clients.

Wachtell, Lipton also represented Bank of America on its controversial Merrill, Lynch acquisition in 2008. A Wachtell attorney who worked on that deal joined Treasury in the spring of 2009.

He said that he then worked on the Treasury executive compensation regulations. These are the regulations I have been describing: the regulations that were to govern AIG, Bank of America and all of the other bailed-out companies.

This situation raises a host of questions, for example:

How many other Treasury officials have similar potential conflict issues?

Why wasn't the attorney recused from participating in the drafting of a regulation that was going to have a direct effect on Bank of America, his former client, and AIG executives, his firm's former clients?

Did the attorney comply with the revolving door provision of the President's Executive order, which prevents appointees from working on matters that relate to their former clients?

The President has committed to publicly disclosing all the waivers issued to exempt appointees from his ethics executive order. If this attorney recused himself, as he should have, why was that recusal not also disclosed so that the public would know about the potential conflict?

At a minimum there is the potential for an appearance of impropriety here.

What we know so far raises serious questions and red flags. But there also are facts we do not know.

Therefore, I am asking that the special inspector general for TARP investigate these issues and report his findings to Congress and the public as soon as possible.

Specifically, I am asking the inspector general to examine why Treasury did not set appropriate compensation standards pursuant to section 111(B)(2) of the Recovery Act sufficient to prevent severance payments like those AIG recently paid to its former general counsel and chief compliance officer.

I am also asking him to determine whether Treasury officials working on executive compensation matters have fully complied with the revolving door provision of the President's Ethics Executive order.

In the meantime, there are still numerous documents that I have requested that have not been provided to me despite assurance that I was going to get them.

There are many questions I have asked that remain unanswered, and I will continue to seek information on these issues.

I call on Secretary Geithner to stop stonewalling. Oversight is important. Oversight is necessary to protect the American taxpayer. I take that duty seriously, and I am not going away. American taxpayers deserve to know where their money is going.

Mr. President, I ask unanimous consent that a copy of my letter to special inspector general Barofsky be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, March 23, 2010.

Hon. NEIL M. BAROFSKY,
Special Inspector General, Office of the Special Inspector General, Troubled Asset Relief Program, United States Department of the Treasury, Washington, DC.

DEAR SPECIAL INSPECTOR GENERAL BAROFSKY: I have communicated on several occasions during the last few months with the Secretary of the Treasury and the Special Master for TARP executive compensation to try to get to the bottom of why AIG was allowed to pay excessive severance awards to AIG executives after the passage of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Answers have not been forthcoming and therefore I am writing to ask that you investigate these matters and report your findings to me as soon as possible. I am particularly troubled by a chronology of events that seems to suggest a deliberate decision on the part of Treasury to improperly protect executive severance pay and tie the hands of the Special Master.

The Recovery Act required the Treasury Secretary to set standards for appropriate levels of executive compensation at TARP recipients generally. It specifically prohibited the payment of bonuses, retention awards and incentive compensation to the top 25 executives at bailed-out companies like AIG, but then protected many such payments by the controversial ''grandfather'' provision added late in the drafting process. Consequently, bonus payments, retention awards and incentive compensation based on a contract in existence on or before February 11, 2009, were required to be paid. But the provision did not cover severance pay because severance is not generally understood to be within the meaning of incentive or retention bonuses. That is why I was surprised to learn earlier this year that AIG reportedly paid its former General Counsel $3.9 million and its former Chief Compliance and Regulatory Officer $1 million in severance.

Treasury published regulations on June 15, 2009, implementing the Recovery Act's executive compensation provisions. Treasury also named Mr. Kenneth Feinberg as the Special Master. It appears that, despite the earlier public outcry over the retention bonus grandfather loophole, Treasury's regulation added severance pay to the list of executive compensation items covered by the grandfather. Worse still, Treasury virtually ignored the requirement in section 111(b)(2) of the Recovery Act that the Secretary ''shall require each TARP recipient to meet appropriate standards for executive compensation.'' Section 111(b) (2) is a general provision and is not limited by the more specific restrictions in 111(b) (3) related to the top 25 executives and the grandfather provision. Nevertheless, this mandated authority was not used to regulate severance pay for executives like the former AIG General Counsel. Therefore, I am asking you, among other things, to evaluate why Treasury did not effectively implement the Congressional mandate in section 111(b) (2) to prevent inappropriate executive compensation, such as excessive severance payments, more broadly.

There is another troubling matter that I am asking you to review. The current Deputy Special Master joined Treasury in May 2009. He told us he participated in drafting the Treasury regulations. Of course, those regulations governed executive compensation at TARP recipients like AIG and Bank of America. The problem is that this attorney worked for the Wall Street law firm Wachtell, Lipton, Rosen & Katz prior to joining Treasury. While at Wachtell, it is my understanding that this attorney represented Bank of America during its acquisition of Merrill, Lynch in the fall of 2008. Also, the Wachtell firm represents the former CEO and former CFO of AIG on executive compensation matters, including severance. In fact, I understand that those executives may still be planning to make claims against AIG for millions of dollars of severance pay.

At a minimum this presents the appearance of serious impropriety. There are several red flags and questions stemming from this information including, for example, why was this Treasury official permitted to work on a regulation that would directly affect his former client and a client of his former law firm? Did he fully comply with the revolving

door provisions of the President's Ethics Executive Order, prohibiting appointees from participating in matters involving their former clients? If he was recused, when did the recusal occur and why was it not publicly disclosed? How many other Treasury officials working on executive compensation matters have similarly undisclosed potential conflicts for which recusals have been necessary to ensure compliance with the President's executive order? What are the details of the other potential conflicts, if any? Therefore, I also ask that you examine this situation and report your findings.

Thank you in advance for your attention to this important matter. Please contact my staff if you have any questions or need additional information.

Sincerely,

CHARLES E. GRASSLEY,
Ranking Member.

ADDITIONAL STATEMENTS

REMEMBERING DONALD RUSSELL

● Mr. LIEBERMAN. Mr. President, I wish to pay tribute to the extraordinary life and service of Donald Russell, a longtime columnist for the Advocate newspaper in Stamford, CT. Don was a true American patriot and a valued public intellectual in the Stamford community. Beloved for his brilliant mind and big heart, Don Russell will be missed deeply.

I knew Don Russell for many years, and I am grateful for all of the wisdom he has offered me personally. Mostly though, I treasure the example he set in his career of devoted service. During the Second World War, Don served this country with courage and distinction as a navigator with the U.S. Army Air Corps. He went on to help pioneer the field of television news, beginning with the DuMont Television Network, one of the first ever commercial television networks in the world.

With insight, wit, and passion, Don Russell captured some of the most important moments of the 20th century as a journalist. Over a half a century ago, Don anchored the first coast-to-coast television broadcast of a Presidential inauguration when President Dwight Eisenhower took office and later won an award for his credible and well-balanced commentary during the controversial Army-McCarthy hearings in 1954. Although Don Russell was quickly recognized for his journalistic skill on the national stage—working closely with stars like Jackie Gleason and Merv Griffin—his heart remained with the hometown that I am proud to share with him: Stamford, CT.

For decades, Don Russell illuminated the hearts and minds on the radio and in his weekly columns for the Advocate. Don never hesitated to ask tough questions or take a contrarian stance on an issue. For this, he was respected and trusted by countless readers; many of whom he knew personally and others who admired him from afar. Don wrote about many of the most important issues facing our country and our world but also uniquely brought to life the challenges and opportunities facing Stamford, a city he understood and cherished like few others.

Don Russell never missed a deadline and continued writing until the end of his long and extraordinary life. We, his readers, were blessed with the opportunity to have learned from Don Russell, and I believe more broadly that our state and this nation are blessed to have people like Don Russell who truly enrich our communities. Don Russell's brilliant mind, generous spirit, and warm smile will never fade from our memory.●

TRIBUTE TO LEADER DAN MCKAY

● Mrs. MCCASKILL. Mr. President, today I honor Dan McKay, a great Missourian, who has devoted much of his life to advocating for workers' rights.

Dan was born in St. Louis, MO, on February 21, 1946, to the late Harry and Marie McKay. His upbringing taught him the core Missouri values of hard work, respect, honor, and discipline. Dan started his career as a truckdriver, working for several companies in the freight industry including Yellow Transit, Time DC, Commercial Motor Freight, and many more.

Recognizing the labor movement's unwavering commitment to working families, Dan joined the movement in order to advocate on behalf of his fellow workers. He served as business representative, recording secretary, and ultimately, president of Teamsters Local 600. He also served as president of Teamsters Joint Council 13, representing 10 Teamster locals and more than 25,000 Teamster families in the State of Missouri. In those leadership roles, Dan has advocated for collective bargaining rights, fair wages, adequate and secure pensions, and better working conditions.

His work with the Teamsters often pulled him away from his wonderful family, as he spent countless hours in contract negotiations and meetings around the State and the country. Even with his work, Dan and his wife Sharron raised two beautiful boys, Daniel Patrick and Mark Timothy McKay, and are the proud grandparents of Jesse Danielle, Dana Elaine, and Daniel Joseph McKay. His diligent and honorable tenure serves as a shining example to his children and grandchildren.

Dan and I have known each other for more years than I care to disclose. We have worked together in efforts to better the lives of thousands of our fellow Missourians. This year, Dan will be retiring after 44 years of service with the Teamsters, 14 of which were spent as the president of Teamsters Local 600. On behalf of so many Missourians, I thank Dan for his tireless work and wish him a wonderful, well-earned, and relaxing retirement. While he will no longer hold his numerous titles, I know that he will never stop fighting the good fight on behalf of all working families.●

MESSAGE FROM THE HOUSE

At 2:17 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4667. An act to increase, effective as of December 1, 2010, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes.

H.R. 4810. An act to amend title 38, United States Code, to make certain improvements in the services provided for homeless veterans under the laws administered by the Secretary of Veterans Affairs.

H.R. 4872. An act to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4667. An act to increase, effective as of December 1, 2010, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 4810. An act to amend title 38, United States Code, to make certain improvements in the services provided for homeless veterans under the laws administered by the Secretary of Veterans Affairs; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 3152. A bill to repeal the Patient Protection and Affordable Care Act.

S. 3153. A bill to provide a fully offset temporary extension of certain programs so as not to increase the deficit, and for other purposes.

H.R. 4872. An Act to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13).

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4872. An Act to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13).

S. 3152. A bill to repeal the Patient Protection and Affordable Care Act.

S. 3153. A bill to provide a fully offset temporary extension of certain programs so as not to increase the deficit, and for other purposes.

S. 3158. A bill to require Congress to lead by example and freeze its own pay and fully offset the cost of the extension of unemployment benefits and other Federal aid.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, and were referred as indicated:

EC–5118. A communication from the Chief of Research and Analysis, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''School Food Safety Program Based on Hazard Analysis and Critical Control Point Principles'' (RIN0584–AD65) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5119. A communication from the Regulatory Officer, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2008 Tariff-Rate Quota Year'' (7 CFR Part 6) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5120. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Principal Deputy Under Secretary of Defense (Acquisition and Technology), received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5121. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of the Army (Acquisitions, Logistics, and Technology), received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5122. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Under Secretary of the Air Force, received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5123. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of the Air Force (Installations, Environment, and Logistics), received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5124. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of General Counsel of the Department of the Navy, received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5125. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Assistant Secretary of the Navy (Installations and Environment), received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5126. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, a report relative to a vacancy in the position of Principal Deputy Under Secretary of Defense (Comptroller), received in the Office of the President of the Senate on March 22, 2010; to the Committee on Armed Services.

EC–5127. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a report relative to the quarterly reporting of withdrawals or diversions of equipment from Reserve component units; to the Committee on Armed Services.

EC–5128. A communication from the Assistant Secretary (Reserve Affairs), Department of Defense, transmitting, pursuant to law, a report relative to the annual National Guard and Reserve Equipment Report; to the Committee on Armed Services.

EC–5129. A communication from the Under Secretary of Defense, transmitting a report on the approved retirement of General Victor E. Renuart, Jr., United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC–5130. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cuban Assets Control Regulations'' (31 CFR Part 515) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5131. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Cuban Assets Control Regulations; Sudanese Sanctions Regulations; Iranian Transactions Regulations'' (31 CFR Parts 515, 538, and 560) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5132. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility for Failure to Enforce'' ((44 CFR Part 64)(Docket No. FEMA–2008–0020)) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5133. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5134. A communication from the Principal Deputy General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Form, Procedures, and Criteria for Certification of Qualifying Facility Status for a Small Power Production or Cogeneration Facility'' (RIN 1902–AG92) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Energy and Natural Resources.

EC–5135. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''James R. Thompson v. United States Court of Federal Claims No. 06–211 T'' (AOD–2010–14) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Finance.

EC–5136. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Interim Guidance on Measurement of Continuity of Interest in Reorganizations'' (Notice No. 2010–25) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Finance.

EC–5137. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates-April 2010'' (Rev. Proc. 2010–11) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Finance.

EC–5138. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 41 (b) Extraordinary Expenditures for Utilities'' (UIL41.51–01) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Finance.

EC–5139. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Smart Grid Investment Grants'' (Rev. Proc. 2010–20) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Finance.

EC–5140. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Update of Weighted Average Interest Rates, Yield Curves, and Segment Rates'' (Notice No. 2010–24) received in the Office of the President of the Senate on March 16, 2010; to the Committee on Finance.

EC–5141. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Qualified School Construction Bond Allocations for 2010'' (Rev. Proc. 2010–17) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Finance.

EC–5142. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, an annual report on the Child Support Enforcement Program for fiscal year 2007; to the Committee on Finance.

EC–5143. A communication from the Chief of the Trade and Commercial Regulations Branch, Customs and Border Protection, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Prohibitions and Conditions for Importations of Burmese and Non-Burmese Covered Articles of Jadeite, Rubies, and Articles of Jewelry Containing Jadeite or Rubies'' (CBP Dec. 10–04) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5144. A communication from the Assistant to the Board of Governors, Division of Consumer and Community Affairs, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Truth in Lending'' (Docket No. R–1370) received in the Office of the President of the Senate on March 19, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5145. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Regulation of the Interstate Movement of Lemons from an Area Quarantined for Mediterranean Fruit Fly'' (Docket No. APHIS–2009–0002) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5146. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation,

Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arkansas; Redesignation of the Crittenden County, Arkansas Portion of the Memphis, Tennessee-Arkansas 1997 8-Hour Ozone Nonattainment Area to Attainment'' (FRL No. 9129–2) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Environment and Public Works.

EC–5147. A communication from the Chairman of the Office of Proceedings, Surface Transportation Board, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Annual Submission of Tax Information for Use in the Revenue Shortfall Allocation Method'' (STB Ex Parte No. 682) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5148. A communication from the Assistant Administrator for Fisheries, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Magnuson-Stevens Act Provisions; Correction'' ((RIN0648–AS71)(RIN0648–AU71)) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5149. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch by Vessels in the Amendment 80 Limited Access Fishery in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XS90) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5150. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure'' (RIN0648–XS51) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5151. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Halibut in the Gulf of Alaska'' (RIN0648–XS89) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5152. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Buffalo and Centerville, Texas)'' (MB Docket No. 09–187) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5153. A communication from the Chief of Staff, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(i), Final DTV Table of Allotments, Television Broadcast Stations; Oklahoma City, Oklahoma'' (MB Docket No. 10–19) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5154. A communication from the Regulatory Officer, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Trade Adjustment Assistance for Farmers'' (RIN0551–AA80) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Finance.

EC–5155. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled ''Report to the Congress: Medicare Payment Policy''; to the Committee on Finance.

EC–5156. A communication from the President of the United States, transmitting, pursuant to law, a report relative to additions and deletions to the list of sites, facilities, locations, and activities in the United States declared in 2009 to the International Atomic Energy Agency; to the Committee on Foreign Relations.

EC–5157. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services to the Korean Ministry of Defense relative to the continued manufacture of J79–GE–15A and –17A engines for the F–14 aircraft in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–5158. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services for the manufacture of MK73 Mod 3 Solid State Transmitters, subassemblies and associated components, and piece parts for the NATO Seasparrow Program for the United States, NATO Consortium Member Countries, and other approved non-NATO member countries in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–5159. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services for the manufacture in Spain of the MK47 40mm Automatic Grenade Launcher; to the Committee on Foreign Relations.

EC–5160. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services to support the Proton launch of the KA–SAT Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–5161. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the export of defense articles, including technical data, and defense services to support the Proton launch of the SIRIUS XM–5 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of $50,000,000 or more; to the Committee on Foreign Relations.

EC–5162. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including technical data, and defense services to support the manufacture of F404, F414, and T64 aircraft engine components to supply General Electric Aviation's production lines in the United States; to the Committee on Foreign Relations.

EC–5163. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services for the manufacture of F110–GE–129 engines powering the Japanese Ministry of Defense's F–2 aircraft; to the Committee on Foreign Relations.

EC–5164. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services to Japan to provide continued support for the manufacture of engine fuel control devices for the Japanese Ministry of Defense's F–15J aircraft in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–5165. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the export of defense articles, including technical data, and defense services for the continued manufacture of Advanced Rail Launchers for end use on the F–35 Lightning II aircraft for the U.S. government; to the Committee on Foreign Relations.

EC–5166. A communication from the Secretary of the Treasury, transmitting, pursuant to Executive Order 13313 of July 31, 2003, the semiannual report detailing payments made to Cuba as a result of the provision of telecommunications services pursuant to Department of the Treasury specific licenses; to the Committee on Foreign Relations.

EC–5167. A communication from the General Counsel, Institute of Museum and Library Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Director of the Institute of Museum and Library Services, received in the Office of the President of the Senate on March 19, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5168. A communication from the Chief Human Capital Officer, Corporation for National and Community Service, transmitting, pursuant to law, a report relative to a vacancy in the position of Inspector General of the Corporation for National and Community Service, received in the Office of the President of the Senate on March 19, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC–5169. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment; Federal Emergency Management Agency's Claims Appeals'' ((44 CFR Part 62) (Docket No. FEMA–2009–0009)) received in the Office of the President of the Senate on March 17, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5170. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the

report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–006, Enhanced Competition for Task- and Delivery-Order Contracts—Section 843 of the Fiscal Year 2008 National Defense Authorization Act'' (RIN9000–AL05) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5171. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–040, Use of Standard Form 26—Award/Contract'' (RIN9000—AL48) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5172. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–012, Clarification of Submission of Cost or Pricing Data on Non-Commercial Modifications of Commercial Items'' (RIN9000–AL12) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5173. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2009–035, Extend Use of Simplified Acquisition Procedures for Certain Commercial Items'' (RIN9000–AL52) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5174. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 205–39; Introduction'' (FAC 2005–39) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5175. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–015, Payments Under Fixed-Price Architect–Engineer Contracts'' (RIN9000–AL26) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5176. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2008–036, Trade Agreements—Costa Rica, Oman, and Peru'' (RIN9000–AL23) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5177. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Technical Amendment'' (FAC 2005–39) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5178. A communication from the Acting Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–39; Small Entity Compliance Guide'' (Docket FAR 2010–0077) received in the Office of the President of the Senate on March 22, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC–5179. A communication from the Chairman and the General Counsel, National Labor Relations Board, transmitting, pursuant to law, a report relative to the acquisitions made annually from entities that manufacture articles, materials, or supplies outside of the United States for fiscal year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC–5180. A communication from the Secretary of Transportation, transmitting draft legislation to provide authority to compensate Federal employees for the two-day period in which authority to make expenditures from the Highway Trust Fund lapsed, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

EC–5181. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to the Tribal-State Road Maintenance Agreements; to the Committee on Indian Affairs.

EC–5182. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Missouri Advisory Committee; to the Committee on the Judiciary.

EC–5183. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Kansas Advisory Committee; to the Committee on the Judiciary.

EC–5184. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Pennsylvania Advisory Committee; to the Committee on the Judiciary.

EC–5185. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the District of Columbia Advisory Committee; to the Committee on the Judiciary.

EC–5186. A communication from the Staff Director, United States Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Nevada Advisory Committee; to the Committee on the Judiciary.

EC–5187. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Area Sources: Asphalt Processing and Asphalt Roofing Manufacturing; Technical Correction'' (FRL No. 9128-1) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Environment and Public Works.

EC–5188. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans: Alaska'' (FRL No. 9091-5) received in the Office of the President of the Senate on March 18, 2010; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–93. A resolution adopted by the Commission of the City Lauderhill, Florida congratulating President Barack Obama on his award of the Nobel Peace Prize; to the Committee on the Judiciary.

Resolution No. 10R–02–46

WHEREAS, the Nobel Peace Prize has been awarded 90 times to 120 Nobel Laureates between 1901 and 2009, 97 times to individuals and 23 times to organizations; and

WHEREAS, the Nobel Peace Prize is a prestigious award, originated by Alfred Nobel, through his will, whereby he directed that such award be given to a person or organization, who or which, during the preceding year, shall have done the most or the best for fraternity between nations, for the abolition or reduction of standing armies and for the holding and promotion of peace congresses, and

WHEREAS, for 2009, the Norwegian Nobel Committee nominated and awarded the forty-fourth President of the United States of America, Barack Obama, the Nobel Peace Prize for his ''extraordinary efforts to strengthen international diplomacy and cooperation between peoples''; and

WHEREAS, it is important for communities throughout the Nation to recognize this momentous occasion;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAUDERHILL, FLORIDA:

SECTION 1: Each ''WHEREAS'' clause set forth above is true and correct and is incorporated herein.

SECTION 2: The City Commission of the City of Lauderhill, Florida joined by the Honorable Mayor Richard J. Kaplan, on behalf of the citizens of the City of Lauderhill, Florida, hereby recognizes and congratulates President Barack Obama, for the award of the 2009 Nobel Peace Prize.

SECTION 3: The City Clerk is hereby authorized and directed to provide copies of this Resolution to President Barack Obama, Joseph Biden, Vice-President of the United States, Nancy Pelosi, Speaker of the United States House of Representatives, Honorable Florida Governor Charlie Crist, the National League of Cities, the Florida League of Cities, the Broward County League of Cities, Ken Keechel, the Honorable Mayor of Broward County, to the media, and to any other interested persons.

SECTION 4: If any Section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

SECTION 5: This Resolution shall take effect immediately upon its passage and adoption.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DEMINT (for himself, Mr. BENNETT, Mr. VITTER, Mr. RISCH, Mrs. HUTCHISON, Mr. CRAPO, Mr. BOND, Mr. LEMIEUX, Mr. CHAMBLISS, Mr. INHOFE, Mr. ROBERTS, Mr. GRAHAM, and Mr. ENSIGN).

S. 3152. A bill to repeal the Patient Protection and Affordable Care Act; read the first time, read the second time, placed on calendar.

By Mr. GRASSLEY:

S. 3153. A bill to provide a fully offset temporary extension of certain programs so as not to increase the deficit, and for other purposes; read the first time; read the second time, placed on calendar.

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Ms. LANDRIEU, and Mr. INOUYE):

S. 3154. A bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND (for herself and Mr. HATCH):

S. 3155. A bill to require reporting on certain information and communications technologies of foreign countries, to develop action plans to improve the capacity of certain countries to combat cybercrime, and for other purposes; to the Committee on Foreign Relations.

By Mr. BROWNBACK (for himself and Ms. LANDRIEU):

S. 3156. A bill to develop a strategy for assisting stateless children from North Korea, and for other purposes; to the Committee on Foreign Relations.

By Mr. CASEY (for himself, Mr. BROWN of Ohio, Ms. STABENOW, and Mr. BURRIS):

S. 3157. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COBURN:

S. 3158. A bill to require Congress to lead by example and freeze its own pay and fully offset the cost of the extension of unemployment benefits and other Federal aid; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG:

S. Res. 465. A resolution to permit the Senate to avoid unnecessary delay and vote on matters for which floor debate has ceased; to the Committee on Rules and Administration.

By Mr. KERRY (for himself, Ms. COLLINS, Mr. DURBIN, Mr. DODD, Mr. FEINGOLD, Mrs. GILLIBRAND, and Mr. CARDIN):

S. Res. 466. A resolution supporting the goals and ideals of World Water Day; to the Committee on Foreign Relations.

By Mr. MCCONNELL:

S. Res. 467. A resolution to authorize representation by the Senate Legal Counsel in the case of Sollars v. Reid, et al; considered and agreed to.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. Con. Res. 55, A concurrent resolution commemorating the 40th anniversary of Earth Day and honoring the founder of Earth Day, the late Senator Gaylord Nelson of the State of Wisconsin; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 654

At the request of Mr. BUNNING, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 654, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 850

At the request of Mr. KERRY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 924

At the request of Ms. MIKULSKI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 924, a bill to ensure efficient performance of agency functions.

S. 984

At the request of Mrs. BOXER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 984, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1215

At the request of Mr. CASEY, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1215, a bill to amend the Safe Drinking Water Act to repeal a certain exemption for hydraulic fracturing, and for other purposes.

S. 1492

At the request of Ms. MIKULSKI, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1492, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 1611

At the request of Mr. GREGG, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Washington (Mrs. MURRAY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 2749

At the request of Mrs. GILLIBRAND, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2749, a bill to amend the Richard B. Russell National School Lunch Act to improve access to nutritious meals for young children in child care.

S. 2755

At the request of Mr. MENENDEZ, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2755, a bill to amend the Internal Revenue Code of 1986 to provide an investment credit for equipment used to fabricate solar energy property, and for other purposes.

S. 2824

At the request of Mr. KOHL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2824, a bill to establish a small dollar loan-loss guarantee fund, and for other purposes.

S. 2979

At the request of Mr. LEAHY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 2979, a bill to amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, and for other purposes.

S. 3058

At the request of Mr. DORGAN, the names of the Senator from Virginia (Mr. WEBB) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3123

At the request of Mr. LEAHY, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 3123, a bill to amend the Richard B. Russell National School Lunch Act to require the Secretary of Agriculture to carry out a program to assist eligible schools and nonprofit entities through grants and technical assistance to implement farm to school programs that improve access to local foods in eligible schools.

S. 3138

At the request of Mr. CARDIN, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 3138, a bill to promote documentary films that convey a diversity of views about life in the United States and bring insightful foreign perspectives to United States audiences.

S. 3148

At the request of Mr. WEBB, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Virginia (Mr. WARNER), the Senator from New York (Mrs. GILLIBRAND), the Senator from South Dakota (Mr. JOHNSON), the Senator from Alabama (Mr. SESSIONS), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maryland (Mr. CARDIN), the Senator from Louisiana (Mr. VITTER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Montana (Mr. TESTER), the Senator from South Carolina (Mr. GRAHAM), the Senator from Maine (Ms. COLLINS), the Senator from Illinois (Mr. DURBIN), the Senator from New York (Mr. SCHUMER), the Senator from Colorado (Mr. UDALL) and the Senator from Florida (Mr. LEMIEUX) were added as cosponsors of S. 3148, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of Department of Defense health coverage as minimal essential coverage.

S. 3150

At the request of Mr. BEGICH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 3150, a bill to increase the mileage reimbursement rate for members of the armed services during permanent change of station and to authorize the transportation of additional motor vehicles of members on change of permanent station to or from nonforeign areas outside the continental United States.

S. RES. 446

At the request of Mr. KERRY, his name was added as a cosponsor of S. Res. 446, a resolution commemorating the 40th anniversary of the Treaty on the Non-Proliferation of Nuclear Weapons.

S. RES. 464

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 464, a resolution recognizing the 189th anniversary of the independence of Greece and celebrating Greek and American democracy.

AMENDMENT NO. 3503

At the request of Mr. MENENDEZ, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of amendment No. 3503 proposed to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 3506

At the request of Mr. MENENDEZ, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 3506 proposed to H.R. 1586, an act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MURKOWSKI (for herself, Mr. JOHNSON, Ms. LANDRIEU, and Mr. INOUYE):

S. 3154. A bill to amend the Public Health Service Act to reauthorize and extend the Fetal Alcohol Syndrome prevention and services program, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. JOHNSON. Mr. President, today I join Senators INOUYE, LANDRIEU, and MURKOWSKI in introducing the Advancing FASD Research, Prevention, and Services Act. I thank them for joining in this important effort to improve the surveillance, identification, and prevention of Fetal Alcohol Syndrome Disorders, or FASD.

I have great concern about the impact of FASD in South Dakota and across the country. This disease is entirely preventable, and yet as many as 40,000 infants each year are estimated to be born with an FASD. Researchers estimate that 1 percent of our population lives with an FASD, which is more than 3 million Americans. In my home State of South Dakota, over 7,800 individuals are suspected of living with an FASD.

The tragedy of FASD must be addressed at the source, by increasing awareness that any amount of alcohol during pregnancy can have heartbreaking, lifelong effects. We must increase efforts to reach out to all women of child-bearing age and connect those most at risk to treatment and counseling services. This bill will make available grants to federally qualified health centers to implement and evaluate programs to increase awareness and identification of FASD in those settings. Participating health centers will be able to provide training to health care providers on identifying and educating women who are at risk for alcohol consumption during pregnancy and on screening children for FASD.

Another provision in this bill will create public awareness and education campaigns in at-risk areas to further the prevention of this disease. This bill will authorize the development and broadcast of national public service announcements to raise public awareness of the risks associated with alcohol consumption during pregnancy.

We must also move past the stigma of this devastating disease to truly help those and their families who are affected by FASD get the health, education, counseling and support services they need and deserve. This bill focuses provision of services in areas where FASD-affected individuals are already receiving help. In South Dakota, more than 60 percent of people diagnosed with an FASD lived within a foster care home for some part of their lives. With that in mind, our bill works to train foster care workers and foster parents on how to best communicate with and serve children living with FASD.

Furthermore, it is estimated that 60 percent of individuals with FASD will spend some time in a correctional institution or mental health facility during their lives. Most individuals with FASD will commit their first crime between the ages of 9 and 14. To that end, our bill will provide health care and judicial system workers with the resources they need to work with and understand FASD-affected individuals when they encounter them in health care settings or the court system.

The costs of this completely preventable condition to our country are staggering, in dollars and in loss of human potential. According to a 2003 study by the Lewin Group, an FAS birth carries lifetime health costs of $860,000 to $4.2 million. The annual cost of FASD to South Dakota, including medical treatment, special education services, and home and residential care, is estimated to be $18 million. Nationally, the cost for these services will approach $6 billion this year alone, but neither of these estimates include the economic costs of lost productivity.

In my home state of South Dakota, we have had great successes in working on this issue. With the leadership of the health professionals at our esteemed universities, parents, and teachers, among countless others, we have made some important progress in addressing FASD. This legislation will bolster the efforts of these dedicated South Dakotans and many others across the country who are working hard to prevent FASD and support the children and families living with its consequences.

This bill will also provide much needed support in the area of research by requiring the National Institutes of Health to develop a research agenda focusing on the most promising avenues in diagnosis, intervention, and prevention, as well as factors that may mitigate the effects of fetal alcohol exposure.

I have long-supported efforts to put an end to this entirely preventable and destructive disease. I am pleased to be reintroducing this bill with my colleagues and encourage all of our colleagues to consider supporting this bill. I would also like to take a moment to thank former Senator Tom Daschle for his leadership on FASD. His commitment to combating this illness continues in South Dakota and in the lives of those who battle FASD every day.

By Mrs. GILLIBRAND (for herself and Mr. HATCH):

S. 3155. A bill to require reporting on certain information and communications technologies of foreign countries, to develop action plans to improve the capacity of certain countries to combat cybercrime, and for other purposes; to the Committee on Foreign Relations.

Mr. HATCH. Mr. President, I rise today to introduce the International Cybercrime Reporting and Cooperation Act with Senator KIRSTEN GILLIBRAND, which if enacted, will establish a framework for global cooperation on the fight against cybercrime. As the U.S. continues to work on combating cybercrime here at home, we must simultaneously direct our attention to the international arena. With bipartisan support and valued input from affected industry, we have worked together on drafting a bill that encompasses reporting measures, action plans, and multilateral efforts in support of government cooperation to dismantle this global threat.

This bill increases the U.S. Government's focus on combating cybercrime internationally by requiring the President to annually report to Congress with respect to the information and communications technologies, ICT, capabilities of foreign countries, and the multilateral efforts that are undertaken. In this digital age of global connectivity, businesses and governments must always be mindful of a potential cyberattack. Cyberspace remains borderless, with no single proprietor. Accordingly, the U.S. must take the lead on maintaining the openness of the Internet, while securing accountability.

The White House cybersecurity coordinator, Howard Schmidt, recently commented about the cyberattacks on Google and referenced that the best thing to handle cyber conflicts and attacks abroad is to work with countries involved, ''making sure they are doing a full-blown investigation and conferring with our law enforcement.'' This is one of the objectives that I have sought to accomplish in this bill. If a country is a haven for cybercrime, or simply has demonstrated a pattern of uncooperative behavior with efforts to combat cybercrime, that nation must be held accountable. The government of each country must conduct criminal investigations and prosecute criminals when there is credible evidence of

cybercrime incidents against the U.S. Government, our private entities or our people.

In this bill, the President would submit to Congress an annual report assessing the extent of use of the Internet in critical infrastructure, telecommunications and the financial industry for each member state of the United Nations. The report would assess the effectiveness of each country's legal and law enforcement systems in addressing cybercrime, and the measures taken by each country to ensure free flow of commerce and the protection of Internet consumers. The annual report would also describe U.S. actions to promote multilateral efforts, as well as other multilateral efforts to prevent and investigate cybercrime, and develop best practices to combat cybercrime. The report will also identify and prioritize countries that are at risk of becoming cybercrime havens due to their lack of technology and enforcement resources. We must be able to utilize our foreign assistance programs to help countries with low ICT development, and ensure they are ready to stand on their own to combat cybercrime, even long after the foreign assistance has ended.

Obviously, to be effective in our fight against cybercrime, the global community must work together to keep all countries accountable for their actions. Toward that end, one year after submitting the first report, the International Cybercrime Reporting and Cooperation Act would direct the President to create an action plan for each country of cyber concern, to assist the government of that country and create benchmarks. If the country of cyber concern has not taken any of the recommended actions to curtail or prevent cybercrime, various enforcement actions against the country may be taken, including prohibiting the approval of financing from the Overseas Private Investment Corporation or the Export-Import Bank. With so many U.S. companies doing business overseas, we must do our part to safeguard their employees, their jobs, and their clients from cyberattacks. Our objective is simple: We need international cooperation to increase assistance and prevention efforts of cybercrime from those countries deemed to be of cyber concern. Without international cooperation, our economy, security, and people will continue to be under threat.

To ensure that the most comprehensive information is considered, this bill encourages the President to reach out to industry, civil society and other interested parties in crafting the annual report. Senator GILLIBRAND and I took the time to listen to many stakeholders and create a bill that addresses real concerns. To provide an outlet to bring together the input of affected and interested parties, we have worked with the Department of State to designate not only a senior official in Washington to coordinate and focus on cybercrime as a foreign policy issue, but the assignment of employees with primary responsibility of cybercrime policy in each country or region that is a key player in the fight to combat cybercrime globally. These government employees assigned overseas will ensure that companies doing business abroad will have an additional channel to report and discuss cybercrime. I am pleased to say that this bill has gained vast support from all areas of the financial and high-tech sectors.

Cybercrime is a tangible threat to the security of the global economy, which is why we need to coordinate our fight worldwide. Until countries begin to take the necessary steps to fight criminals within their borders, cybercrime havens will continue to flourish. We do not have the luxury to sit back and do nothing, and the International Cybercrime Reporting and Cooperation Act will not only function as a deterrent of cybercrime, but will prove to be an essential tool necessary to keep the Internet open for business. Countries that knowingly permit cybercriminals to attack within their borders will now know that the U.S. is watching, the global community is watching, and there will be consequences for not acting.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 465—TO PERMIT THE SENATE TO AVOID UNNECESSARY DELAY AND VOTE ON MATTERS FOR WHICH FLOOR DEBATE HAS CEASED

Mr. LAUTENBERG submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 465

Resolved,

SECTION 1. AMENDMENT TO THE STANDING RULES OF THE SENATE.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by—

(1) inserting after the second undesignated subparagraph the following:

''Following the filing of the cloture motion and prior to the cloture vote, as long as the matter on which cloture has been filed remains the pending matter—

''(1) there shall be no dilatory motion, including dilatory quorum calls, in order; and

''(2) if, at any time, no Senator seeks recognition on the floor, it shall be in order for the Majority Leader to move the question on cloture as long as any applicable filing deadline for first degree amendments has passed.''; and

(2) inserting after the fifth undesignated subparagraph (after the amendment by paragraph (1)) the following:

''If, at any time after cloture is invoked on an executive nomination or a motion to proceed, no Senator seeks recognition on the floor, it shall be in order for the Majority Leader to move the question on which cloture has been invoked.''.

SENATE RESOLUTION 466—SUPPORTING THE GOALS AND IDEALS OF WORLD WATER DAY

Mr. KERRY (for himself, Ms. COLLINS, Mr. DURBIN, Mr. DODD, Mr. FEINGOLD, Mrs. GILLIBRAND, and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 466

Whereas United Nations Resolution 47/193, adopted by the General Assembly on December 22, 1992, designates March 22 of each year as World Day for Water;

Whereas a person needs a minimum of 20 liters of water per day to live;

Whereas a person can live weeks without food, but only days without water;

Whereas diseases related to inadequate water, sanitation, and hygiene trigger 4,000,000,000 cases of diarrhea and 2,000,000,000 infections by parasitic intestinal worms annually;

Whereas 50 percent of childhood malnutrition in the world is caused by water- and sanitation-related diseases;

Whereas a child dies from a water-borne disease every 15 seconds;

Whereas water- and sanitation-related diseases are the leading cause of death for children under 5 years of age;

Whereas millions of women and children spend several hours a day collecting water from distant, often polluted sources;

Whereas women and children bear disproportionate economic and educational costs associated with unsafe drinking water and poor sanitation;

Whereas every dollar spent on water and sanitation saves an average of $8 in costs averted and productivity gained;

Whereas water- and sanitation-related diseases account for 80 percent of the sicknesses in developing countries;

Whereas 884,000,000 people lack access to an improved water supply;

Whereas 2,500,000,000 people in the world lack access to improved sanitation;

Whereas the 263 transboundary lake and river basins in the world include territory in 145 countries and cover nearly ½ of the Earth's land surface;

Whereas climate change may cause more extreme floods and droughts, increasing tension and potential clashes over transboundary freshwater resources;

Whereas the global celebration of World Water Day is an initiative that grew out of the 1992 United Nations Conference on Environment and Development in Rio de Janeiro to draw attention to the global water, sanitation, and hygiene crisis;

Whereas the Plan of Implementation of the World Summit on Sustainable Development, adopted by the 2002 Johannesburg summit participants, including the United States, sets forth the goal to reduce by ½, between 1990 and 2015, ''the proportion of people who are unable to reach or to afford safe drinking water'' and ''the proportion of people who do not have access to basic sanitation''; and

Whereas the Senator Paul Simon Water for the Poor Act of 2005 (Public Law 109–121) required the Secretary of State to develop a strategy to ''elevate the role of water and sanitation policy in the development of U.S. foreign policy and improve the effectiveness of U.S. official programs undertaken in support of the strategy'':

Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of World Water Day, which will be observed on March 22;

(2) urges the Department of State, the United States Agency for International Development, and all relevant Federal departments and agencies to increase the efforts and resources dedicated to—

(A) providing sustainable and equitable access to safe drinking water and sanitation; and

(B) improving the capacity for water resource management for the poor and the very poor; and

(3) encourages the people of the United States to observe the day with appropriate activities that promote awareness of the importance of—

(A) access to clean water and adequate sanitation; and

(B) stakeholder cooperation on transboundary water management.

Mr. DURBIN. Mr. President, yesterday, countries around the world celebrated World Water Day. This is a day to celebrate the progress we have made protecting this most important resource and to reflect on the many challenges we still face in providing clean, safe water to the world's poor.

I was heartened to see that Secretary of State Clinton spoke at the National Geographic World Water Day event on Monday. She and others at the Department of State and USAID are doing a great job stepping up U.S. leadership on issues of clean water and sanitation.

Last year alone, American development assistance helped more than 4 million people access an improved water source for the first time. While we are proud of this help, we recognize that much more needs to be done.

Today, nearly 1 billion people still lack access to safe drinking water, and more than 2 billion still lack basic sanitation. Lack of access to stable supplies of water is reaching critical proportions, particularly for agricultural purposes. The problem will only worsen with rapid urbanization worldwide. Experts suggest that another 1.2 billion people will lack access to clean water and sanitation within 20 years.

The overall economic loss in Africa alone due to lack of access to safe water and basic sanitation is estimated at $28.4 billion a year. In many poor nations, women and girls walk 2 or 3 hours or more each way, every day, to collect water that is often dirty and unsafe. The U.N. estimates that women and girls in sub-Saharan Africa spend a total of 40 billion working hours each year collecting water. That is equivalent to all of the hours worked in France in a year. Clearly, the world needs to do more to help with such a basic human need.

That is why Senator CORKER and I introduced the Paul Simon Water for the World Act—a bill that would strengthen America's ability to provide clean water and sanitation to 100 million of the world's poor over the next 6 years.

I am pleased that the bill is on the Senate Foreign Relations Committee agenda and thank Senators KERRY, LUGAR, CORKER and so many others for their support on this effort. I look forward to the bill's consideration from the Foreign Relations Committee and urge my colleagues to support passage of the bill once it has been reported.

The Paul Simon water for the world bill would put the United States in the forefront of providing poor people around the world with a most fundamental need—water. This is not an effort to create vast new programs, but to focus our foreign assistance efforts on a comprehensive, strategic series of investments related to water and sanitation. These are simple, commonsense steps that will make a real difference in people's lives.

Our legislation would make the U.S. a leader in meeting key millennium development goals for drinking water and sanitation, which is to reduce by half the proportion of people without safe water and sanitation by 2015. The bill targets aid to areas with the greatest need. It helps build the capacity of poor nations to meet their own water and sanitation challenges.

The Water for the World Act also supports research on clean water technologies and regional partnerships to find solutions to shared water challenges. The bill provides technical assistance—best practices, credit authorities, and training—to help countries expand access to clean water and sanitation. Our development experts will design the assistance based on local needs.

The bill would also strengthen the capacity of USAID and the State Department to implement development assistance efforts related to water and ramp up U.S. developmental and diplomatic leadership.

I know that these steps do make a difference. On a recent trip to east Africa, I saw American development assistance in Tanzania, the Democratic Republic of Congo, Ethiopia, and Sudan and had an opportunity to look at a number of global health programs including clean water and sanitation.

One program in Ethiopia was provided by a nongovernmental organization called AMREF in the Kechene slum area of the capital of Addis Ababa. The 380 people living in the Kechene area have basically had to carry in water for years because there was no running water. But because of an AMREF project, they were able to build 22 water kiosks in the country and one in this slum area. It seems like something so simple, but it has changed their lives. They now have a source of safe drinking water.

Very near the small lean-tos they live in, they have two showers, toilet facilities, and a source of clean drinking water—none of which they had before. The small fee that is charged by the residents who maintain it helps keep it clean and functional.

The residents couldn't help but beam with pride as we took a look at a most basic yet critical source of community pride. Disease is down, threats to women who otherwise would have to walk great distances to obtain water are down, and the community even has a small source of income and employment. These are the kinds of simple self-sustaining projects the U.S.should be supporting for the world's poor.

Water scarcity can also be a source of conflict and economic calamity. Last year millions in the horn of Africa suffered from famine because of droughts. Without reliable supplies of water, farmers struggle to grow crops, and areas once abundant with water are slowly becoming barren.

I was reminded of these challenges talking to a government minister in Sudan. When I asked about the impact of climate change in his country, he immediately/wanted to take me to the Nile to show how the river had shrunk in volume. Can you imagine the Nile River, which sustains a land where historic civilizations emerged, is now shrinking?

Helping other nations is in our national interest. Some say that now is not the time to invest in poor nations half a world away when our economy is in crisis and so many Americans are hurting. That view is understandable. Recovering from this recession and rebuilding our economy for the long-term must be, and is, our government's top priority. But investing in clean water for the world is a smart strategy that will make our foreign assistance dollars achieve more—something we need in these hard economic times.

We know what the solutions are and we know they are cost effective. For every dollar invested in water and sanitation, $8 are returned in increased productivity and decreased health care costs. Just imagine how bringing such a basic need to the world's poor will impact America's image—particularly at a time when we are in a battle of ideas in many parts of the world.

The Water for the World Act builds on the similarly named landmark legislation—the Senator Paul Simon Water for the Poor Act—that at long last made safe drinking water and sanitation a priority of U.S. foreign development assistance.

I owe my passion on water to my predecessor and long time mentor the late Senator Paul Simon. Paul Simon was a prolific author and visionary. He wrote books on a variety of compelling issues, and solving the global water crisis was his last great campaign. He knew the United States had the ability to be a leader on this issue.

Two years after Paul Simon died the Senator Paul Simon Water for the Poor Act was signed into law in December 2005. The act has made a big difference to the world's poor, but we can do more. I can think of no better way to honor a man who did so much for so many, than to commit ourselves to achieving this vision and the ideals of the Senator Paul Simon Water for the Poor Act.

Water is one of the defining challenges of the 21st century. No other issue is more important to human health, peace and security than access to sustainable supplies of water. As we celebrate World Water Day this week, let us renew our commitment to making sure the world's poor have access to this most basic human need.

SENATE RESOLUTION 467—TO AUTHORIZE REPRESENTATION BY THE SENATE LEGAL COUNSEL IN THE CASE OF SOLLARS V. REID, ET AL

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 467

Whereas, in the case of Sollars v. Reid, et al., Case No. 1:09–CV–361, pending in the United States District Court for the Northern District of Indiana, plaintiff has named as defendants eight Senators; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent all defendant Senators in the case of Sollars v. Reid, et al.

SENATE CONCURRENT RESOLUTION 55—COMMEMORATING THE 40TH ANNIVERSARY OF EARTH DAY AND HONORING THE FOUNDER OF EARTH DAY, THE LATE SENATOR GAYLORD NELSON OF THE STATE OF WISCONSIN

Mr. FEINGOLD (for himself and Mr. KOHL) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 55

Whereas Gaylord Nelson, former United States Senator from the State of Wisconsin, is recognized as 1 of the leading environmentalists of the 20th century;

Whereas Gaylord Nelson helped launch an international era of environmental awareness and activism;

Whereas Gaylord Nelson grew up in Clear Lake, Wisconsin;

Whereas Gaylord Nelson maintained and exemplified the progressive values of Clear Lake, Wisconsin while rising to national prominence;

Whereas Gaylord Nelson served with distinction—

(1) as a Senator in the Wisconsin State Senate from 1949 through 1959;

(2) as Governor of the State of Wisconsin from 1959 through 1963; and

(3) as a Senator in the United States Senate from 1963 through 1981;

Whereas Gaylord Nelson founded Earth Day, which was first celebrated on April 22, 1970, by approximately 20,000,000 people across the United States;

Whereas, at the time, the first celebration of Earth Day was the largest environmental grassroots event ever held;

Whereas, on the first celebration of Earth Day, Gaylord Nelson called on the people of the United States to hold elected officials accountable for protecting the health of the people of the United States and the natural environment;

Whereas the first celebration of Earth Day launched the Environmental Decade, an unparalleled period of legislative and grassroots activity that resulted in the passage of 28 major pieces of environmental legislation from 1970 through 1980, including—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(3) the National Environmental Education Act (20 U.S.C. 5501 et seq.);

Whereas Gaylord Nelson was responsible for legislation that—

(1) created the Apostle Islands National Lakeshore and the St. Croix Wild and Scenic Riverway; and

(2) protected other important natural treasures of the State of Wisconsin and the United States;

Whereas Gaylord Nelson sponsored legislation to ban phosphates in household detergents and the use of dichlorodiphenyltrichloroethane (DDT);

Whereas Gaylord Nelson worked tirelessly to ensure clean water and clean air for all people of the United States;

Whereas, in addition to providing environmental leadership, Gaylord Nelson—

(1) fought for civil rights;

(2) enlisted in the War on Poverty;

(3) challenged drug companies and tire manufacturers to protect consumers; and

(4) to defend and protect civil liberties, stood up to Senator Joseph McCarthy, the Un-American Activities Committee of the House of Representatives, and the Nixon Administration;

Whereas Gaylord Nelson was a patriot, who as a young soldier honorably served 46 months in the Armed Forces during World War II;

Whereas Gaylord Nelson, as a Senator, courageously opposed the Vietnam War and worked to ban the use of the toxic defoliant Agent Orange;

Whereas, in 1995, Gaylord Nelson was awarded the Presidential Medal of Freedom, the highest honor awarded to civilians in the United States;

Whereas the legacy of Gaylord Nelson has inspired an environmental ethic and an appreciation and understanding of the importance of being good stewards of the environment and the planet in generations of the people of the United States;

Whereas Gaylord Nelson was an extraordinary statesman, public servant, environmentalist, husband, father, and friend; and

Whereas Gaylord Nelson never let disagreement on the issues become personal or partisan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commemorates the 40th anniversary of Earth Day and honors the founder of Earth Day, the late Senator Gaylord Nelson of the State of Wisconsin.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3556. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table.

SA 3557. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3558. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3559. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3560. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3561. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3562. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3564. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra.

SA 3565. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3567. Mr. GREGG (for himself and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3568. Mr. BENNETT (for himself, Mr. WICKER, Mr. BROWNBACK, Mr. HATCH, Mr. ROBERTS, Mr. INHOFE, Mr. CORNYN, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3569. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3570. Mr. MCCAIN (for himself, Mr. BURR, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3571. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3572. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3573. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3574. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3575. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3576. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3577. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3578. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3579. Mr. ROBERTS (for himself, Mr. INHOFE, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3580. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3581. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3582. Mr. BARRASSO (for himself, Mr. HATCH, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, supra.

SA 3583. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3584. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

SA 3585. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3556. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 1306. REDUCING HEALTH CARE COSTS BY ELIMINATING PAYMENTS FOR FRAUDULENT CLAIMS AND PROHIBITING COVERAGE FOR ABORTION DRUGS AND ERECTILE DYSFUNCTION DRUGS FOR RAPISTS AND CHILD MOLESTERS.

(a) ELIMINATING FRAUDULENT PAYMENTS FOR PRESCRIPTION DRUGS.—The Secretary shall establish a fraud prevention system and issue guidance to—

(1) prevent the processing of claims of prescribing providers and dispensing pharmacies debarred from Federal contracts or excluded from the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) or the Medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.);

(2) ensure that drug utilization reviews and restricted recipient program requirements adequately identify and prevent doctor shopping and other abuses of controlled substances;

(3) develop a claims processing system to identify duplicate enrollments and deaths of Medicaid beneficiaries and prevent the approval of fraudulent claims; and

(4) develop a claims processing systems to identify deaths of Medicaid providers and prevent the approval of fraudulent claims filed using the identity of such providers.

(b) PROHIBITING COVERAGE OF CERTAIN PRESCRIPTION DRUGS.—

(1) IN GENERAL.—Health programs administered by the Federal Government and American Health Benefit Exchanges (as described in section 1311 of the Patient Protection and Affordable Care Act) shall not provide coverage or reimbursement for—

(A) prescription drugs to treat erectile dysfunction for individuals convicted of child molestation, rape, or other forms of sexual assault; or

(B) drugs prescribed with the intent of inducing an abortion for reasons other than as described in paragraph (2).

(2) EXCEPTIONS.—The limitation under paragraph (1)(B) shall not apply to an abortion—

(A) in the case where a woman suffers from a physical disorder, physical injury, or physical illness that would, as certified by a physician, place the woman in danger of death unless an abortion is performed, including a life-endangering physical condition caused by or arising from the pregnancy itself; or

(B) if the pregnancy is the result of an act of forcible rape or incest.

SA 3557. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 2304. BUREAUCRAT LIMITATION.

For each new bureaucrat added to any department or agency of the Federal Government for the purpose of implementing the provisions of the Patient Protection and Affordable Care Act (or any amendment made by such Act), the head of such department or agency shall ensure that the addition of such new bureaucrat is offset by a reduction of 1 existing bureaucrat at such department or agency.

SA 3558. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SECTION 2304. LIMITATION OF POWERS OF THE SECRETARY.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall have no power or authority other than such power and authority granted by statute and in effect before January 1, 2010.

SA 3559. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike subsection (a) of section 2301.

SA 3560. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of title I, add the following:

Subtitle G—Additional Provisions Eliminating Waste, Fraud, and Abuse

SEC. 1601. SITE INSPECTIONS; BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES.

(a) SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 3022 and 3403 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''SITE INSPECTIONS FOR DME SUPPLIERS, COMMUNITY MENTAL HEALTH CENTERS, AND OTHER PROVIDER GROUPS

''SEC. 1899B. (a) SITE INSPECTIONS.—

''(1) IN GENERAL.—The Secretary shall conduct a site inspection for each applicable provider (as defined in paragraph (2)) that applies to enroll under this title in order to provide items or services under this title. Such site inspection shall be in addition to any other site inspection that the Secretary would otherwise conduct with regard to an applicable provider.

''(2) APPLICABLE PROVIDER DEFINED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in this section the term 'applicable provider' means—

''(i) a supplier of durable medical equipment (including items described in section 1834(a)(13));

''(ii) a supplier of prosthetics, orthotics, or supplies (including items described in paragraphs (8) and (9) of section 1861(s));

''(iii) a community mental health center; or

''(iv) any other provider group, as determined by the Secretary (including suppliers, both participating suppliers and non-participating suppliers, as such terms are defined for purposes of section 1842).

''(B) EXCEPTION.—In this section, the term 'applicable provider' does not include—

''(i) a physician that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an office visit by such individual; or

''(ii) a hospital that provides durable medical equipment (as described in subparagraph (A)(i)) or prosthetics, orthotics, or supplies (as described in subparagraph (A)(ii)) to an individual as incident to an emergency room visit by such individual.

''(b) STANDARDS AND REQUIREMENTS.—In conducting the site inspection pursuant to subsection (a), the Secretary shall ensure that the site being inspected is in full compliance with all the conditions and standards of participation and requirements for obtaining billing privileges under this title.

''(c) TIME.—The Secretary shall conduct the site inspection for an applicable provider prior to the issuance of billing privileges under this title to such provider.

''(d) TIMELY REVIEW.—The Secretary shall provide for procedures to ensure that the site inspection required under this section does not unreasonably delay the issuance of billing privileges under this title to an applicable provider.''.

(b) BACKGROUND CHECKS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by subsection (a)) is amended by adding at the end the following new section:

''BACKGROUND CHECKS; DENIAL AND SUSPENSION OF BILLING PRIVILEGES

''SEC. 1899C. (a) BACKGROUND CHECK REQUIRED.—Except as provided in subsection (b), in addition to any screening conducted under section 1866(j), the Secretary shall conduct a background check on any individual or entity that enrolls under this title for the purpose of furnishing any item or service under this title, including any individual or entity that is a supplier, a person with an ownership or control interest, a managing employee (as defined in section 1126(b)), or an authorized or delegated official of the individual or entity. In performing the background check, the Secretary shall—

''(1) conduct the background check before authorizing billing privileges under this title to the individual or entity, respectively;

''(2) include a search of criminal records in the background check;

''(3) provide for procedures that ensure the background check does not unreasonably delay the authorization of billing privileges under this title to an eligible individual or entity, respectively; and

''(4) establish criteria for targeted reviews when the individual or entity renews participation under this title, with respect to the background check of the individual or entity, respectively, to detect changes in ownership, bankruptcies, or felonies by the individual or entity.

''(b) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under subsection (a) if the State licensing

procedure meets the requirements of such subsection.

''(c) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in subsection (a)(2) to the Secretary.

''(2) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under subsection (a) for the purpose of carrying out the Secretary's responsibilities under this title.

''(d) REFUSAL TO AUTHORIZE BILLING PRIVILEGES.—

''(1) AUTHORITY.—In addition to any other remedy available to the Secretary, the Secretary may refuse to authorize billing privileges under this title to an individual or entity if the Secretary determines, after a background check conducted under this section, that such individual or entity, respectively, has a history of acts that indicate authorization of billing privileges under this title to such individual or entity, respectively, would be detrimental to the best interests of the program or program beneficiaries. Such acts may include—

''(A) any bankruptcy;

''(B) any act resulting in a civil judgment against such individual or entity; or

''(C) any felony conviction under Federal or State law.

''(2) REPORTING OF REFUSAL TO AUTHORIZE BILLING PRIVILEGES TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).—

''(A) IN GENERAL.—Subject to subparagraph (B), a determination under paragraph (1) to refuse to authorize billing privileges under this title to an individual or entity as a result of a background check conducted under this section shall be reported to the healthcare integrity and protection data bank established under section 1128E in accordance with the procedures for reporting final adverse actions taken against a health care provider, supplier, or practitioner under that section.

''(B) EXCEPTION.—Any determination described in subparagraph (A) that the Secretary specifies is not appropriate for inclusion in the healthcare integrity and protection data bank established under section 1128E shall not be reported to such data bank.''.

(c) DENIAL AND SUSPENSION OF BILLING PRIVILEGES.—Section 1899C of the Social Security Act, as added by subsection (b), is amended by adding at the end the following new subsection:

''(e) AUTHORITY TO SUSPEND BILLING PRIVILEGES OR REFUSE TO AUTHORIZE ADDITIONAL BILLING PRIVILEGES.—

''(1) IN GENERAL.—The Secretary may suspend any billing privilege under this title authorized for an individual or entity or refuse to authorize any additional billing privilege under this title to such individual or entity if—

''(A) such individual or entity, respectively, has an outstanding overpayment due to the Secretary under this title;

''(B) payments under this title to such individual or entity, respectively, have been suspended; or

''(C) 100 percent of the payment claims under this title for such individual or entity, respectively, are reviewed on a pre-payment basis.

''(2) APPLICATION TO RESTRUCTURED ENTITIES.—In the case that an individual or entity is subject to a suspension or refusal of billing privileges under this section, if the Secretary determines that the ownership or management of a new entity is under the control or management of such an individual or entity subject to such a suspension or refusal, the new entity shall be subject to any such applicable suspension or refusal in the same manner and to the same extent as the initial individual or entity involved had been subject to such applicable suspension or refusal.

''(3) DURATION OF SUSPENSION.—A suspension of billing privileges under this subsection, with respect to an individual or entity, shall be in effect beginning on the date of the Secretary's determination that the offense was committed and ending not earlier than such date on which all applicable overpayments and other applicable outstanding debts have been paid and all applicable payment suspensions have been lifted.''.

(d) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a), (b), and (c).

(2) EFFECTIVE DATES.—

(A) SITE INSPECTIONS AND BACKGROUND CHECKS.—The amendments made by subsections (a) and (b) shall apply to applications to enroll under title XVIII of the Social Security Act received by the Secretary of Health and Human Services on or after the first day of the first year beginning after the date of the enactment of this Act.

(B) DENIALS AND SUSPENSIONS OF BILLING PRIVILEGES.—The amendment made by subsection (c) shall apply to overpayments or debts in existence on or after the date of the enactment of this Act, regardless of whether the final determination, with respect to such overpayment or debt, was made before, on, or after such date.

(e) USE OF MEDICARE INTEGRITY PROGRAM FUNDS.—The Secretary of Health and Human Services may use funds appropriated or transferred for purposes of carrying out the Medicare integrity program established under section 1893 of the Social Security Act (42 U.S.C. 1395ddd) to carry out the provisions of sections 1899B and 1899C of that Act (as added by subsections (a) and (b)).

SEC. 1602. REGISTRATION AND BACKGROUND CHECKS OF BILLING AGENCIES AND INDIVIDUALS.

(a) IN GENERAL.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) (as amended by section 1601) is amended by adding at the end the following new section:

''REGISTRATION AND BACKGROUND CHECKS OF BILLING AGENCIES AND INDIVIDUALS; IDENTIFICATION NUMBERS REQUIRED FOR PROVIDERS AND SUPPLIERS

''SEC. 1899D. (a) REGISTRATION.—

''(1) IN GENERAL.—The Secretary shall establish procedures, including modifying the Provider Enrollment and Chain Ownership System (PECOS) administered by the Centers for Medicare & Medicaid Services, to provide for the registration of all applicable persons in accordance with this section.

''(2) REQUIRED APPLICATION.—Each applicable person shall submit a registration application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

''(3) IDENTIFICATION NUMBER.—If the Secretary approves an application submitted under subsection (b), the Secretary shall assign a unique identification number to the applicable person.

''(4) REQUIREMENT.—Every claim for reimbursement under this title that is compiled or submitted by an applicable person shall contain the identification number that is assigned to the applicable person pursuant to subsection (c).

''(5) TIMELY REVIEW.—The Secretary shall provide for procedures that ensure the timely consideration and determination regarding approval of applications under this subsection.

''(6) DEFINITION OF APPLICABLE PERSON.—In this section, the term 'applicable person' means any individual or entity that compiles or submits claims for reimbursement under this title to the Secretary on behalf of any individual or entity.

''(b) BACKGROUND CHECKS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall conduct a background check on any applicable person that registers under subsection (a). In performing the background check, the Secretary shall—

''(A) conduct the background check before issuing a unique identification number to the applicable person;

''(B) include a search of criminal records in the background check;

''(C) provide for procedures that ensure the background check does not unreasonably delay the issuance of the unique identification number to an eligible applicable person; and

''(D) establish criteria for periodic targeted reviews with respect to the background check of the applicable person.

''(2) USE OF STATE LICENSING PROCEDURE.—The Secretary may use the results of a State licensing procedure as a background check under paragraph (1) if the State licensing procedure meets the requirements of such paragraph.

''(3) ATTORNEY GENERAL REQUIRED TO PROVIDE INFORMATION.—

''(A) IN GENERAL.—Upon request of the Secretary, the Attorney General shall provide the criminal background check information referred to in paragraph (1)(B) to the Secretary.

''(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—The Secretary may only use the information disclosed under paragraph (1) for the purpose of carrying out the Secretary's responsibilities under this title.

''(4) REFUSAL TO ISSUE UNIQUE IDENTIFICATION NUMBER.—In addition to any other remedy available to the Secretary, the Secretary may refuse to issue a unique identification number described in subsection (a)(3) to an applicable person if the Secretary determines, after a background check conducted under this subsection, that such person has a history of acts that indicate issuance of such number under this title to such person would be detrimental to the best interests of the program or program beneficiaries. Such acts may include—

''(A) any bankruptcy;

''(B) any act resulting in a civil judgment against such person; or

''(C) any felony conviction under Federal or State law.

''(c) IDENTIFICATION NUMBERS FOR PROVIDERS AND SUPPLIERS.—The Secretary shall establish procedures to ensure that each provider of services and each supplier that submits claims for reimbursement under this title to the Secretary is assigned a unique identification number.''.

(b) PERMISSIVE EXCLUSION.—Section 1128(b) of the Social Security Act (42 U.S.C. 1320a–7(b)), as amended by section 6402(d) of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''(17) FRAUD BY APPLICABLE PERSON.—An applicable person (as defined in section 1899D(a)(6)) that the Secretary determines knowingly submitted or caused to be submitted a claim for reimbursement under title XVIII that the applicable person knows or should know is false or fraudulent.''.

(c) REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—Not later than one year after the date of the enactment of this Act,

the Secretary of Health and Human Services shall promulgate such regulations as are necessary to implement the amendments made by subsections (a) and (b).

(2) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to applicable persons and other entities on and after the first day of the first year beginning after the date of the enactment of this Act.

SEC. 1603. EXPANDED ACCESS TO THE HEALTHCARE INTEGRITY AND PROTECTION DATA BANK (HIPDB).

(a) IN GENERAL.—Section 1128E(d)(1) of the Social Security Act (42 U.S.C. 1320a–7e(d)(1)), as amended by section 6403(a)(2) of the Patient Protection and Affordable Care Act, is amended to read as follows:

''(1) AVAILABILITY.—The information in the data bank maintained under this section shall be available to—

''(A) Federal and State government agencies and health plans, and any health care provider, supplier, or practitioner entering an employment or contractual relationship with an individual or entity who could potentially be the subject of a final adverse action, where the contract involves the furnishing of items or services reimbursed by one or more Federal health care programs (regardless of whether the individual or entity is paid by the programs directly, or whether the items or services are reimbursed directly or indirectly through the claims of a direct provider); and

''(B) utilization and quality control peer review organizations and accreditation entities as defined by the Secretary, including but not limited to organizations described in part B of this title and in section 1154(a)(4)(C).''.

(b) NO FEES FOR USE OF HIPDB BY ENTITIES CONTRACTING WITH MEDICARE.—Section 1128E(d)(2) of the Social Security Act (42 U.S.C. 1320a–7e(d)(2)), as amended by such section 6403(a)(2), is amended in the first sentence by inserting ''(other than with respect to requests by Federal agencies or other entities, such as fiscal intermediaries and carriers, acting under contract on behalf of such agencies)'' before the period at the end.

(c) CRIMINAL PENALTY FOR MISUSE OF INFORMATION.—Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)) is amended by adding at the end the following:

''(4) Whoever knowingly uses information maintained in the healthcare integrity and protection data bank maintained in accordance with section 1128E for a purpose other than a purpose authorized under that section shall be imprisoned for not more than three years or fined under title 18, United States Code, or both.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1604. LIABILITY OF MEDICARE ADMINISTRATIVE CONTRACTORS FOR CLAIMS SUBMITTED BY EXCLUDED PROVIDERS.

(a) REIMBURSEMENT TO THE SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—Section 1874A(b) of the Social Security Act (42 U.S.C. 1395kk(b)) is amended by adding at the end the following new paragraph:

''(6) REIMBURSEMENTS TO SECRETARY FOR AMOUNTS PAID TO EXCLUDED PROVIDERS.—The Secretary shall not enter into a contract with a Medicare administrative contractor under this section unless the contractor agrees to reimburse the Secretary for any amounts paid by the contractor for a service under this title which is furnished by an individual or entity during any period for which the individual or entity is excluded, pursuant to section 1128, 1128A, or 1156, from participation in the health care program under this title if the amounts are paid after the 60-day period beginning on the date the Secretary provides notice of the exclusion to the contractor, unless the payment was made as a result of incorrect information provided by the Secretary or the individual or entity excluded from participation has concealed or altered their identity.''.

(b) CONFORMING REPEAL OF MANDATORY PAYMENT RULE.—Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(1) in paragraph (1)(B), by striking ''and when the person'' and all that follows through ''person)''; and

(2) by amending paragraph (2) to read as follows:

''(2) No individual or entity may bill (or collect any amount from) any individual for any item or service for which payment is denied under paragraph (1). No individual is liable for payment of any amounts billed for such an item or service in violation of the preceding sentence.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to claims for payment submitted on or after the date of the enactment of this Act.

(2) CONTRACT MODIFICATION.—The Secretary of Health and Human Services shall take such steps as may be necessary to modify contracts entered into, renewed, or extended prior to the date of the enactment of this Act to conform such contracts to the provisions of this section.

SEC. 1605. COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3)(B) of the Social Security Act (42 U.S.C. 1395x(ff)(3)(B)), as amended by section 1301(a), is amended by striking ''entity that—'' and all that follows and inserting the following: ''entity that—

''(i) provides the community mental health services specified in paragraph (1) of section 1913(c) of the Public Health Service Act;

''(ii) meets applicable certification or licensing requirements for community mental health centers in the State in which it is located;

''(iii) provides a significant share of its services to individuals who are not eligible for benefits under this title; and

''(iv) meets such additional standards or requirements for obtaining billing privileges under this title as the Secretary may specify to ensure—

''(I) the health and safety of beneficiaries receiving such services; or

''(II) the furnishing of such services in an effective and efficient manner.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to items and services furnished on or after the first day of the sixth month that begins after the date of the enactment of this Act.

SEC. 1606. LIMITING THE DISCHARGE OF DEBTS IN BANKRUPTCY PROCEEDINGS IN CASES WHERE A HEALTH CARE PROVIDER OR A SUPPLIER ENGAGES IN FRAUDULENT ACTIVITY.

(a) IN GENERAL.—

(1) CIVIL MONETARY PENALTIES.—Section 1128A(a) of the Social Security Act (42 U.S.C. 1320a–7a(a)) is amended by adding at the end the following: ''Notwithstanding any other provision of law, amounts made payable under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title.''.

(2) RECOVERY OF OVERPAYMENT TO PROVIDERS OF SERVICES UNDER PART A OF MEDICARE.—Section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) is amended—

(A) by inserting ''(1)'' after ''(d)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(3) RECOVERY OF OVERPAYMENT OF BENEFITS UNDER PART b OF MEDICARE.—Section 1833(j) of the Social Security Act (42 U.S.C. 1395l(j)) is amended—

(A) by inserting ''(1)'' after ''(j)''; and

(B) by adding at the end the following:

''(2) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title if the overpayment was the result of fraudulent activity, as may be defined by the Secretary.''.

(4) COLLECTION OF PAST-DUE OBLIGATIONS ARISING FROM BREACH OF SCHOLARSHIP AND LOAN CONTRACT.—Section 1892(a) of the Social Security Act (42 U.S.C. 1395ccc(a)) is amended by adding at the end the following:

''(5) Notwithstanding any other provision of law, amounts due to the Secretary under this section are not dischargeable under section 727, 944, 1141, 1228, or 1328 of title 11, United States Code, or any other provision of such title.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to bankruptcy petitions filed after the date of the enactment of this Act.

SEC. 1607. ILLEGAL DISTRIBUTION OF A MEDICARE OR MEDICAID BENEFICIARY IDENTIFICATION OR BILLING PRIVILEGES.

Section 1128B(b) of the Social Security Act (42 U.S.C. 1320a–7b(b)), as amended by section 1603, is amended by adding at the end the following:

''(5) Whoever knowingly, intentionally, and with the intent to defraud purchases, sells or distributes, or arranges for the purchase, sale, or distribution of two or more Medicare or Medicaid beneficiary identification numbers or billing privileges under title XVIII or title XIX shall be imprisoned for not more than three years or fined under title 18, United States Code (or, if greater, an amount equal to the monetary loss to the Federal and any State government as a result of such acts), or both.''.

SEC. 1608. TREATMENT OF CERTAIN SOCIAL SECURITY ACT CRIMES AS FEDERAL HEALTH CARE OFFENSES.

(a) IN GENERAL.—Section 24(a) of title 18, United States Code, is amended—

(1) by striking the period at the end of paragraph (2) and inserting ''; or''; and

(2) by adding at the end the following:

''(3) section 1128B of the Social Security Act (42 U.S.C. 1320a–7b).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to acts committed on or after the date of the enactment of this Act.

SEC. 1609. AUTHORITY OF OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(a) AUTHORITY.—Notwithstanding any other provision of law, upon designation by the Inspector General of the Department of Health and Human Services, any criminal investigator of the Office of Inspector General of such department may, in accordance with guidelines issued by the Secretary of Health and Human Services and approved by the Attorney General, while engaged in activities within the lawful jurisdiction of such Inspector General—

(1) obtain and execute any warrant or other process issued under the authority of the United States;

(2) make an arrest without a warrant for—

(A) any offense against the United States committed in the presence of such investigator; or

(B) any felony offense against the United States, if such investigator has reasonable cause to believe that the person to be arrested has committed or is committing that felony offense; and

(3) exercise any other authority necessary to carry out the authority described in paragraphs (1) and (2).

(b) FUNDS.—The Office of Inspector General of the Department of Health and Human Services may receive and expend funds that represent the equitable share from the forfeiture of property in investigations in which the Office of Inspector General participated, and that are transferred to the Office of Inspector General by the Department of Justice, the Department of the Treasury, or the United States Postal Service. Such equitable sharing funds shall be deposited in a separate account and shall remain available until expended.

SEC. 1610. UNIVERSAL PRODUCT NUMBERS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.

(a) UPNS ON CLAIMS FORMS FOR REIMBURSEMENT UNDER THE MEDICARE PROGRAM.—

(1) ACCOMMODATION OF UPNS ON MEDICARE CLAIMS FORMS.—Not later than February 1, 2011, all claims forms developed or used by the Secretary of Health and Human Services for reimbursement under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) shall accommodate the use of universal product numbers for a UPN covered item.

(2) REQUIREMENT FOR PAYMENT OF CLAIMS.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by sections 1601 and 1602, is amended by adding at the end the following new section:

''USE OF UNIVERSAL PRODUCT NUMBERS

''SEC. 1899E. (a) IN GENERAL.—No payment shall be made under this title for any claim for reimbursement for any UPN covered item unless the claim contains the universal product number of the UPN covered item.

''(b) DEFINITIONS.—In this section:

''(1) UPN COVERED ITEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'UPN covered item' means—

''(i) a covered item as that term is defined in section 1834(a)(13);

''(ii) an item described in paragraph (8) or (9) of section 1861(s);

''(iii) an item described in paragraph (5) of section 1861(s); and

''(iv) any other item for which payment is made under this title that the Secretary determines to be appropriate.

''(B) EXCLUSION.—The term 'UPN covered item' does not include a customized item for which payment is made under this title.

''(2) UNIVERSAL PRODUCT NUMBER.—The term 'universal product number' means a number that is—

''(A) affixed by the manufacturer to each individual UPN covered item that uniquely identifies the item at each packaging level; and

''(B) based on commercially acceptable identification standards such as, but not limited to, standards established by the Uniform Code Council-International Article Numbering System or the Health Industry Business Communication Council.''.

(3) DEVELOPMENT AND IMPLEMENTATION OF PROCEDURES.—

(A) INFORMATION INCLUDED IN UPN.—The Secretary of Health and Human Services, in consultation with manufacturers and entities with appropriate expertise, shall determine the relevant descriptive information appropriate for inclusion in a universal product number for a UPN covered item.

(B) REVIEW OF PROCEDURE.—From the information obtained by the use of universal product numbers on claims for reimbursement under the Medicare program, the Secretary of Health and Human Services, in consultation with interested parties, shall periodically review the UPN covered items billed under the Health Care Financing Administration Common Procedure Coding System and adjust such coding system to ensure that functionally equivalent UPN covered items are billed and reimbursed under the same codes.

(4) EFFECTIVE DATE.—The amendment made by paragraph (2) shall apply to claims for reimbursement submitted on and after February 1, 2011.

(b) STUDY AND REPORTS TO CONGRESS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study on the results of the implementation of the provisions in paragraphs (1) and (3) of subsection (a) and the amendment to the Social Security Act in paragraph (2) of such subsection.

(2) REPORTS.—

(A) PROGRESS REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report that contains a detailed description of the progress of the matters studied pursuant to paragraph (1).

(B) IMPLEMENTATION.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for 3 years, the Secretary of Health and Human Services shall submit to Congress a report that contains a detailed description of the results of the study conducted pursuant to paragraph (1), together with the Secretary's recommendations regarding the use of universal product numbers and the use of data obtained from the use of such numbers.

(c) DEFINITIONS.—In this section:

(1) UPN COVERED ITEM.—The term ''UPN covered item'' has the meaning given such term in section 1899E(b)(1) of the Social Security Act (as added by subsection (a)(2)).

(2) UNIVERSAL PRODUCT NUMBER.—The term ''universal product number'' has the meaning given such term in section 1899E(b)(2) of the Social Security Act (as added by subsection (a)(2)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions in paragraphs (1) and (3) of subsection (a), subsection (b), and section 1899E of the Social Security Act (as added by subsection (a)(2)).

SEC. 1611. USE OF TECHNOLOGY FOR REAL-TIME DATA REVIEW.

Part A of title XI of the Social Security Act (42 U.S.C. 1395 et seq.), as amended by section 6703(b) of the Patient Protection and Affordable Care Act, is amended by adding at the end the following new section:

''SEC. 1150C. USE OF TECHNOLOGY FOR REAL TIME DATA REVIEW.

''(a) IN GENERAL.—The Secretary shall establish procedures for the use of technology (similar to that used with respect to the analysis of credit card charging patterns) to provide real-time data analysis of claims for payment under the Medicare, Medicaid, and SCHIP programs under title XVIII, XIX, and XXI to identify and investigate unusual billing or order practices under such programs that could indicate fraud or abuse.

''(b) COMPETITIVE BIDDING.—The procedures established under subsection (a) shall ensure that the implementation of such technology is conducted through a competitive bidding process.

''(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary, not to exceed $50,000,000 for each of fiscal years 2010 through 2014.

''(d) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report on the effectiveness of activities conducted under this section, including a description of any savings to the programs referred to in subsection (a) as a result of such activities and the overall administrative cost of such activities and a determination as to the amount of funding needed to carry out this section for subsequent fiscal years, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.''.

SEC. 1612. COMPREHENSIVE SANCTIONS DATABASE AND ACCESS TO CLAIMS AND PAYMENT DATABASES.

(a) COMPREHENSIVE SANCTIONS DATABASE.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall establish a comprehensive sanctions database on sanctions imposed on providers of services, suppliers, and related entities. Such database shall be overseen by the Inspector General of the Department of Health and Human Services and shall be linked to related databases maintained by State licensure boards and by Federal or State law enforcement agencies.

(b) ACCESS TO CLAIMS AND PAYMENT DATABASES.—The Secretary shall ensure that the Inspector General of the Department of Health and Human Services and Federal law enforcement agencies have direct access to all claims and payment databases of the Secretary under the Medicare or Medicaid programs.

(c) CIVIL MONEY PENALTIES FOR SUBMISSION OF ERRONEOUS INFORMATION.—In the case of a provider of services, supplier, or other entity that knowingly submits erroneous information that serves as a basis for payment of any entity under the Medicare or Medicaid program, the Secretary may impose a civil money penalty of not to exceed $50,000 for each such erroneous submission. A civil money penalty under this subsection shall be imposed and collected in the same manner as a civil money penalty under subsection (a) of section 1128A of the Social Security Act is imposed and collected under that section.

SA 3561. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 2304. NONDISCRIMINATION ON ABORTION AND RESPECT FOR RIGHTS OF CONSCIENCE.

(a) NONDISCRIMINATION.—A Federal agency or program, and any State or local government, or health care entity that receives Federal financial assistance under the Patient Protection and Affordable Care Act (or an amendment made by such Act), shall not—

(1) subject any individual or institutional health care entity to discrimination; or

(2) require any health care entity that is established or regulated under the Patient Protection and Affordable Care Act (or an amendment made by such Act) to subject any individual or institutional health care entity to discrimination,

on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(b) DEFINITION.—In this section, the term ''health care entity'' includes an individual

physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, a plan sponsor, a health insurance issuer, a qualified health plan or issuer offering such a plan, or any other kind of health care facility, organization, or plan.

(c) ADMINISTRATION.—The Office for Civil Rights of the Department of Health and Human Services is designated to receive complaints of discrimination based on this section, and coordinate the investigation of such complaints.

SA 3562. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of section 1405, add the following:

(e) NONAPPLICATION TO CLASS I DEVICES.—Paragraph (2) of section 4191(b) of the Internal Revenue Code of 1986, as added by subsection (a), is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively, and by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) devices classified in class I under section 513 of such Act,''.

SA 3563. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. REPEAL OF PERSONAL RESPONSIBILITY EDUCATION PROGRAM.

Section 513 of the Social Security Act, as added by section 2953 and amended by section 10201(h) the Patient Protection and Affordable Care Act, is repealed.

SA 3564. Mr. GRASSLEY (for himself and Mr. ROBERTS) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. PARTICIPATION OF PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.

(a) IN GENERAL.—Section 1312(d)(3)(D) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(D) PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.—

''(i) IN GENERAL.—Notwithstanding chapter 89 of title 5, United States Code, or any provision of this title—

''(I) the President, Vice President, each Member of Congress, each political appointee, and each Congressional employee shall be treated as a qualified individual entitled to the right under this paragraph to enroll in a qualified health plan in the individual market offered through an Exchange in the State in which the individual resides; and

''(II) any employer contribution under such chapter on behalf of the President, Vice President, any Member of Congress, any political appointee, and any Congressional employee may be paid only to the issuer of a qualified health plan in which the individual enrolled in through such Exchange and not to the issuer of a plan offered through the Federal employees health benefit program under such chapter.

''(ii) PAYMENTS BY FEDERAL GOVERNMENT.—The Secretary, in consultation with the Director of the Office of Personnel Management, shall establish procedures under which—

''(I) the employer contributions under such chapter on behalf of the President, Vice President, and each political appointee are determined and actuarially adjusted for age; and

''(II) the employer contributions may be made directly to an Exchange for payment to an issuer.

''(iii) POLITICAL APPOINTEE.—In this subparagraph, the term 'political appointee' means any individual who—

''(I) is employed in a position described under sections 5312 through 5316 of title 5, United States Code, (relating to the Executive Schedule);

''(II) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

''(III) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

''(iv) CONGRESSIONAL EMPLOYEE.—In this subparagraph, the term 'Congressional employee' means an employee whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

SA 3565. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 99, between lines 9 and 10, insert the following:

(e) EXCLUSION OF ASSISTIVE DEVICES FOR PERSONS WITH DISABILITIES.—

(1) IN GENERAL.—For purposes of section 4191(b)(1) of the Internal Revenue Code of 1986, as added by subsection (a), the term ''taxable medical device'' shall not include any device which is primarily designed to assist persons with disabilities with tasks of daily life.

(2) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(3) APPLICATION OF PROVISION.—The amendment made by paragraph (2) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3566. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. _____. INCREASED TRANSPARENCY.

(a) SCORING AND SUMMARY.—It shall not be in order in the Senate or the House of Representatives to vote on final passage on a bill, resolution, or conference report unless a final Congressional Budget Office score and Congressional Research Service summary report on policy changes in the bill, resolution, or conference report has been posted online on the public website of the body 72 hours before such final vote.

(b) ADDITIONAL REQUIREMENTS.—The information required to be posted by subsection (a) shall also include—

(1) an affidavit that the policy summary of the Congressional Research Service adequately reflects the measure signed by the Majority and Minority Leaders; and

(2) signed affidavits from every member of the body attesting that they have read the measure.

(c) WAIVER AND APPEAL.—

(1) WAIVER.—This section may be waived or suspended in the Senate or House of Representatives only by an affirmative vote of ⅗ of the members, duly chosen and sworn.

(2) APPEAL.—An affirmative vote of ⅗ of the members of the Senate or House of Representatives, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(d) PUBLIC AVAILABILITY OF AMENDMENTS.—Each amendment offered in the Senate or House of Representatives shall to be posted online on the public website of the body as soon as practicable after the amendment is offered.

SA 3567. Mr. GREGG (for himself and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle B of title I, add the following:

SEC. _____. PREVENTING THE IMPLEMENTATION OF NEW ENTITLEMENTS THAT WOULD RAID MEDICARE.

(a) BAN ON NEW SPENDING TAKING EFFECT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Treasury and the Secretary of Health and Human Service are prohibited from implementing any spending increase or revenue reduction provision in either the Patient Protection and Affordable Care Act or this Act (referred to in this section as the ''Health Care Acts'') unless both the Director of the Office of Management and Budget (referred to in this section as ''OMB'') and the Chief Actuary of the Centers for Medicare and Medicaid Services Office of the Actuary (referred to in this section as'' CMS OACT'') certify that they project that all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts will be offset by projected gross savings from the Health Care Acts.

(2) CALCULATIONS.—For purposes of this section, projected gross savings shall—

(A) include gross reductions in Federal spending and gross increases in revenues made by the Health Care Acts; and

(B) exclude any projected gross savings or other offsets directly resulting from changes to Medicare made by the Health Care Acts.

(b) LIMIT ON FUTURE SPENDING.—For the purpose of carrying out this section and upon the enactment of this Act, CMS OACT and the OMB shall—

(1) certify whether all of the projected Federal spending increases and revenue reductions resulting from the Health Care Acts, starting with fiscal year 2014 and for the following 9 fiscal years, are fully offset by projected gross savings resulting from the Health Care Acts (as calculated under subsection (a)(2)); and

(2) provide detailed estimates of such spending increases, revenue reductions, and gross savings, year by year, program by program and provision by provision.

SA 3568. Mr. BENNETT (for himself, Mr. WICKER, Mr. BROWNBACK, Mr. HATCH, Mr. ROBERTS, Mr. INHOFE, Mr. CORNYN, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. _____. RIGHT OF THE PEOPLE OF THE DISTRICT OF COLUMBIA TO DEFINE MARRIAGE.

(a) FINDINGS.—Congress finds that—

(1) a broad coalition of residents of the District of Columbia petitioned for an initiative in accordance with the District of Columbia Home Rule Act to establish that ''only marriage between a man and a woman is valid or recognized in the District of Columbia'';

(2) this petition anticipated the Council of the District of Columbia's passage of an Act legalizing same-sex marriage;

(3) the unelected District of Columbia Board of Elections and Ethics and the unelected District of Columbia Superior Court thwarted the residents' initiative effort to define marriage democratically, holding that the initiative amounted to discrimination prohibited by the District of Columbia Human Rights Act; and

(4) the definition of marriage affects every person and should be debated openly and democratically.

(b) REFERENDUM OR INITIATIVE REQUIREMENT.—Notwithstanding any other provision of law, including the District of Columbia Human Rights Act, the government of the District of Columbia shall immediately suspend the issuance of marriage licenses to any couple of the same sex until the people of the District of Columbia have the opportunity to hold a referendum or initiative on the question of whether the District of Columbia should issue same-sex marriage licenses.

SA 3569. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. REVISIONS TO THE PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT UNDER THE MEDICARE PHYSICIAN FEE SCHEDULE.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, subparagraph (H) of section 1848(e)(1) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)), as added by section 3102(b) of the Patient Protection and Affordable Care Act, is amended to read as follows:

''(H) PRACTICE EXPENSE GEOGRAPHIC ADJUSTMENT FOR 2010 AND SUBSEQUENT YEARS.—

''(i) FOR 2010.—Subject to clause (iii), for services furnished during 2010, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ½ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(ii) FOR 2011.—Subject to clause (iii), for services furnished during 2011, the employee wage and rent portions of the practice expense geographic index described in subparagraph (A)(i) shall reflect ¼ of the difference between the relative costs of employee wages and rents in each of the different fee schedule areas and the national average of such employee wages and rents.

''(iii) HOLD HARMLESS.—The practice expense portion of the geographic adjustment factor applied in a fee schedule area for services furnished in 2010 or 2011 shall not, as a result of the application of clause (i) or (ii), be reduced below the practice expense portion of the geographic adjustment factor under subparagraph (A)(i) (as calculated prior to the application of such clause (i) or (ii), respectively) for such area for such year.

''(iv) ANALYSIS.—The Secretary shall analyze current methods of establishing practice expense geographic adjustments under subparagraph (A)(i) and evaluate data that fairly and reliably establishes distinctions in the costs of operating a medical practice in the different fee schedule areas. Such analysis shall include an evaluation of the following:

''(I) The feasibility of using actual data or reliable survey data developed by medical organizations on the costs of operating a medical practice, including office rents and nonphysician staff wages, in different fee schedule areas.

''(II) The office expense portion of the practice expense geographic adjustment described in subparagraph (A)(i), including the extent to which types of office expenses are determined in local markets instead of national markets.

''(III) The weights assigned to each of the categories within the practice expense geographic adjustment described in subparagraph (A)(i).

In conducting such analysis, the Secretary shall not take into account any data that is not actual or survey data.

''(v) REVISION FOR 2012 AND SUBSEQUENT YEARS.—As a result of the analysis described in clause (iv), the Secretary shall, not later than January 1, 2012, make appropriate adjustments to the practice expense geographic adjustment described in subparagraph (A)(i) to ensure accurate geographic adjustments across fee schedule areas, including—

''(I) basing the office rents component and its weight on occupancy costs only and making weighting changes in other categories as appropriate;

''(II) ensuring that office expenses that do not vary from region to region be included in the 'other' office expense category; and

''(III) considering a representative range of professional and non-professional personnel employed in a medical office based on the use of the American Community Survey data or other reliable data for wage adjustments. Such adjustments shall be made without regard to adjustments made pursuant to clauses (i) and (ii) and shall be made in a budget neutral manner.

''(vi) SPECIAL RULE.—If the Secretary does not complete the analysis described in clause (iv) and make any adjustments the Secretary determines appropriate for 2012 or a subsequent year under clause (v), the Secretary shall apply clause (ii) for services furnished during 2012 or a subsequent year in the same manner as such clause applied for services furnished during 2011.''.

SEC. ___. ELIMINATION OF SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act, section 10324 of such Act (and the amendments made by such section) is repealed.

SA 3570. Mr. MCCAIN (for himself, Mr. BURR, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. ELIMINATION OF SWEETHEART DEALS.

(a) REPEALS.—Effective as if included in the enactment of the Patient Protection and Affordable Care Act, the following provisions are repealed:

(1) SWEETHEART DEAL TO PROVIDE TENNESSEE WITH MEDICAID DSH FUNDS.—Clause (v) of section 1923(f)(6)(A) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(A)), as added by section 1203(b) of this Act.

(2) SWEETHEART DEAL TO PROVIDE HAWAII WITH MEDICAID DSH FUNDS.—Clause (iii) of section 1923(f)(6)(B) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)(B)), as added by section 10201(e)(1)(A) of the Patient Protection and Affordable Care Act.

(3) SWEETHEART DEAL TO PROVIDE LOUISIANA WITH A SPECIAL INCREASED MEDICAID FMAP.—Subsection (aa) of section 1905 of the Social Security Act, as added by section 2006 of the Patient Protection and Affordable Care Act.

(4) SWEETHEART DEAL THAT INCREASES MEDICARE REIMBURSEMENT JUST FOR FRONTIER STATES.—Section 10324 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(5) SWEETHEART DEAL GRANTING MEDICARE COVERAGE FOR INDIVIDUALS EXPOSED TO ENVIRONMENTAL HAZARDS IN LIBBY, MONTANA.—Section 10323 of the Patient Protection and Affordable Care Act (and the amendments made by such section).

(6) SWEETHEART DEAL FOR A HOSPITAL IN CONNECTICUT.—Section 10502 of the Patient Protection and Affordable Care Act.

(b) ELIMINATION OF SWEETHEART DEAL THAT RECLASSIFIES HOSPITALS IN MICHIGAN AND CONNECTICUT TO INCREASE THEIR MEDICARE REIMBURSEMENT.—Section 3137(a) of the Patient Protection and Affordable Care Act, as amended by section 10317 of such Act, is amended—

(1) in paragraph (2)—

(A) by striking ''FISCAL YEAR 2010'' and all that follows through ''for purposes of implementation of the amendment'' and inserting ''FISCAL YEAR 2010.—For purposes of implementation of the amendment''; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (3).

SA 3571. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, insert the following:

SEC. 1___. SPECIAL RULE FOR INDIVIDUALS AGE 30 AND OVER NOT ELIGIBLE FOR EXCHANGE CREDITS AND REDUCTIONS.

Section 1302(e) of the Patient Protection and Affordability Act is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following:

''(3) SPECIAL RULE FOR INDIVIDUALS AGE 30 AND OVER NOT ELIGIBLE FOR EXCHANGE CREDITS AND REDUCTIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an individual who has attained at least the age of 30 before the beginning of a plan year shall be treated as an individual described in paragraph (2) if the individual is not eligible for the plan year for the premium tax credit under section 36B of the Internal Revenue Code of 1986 or the cost-sharing reductions under section 1402 with respect to enrollment in a qualified health plan offered through an Exchange. The preceding sentence shall not apply to an individual if the individual is not eligible for such credit or reductions because the individual is eligible to enroll in minimum essential coverage consisting of coverage under a government sponsored program described in section 5000A(f)(1)(A).

''(B) REQUIREMENTS.—Subparagraph (A) shall only apply to an individual if the individual elects the application of this paragraph and such election provides that—

''(i) the individual acknowledges that coverage under the catastrophic plan is the lowest coverage available, that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the plan year (except as provided for in section 2713), and that these cost-sharing expenses could involve significant financial risk for the individual; and

''(ii) the individual agrees that—

''(I) the individual will not change such coverage until the next applicable annual or special enrollment period under section 1311(c)(5); and

''(II) if the individual elects to change such coverage at the time of such enrollment period, the individual may only enroll in the bronze level of coverage.

''(4) STATE AUTHORITY.—In accordance with section 1321(d), a State may impose additional requirements or conditions for catastrophic plans described in this subsection to the extent such requirements or conditions are not inconsistent with the requirements under this subsection.''.

SA 3572. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. ___. ASSESSMENT OF MEDICARE COST-INTENSIVE DISEASES AND CONDITIONS.

(a) INITIAL ASSESSMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall conduct an assessment of the diseases and conditions that are the most cost-intensive for the Medicare program under title XVIII of the Social Security Act and, to the extent possible, assess the diseases and conditions that could become cost-intensive for the Medicare program in the future.

(2) REPORT.—Not later than January 1, 2011, the Secretary shall transmit a report to the Committees on Energy and Commerce, Ways and Means, and Appropriations of the House of Representatives and the Committees on Health, Education, Labor and Pensions, Finance, and Appropriations of the Senate on the assessment conducted under paragraph (1). Such report shall—

(A) include the assessment of current and future trends of cost-intensive diseases and conditions described in such paragraph;

(B) address whether current research priorities are appropriately addressing current and future cost-intensive conditions so identified;

(C) include the input of relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration; and

(D) include recommendations concerning research in the Department of Health and Human Services that should be funded to improve the prevention, treatment, or cure of such cost-intensive diseases and conditions.

(b) UPDATES OF ASSESSMENT.—Not later than January 1, 2013, and biennially thereafter, the Secretary shall—

(1) review and update the assessment and recommendations described in subsection (a)(1); and

(2) submit a report described in subsection (a)(2) to the Committees specified in subsection (a)(2) on such updated assessment and recommendations.

(c) CMS MEDICARE COST-INTENSIVE RESEARCH FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''CMS Medicare Cost-Intensive Research Fund'', in this subsection referred to as the ''Fund''. The Administrator of the Centers for Medicare & Medicaid Services shall administer the Fund. The Fund shall consist of such amounts as may be appropriated or credited to such Fund for the purposes described in paragraph (2). The Administrator shall not transfer appropriations to or from other relevant research agencies, including the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Food and Drug Administration.

(2) PURPOSES OF FUND.—From amounts in the Fund, the Administrator of the Centers for Medicare & Medicaid Services shall make available research grants, contracts, and other funding mechanisms to facilitate research into the prevention, treatment, or cure of cost-intensive diseases and conditions under the Medicare program as recommended by the reports under this section.

SA 3573. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. ___. IMPROVING CARE PLANNING FOR MEDICARE HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1814(a)(2) of the Social Security Act (42 U.S.C. 1395f(a)(2)), in the matter preceding subparagraph (A), is amended—

(1) by inserting ''(as those terms are defined in section 1861(aa)(5))'' after ''clinical nurse specialist''; and

(2) by inserting '', or in the case of services described in subparagraph (C), a physician, or a nurse practitioner or clinical nurse specialist who is working in collaboration with a physician in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician'' after ''collaboration with a physician''.

(b) CONFORMING AMENDMENTS.—(1) Section 1814(a) of the Social Security Act (42 U.S.C. 1395f(a)), as amended by sections 3108(a)(2) and section 6407 of the Patient Protection and Affordable Care Act, is amended—

(A) in paragraph (2)(C), by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'' each place it appears;

(B) in the second sentence, by inserting ''certified nurse-midwife,'' after ''clinical nurse specialist,'';

(C) in the third sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fourth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(2) Section 1835(a) of the Social Security Act (42 U.S.C. 1395n(a)), as amended by section 6405 of the Patient Protection and Affordable Care Act, is amended—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking ''or an eligible professional under section 1848(k)(3)(B)'' and inserting '', an eligible professional under section 1848(k)(3)(B), or a nurse practitioner or clinical nurse specialist (as those terms are defined in 1861(aa)(5)) who is working in collaboration with a physician enrolled under section 1866(j) or such an eligible professional in accordance with State law, or a certified nurse-midwife (as defined in section 1861(gg)) as authorized by State law, or a physician assistant (as defined in section 1861(aa)(5)) under the supervision of a physician so enrolled or such an eligible professional''; and

(ii) in each of clauses (ii) and (iii) of subparagraph (A) by inserting '', a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant (as the case may be)'' after ''physician'';

(B) in the third sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be)'' after physician;

(C) in the fourth sentence—

(i) by striking ''physician certification'' and inserting ''certification'';

(ii) by inserting ''(or on January 1, 2008, in the case of regulations to implement the amendments made by section 3115 of the Patient Protection and Affordable Care Act)'' after ''1981''; and

(iii) by striking ''a physician who'' and inserting ''a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant who''; and

(D) in the fifth sentence, by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant'' after ''physician''.

(3) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(A) in subsection (m)—

(i) in the matter preceding paragraph (1)—

(I) by inserting ''a nurse practitioner or a clinical nurse specialist (as those terms are

defined in subsection (aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in subsection (aa)(5))'' after ''physician'' the first place it appears; and

(II) by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician'' the second place it appears; and

(ii) in paragraph (3), by inserting ''a nurse practitioner, a clinical nurse specialist, a certified nurse-midwife, or a physician assistant'' after ''physician''; and

(B) in subsection (o)(2)—

(i) by inserting '', nurse practitioners or clinical nurse specialists (as those terms are defined in subsection (aa)(5)), certified nurse-midwives (as defined in section 1861(gg)), or physician assistants (as defined in subsection (aa)(5))'' after ''physicians''; and

(ii) by inserting '', nurse practitioner, clinical nurse specialist, certified nurse-midwife, physician assistant,'' after ''physician''.

(4) Section 1895 of the Social Security Act (42 U.S.C. 1395fff) is amended—

(A) in subsection (c)(1), by inserting '', the nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), the certified nurse-midwife (as defined in section 1861(gg)), or the physician assistant (as defined in section 1861(aa)(5)),'' after ''physician''; and

(B) in subsection (e)—

(i) in paragraph (1)(A), by inserting '', a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1861(aa)(5)), a certified nurse-midwife (as defined in section 1861(gg)), or a physician assistant (as defined in section 1861(aa)(5))'' after ''physician''; and

(ii) in paragraph (2)—

(I) in the heading, by striking ''PHYSICIAN CERTIFICATION'' and inserting ''RULE OF CONSTRUCTION REGARDING REQUIREMENT FOR CERTIFICATION''; and

(II) by striking ''physician''.

(c) REQUIREMENT OF FACE-TO-FACE ENCOUNTER.—

(1) PART A.—Section 1814(a)(2)(C) of the Social Security Act, as amended by subsection (b) and section 6407(a) of the Patient Protection and Affordable Care Act, is further amended by striking '', and, in the case of a certification made by a physician'' and all that follows through ''face-to-face encounter'' and inserting '', and, in the case of a certification made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2011, prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant himself or herself has had a face-to-face encounter''.

(2) PART B.—Section 1835(a)(2)(A)(iv) of the Social Security Act, as added by section 6407(a) of the Patient Protection and Affordable Care Act, is amended by striking ''after January 1, 2010'' and all that follows through ''face-to-face encounter'' and inserting ''made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant (as the case may be) after January 1, 2011, prior to making such certification the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant must document that the physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife, or physician assistant has had a face-to-face encounter''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 2011.

SA 3574. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 123, strike line 9 and all that follows through line 2 on page 144.

SA 3575. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 114, strike line 3 and all that follows through line 2 on page 144.

SA 3576. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. JUDICIAL REVIEW.

(a) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act, any amendment made by this Act, any provision of the Patient Protection and Affordable Care Act, or any amendment made by that Act, which may be filed in any United States district court of appropriate jurisdiction.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act, any amendment made by this Act, any provision of the Patient Protection and Affordable Care Act, or any amendment made by that Act is raised, any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

SA 3577. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. PROTECTING MEDICARE BENEFICIARY ACCESS TO HOSPITAL CARE IN RURAL AREAS FROM RECOMMENDATIONS BY THE INDEPENDENT PAYMENT ADVISORY BOARD.

(a) IN GENERAL.—Section 1899A(c)(2)(A) of the Social Security Act, as added by section 3403 of the Patient Protection and Affordable Care Act and amended by section 10320 of such Act, is amended by adding at the end the following new clause:

''(vii) The proposal shall not include any recommendation that would reduce payment rates for items and services furnished by a critical access hospital (as defined in section 1861(mm)(1)).''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

SA 3578. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, insert the following:

SEC. ___. PROTECTING MEDICARE BENEFICIARY ACCESS TO HEALTH CARE FROM RECOMMENDATIONS BY THE INDEPENDENT PAYMENT ADVISORY BOARD.

(a) IN GENERAL.—Section 1899A(c)(2)(A) of the Social Security Act, as added by section 3403 of the Patient Protection and Affordable Care Act and amended by section 10320 of such Act, is amended by adding at the end the following new clause:

''(vii) The proposal shall not include any recommendation that would result in reduced beneficiary access to care.''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

SA 3579. Mr. ROBERTS (for himself, Mr. INHOFE, and Mr. BROWN of Massachusetts) submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike section 1405 and insert the following:

SEC. 1405. REPEAL OF MEDICAL DEVICE FEE.

(a) IN GENERAL.—Section 9009 of the Patient Protection and Affordable Care Act, as amended by section 10904 of such Act, is repealed effective as of the date of the enactment of that Act.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3580. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

Strike section 1403 and insert the following:

SECTION 1403. REPEAL OF LIMITATION ON HEALTH FLEXIBLE SPENDING ARRANGEMENTS UNDER CAFETERIA PLANS.

(a) IN GENERAL.—Sections 9005 and 10902 of the Patient Protection and Affordable Care Act are hereby repealed effective as of the date of the enactment of such Act and any provisions of law amended by such sections are amended to read as such provisions would read if such sections had never been enacted.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3581. Mr. ROBERTS submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle E of title I, insert the following:

SECTION —. REPEAL OF LIMITATION ON DEDUCTIONS FOR OVER-THE-COUNTER MEDICINE.

(a) IN GENERAL.—Section 9003 of the Patient Protection and Affordable Care Act is hereby repealed effective as of the date of the enactment of such Act and any provisions of law amended by such section is amended to read as such provision would read if such section had never been enacted.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act and amended by section 10106 of such Act, is amended by striking ''8 percent'' and inserting ''5 percent''.

(c) APPLICATION OF PROVISION.—The amendment made by subsection (b) shall apply as if included in the Patient Protection and Affordable Care Act.

SA 3582. Mr. BARRASSO (for himself, Mr. HATCH, and Mr. COBURN) proposed an amendment to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); as follows:

At the end of subtitle B of title II, insert the following:

SEC. 2___. AFFORDABLE PREMIUMS AND COVERAGE.

The implementation of the Patient Protection and Affordable Care Act (and the amendments made by such Act) shall be conditioned on the Secretary of Health and Human Services certifying to Congress that the implementation of such Act (and amendments) would not increase premiums more than the premium increases projected prior to the date of enactment of such Act.

SA 3583. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. ELIGIBILITY OF SELF-EMPLOYED FOR TRANSITIONAL SMALL BUSINESS TAX CREDIT.

(a) IN GENERAL.—Section 45R(g) of the Internal Revenue Code of 1986, as added by section 1421 of the Patient Protection and Affordable Care Act, is amended by adding at the end the following:

''(4) CREDIT ALLOWED FOR SELF-EMPLOYED.—

''(A) IN GENERAL.—Notwithstanding subsection (e)(1)(A)(i), the term 'employee' shall include an employee withing the meaning of section 401(c)(1).

''(B) PAYROLL TAXES.—For purposes of applying subsection (f) to an employee described in subparagraph (A), the term 'payroll taxes' includes the amount of taxes imposed on such employee under section 1401(b).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

SA 3584. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of section 1003, insert the following:

(e) PREEMPTION OF STATE LAWS EXTENDING EMPLOYER MANDATE TO EMPLOYERS WITH FEWER THAN 50 EMPLOYEES.—Section 1321(d) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(d) NO INTERFERENCE WITH STATE REGULATORY AUTHORITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this title shall be construed to preempt any State law that does not prevent the application of the provisions of this title.

''(2) EXCEPTION FOR SMALL EMPLOYER MANDATES.—The provisions of, and the amendments made by, this title shall preempt any State law enacted after the date of enactment of this Act that would impose a requirement on any employer with less than 50 full-time employees to, or would impose a penalty on such an employer for failing to, offer health insurance to its employees.''.

SA 3585. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle A of title I, insert the following:

SEC. 1006. EXPANSION OF ENROLLMENT IN CATASTROPHIC PLANS TO ALL INDIVIDUALS.

(a) IN GENERAL.—Section 1302(e) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(e) CATASTROPHIC PLAN.—

''(1) IN GENERAL.—A health plan not providing a bronze, silver, gold, or platinum level of coverage shall be treated as meeting the requirements of subsection (d) with respect to any plan year if the plan provides—

''(A) except as provided in subparagraph (B), the essential health benefits determined under subsection (b), except that the plan provides no benefits for any plan year until the individual has incurred cost-sharing expenses in an amount equal to the annual limitation in effect under subsection (c)(1) for the plan year (except as provided for in section 2713); and

''(B) coverage for at least three primary care visits.

''(2) RESTRICTION TO INDIVIDUAL MARKET.—If a health insurance issuer offers a health plan described in this subsection, the issuer may only offer the plan in the individual market.''.

(b) ELIGIBILITY FOR ENROLLMENT.—Section 1312(d)(3)(C) of such Act is amended to read as follows:

''(C) INDIVIDUALS ALLOWED TO ENROLL IN ANY PLAN.—A qualified individual may enroll in any qualified health plan.''.

(c) ELIGIBILITY FOR SUBSIDIES.—Section 36B(c)(3)(A) of the Internal Revenue Code of 1986, as added by section 1401 of such Act, is amended by striking '', except that such term shall not include a qualified health plan which is a catastrophic health plan described in section 1302(e) of such Act''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed floor privileges during the considering of the pending bill: Randy Aussenberg, Aislinn Baker, Mary Baker, Scott Berkowitz, Brittany Durell, Ivie English, Andrew Fishburn, Laura Hoffmeister, Scott Matthews, Meena Sharma, Dustin Stevens, Gregg Sullivan, and Max Updike.

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

TAX ON BONUSES RECEIVED FROM CERTAIN TARP RECIPIENTS

On Monday, March 22, 2010, the Senate passed H.R. 1586, as amended, as follows:

H.R. 1586

Resolved, That the bill from the House of Representatives (H.R. 1586) entitled ''An Act to impose an additional tax on bonuses received from certain TARP recipients.'', do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''FAA Air Transportation Modernization and Safety Improvement Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. AMENDMENTS TO TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

TITLE I—AUTHORIZATIONS

SEC. 101. OPERATIONS.

Section 106(k)(1) is amended by striking subparagraphs (A) through (E) and inserting the following:

''(A) $9,336,000,000 for fiscal year 2010; and

''(B) $9,620,000,000 for fiscal year 2011.''.

SEC. 102. AIR NAVIGATION FACILITIES AND EQUIPMENT.

Section 48101(a) is amended by striking paragraphs (1) through (5) and inserting the following:

''(1) $3,500,000,000 for fiscal year 2010, of which $500,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund; and

''(2) $3,600,000,000 for fiscal year 2011, of which $500,000,000 is derived from the Air Traffic Control System Modernization Account of the Airport and Airways Trust Fund.''.

SEC. 103. RESEARCH AND DEVELOPMENT.

Section 48102 is amended—

(1) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—Not more than the following amounts may be appropriated to the Secretary of Transportation out of the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) for conducting civil aviation research and development under sections 44504, 44505, 44507, 44509, and 44511 through 44513 of this title:

''(1) $200,000,000 for fiscal year 2010.

''(2) $206,000,000 for fiscal year 2011.'';

(2) by striking subsections (c) through (h); and

(3) by adding at the end the following:

''(c) RESEARCH GRANTS PROGRAM INVOLVING UNDERGRADUATE STUDENTS.—The Administrator of the Federal Aviation Administration shall establish a program to utilize undergraduate and technical colleges, including Historically Black Colleges and Universities, Hispanic Serving Institutions, tribally controlled colleges and universities, and Alaska Native and Native Hawaiian serving institutions in research on subjects of relevance to the Federal Aviation Administration. Grants may be awarded under this subsection for—

''(1) research projects to be carried out at primarily undergraduate institutions and technical colleges;

''(2) research projects that combine research at primarily undergraduate institutions and technical colleges with other research supported by the Federal Aviation Administration;

''(3) research on future training requirements on projected changes in regulatory requirements for aircraft maintenance and power plant licensees; or

''(4) research on the impact of new technologies and procedures, particularly those related to aircraft flight deck and air traffic management functions, and on training requirements for pilots and air traffic controllers.''.

SEC. 104. AIRPORT PLANNING AND DEVELOPMENT AND NOISE COMPATIBILITY PLANNING AND PROGRAMS.

Section 48103 is amended by striking paragraphs (1) through (6) and inserting the following:

''(1) $4,000,000,000 for fiscal year 2010; and

''(2) $4,100,000,000 for fiscal year 2011.''.

SEC. 105. OTHER AVIATION PROGRAMS.

Section 48114 is amended—

(1) by striking ''2007'' in subsection (a)(1)(A) and inserting ''2011'';

(2) by striking ''2007,'' in subsection (a)(2) and inserting ''2011,''; and

(3) by striking ''2007'' in subsection (c)(2) and inserting ''2011''.

SEC. 106. DELINEATION OF NEXT GENERATION AIR TRANSPORTATION SYSTEM PROJECTS.

Section 44501(b) is amended—

(1) by striking ''and'' after the semicolon in paragraph (3);

(2) by striking ''defense.'' in paragraph (4) and inserting ''defense; and''; and

(3) by adding at the end thereof the following:

''(5) a list of projects that are part of the Next Generation Air Transportation System and do not have as a primary purpose to operate or maintain the current air traffic control system.''.

SEC. 107. FUNDING FOR ADMINISTRATIVE EXPENSES FOR AIRPORT PROGRAMS.

(a) IN GENERAL.—Section 48105 is amended to read as follows:

''§ 48105. Airport programs administrative expenses

''Of the amount made available under section 48103 of this title, the following may be available for administrative expenses relating to the Airport Improvement Program, passenger facility charge approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal services), and other airport-related activities (including airport technology research), to remain available until expended—

''(1) for fiscal year 2010, $94,000,000; and

''(2) for fiscal year 2011, $98,000,000.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 481 is amended by striking the item relating to section 48105 and inserting the following:

''48105. Airport programs administrative expenses''.

(c) PASSENGER ENPLANEMENT REPORT.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall prepare a report on every airport in the United States that reported between 10,000 and 15,000 passenger enplanements during each of the 2 most recent years for which such data is available.

(2) REPORT OBJECTIVES.—In carrying out the report under paragraph (1), the Administrator shall document the methods used by each subject airport to reach the 10,000 passenger enplanement threshold, including whether airports subsidize commercial flights to reach such threshold.

(3) REVIEW.—The Inspector General of the Department of Transportation shall review the process of the Adminstrator in developing the report under paragraph (1).

(4) REPORT.—The Administrator shall submit the report prepared under paragraph (1) to Congress and the Secretary of Transportation.

TITLE II—AIRPORT IMPROVEMENTS

SEC. 201. REFORM OF PASSENGER FACILITY CHARGE AUTHORITY.

(a) PASSENGER FACILITY CHARGE STREAMLINING.—Section 40117(c) is amended to read as follows:

''(c) PROCEDURAL REQUIREMENTS FOR IMPOSITION OF PASSENGER FACILITY CHARGE.—

''(1) IN GENERAL.—An eligible agency must submit to those air carriers and foreign air carriers operating at the airport with a significant business interest, as defined in paragraph (3), and to the Secretary and make available to the public annually a report, in the form required by the Secretary, on the status of the eligible agency's passenger facility charge program, including—

''(A) the total amount of program revenue held by the agency at the beginning of the 12 months covered by the report;

''(B) the total amount of program revenue collected by the agency during the period covered by the report;

''(C) the amount of expenditures with program revenue made by the agency on each eligible airport-related project during the period covered by the report;

''(D) each airport-related project for which the agency plans to collect and use program revenue during the next 12-month period covered by the report, including the amount of revenue projected to be used for such project;

''(E) the level of program revenue the agency plans to collect during the next 12-month period covered by the report;

''(F) a description of the notice and consultation process with air carriers and foreign air

carriers under paragraph (3), and with the public under paragraph (4), including a copy of any adverse comments received and how the agency responded; and

''(G) any other information on the program that the Secretary may require.

''(2) IMPLEMENTATION.—Subject to the requirements of paragraphs (3), (4), (5), and (6), the eligible agency may implement the planned collection and use of passenger facility charges in accordance with its report upon filing the report as required in paragraph (1).

''(3) CONSULTATION WITH CARRIERS FOR NEW PROJECTS.—

''(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was submitted in a prior year shall provide to air carriers and foreign air carriers operating at the airport reasonable notice, and an opportunity to comment on the planned collection and use of program revenue before providing the report required under paragraph (1). The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum include—

''(i) that the eligible agency provide to air carriers and foreign air carriers operating at the airport written notice of the planned collection and use of passenger facility charge revenue;

''(ii) that the notice include a full description and justification for a proposed project;

''(iii) that the notice include a detailed financial plan for the proposed project; and

''(iv) that the notice include the proposed level for the passenger facility charge.

''(B) An eligible agency providing notice and an opportunity for comment shall be deemed to have satisfied the requirements of this paragraph if the eligible agency provides such notice to air carriers and foreign air carriers that have a significant business interest at the airport. For purposes of this subparagraph, the term 'significant business interest' means an air carrier or foreign air carrier that—

''(i) had not less than 1.0 percent of passenger boardings at the airport in the prior calendar year;

''(ii) had at least 25,000 passenger boardings at the airport in the prior calendar year; or

''(iii) provides scheduled service at the airport.

''(C) Not later than 45 days after written notice is provided under subparagraph (A), each air carrier and foreign air carrier may provide written comments to the eligible agency indicating its agreement or disagreement with the project or, if applicable, the proposed level for a passenger facility charge.

''(D) The eligible agency may include, as part of the notice and comment process, a consultation meeting to discuss the proposed project or, if applicable, the proposed level for a passenger facility charge. If the agency provides a consultation meeting, the written comments specified in subparagraph (C) shall be due not later than 30 days after the meeting.

''(4) PUBLIC NOTICE AND COMMENT.—

''(A) An eligible agency proposing to collect or use passenger facility charge revenue for a project not previously approved by the Secretary or not included in a report required by paragraph (1) that was filed in a prior year shall provide reasonable notice and an opportunity for public comment on the planned collection and use of program revenue before providing the report required in paragraph (1).

''(B) The Secretary shall prescribe by regulation what constitutes reasonable notice under this paragraph, which shall at a minimum require—

''(i) that the eligible agency provide public notice of intent to collect a passenger facility charge so as to inform those interested persons and agencies that may be affected;

''(ii) appropriate methods of publication, which may include notice in local newspapers of general circulation or other local media, or posting of the notice on the agency's Internet website; and

''(iii) submission of public comments no later than 45 days after the date of the publication of the notice.

''(5) OBJECTIONS.—

''(A) Any interested person may file with the Secretary a written objection to a proposed project included in a notice under this paragraph provided that the filing is made within 30 days after submission of the report specified in paragraph (1).

''(B) The Secretary shall provide not less than 30 days for the eligible agency to respond to any filed objection.

''(C) Not later than 90 days after receiving the eligible agency's response to a filed objection, the Secretary shall make a determination whether or not to terminate authority to collect the passenger facility charge for the project, based on the filed objection. The Secretary shall state the reasons for any determination. The Secretary may only terminate authority if—

''(i) the project is not an eligible airport related project;

''(ii) the eligible agency has not complied with the requirements of this section or the Secretary's implementing regulations in proposing the project;

''(iii) the eligible agency has been found to be in violation of section 47107(b) of this title and has failed to take corrective action, prior to the filing of the objection; or

''(iv) in the case of a proposed increase in the passenger facility charge level, the level is not authorized by this section.

''(D) Upon issuance of a decision terminating authority, the public agency shall prepare an accounting of passenger facility revenue collected under the terminated authority and restore the funds for use on other authorized projects.

''(E) Except as provided in subparagraph (C), the eligible agency may implement the planned collection and use of a passenger facility charge in accordance with its report upon filing the report as specified in paragraph (1)(A).

''(6) APPROVAL REQUIREMENT FOR INCREASED PASSENGER FACILITY CHARGE OR INTERMODAL GROUND ACCESS PROJECT.—

''(A) An eligible agency may not collect or use a passenger facility charge to finance an intermodal ground access project, or increase a passenger facility charge, unless the project is first approved by the Secretary in accordance with this paragraph.

''(B) The eligible agency may submit to the Secretary an application for authority to impose a passenger facility charge for an intermodal ground access project or to increase a passenger facility charge. The application shall contain information and be in the form that the Secretary may require by regulation but, at a minimum, must include copies of any comments received by the agency during the comment period described by subparagraph (C).

''(C) Before submitting an application under this paragraph, an eligible agency must provide air carriers and foreign air carriers operating at the airport, and the public, reasonable notice of and an opportunity to comment on a proposed intermodal ground access project or the increased passenger facility charge. Such notice and opportunity to comment shall conform to the requirements of paragraphs (3) and (4).

''(D) After receiving an application, the Secretary may provide air carriers, foreign air carriers and other interested persons notice and an opportunity to comment on the application. The Secretary shall make a final decision on the application not later than 120 days after receiving it.''.

(b) CONFORMING AMENDMENTS.—

(1) REFERENCES.—

(A) Section 40117(a) is amended—

(i) by striking ''FEE'' in the heading for paragraph (5) and inserting ''CHARGE''; and

(ii) by striking ''fee'' each place it appears in paragraphs (5) and (6) and inserting ''charge''.

(B) Subsections (b), and subsections (d) through (m), of section 40117 are amended—

(i) by striking ''fee'' or ''fees'' each place either appears and inserting ''charge'' or ''charges'', respectively; and

(ii) by striking ''FEE'' in the subsection caption for subsection (l), and ''FEES'' in the subsection captions for subsections (e) and (m), and inserting ''CHARGE'' and ''CHARGES'', respectively.

(C) The caption for section 40117 is amended to read as follows:

''§ 40117. Passenger facility charges''.

(D) The table of contents for chapter 401 is amended by striking the item relating to section 40117 and inserting the following:

''40117. Passenger facility charges''.

(2) LIMITATIONS ON APPROVING APPLICATIONS.—Section 40117(d) is amended—

(A) by striking ''subsection (c) of this section to finance a specific'' and inserting ''subsection (c)(6) of this section to finance an intermodal ground access'';

(B) by striking ''specific'' in paragraph (1);

(C) by striking paragraph (2) and inserting the following:

''(2) the project is an eligible airport-related project; and'';

(D) by striking ''each of the specific projects; and'' in paragraph (3) and inserting ''the project.''; and

(E) by striking paragraph (4).

(3) LIMITATIONS ON IMPOSING CHARGES.—Section 40117(e)(1) is amended to read as follows: ''(1) An eligible agency may impose a passenger facility charge only subject to terms the Secretary may prescribe to carry out the objectives of this section.''.

(4) LIMITATIONS ON CONTRACTS, LEASES, AND USE AGREEMENTS.—Section 40117(f)(2) is amended by striking ''long-term''.

(5) COMPLIANCE.—Section 40117(h) is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

''(3) The Secretary may, on complaint of an interested person or on the Secretary's own initiative, conduct an investigation into an eligible agency's collection and use of passenger facility charge revenue to determine whether a passenger facility charge is excessive or that passenger facility revenue is not being used as provided in this section. The Secretary shall prescribe regulations establishing procedures for complaints and investigations. The regulations may provide for the issuance of a final agency decision without resort to an oral evidentiary hearing. The Secretary shall not accept complaints filed under this paragraph until after the issuance of regulations establishing complaint procedures.''.

(6) PILOT PROGRAM FOR PFC AT NONHUB AIRPORTS.—Section 40117(l) is amended—

(A) by striking ''(c)(2)'' in paragraph (2) and inserting ''(c)(3)''; and

(B) by striking ''October 1, 2009.'' in paragraph (7) and inserting ''the date of issuance of regulations to carry out subsection (c) of this section, as amended by the FAA Air Transportation Modernization and Safety Improvement Act.''.

(7) PROHIBITION ON APPROVING PFC APPLICATIONS FOR AIRPORT REVENUE DIVERSION.—Section 47111(e) is amended by striking ''sponsor'' the second place it appears in the first sentence and all that follows and inserting ''sponsor. A sponsor shall not propose collection or use of passenger facility charges for any new projects under paragraphs (3) through (6) of section 40117(c) unless the Secretary determines that the sponsor has taken corrective action to address the violation and the violation no longer exists.''.

SEC. 202. PASSENGER FACILITY CHARGE PILOT PROGRAM.

(a) IN GENERAL.—Section 40117 is amended by adding at the end thereof the following:

''(n) ALTERNATIVE PASSENGER FACILITY CHARGE COLLECTION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and conduct a pilot program at not more than 6 airports under which an eligible agency may impose a passenger facility charge under this section without regard to the dollar amount limitations set forth in paragraph (1) or (4) of subsection (b) if the participating eligible agency meets the requirements of paragraph (2).

''(2) COLLECTION REQUIREMENTS.—

''(A) DIRECT COLLECTION.—An eligible agency participating in the pilot program—

''(i) may collect the charge from the passenger at the facility, via the Internet, or in any other reasonable manner; but

''(ii) may not require or permit the charge to be collected by an air carrier or foreign air carrier for the flight segment.

''(B) PFC COLLECTION REQUIREMENT NOT TO APPLY.—Subpart C of part 158 of title 14, Code of Federal Regulations, does not apply to the collection of the passenger facility charge imposed by an eligible agency participating in the pilot program.''.

(b) GAO STUDY OF ALTERNATIVE MEANS OF COLLECTING PFCS.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of alternative means of collection passenger facility charges imposed under section 40117 of title 49, United States Code, that would permit such charges to be collected without being included in the ticket price. In the study, the Comptroller General shall consider, at a minimum—

(A) collection options for arriving, connecting, and departing passengers at airports;

(B) cost sharing or fee allocation methods based on passenger travel to address connecting traffic; and

(C) examples of airport fees collected by domestic and international airports that are not included in ticket prices.

(2) REPORT.—No later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing the Comptroller General's findings, conclusions, and recommendations.

SEC. 203. AMENDMENTS TO GRANT ASSURANCES.

Section 47107 is amended—

(1) by striking ''made;'' in subsection (a)(16)(D)(ii) and inserting ''made, except that, if there is a change in airport design standards that the Secretary determines is beyond the owner or operator's control that requires the relocation or replacement of an existing airport facility, the Secretary, upon the request of the owner or operator, may grant funds available under section 47114 to pay the cost of relocating or replacing such facility;'';

(2) by striking ''purpose;'' in subsection (c)(2)(A)(i) and inserting ''purpose, which includes serving as noise buffer land;'';

(3) by striking ''paid to the Secretary for deposit in the Fund if another eligible project does not exist.'' in subsection (c)(2)(B)(iii) and inserting ''reinvested in another project at the airport or transferred to another airport as the Secretary prescribes.''; and

(4) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

''(3) In approving the reinvestment or transfer of proceeds under paragraph (2)(C)(iii), the Secretary shall give preference, in descending order, to—

''(i) reinvestment in an approved noise compatibility project;

''(ii) reinvestment in an approved project that is eligible for funding under section 47117(e);

''(iii) reinvestment in an airport development project that is eligible for funding under section 47114, 47115, or 47117 and meets the requirements of this chapter;

''(iv) transfer to the sponsor of another public airport to be reinvested in an approved noise compatibility project at such airport; and

''(v) payment to the Secretary for deposit in the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502).''.

SEC. 204. GOVERNMENT SHARE OF PROJECT COSTS.

(a) FEDERAL SHARE.—Section 47109 is amended—

(1) by striking ''subsection (b) or subsection (c)'' in subsection (a) and inserting ''subsection (b), (c), or (e)''; and

(2) by adding at the end the following:

''(e) SPECIAL RULE FOR TRANSITION FROM SMALL HUB TO MEDIUM HUB STATUS.—If the status of a small hub primary airport changes to a medium hub primary airport, the United States Government's share of allowable project costs for the airport may not exceed 95 percent for 2 fiscal years following such change in hub status.''.

(b) TRANSITIONING AIRPORTS.—Section 47114(f)(3)(B) is amended by striking ''year 2004.'' and inserting ''years 2010 and 2011.''.

SEC. 205. AMENDMENTS TO ALLOWABLE COSTS.

Section 47110 is amended—

(1) by striking subsection (d) and inserting the following:

''(d) RELOCATION OF AIRPORT-OWNED FACILITIES.—The Secretary may determine that the costs of relocating or replacing an airport-owned facility are allowable for an airport development project at an airport only if—

''(1) the Government's share of such costs is paid with funds apportioned to the airport sponsor under sections 47114(c)(1) or 47114(d)(2);

''(2) the Secretary determines that the relocation or replacement is required due to a change in the Secretary's design standards; and

''(3) the Secretary determines that the change is beyond the control of the airport sponsor.'';

(2) by striking ''facilities, including fuel farms and hangars,'' in subsection (h) and inserting ''facilities, as defined by section 47102,''; and

(3) by adding at the end the following:

''(i) BIRD-DETECTING RADAR SYSTEMS.—Within 180 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator shall analyze the conclusions of ongoing studies of various types of commercially-available bird radar systems, based upon that analysis, if the Administrator determines such systems have no negative impact on existing navigational aids and that the expenditure of such funds is appropriate, the Administrator shall allow the purchase of bird-detecting radar systems as an allowable airport development project costs subject to subsection (b). If a determination is made that such radar systems will not improve or negatively impact airport safety, the Administrator shall issue a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on why that determination was made.''.

SEC. 206. SALE OF PRIVATE AIRPORT TO PUBLIC SPONSOR.

Section 47133(b) is amended—

(1) by resetting the text of the subsection as an indented paragraph 2 ems from the left margin;

(2) by inserting ''(1)'' before ''Subsection''; and

(3) by adding at the end thereof the following:

''(2) In the case of a privately owned airport, subsection (a) shall not apply to the proceeds from the sale of the airport to a public sponsor if—

''(A) the sale is approved by the Secretary;

''(B) funding is provided under this title for the public sponsor's acquisition; and

''(C) an amount equal to the remaining unamortized portion of the original grant, amortized over a 20-year period, is repaid to the Secretary by the private owner for deposit in the Trust Fund for airport acquisitions.

''(3) This subsection shall apply to grants issued on or after October 1, 1996.''.

SEC. 207. GOVERNMENT SHARE OF CERTAIN AIR PROJECT COSTS.

Notwithstanding section 47109(a) of title 49, United States Code, the Federal Government's share of allowable project costs for a grant made in fiscal year 2008, 2009, 2010, or 2011 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

SEC. 207(b). PROHIBITION ON USE OF PASSENGER FACILITY CHARGES TO CONSTRUCT BICYCLE STORAGE FACILITIES.

Section 40117(a)(3) is amended—

(1) by redesignating subparagraphs (A) through (G) as clauses (i) through (vii);

(2) by striking ''The term'' and inserting the following:

''(A) IN GENERAL.—The term''; and

(3) by adding at the end the following:

''(B) BICYCLE STORAGE FACILITIES.—A project to construct a bicycle storage facility may not be considered an eligible airport-related project.''.

SEC. 208. MISCELLANEOUS AMENDMENTS.

(a) TECHNICAL CHANGES TO NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS.—Section 47103 is amended—

(1) by striking ''each airport to—'' in subsection (a) and inserting ''the airport system to—'';

(2) by striking ''system in the particular area;'' in subsection (a)(1) and inserting ''system, including connection to the surface transportation network; and'';

(3) by striking ''aeronautics; and'' in subsection (a)(2) and inserting ''aeronautics.'';

(4) by striking subsection (a)(3);

(5) by inserting ''and'' after the semicolon in subsection (b)(1);

(6) by striking paragraph (2) of subsection (b) and redesignating paragraph (3) as paragraph (2);

(7) by striking ''operations, Short Takeoff and Landing/Very Short Takeoff and Landing aircraft operations,'' in subsection (b)(2), as redesignated, and inserting ''operations''; and

(8) by striking ''status of the'' in subsection (d).

(b) UPDATE VETERANS PREFERENCE DEFINITION.—Section 47112(c) is amended—

(1) by striking ''separated from'' in paragraph (1)(B) and inserting ''discharged or released from active duty in'';

(2) by adding at the end of paragraph (1) the following:

''(C) 'Afghanistan-Iraq war veteran' means an individual who served on active duty, as defined by section 101(21) of title 38, at any time in the armed forces for a period of more than 180 consecutive days, any part of which occurred during the period beginning on September 11, 2001, and ending on the date prescribed by Presidential proclamation or by law as the last date of Operation Iraqi Freedom.'';

(3) by striking ''veterans and'' in paragraph (2) and inserting ''veterans, Afghanistan-Iraq war veterans, and''; and

(4) by adding at the end the following:

''(3) A contract involving labor for carrying out an airport development project under a grant agreement under this subchapter must require that a preference be given to the use of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)) owned and controlled by disabled veterans.''.

(c) ANNUAL REPORT.—Section 47131(a) is amended—

(1) by striking ''April 1'' and inserting ''June 1''; and

(2) by striking paragraphs (1) through (4) and inserting the following:

''(1) a summary of airport development and planning completed;

''(2) a summary of individual grants issued;

''(3) an accounting of discretionary and apportioned funds allocated; and

''(4) the allocation of appropriations; and''.

(d) SUNSET OF PROGRAM.—Section 47137 is repealed effective September 30, 2008.

(e) CORRECTION TO EMISSION CREDITS PROVISION.—Section 47139 is amended—

(1) by striking ''47102(3)(F),'' in subsection (a);

(2) by striking ''47102(3)(F), 47102(3)(K), 47102(3)(L), or 47140'' in subsection (b) and inserting ''47102(3)(K) or 47102(3)(L)''; and

(3) by striking ''40117(a)(3)(G), 47103(3)(F), 47102(3)(K), 47102(3)(L), or 47140,'' in subsection (b) and inserting ''40117(a)(3)(G), 47102(3)(K), or 47102(3)(L),''; and

(f) CORRECTION TO SURPLUS PROPERTY AUTHORITY.—Section 47151(e) is amended by striking ''(other than real property that is subject to section 2687 of title 10, section 201 of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), or section 2905 of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note),''.

(g) AIRPORT CAPACITY BENCHMARK REPORTS; DEFINITION OF JOINT USE AIRPORT.—Section 47175 is amended—

(1) by striking ''Airport Capacity Benchmark Report 2001.'' in paragraph (2) and inserting ''2001 and 2004 Airport Capacity Benchmark Reports or of the most recent Benchmark report, Future Airport Capacity Task Report, or other comparable FAA report.''; and

(2) by adding at the end thereof the following:

''(7) JOINT USE AIRPORT.—The term 'joint use airport' means an airport owned by the United States Department of Defense, at which both military and civilian aircraft make shared use of the airfield.''.

(h) USE OF APPORTIONED AMOUNTS.—Section 47117(e)(1)(A) is amended—

(1) by striking ''35 percent'' in the first sentence and inserting ''$300,000,000'';

(2) by striking ''and'' after ''47141,'';

(3) by striking ''et seq.).'' and inserting ''et seq.), and for water quality mitigation projects to comply with the Act of June 30, 1948 (33 U.S.C. 1251 et seq.), approved in an environmental record of decision for an airport development project under this title.''; and

(4) by striking ''such 35 percent requirement is'' in the second sentence and inserting ''the requirements of the preceding sentence are''.

(i) USE OF PREVIOUS FISCAL YEAR'S APPORTIONMENT.—Section 47114(c)(1) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E)(ii);

(2) by striking ''airport.'' in subparagraph (E)(iii) and inserting ''airport; and'';

(3) by adding at the end of subparagraph (E) the following:

''(iv) the airport received scheduled or unscheduled air service from a large certified air carrier (as defined in part 241 of title 14, Code of Federal Regulations, or such other regulations as may be issued by the Secretary under the authority of section 41709) and the Secretary determines that the airport had more than 10,000 passenger boardings in the preceding calendar year, based on data submitted to the Secretary under part 241 of title 14, Code of Federal Regulations.'';

(4) in subparagraph (G)—

(A) by striking ''FISCAL YEAR 2006'' in the heading and inserting ''FISCAL YEARS 2008 THROUGH 2011'';

(B) by striking ''fiscal year 2006'' and inserting ''fiscal years 2008 through 2011'';

(C) by striking clause (i) and inserting the following:

''(i) the average annual passenger boardings at the airport for calendar years 2004 through 2006 were below 10,000 per year;''; and

(D) by striking ''2000 or 2001;'' in clause (ii) and inserting ''2003;''; and

(5) by adding at the end thereof the following:

''(H) SPECIAL RULE FOR FISCAL YEARS 2010 AND 2011.—Notwithstanding subparagraph (A), for an airport that had more than 10,000 passenger boardings and scheduled passenger aircraft service in calendar year 2007, but in either calendar years 2008 or 2009, or both years, the number of passenger boardings decreased to a level below 10,000 boardings per year at such airport, the Secretary may apportion in fiscal years 2010 or 2011 to the sponsor of such an airport an amount equal to the amount apportioned to that sponsor in fiscal year 2009.''.

(j) MOBILE REFUELER PARKING CONSTRUCTION.—Section 47102(3) is amended by adding at the end the following:

''(M) construction of mobile refueler parking within a fuel farm at a nonprimary airport meeting the requirements of section 112.8 of title 40, Code of Federal Regulations.''.

(k) DISCRETIONARY FUND.—Section 47115(g)(1) is amended by striking ''of—'' and all that follows and inserting ''of $520,000,000. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.''.

SEC. 209. STATE BLOCK GRANT PROGRAM.

Section 47128 is amended—

(1) by striking ''regulations'' each place it appears in subsection (a) and inserting ''guidance'';

(2) by striking ''grant;'' in subsection (b)(4) and inserting ''grant, including Federal environmental requirements or an agreed upon equivalent;'';

(3) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following:

''(c) PROJECT ANALYSIS AND COORDINATION REQUIREMENTS.—Any Federal agency that must approve, license, or permit a proposed action by a participating State shall coordinate and consult with the State. The agency shall utilize the environmental analysis prepared by the State, provided it is adequate, or supplement that analysis as necessary to meet applicable Federal requirements.''; and

(4) by adding at the end the following:

''(e) PILOT PROGRAM.—The Secretary shall establish a pilot program for up to 3 States that do not participate in the program established under subsection (a) that is consistent with the program under subsection (a).''.

SEC. 210. AIRPORT FUNDING OF SPECIAL STUDIES OR REVIEWS.

Section 47173(a) is amended by striking ''project.'' and inserting ''project, or to conduct special environmental studies related to a federally funded airport project or for special studies or reviews to support approved noise compatibility measures in a Part 150 program or environmental mitigation in a Federal Aviation Administration Record of Decision or Finding of No Significant Impact.''.

SEC. 211. GRANT ELIGIBILITY FOR ASSESSMENT OF FLIGHT PROCEDURES.

Section 47504 is amended by adding at the end the following:

''(e) GRANTS FOR ASSESSMENT OF FLIGHT PROCEDURES.—

''(1) The Secretary is authorized in accordance with subsection (c)(1) to make a grant to an airport operator to assist in completing environmental review and assessment activities for proposals to implement flight procedures that have been approved for airport noise compatibility planning purposes under subsection (b).

''(2) The Administrator of the Federal Aviation Administration may accept funds from an airport sponsor, including funds provided to the sponsor under paragraph (1), to hire additional staff or obtain the services of consultants in order to facilitate the timely processing, review and completion of environmental activities associated with proposals to implement flight procedures submitted and approved for airport noise compatibility planning purposes in accordance with this section. Funds received under this authority shall not be subject to the procedures applicable to the receipt of gifts by the Administrator.''.

SEC. 212. SAFETY-CRITICAL AIRPORTS.

Section 47118(c) is amended—

(1) by striking ''or'' after the semicolon in paragraph (1);

(2) by striking ''delays.'' in paragraph (2) and inserting ''delays; or''; and

(3) by adding at the end the following:

''(3) be critical to the safety of commercial, military, or general aviation in trans-oceanic flights.''.

SEC. 213. ENVIRONMENTAL MITIGATION DEMONSTRATION PILOT PROGRAM.

(a) PILOT PROGRAM.—Subchapter I of chapter 471 is amended by adding at the end thereof the following:

''§ 47143. Environmental mitigation demonstration pilot program

''(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program involving not more than 6 projects at public-use airports under which the Secretary may make grants to sponsors of such airports from funds apportioned under paragraph 47117(e)(1)(A) for use at such airports for environmental mitigation demonstration projects that will measurably reduce or mitigate aviation impacts on noise, air quality or water quality in the vicinity of the airport. Notwithstanding any other provision of this subchapter, an environmental mitigation demonstration project approved under this section shall be treated as eligible for assistance under this subchapter.

''(b) PARTICIPATION IN PILOT PROGRAM.—A public-use airport shall be eligible for participation in the pilot.

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary may give priority consideration to environmental mitigation demonstration projects that—

''(1) will achieve the greatest reductions in aircraft noise, airport emissions, or airport water quality impacts either on an absolute basis, or on a per-dollar-of-funds expended basis; and

''(2) will be implemented by an eligible consortium.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the United States Government's share of the costs of a project carried out under this section shall be 50 percent.

''(e) MAXIMUM AMOUNT.—Not more than $2,500,000 may be made available by the Secretary in grants under this section for any single project.

''(f) IDENTIFYING BEST PRACTICES.—The Administrator may develop and publish information identifying best practices for reducing or mitigating aviation impacts on noise, air quality, or water quality in the vicinity of airports, based on the projects carried out under the pilot program.

''(g) DEFINITIONS.—In this section:

''(1) ELIGIBLE CONSORTIUM.—The term 'eligible consortium' means a consortium that comprises 2 or more of the following entities:

''(A) Businesses operating in the United States.

''(B) Public or private educational or research organizations located in the United States.

''(C) Entities of State or local governments in the United States.

''(D) Federal laboratories.

''(2) ENVIRONMENTAL MITIGATION DEMONSTRATION PROJECT.—The term 'environmental mitigation demonstration project' means a project that—

''(A) introduces new conceptual environmental mitigation techniques or technology with associated benefits, which have already been proven in laboratory demonstrations;

''(B) proposes methods for efficient adaptation or integration of new concepts to airport operations; and

''(C) will demonstrate whether new techniques or technology for environmental mitigation identified in research are—

''(i) practical to implement at or near multiple public use airports; and

''(ii) capable of reducing noise, airport emissions, or water quality impacts in measurably significant amounts.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47142 the following:

''47143. Environmental mitigation demonstration pilot program''.

SEC. 214. ALLOWABLE PROJECT COSTS FOR AIRPORT DEVELOPMENT PROGRAM.

Section 47110(c) is amended—

(1) by striking ''; or'' in paragraph (1) and inserting a semicolon;

(2) by striking ''project.'' in paragraph (2) and inserting ''project; or''; and

(3) by adding at the end the following:

''(3) necessarily incurred in anticipation of severe weather.''.

SEC. 215. GLYCOL RECOVERY VEHICLES.

Section 47102(3)(G) is amended by inserting ''including acquiring glycol recovery vehicles,'' after ''aircraft,''.

SEC. 216. RESEARCH IMPROVEMENT FOR AIRCRAFT.

Section 44504(b) is amended—

(1) by striking ''and'' after the semicolon in paragraph (6);

(2) by striking ''aircraft.'' in paragraph (7) and inserting ''aircraft; and''; and

(3) by adding at the end thereof the following:

''(8) to conduct research to support programs designed to reduce gases and particulates emitted.''.

SEC. 217. UNITED STATES TERRITORY MINIMUM GUARANTEE.

Section 47114(e) is amended—

(1) by inserting ''AND ANY UNITED STATES TERRITORY'' after ''ALASKA'' in the subsection heading; and

(2) by adding at the end thereof the following:

''(5) UNITED STATES TERRITORY MINIMUM GUARANTEE.—In any fiscal year in which the total amount apportioned to airports in a United States Territory under subsections (c) and (d) is less than 1.5 percent of the total amount apportioned to all airports under those subsections, the Secretary may apportion to the local authority in any United States Territory responsible for airport development projects in that fiscal year an amount equal to the difference between 1.5 percent of the total amounts apportioned under subsections (c) and (d) in that fiscal year and the amount otherwise apportioned under those subsections to airports in a United States Territory in that fiscal year.''.

SEC. 218. MERRILL FIELD AIRPORT, ANCHORAGE, ALASKA.

(a) IN GENERAL.—Notwithstanding any other provision of law, including the Federal Airport Act (as in effect on August 8, 1958), the United States releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain land located in the municipality of Anchorage, Alaska, more particularly described as Tracts 22 and 24 of the Fourth Addition to the Town Site of Anchorage, Alaska, as shown on the plat of U.S. Survey No. 1456, accepted June 13, 1923, on file in the Bureau of Land Management, Department of Interior.

(b) GRANTS.—Notwithstanding any other provision of law, the municipality of Anchorage shall be released from the repayment of any outstanding grant obligations owed by the municipality to the Federal Aviation Administration with respect to any land described in subsection (a) that is subsequently conveyed to or used by the Department of Transportation and Public Facilities of the State of Alaska for the construction or reconstruction of a federally subsidized highway project.

SEC. 219. RELEASE FROM RESTRICTIONS.

(a) IN GENERAL.—Subject to subsection (b), and notwithstanding section 16 of the Federal Airport Act (as in effect on August 28, 1973) and sections 47125 and 47153 of title 49, United States Code, the Secretary of Transportation is authorized to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated August 28, 1973, under which the United States conveyed certain property to the city of St. George, Utah, for airport purposes.

(b) CONDITION.—Any release granted by the Secretary of Transportation pursuant to subsection (a) shall be subject to the following conditions:

(1) The city of St. George, Utah, shall agree that in conveying any interest in the property which the United States conveyed to the city by deed on August 28, 1973, the city will receive an amount for such interest which is equal to its fair market value.

(2) Any amount received by the city under paragraph (1) shall be used by the city of St. George, Utah, for the development or improvement of a replacement public airport.

SEC. 220. DESIGNATION OF FORMER MILITARY AIRPORTS.

Section 47118(g) is amended by striking ''one'' and inserting ''three'' in its place.

SEC. 221. AIRPORT SUSTAINABILITY PLANNING WORKING GROUP.

(a) IN GENERAL.—The Administrator shall establish an airport sustainability working group to assist the Administrator with issues pertaining to airport sustainability practices.

(b) MEMBERSHIP.—The Working Group shall be comprised of not more than 15 members including—

(1) the Administrator;

(2) 5 member organizations representing aviation interests including:

(A) an organization representing airport operators;

(B) an organization representing airport employees;

(C) an organization representing air carriers;

(D) an organization representing airport development and operations experts;

(E) a labor organization representing aviation employees.

(3) 9 airport chief executive officers which shall include:

(A) at least one from each of the FAA Regions;

(B) at least 1 large hub;

(C) at least 1 medium hub;

(D) at least 1 small hub;

(E) at least 1 non hub;

(F) at least 1 general aviation airport.

(c) FUNCTIONS.—

(1) develop consensus-based best practices and metrics for the sustainable design, construction, planning, maintenance, and operation of an airport that comply with the guidelines prescribed by the Administrator;

(2) develop standards for a consensus-based rating system based on the aforementioned best practices, metrics, and ratings; and

(3) develop standards for a voluntary ratings process, based on the aforementioned best practices, metrics, and ratings;

(4) examine and submit recommendations for the industry's next steps with regard to sustainability.

(d) DETERMINATION.—The Administrator shall provide assurance that the best practices developed by the working group under paragraph (a) are not in conflict with any federal aviation or federal, state or local environmental regulation.

(e) UNPAID POSITION.—Working Group members shall serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

(f) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group under this section.

(g) REPORT.—Not later than one year after the date of enactment the Working Group shall submit a report to the Administrator containing the best practices and standards contained in paragraph (c). After receiving the report, the Administrator may publish such best practices in order to disseminate the information to support the sustainable design, construction, planning, maintenance, and operations of airports.

(h) No funds may be authorized to carry out this provision.

SEC. 222. INCLUSION OF MEASURES TO IMPROVE THE EFFICIENCY OF AIRPORT BUILDINGS IN AIRPORT IMPROVEMENT PROJECTS.

Section 47101(a) is amended—

(1) in paragraph (12), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (13), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(14) that the airport improvement program should be administered to allow measures to improve the efficiency of airport buildings to be included in airport improvement projects, such as measures designed to meet one or more of the criteria for being a high-performance green building set forth in section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13)), if any significant increase in upfront project costs from any such measure is justified by expected savings over the lifecycle of the project.''.

SEC. 223. STUDY ON APPORTIONING AMOUNTS FOR AIRPORT IMPROVEMENT IN PROPORTION TO AMOUNTS OF AIR TRAFFIC.

(a) STUDY AND REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) complete a study on the feasibility and advisability of apportioning amounts under section 47114(c)(1) of title 49, United States Code, to the sponsor of each primary airport for each fiscal year an amount that bears the same ratio to the amount subject to the apportionment for fiscal year 2009 as the number of passenger boardings at the airport during the prior calendar year bears to the aggregate of all passenger boardings at all primary airports during that calendar year; and

(2) submit to Congress a report on the study completed under paragraph (1).

(b) REPORT CONTENTS.—The report required by subsection (a)(2) shall include the following:

(1) A description of the study carried out under subsection (a)(1).

(2) The findings of the Administrator with respect to such study.

(3) A list of each sponsor of a primary airport that received an amount under section 47114(c)(1) of title 49, United States Code, in 2009.

(4) For each sponsor listed in accordance with paragraph (3), the following:

(A) The amount such sponsor received, if any, in 2005, 2006, 2007, 2008, and 2009 under such section 47114(c)(1).

(B) An explanation of how the amount awarded to such sponsor was determined.

(C) The average number of air passenger flights serviced each month at the airport of such sponsor in 2009.

(D) The number of enplanements for air passenger transportation at such airport in 2005, 2006, 2007, 2008, and 2009.

TITLE III—AIR TRAFFIC CONTROL MODERNIZATION AND FAA REFORM

SEC. 301. AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.

Section 106(p) is amended to read as follows:

''(p) AIR TRAFFIC CONTROL MODERNIZATION OVERSIGHT BOARD.—

''(1) ESTABLISHMENT.—Within 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement

Act, the Secretary shall establish and appoint the members of an advisory Board which shall be known as the Air Traffic Control Modernization Oversight Board.

''(2) MEMBERSHIP.—The Board shall be comprised of the individual appointed or designated under section 302 of the FAA Air Transportation Modernization and Safety Improvement Act (who shall serve ex officio without the right to vote) and 9 other members, who shall consist of—

''(A) the Administrator and a representative from the Department of Defense;

''(B) 1 member who shall have a fiduciary responsibility to represent the public interest; and

''(C) 6 members representing aviation interests, as follows:

''(i) 1 representative that is the chief executive officer of an airport.

''(ii) 1 representative that is the chief executive officer of a passenger or cargo air carrier.

''(iii) 1 representative of a labor organization representing employees at the Federal Aviation Administration that are involved with the operation of the air traffic control system.

''(iv) 1 representative with extensive operational experience in the general aviation community.

''(v) 1 representative from an aircraft manufacturer.

''(vi) 1 representative of a labor organization representing employees at the Federal Aviation Administration who are involved with maintenance of the air traffic control system.

''(3) APPOINTMENT AND QUALIFICATIONS.—

''(A) Members of the Board appointed under paragraphs (2)(B) and (2)(C) shall be appointed by the President, by and with the advice and consent of the Senate.

''(B) Members of the Board appointed under paragraph (2)(B) shall be citizens of the United States and shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas and, in the aggregate, should collectively bring to bear expertise in—

''(i) management of large service organizations;

''(ii) customer service;

''(iii) management of large procurements;

''(iv) information and communications technology;

''(v) organizational development; and

''(vi) labor relations.

''(C) Of the members first appointed under paragraphs (2)(B) and (2)(C)—

''(i) 2 shall be appointed for terms of 1 year;

''(ii) 1 shall be appointed for a term of 2 years;

''(iii) 1 shall be appointed for a term of 3 years; and

''(iv) 1 shall be appointed for a term of 4 years.

''(4) FUNCTIONS.—

''(A) IN GENERAL.—The Board shall—

''(i) review and provide advice on the Administration's modernization programs, budget, and cost accounting system;

''(ii) review the Administration's strategic plan and make recommendations on the nonsafety program portions of the plan, and provide advice on the safety programs of the plan;

''(iii) review the operational efficiency of the air traffic control system and make recommendations on the operational and performance metrics for that system;

''(iv) approve procurements of air traffic control equipment in excess of $100,000,000;

''(v) approve by July 31 of each year the Administrator's budget request for facilities and equipment prior to its submission to the Office of Management and budget, including which programs are proposed to be funded from the Air Traffic control system Modernization Account of the Airport and Airway Trust Fund;

''(vi) approve the Federal Aviation Administration's Capital Investment Plan prior to its submission to the Congress;

''(vii) annually review and make recommendations on the NextGen Implementation Plan;

''(viii) approve the Administrator's selection of the Chief NextGen Officer appointed or designated under section 302(a) of the FAA Air Transportation Modernization and Safety Improvement Act; and

''(ix) approve the selection of the head of the Joint Planning and Development Office.

''(B) MEETINGS.—The Board shall meet on a regular and periodic basis or at the call of the Chairman or of the Administrator.

''(C) ACCESS TO DOCUMENTS AND STAFF.—The Administration may give the Board appropriate access to relevant documents and personnel of the Administration, and the Administrator shall make available, consistent with the authority to withhold commercial and other proprietary information under section 552 of title 5, cost data associated with the acquisition and operation of air traffic control systems. Any member of the Board who receives commercial or other proprietary data from the Administrator shall be subject to the provisions of section 1905 of title 18, pertaining to unauthorized disclosure of such information.

''(5) FEDERAL ADVISORY COMMITTEE ACT NOT TO APPLY.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board or such rulemaking committees as the Administrator shall designate.

''(6) ADMINISTRATIVE MATTERS.—

''(A) TERMS OF MEMBERS.—Except as provided in paragraph (3)(C), members of the Board appointed under paragraph (2)(B) and (2)(C) shall be appointed for a term of 4 years.

''(B) REAPPOINTMENT.—No individual may be appointed to the Board for more than 8 years total.

''(C) VACANCY.—Any vacancy on the Board shall be filled in the same manner as the original position. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for a term of 4 years.

''(D) CONTINUATION IN OFFICE.—A member of the Board whose term expires shall continue to serve until the date on which the member's successor takes office.

''(E) REMOVAL.—Any member of the Board appointed under paragraph (2)(B) or (2)(C) may be removed by the President for cause.

''(F) CLAIMS AGAINST MEMBERS OF THE BOARD.—

''(i) IN GENERAL.—A member appointed to the Board shall have no personal liability under State or Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Board.

''(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

''(I) to affect any other immunity or protection that may be available to a member of the Board under applicable law with respect to such transactions;

''(II) to affect any other right or remedy against the United States under applicable law; or

''(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

''(G) ETHICAL CONSIDERATIONS.—Each member of the Board appointed under paragraph (2)(B) must certify that the member—

''(i) does not have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical enterprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

''(ii) does not engage in another business related to aviation or aeronautics; and

''(iii) is not a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

''(H) CHAIRMAN; VICE CHAIRMAN.—The Board shall elect a chair and a vice chair from among its members, each of whom shall serve for a term of 2 years. The vice chair shall perform the duties of the chairman in the absence of the chairman.

''(I) COMPENSATION.—No member shall receive any compensation or other benefits from the Federal Government for serving on the Board, except for compensation benefits for injuries under subchapter I of chapter 81 of title 5 and except as provided under subparagraph (J).

''(J) EXPENSES.—Each member of the Board shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5.

''(K) BOARD RESOURCES.—From resources otherwise available to the Administrator, the Chairman shall appoint such staff to assist the board and provide impartial analysis, and the Administrator shall make available to the Board such information and administrative services and assistance, as may reasonably be required to enable the Board to carry out its responsibilities under this subsection.

''(L) QUORUM AND VOTING.—A simple majority of members of the Board duly appointed shall constitute a quorum. A majority vote of members present and voting shall be required for the Committee to take action.

''(7) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this subsection, the term 'air traffic control system' has the meaning given that term in section 40102(a).''.

SEC. 302. NEXTGEN MANAGEMENT.

(a) IN GENERAL.—The Administrator shall appoint or designate an individual, as the Chief NextGen Officer, to be responsible for implementation of all Administration programs associated with the Next Generation Air Transportation System.

(b) SPECIFIC DUTIES.—The individual appointed or designated under subsection (a) shall—

(1) oversee the implementation of all Administration NextGen programs;

(2) coordinate implementation of those NextGen programs with the Office of Management and Budget;

(3) develop an annual NextGen implementation plan;

(4) ensure that Next Generation Air Transportation System implementation activities are planned in such a manner as to require that system architecture is designed to allow for the incorporation of novel and currently unknown technologies into the System in the future and that current decisions do not bias future decisions unfairly in favor of existing technology at the expense of innovation; and

(5) oversee the Joint Planning and Development Office's facilitation of cooperation among all Federal agencies whose operations and interests are affected by implementation of the NextGen programs.

SEC. 303. FACILITATION OF NEXT GENERATION AIR TRAFFIC SERVICES.

Section 106(l) is amended by adding at the end the following:

''(7) AIR TRAFFIC SERVICES.—In determining what actions to take, by rule or through an agreement or transaction under paragraph (6) or under section 44502, to permit non-Government providers of communications, navigation, surveillance or other services to provide such services in the National Airspace System, or to require the usage of such services, the Administrator shall consider whether such actions would—

''(A) promote the safety of life and property;

''(B) improve the efficiency of the National Airspace System and reduce the regulatory burden upon National Airspace System users, based upon sound engineering principles, user operational requirements, and marketplace demands;

''(C) encourage competition and provide services to the largest feasible number of users; and

''(D) take into account the unique role served by general aviation.''.

SEC. 304. CLARIFICATION OF AUTHORITY TO ENTER INTO REIMBURSABLE AGREEMENTS.

Section 106(m) is amended by striking ''without'' in the last sentence and inserting ''with or without''.

SEC. 305. CLARIFICATION TO ACQUISITION REFORM AUTHORITY.

Section 40110(c) is amended—

(1) by inserting ''and'' after the semicolon in paragraph (3);

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 306. ASSISTANCE TO OTHER AVIATION AUTHORITIES.

Section 40113(e) is amended—

(1) by inserting ''(whether public or private)'' in paragraph (1) after ''authorities'';

(2) by striking ''safety.'' in paragraph (1) and inserting ''safety or efficiency. The Administrator is authorized to participate in, and submit offers in response to, competitions to provide these services, and to contract with foreign aviation authorities to provide these services consistent with the provisions under section 106(l)(6) of this title. The Administrator is also authorized, notwithstanding any other provision of law or policy, to accept payments in arrears.''; and

(3) by striking ''appropriation from which expenses were incurred in providing such services.'' in paragraph (3) and inserting ''appropriation current when the expenditures are or were paid, or the appropriation current when the amount is received.''.

SEC. 307. PRESIDENTIAL RANK AWARD PROGRAM.

Section 40122(g)(2) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (G);

(2) by striking ''Board.'' in subparagraph (H) and inserting ''Board; and''; and

(3) by inserting at the end the following new subparagraph:

''(I) subsections (b), (c), and (d) of section 4507 (relating to Meritorious Executive or Distinguished Executive rank awards), and subsections (b) and (c) of section 4507a (relating to Meritorious Senior Professional or Distinguished Senior Professional rank awards), except that—

''(i) for purposes of applying such provisions to the personnel management system—

''(I) the term 'agency' means the Department of Transportation;

''(II) the term 'senior executive' means a Federal Aviation Administration executive;

''(III) the term 'career appointee' means a Federal Aviation Administration career executive; and

''(IV) the term 'senior career employee' means a Federal Aviation Administration career senior professional;

''(ii) receipt by a career appointee of the rank of Meritorious Executive or Meritorious Senior Professional entitles such individual to a lump-sum payment of an amount equal to 20 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan; and

''(iii) receipt by a career appointee of the rank of Distinguished Executive or Distinguished Senior Professional entitles the individual to a lump-sum payment of an amount equal to 35 percent of annual basic pay, which shall be in addition to the basic pay paid under the Federal Aviation Administration Executive Compensation Plan.''.

SEC. 308. NEXT GENERATION FACILITIES NEEDS ASSESSMENT.

(a) FAA CRITERIA FOR FACILITIES REALIGNMENT.—Within 9 months after the date of enactment of this Act, the Administrator, after providing an opportunity for public comment, shall publish final criteria to be used in making the Administrator's recommendations for the realignment of services and facilities to assist in the transition to next generation facilities and help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(b) REALIGNMENT RECOMMENDATIONS.—Within 9 months after publication of the criteria, the Administrator shall publish a list of the services and facilities that the Administrator recommends for realignment, including a justification for each recommendation and a description of the costs and savings of such transition, in the Federal Register and allow 45 days for the submission of public comments to the Board. In addition, the Administrator upon request shall hold a public hearing in any community that would be affected by a recommendation in the report.

(c) STUDY BY BOARD.—The Air Traffic Control Modernization Oversight Board established by section 106(p) of title 49, United States Code, shall study the Administrator's recommendations for realignment and the opportunities, risks, and benefits of realigning services and facilities of the Administration to help reduce capital, operating, maintenance, and administrative costs with no adverse effect on safety.

(d) REVIEW AND RECOMMENDATIONS.—

(1) Based on its review and analysis of the Administrator's recommendations and any public comment it may receive, the Board shall make its independent recommendations for realignment of aviation services or facilities and submit its recommendations in a report to the President, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure.

(2) The Board shall explain and justify in its report any recommendation made by the Board that is different from the recommendations made by the Administrator pursuant to subsection (b).

(3) The Administrator may not realign any air traffic control facilities or regional offices until the Board's recommendations are complete, unless for each proposed realignment the Administrator and each exclusive bargaining representative certified under section 7114 of title 5, United States Code, of affected employees execute a written agreement regarding the proposed realignment.

(e) REALIGNMENT DEFINED.—In this section, the term ''realignment''—

(1) means a relocation or reorganization of functions, services, or personnel positions, including a facility closure, consolidation, deconsolidation, collocation, decombining, decoupling, split, or inter-facility or inter-regional reorganization that requires a reassignment of employees; but

(2) does not include a reduction in personnel resulting from workload adjustments.

SEC. 309. NEXT GENERATION AIR TRANSPORTATION SYSTEM IMPLEMENTATION OFFICE.

(a) IMPROVED COOPERATION AND COORDINATION AMONG PARTICIPATING AGENCIES.—Section 709 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended—

(1) by inserting ''strategic and cross-agency'' after ''manage'' in subsection (a)(1);

(2) by adding at the end of subsection (a)(1) ''The office shall be headed by a Director, who shall report to the Chief NextGen Officer appointed or designated under section 302(a) of the FAA Air Transportation Modernization and Safety Improvement Act.'';

(3) by inserting ''(A)'' after ''(3)'' in subsection (a)(3);

(4) by inserting after subsection (a)(3) the following:

''(B) The Administrator, the Secretary of Defense, the Administrator of the National Aeronautics and Space Administration, the Secretary of Commerce, the Secretary of Homeland Security, and the head of any other Department or Federal agency from which the Secretary of Transportation requests assistance under subparagraph (A) shall designate an implementation office to be responsible for—

''(i) carrying out the Department or agency's Next Generation Air Transportation System implementation activities with the Office;

''(ii) liaison and coordination with other Departments and agencies involved in Next Generation Air Transportation System activities; and

''(iii) managing all Next Generation Air Transportation System programs for the Department or agency, including necessary budgetary and staff resources, including, for the Federal Aviation Administration, those projects described in section 44501(b)(5) of title 49, United States Code).

''(C) The head of any such Department or agency shall ensure that—

''(i) the Department's or agency's Next Generation Air Transportation System responsibilities are clearly communicated to the designated office; and

''(ii) the performance of supervisory personnel in that office in carrying out the Department's or agency's Next Generation Air Transportation System responsibilities is reflected in their annual performance evaluations and compensation decisions.

''(D)(i) Within 6 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the head of each such Department or agency shall execute a memorandum of understanding with the Office and with the other Departments and agencies participating in the Next Generation Air Transportation System project that—

''(I) describes the respective responsibilities of each such Department and agency, including budgetary commitments; and

''(II) the budgetary and staff resources committed to the project.

''(ii) The memorandum shall be revised as necessary to reflect any changes in such responsibilities or commitments and be reflected in each Department or agency's budget request.'';

(5) by striking ''beyond those currently included in the Federal Aviation Administration's operational evolution plan'' in subsection (b);

(6) by striking ''research and development roadmap'' in subsection (b)(3) and inserting ''implementation plan'';

(7) by striking ''and'' after the semicolon in subsection (b)(3)(B);

(8) by inserting after subsection (b)(3)(C) the following:

''(D) a schedule of rulemakings required to issue regulations and guidelines for implementation of the Next Generation Air Transportation System within a timeframe consistent with the integrated plan; and'';

(9) by inserting ''and key technologies'' after ''concepts'' in subsection (b)(4);

(10) by striking ''users'' in subsection (b)(4) and inserting ''users, an implementation plan,'';

(11) by adding at the end of subsection (b) the following:

''Within 6 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Administrator shall develop the implementation plan described in paragraph (3) of this subsection and shall update it annually thereafter.''; and

(12) by striking ''2010.'' in subsection (e) and inserting ''2011.''.

(b) SENIOR POLICY COMMITTEE MEETINGS.—Section 710(a) of such Act (49 U.S.C. 40101 note) is amended by striking ''Secretary.'' and inserting ''Secretary and shall meet at least once each quarter.''.

SEC. 310. DEFINITION OF AIR NAVIGATION FACILITY.

Section 40102(a)(4) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) runway lighting and airport surface visual and other navigation aids;'';

(2) by striking ''weather information, signaling, radio-directional finding, or radio or other electromagnetic communication; and'' in subparagraph (C) and inserting ''aeronautical and meteorological information to air traffic control facilities or aircraft, supplying communication, navigation or surveillance equipment for air-to-ground or air-to-air applications;'';

(3) by striking ''another structure'' in subparagraph (D) and inserting ''any structure, equipment,'';

(4) by striking ''aircraft.'' in subparagraph (D) and inserting ''aircraft; and''; and

(5) by adding at the end the following:

''(E) buildings, equipment, and systems dedicated to the National Airspace System.''.

SEC. 311. IMPROVED MANAGEMENT OF PROPERTY INVENTORY.

Section 40110(a)(2) is amended by striking ''compensation; and'' and inserting ''compensation, and the amount received may be credited to the appropriation current when the amount is received; and''.

SEC. 312. EDUCATIONAL REQUIREMENTS.

The Administrator shall make payments to the Department of Defense for the education of dependent children of those Administration employees in Puerto Rico and Guam as they are subject to transfer by policy and practice and meet the eligibility requirements of section 2164(c) of title 10, United States Code.

SEC. 313. FAA PERSONNEL MANAGEMENT SYSTEM.

Section 40122(a)(2) is amended to read as follows:

''(2) DISPUTE RESOLUTION.—

''(A) MEDIATION.—If the Administrator does not reach an agreement under paragraph (1) or subsection (g)(2)(C) with the exclusive bargaining representatives, the services of the Federal Mediation and Conciliation Service shall be used to attempt to reach such agreement in accordance with part 1425 of title 29, Code of Federal Regulations. The Administrator and bargaining representatives may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement.

''(B) BINDING ARBITRATION.—If the services of the Federal Mediation and Conciliation Service under subparagraph (A) do not lead to an agreement, the Administrator and the bargaining representatives shall submit their issues in controversy to the Federal Service Impasses Panel in accordance with section 7119 of title 5. The Panel shall assist the parties in resolving the impasse by asserting jurisdiction and ordering binding arbitration by a private arbitration board consisting of 3 members in accordance with section 2471.6(a)(2)(ii) of title 5, Code of Federal Regulations. The executive director of the Panel shall request a list of not less than 15 names of arbitrators with Federal sector experience from the director of the Federal Mediation and Conciliation Service to be provided to the Administrator and the bargaining representatives. Within 10 days after receiving the list, the parties shall each select 1 person. The 2 arbitrators shall then select a third person from the list within 7 days. If the 2 arbitrators are unable to agree on the third person, the parties shall select the third person by alternately striking names from the list until only 1 name remains. If the parties do not agree on the framing of the issues to be submitted, the arbitration board shall frame the issues. The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 90 days after its appointment. The Administrator and the bargaining representative shall share costs of the arbitration equally. The arbitration board shall take into consideration the effect of its arbitration decisions on the Federal Aviation Administration's ability to attract and retain a qualified workforce and the Federal Aviation Administration's budget.

''(C) EFFECT.—Upon reaching a voluntary agreement or at the conclusion of the binding arbitration under subparagraph (B) above, the final agreement, except for those matters decided by the arbitration board, shall be subject to ratification by the exclusive representative, if so requested by the exclusive representative, and approval by the head of the agency in accordance with subsection (g)(2)(C).

''(D) ENFORCEMENT.—Enforcement of the provisions of this paragraph shall be in the United States District Court for the District of Columbia.''.

SEC. 314. ACCELERATION OF NEXTGEN TECHNOLOGIES.

(a) OEP AIRPORT PROCEDURES.—

(1) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, air carriers, general aviation representatives, and aircraft manufacturers that includes the following:

(A) RNP/RNAV OPERATIONS.—The required navigation performance and area navigation operations, including the procedures to be developed, certified, and published and the air traffic control operational changes, to maximize the efficiency and capacity of NextGen commercial operations at the 35 Operational Evolution Partnership airports identified by the Administration.

(B) COORDINATION AND IMPLEMENTATION ACTIVITIES.—A description of the activities and operational changes and approvals required to coordinate and utilize those procedures at those airports.

(C) IMPLEMENTATION PLAN.—A plan for implementing those procedures that establishes—

(i) clearly defined budget, schedule, project organization, and leadership requirements;

(ii) specific implementation and transition steps; and

(iii) baseline and performance metrics for measuring the Administration's progress in implementing the plan, including the percentage utilization of required navigation performance in the National Airspace System.

(D) COST/BENEFIT ANALYSIS FOR THIRD-PARTY USAGE.—An assessment of the costs and benefits of using third parties to assist in the development of the procedures.

(E) ADDITIONAL PROCEDURES.—A process for the identification, certification, and publication of additional required navigation performance and area navigation procedures that may be required at such airports in the future.

(2) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 30 percent of the required procedures within 18 months after the date of enactment of this Act;

(B) 60 percent of the procedures within 36 months after the date of enactment of this Act; and

(C) 100 percent of the procedures before January 1, 2014.

(b) EXPANSION OF PLAN TO OTHER AIRPORTS.—

(1) IN GENERAL.—No later than January 1, 2014, the Administrator shall publish a report, after consultation with representatives of appropriate Administration employee groups, airport operators, and air carriers, that includes a plan for applying the procedures, requirements, criteria, and metrics described in subsection (a)(1) to other airports across the Nation.

(2) IMPLEMENTATION SCHEDULE.—The Administrator shall certify, publish, and implement—

(A) 25 percent of the required procedures at such other airports before January 1, 2015;

(B) 50 percent of the procedures at such other airports before January 1, 2016;

(C) 75 percent of the procedures at such other airports before January 1, 2017; and

(D) 100 percent of the procedures before January 1, 2018.

(c) ESTABLISHMENT OF PRIORITIES.—The Administrator shall extend the charter of the Performance Based Navigation Aviation Rulemaking Committee as necessary to authorize and request it to establish priorities for the development, certification, publication, and implementation of the navigation performance and area navigation procedures based on their potential safety and congestion benefits.

(d) COORDINATED AND EXPEDITED REVIEW.—Navigation performance and area navigation procedures developed, certified, published, and implemented under this section shall be presumed to be covered by a categorical exclusion (as defined in section 1508.4 of title 40, Code of Federal Regulations) under chapter 3 of FAA Order 1050.1E unless the Administrator determines that extraordinary circumstances exist with respect to the procedure.

(e) DEPLOYMENT PLAN FOR NATIONWIDE DATA COMMUNICATIONS SYSTEM.—Within 1 year after the date of enactment of this Act, the Administrator shall submit a plan for implementation of a nationwide communications system to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The plan shall include—

(1) clearly defined budget, schedule, project organization, and leadership requirements;

(2) specific implementation and transition steps; and

(3) baseline and performance metrics for measuring the Administration's progress in implementing the plan.

(f) IMPROVED PERFORMANCE STANDARDS.—Within 90 days after the date of enactment of this Act, the Administrator shall submit a report to the Senate committee on commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that—

(1) evaluates whether utilization of ADS–B, RNP, and other technologies as part of the NextGen Air Transportation System implementation plan will display the position of aircraft more accurately and frequently so as to enable a more efficient use of existing airspace and result in reduced consumption of aviation fuel and aircraft engine emissions;

(2) evaluates the feasibility of reducing aircraft separation standards in a safe manner as a result of implementation of such technologies; and

(3) if the Administrator determines that such standards can be reduced safely, includes a timetable for implementation of such reduced standards.

SEC. 315. ADS–B DEVELOPMENT AND IMPLEMENTATION.

(a) IN GENERAL.—

(1) REPORT REQUIRED.—Within 90 days after the date of enactment of this Act, the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure detailing the Administration's program and schedule for integrating ADS–B technology into the National Airspace System. The report shall include—

(A) a clearly defined budget, schedule, project organization, leadership, and the specific implementation or transition steps required to achieve these ADS–B ground station installation goals;

(B) a transition plan for ADS–B that includes date-specific milestones for the implementation of new capabilities into the National Airspace System;

(C) identification of any potential operational or workforce changes resulting from deployment of ADS–B;

(D) detailed plans and schedules for implementation of advanced operational procedures and ADS–B air-to-air applications; and

(E) baseline and performance metrics in order to measure the agency's progress.

(2) IDENTIFICATION AND MEASUREMENT OF BENEFITS.—In the report required by paragraph (1), the Administrator shall identify actual benefits that will accrue to National Airspace System users, small and medium-sized airports, and general aviation users from deployment of ADS–B and provide an explanation of the metrics used to quantify those benefits.

(b) RULEMAKINGS.—

(1) ADS–B OUT.—Not later than 45 days after the date of enactment of this Act the Administrator shall—

(A) complete the initial rulemaking proceeding (Docket No. FAA–2007–29305; Notice No. 07–15; 72 FR 56947) to issue guidelines and regulations for ADS–B Out technology that—

(i) identify the ADS–B Out technology that will be required under NextGen;

(ii) subject to paragraph (3), require all aircraft to be equipped with such technology by 2015; and

(iii) identify—

(I) the type of such avionics required of aircraft for all classes of airspace;

(II) the expected costs associated with the avionics; and

(III) the expected uses and benefits of the avionics; and

(B) initiate a rulemaking proceeding to issue any additional guidelines and regulations for ADS–B Out technology not addressed in the initial rulemaking.

(2) ADS–B IN.—Not later than 45 days after the date of enactment of this Act the Administrator shall initiate a rulemaking proceeding to issue guidelines and regulations for ADS–B In technology that—

(A) identify the ADS–B In technology that will be required under NextGen;

(B) subject to paragraph (3), require all aircraft to be equipped with such technology by 2018; and

(C) identify—

(i) the type of such avionics required of aircraft for all classes of airspace;

(ii) the expected costs associated with the avionics; and

(iii) the expected uses and benefits of the avionics.

(3) READINESS VERIFICATION.—Before the date on which all aircraft are required to be equipped with ADS–B technology pursuant to rulemakings under paragraphs (1) and (2), the Air Traffic Control Modernization Oversight Board shall verify that—

(A) the necessary ground infrastructure is installed and functioning properly;

(B) certification standards have been approved; and

(C) appropriate operational platforms interface safely and efficiently.

(c) USES.—Within 18 months after the date of enactment of this Act, the Administrator shall develop, in consultation with appropriate employee groups, a plan for the use of ADS–B technology for surveillance and active air traffic control by 2015. The plans shall—

(1) include provisions to test the use of ADS–B prior to the 2015 deadline for surveillance and active air traffic control in specific regions of the country with the most congested airspace;

(2) identify the equipment required at air traffic control facilities and the training required for air traffic controllers;

(3) develop procedures, in consultation with appropriate employee groups, to conduct air traffic management in mixed equipage environments; and

(4) establish a policy in these test regions, with consultation from appropriate employee groups, to provide incentives for equipage with ADS–B technology by giving priority to aircraft equipped with such technology before the 2015 and 2018 equipage deadlines.

(d) CONDITIONAL EXTENSION OF DEADLINES FOR EQUIPPING AIRCRAFT WITH ADS–B TECHNOLOGY.—

(1) ADS–B OUT.—In the case that the Administrator fails to complete the initial rulemaking described in subparagraph (A) of subsection (b)(1) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in clause (ii) of such subparagraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator completes such initial rulemaking.

(2) ADS–B IN.—In the case that the Administrator fails to initiate the rulemaking required by paragraph (2) of subsection (b) on or before the date that is 45 days after the date of the enactment of this Act, the deadline described in subparagraph (B) of such paragraph shall be extended by an amount of time that is equal to the amount of time of the period beginning on the date that is 45 days after the date of the enactment of this Act and ending on the date on which the Administrator initiates such rulemaking.

SEC. 316. EQUIPAGE INCENTIVES.

(a) IN GENERAL.—The Administrator shall issue a report that—

(1) identifies incentive options to encourage the equipage of aircraft with NextGen technologies, including a policy that gives priority to aircraft equipped with ADS–B technology;

(2) identifies the costs and benefits of each option; and

(3) includes input from industry stakeholders, including passenger and cargo air carriers, aerospace manufacturers, and general aviation aircraft operators.

(b) DEADLINE.—The Administrator shall issue the report before the earlier of—

(1) the date that is 6 months after the date of enactment of this Act; or

(2) the date on which aircraft are required to be equipped with ADS–B technology pursuant to rulemakings under section 315(b) of this Act.

SEC. 317. PERFORMANCE METRICS.

(a) IN GENERAL.—No later than June 1, 2010, the Administrator shall establish and track National Airspace System performance metrics, including, at a minimum—

(1) the allowable operations per hour on runways;

(2) average gate-to-gate times;

(3) fuel burned between key city pairs;

(4) operations using the advanced procedures implemented under section 314 of this Act;

(5) average distance flown between key city pairs;

(6) time between pushing back from the gate and taking off;

(7) uninterrupted climb or descent;

(8) average gate arrival delay for all arrivals;

(9) flown versus filed flight times for key city pairs; and

(10) metrics to demonstrate reduced fuel burn and reduced emissions.

(b) OPTIMAL BASELINES.—The Administrator, in consultation with aviation industry stakeholders, shall identify optimal baselines for each of these metrics and appropriate methods to measure deviations from these baselines.

(c) PUBLICATION.—The Administration shall make the data obtained under subsection (a) available to the public in a searchable, sortable, downloadable format through its website and other appropriate media.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(A) a description of the metrics that will be used to measure the Administration's progress in implementing NextGen Air Transportation System capabilities and operational results; and

(B) information about how any additional metrics were developed.

(2) ANNUAL PROGRESS REPORT.—The Administrator shall submit an annual progress report to those committees on the Administration's progress in implementing NextGen Air Transportation System.

SEC. 318. CERTIFICATION STANDARDS AND RESOURCES.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator shall develop a plan to accelerate and streamline the process for certification of NextGen technologies, including—

(1) updated project plans and timelines to meet the deadlines established by this title;

(2) identification of the specific activities needed to certify core NextGen technologies, including the establishment of NextGen technical requirements for the manufacture of equipage, installation of equipage, airline operational procedures, pilot training standards, air traffic control procedures, and air traffic controller training;

(3) staffing requirements for the Air Certification Service and the Flight Standards Service, and measures addressing concerns expressed by the Department of Transportation Inspector General and the Comptroller General regarding staffing needs for modernization;

(4) an assessment of the extent to which the Administration will use third parties in the certification process, and the cost and benefits of this approach; and

(5) performance metrics to measure the Administration's progress.

(b) CERTIFICATION INTEGRITY.—The Administrator shall make no distinction between public or privately owned equipment, systems, or services used in the National Airspace System when determining certification requirements.

SEC. 319. REPORT ON FUNDING FOR NEXTGEN TECHNOLOGY.

Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall submit to Congress a report that contains—

(1) a financing proposal that—

(A) uses innovative methods to fully fund the development and implementation of technology for the Next Generation Air Transportation System in a manner that does not increase the Federal deficit; and

(B) takes into consideration opportunities for involvement by public-private partnerships; and

(C) recommends creative financing proposals other than user fees or higher taxes; and

(2) recommendations with respect to how the Administrator and Congress can provide operational benefits, such as benefits relating to preferred airspace, routings, or runway access, for all aircraft, including air carriers and general aviation, that equip their aircraft with technology necessary for the operation of the Next Generation Air Transportation System before the date by which the Administrator requires the use of such technology.

SEC. 320. UNMANNED AERIAL SYSTEMS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Administrator shall develop a plan to accelerate the integration of unmanned aerial systems into the National Airspace System that—

(1) creates a pilot project to integrate such vehicles into the National Airspace System at 4 test sites in the National Airspace System by 2012;

(2) creates a safe, non-exclusionary airspace designation for cooperative manned and unmanned flight operations in the National Airspace System;

(3) establishes a process to develop certification, flight standards, and air traffic requirements for such vehicles at the test sites;

(4) dedicates funding for unmanned aerial systems research and development to certification, flight standards, and air traffic requirements;

(5) encourages leveraging and coordination of such research and development activities with the National Aeronautics and Space Administration and the Department of Defense;

(6) addresses both military and civilian unmanned aerial system operations;

(7) ensures the unmanned aircraft systems integration plan is incorporated in the Administration's NextGen Air Transportation System implementation plan; and

(8) provides for verification of the safety of the vehicles and navigation procedures before their integration into the National Airspace System.

(b) TEST SITE CRITERIA.—The Administrator shall take into consideration geographical and climate diversity in determining where the test sites to be established under the pilot project required by subsection (a)(1) are to be located.

SEC. 321. SURFACE SYSTEMS PROGRAM OFFICE.

(a) IN GENERAL.—The Air Traffic Organization shall—

(1) evaluate the Airport Surface Detection Equipment-Model X program for its potential contribution to implementation of the NextGen initiative;

(2) evaluate airport surveillance technologies and associated collaborative surface management software for potential contributions to implementation of NextGen surface management;

(3) accelerate implementation of the program; and

(4) carry out such additional duties as the Administrator may require.

(b) EXPEDITED CERTIFICATION AND UTILIZATION.—The Administrator shall—

(1) consider options for expediting the certification of Ground Based Augmentation System technology; and

(2) develop a plan to utilize such a system at the 35 Operational Evolution Partnership airports by September 30, 2012.

SEC. 322. STAKEHOLDER COORDINATION.

(a) IN GENERAL.—The Administrator shall establish a process for including qualified employees selected by each exclusive collective bargaining representative of employees of the Administration who are likely to be affected by the planning, development, and deployment of air traffic control modernization projects (including the Next Generation Air Transportation System) in, and collaborating with, such employees in the planning, development, and deployment of those projects.

(b) PARTICIPATION.—

(1) BARGAINING OBLIGATIONS AND RIGHTS.—Participation in the process described in subsection (a) shall not be construed as a waiver of any bargaining obligations or rights under section 40122(a)(1) or 40122(g)(2)(C) of title 49, United States Code.

(2) CAPACITY AND COMPENSATION.—Exclusive collective bargaining representatives and selected employees participating in the process described in subsection (a) shall—

(A) serve in a collaborative and advisory capacity; and

(B) receive appropriate travel and per diem expenses in accordance with the travel policies of the Administration in addition to any regular compensation and benefits.

(c) REPORT.—No later than 180 days after the date of enactment of this Act, the Administrator shall submit a report on the implementation of this section to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

SEC. 323. FAA TASK FORCE ON AIR TRAFFIC CONTROL FACILITY CONDITIONS.

(a) ESTABLISHMENT.—The Administrator shall establish a special task force to be known as the ''FAA Task Force on Air Traffic Control Facility Conditions''.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Task Force shall be composed of 11 members of whom—

(A) 7 members shall be appointed by the Administrator; and

(B) 4 members shall be appointed by labor unions representing employees who work at field facilities of the Administration.

(2) QUALIFICATIONS.—Of the members appointed by the Administrator under paragraph (1)(A)—

(A) 4 members shall be specialists on toxic mold abatement, ''sick building syndrome,'' and other hazardous building conditions that can lead to employee health concerns and shall be appointed by the Administrator in consultation with the Director of the National Institute for Occupational Safety and Health; and

(B) 2 members shall be specialists on the rehabilitation of aging buildings.

(3) TERMS.—Members shall be appointed for the life of the Task Force.

(4) VACANCIES.—A vacancy in the Task Force shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) CHAIRPERSON.—The Administrator shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as chairperson of the Task Force.

(d) TASK FORCE PERSONNEL MATTERS.—

(1) STAFF.—The Task Force may appoint and fix the pay of such personnel as it considers appropriate.

(2) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson of the Task Force, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Task Force to assist it in carrying out its duties under this section.

(3) OTHER STAFF AND SUPPORT.—Upon request of the Task Force or a panel of the Task Force, the Administrator shall provide the Task Force or panel with professional and administrative staff and other support, on a reimbursable basis, to the Task Force to assist it in carrying out its duties under this section.

(e) OBTAINING OFFICIAL DATA.—The Task Force may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Task Force to carry out its duties under this section. Upon request of the chairperson of the Task Force, the head of that department or agency shall furnish such information to the Task Force.

(f) DUTIES.—

(1) STUDY.—The Task Force shall undertake a study of—

(A) the conditions of all air traffic control facilities across the Nation, including towers, centers, and terminal radar air control;

(B) reports from employees of the Administration relating to respiratory ailments and other health conditions resulting from exposure to mold, asbestos, poor air quality, radiation and facility-related hazards in facilities of the Administration;

(C) conditions of such facilities that could interfere with such employees' ability to effectively and safely perform their duties;

(D) the ability of managers and supervisors of such employees to promptly document and seek remediation for unsafe facility conditions;

(E) whether employees of the Administration who report facility-related illnesses are treated fairly;

(F) utilization of scientifically approved remediation techniques in a timely fashion once hazardous conditions are identified in a facility of the Administration; and

(G) resources allocated to facility maintenance and renovation by the Administration.

(2) FACILITY CONDITION INDICES.—The Task Force shall review the facility condition indices of the Administration for inclusion in the recommendations under subsection (g).

(g) RECOMMENDATIONS.—Based on the results of the study and review of the facility condition indices under subsection (f), the Task Force shall make recommendations as it considers necessary to—

(1) prioritize those facilities needing the most immediate attention in order of the greatest risk to employee health and safety;

(2) ensure that the Administration is using scientifically approved remediation techniques in all facilities; and

(3) assist the Administration in making programmatic changes so that aging air traffic control facilities do not deteriorate to unsafe levels.

(h) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Task Force are completed, the Task Force shall submit a report to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure on the activities of the Task Force, including the recommendations of the Task Force under subsection (g).

(i) IMPLEMENTATION.—Within 30 days after receipt of the Task Force report under subsection (h), the Administrator shall submit to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation a report that includes a plan and timeline to implement the recommendations of the Task Force and to align future budgets and priorities of the Administration accordingly.

(j) TERMINATION.—The Task Force shall terminate on the last day of the 30-day period beginning on the date on which the report under subsection (h) is submitted.

(k) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

SEC. 324. STATE ADS–B EQUIPAGE BANK PILOT PROGRAM.

(a) IN GENERAL.—

(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary of Transportation may enter into cooperative agreements with not to exceed 5 States for the establishment of State ADS–B equipage banks for making loans and providing other assistance to public entities for projects eligible for assistance under this section.

(b) FUNDING.—

(1) SEPARATE ACCOUNT.—An ADS–B equipage bank established under this section shall maintain a separate aviation trust fund account for Federal funds contributed to the bank under paragraph (2). No Federal funds contributed or credited to an account of an ADS–B equipage bank established under this section may be commingled with Federal funds contributed or credited to any other account of such bank.

(2) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $25,000,000 for each of fiscal years 2010 through 2014.

(c) FORMS OF ASSISTANCE FROM ADS–B EQUIPAGE BANKS.—An ADS–B equipage bank established under this section may make loans or provide other assistance to a public entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other assistance provided for such project may be subordinated to any other debt financing for the project.

(d) QUALIFYING PROJECTS.—Federal funds in the ADS–B equipage account of an ADS–B equipage bank established under this section may be used only to provide assistance with respect to aircraft ADS–B and related avionics equipage.

(e) REQUIREMENTS.—In order to establish an ADS–B equipage bank under this section, each State establishing such a bank shall—

(1) contribute, at a minimum, in each account of the bank from non-Federal sources an

amount equal to 50 percent of the amount of each capitalization grant made to the State and contributed to the bank;

(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

(3) ensure that investment income generated by funds contributed to an account of the bank will be—

(A) credited to the account;

(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;

(5) ensure that the term for repaying any loan will not exceed 10 years after the date of the first payment on the loan; and

(6) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year for which funds are made available under this section, and to make such other reports as the Secretary may require by guidelines.

SEC. 325. IMPLEMENTATION OF INSPECTOR GENERAL ATC RECOMMENDATIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, but no later than 1 year after that date, the Administrator of the Federal Aviation Administration shall—

(1) provide the Los Angeles International Air Traffic Control Tower facility, the Southern California Terminal Radar Approach Control facility, and the Northern California Terminal Radar Approach Control facility a sufficient number of contract instructors, classroom space (including off-site locations as needed), and simulators for a surge in the number of new air traffic controllers at those facilities;

(2) to the greatest extent practicable, distribute the placement of new trainee air traffic controllers at those facilities evenly across the calendar year in order to avoid training bottlenecks;

(3) commission an independent analysis, in consultation with the Administration and the exclusive bargaining representative of air traffic controllers certified under section 7111 of title 5, United States Code, of overtime scheduling practices at those facilities; and

(4) to the greatest extent practicable, provide priority to certified professional controllers-in-training when filling staffing vacancies at those facilities.

(b) STAFFING ANALYSES AND REPORTS.—For the purposes of—

(1) the Federal Aviation Administration's annual controller workforce plan,

(2) the Administration's facility-by-facility authorized staffing ranges, and

(3) any report of air traffic controller staffing levels submitted to the Congress,

the Administrator may not consider an individual to be an air traffic controller unless that individual is a certified professional controller.

SEC. 326. SEMIANNUAL REPORT ON STATUS OF GREENER SKIES PROJECT.

(a) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the strategy of the Administrator for implementing, on an accelerated basis, the NextGen operational capabilities produced by the Greener Skies project, as recommended in the final report of the RTCA NextGen Mid-Term Implementation Task Force that was issued on September 9, 2009.

(b) SUBSEQUENT REPORTS.—

(1) IN GENERAL.—Not later than 180 days after the Administrator submits to Congress the report required by subsection (a) and not less frequently than once every 180 days thereafter until September 30, 2011, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress of the Administrator in carrying out the strategy described in the report submitted under subsection (a).

(2) CONTENTS.—Each report submitted under paragraph (1) shall include the following:

(A) A timeline for full implementation of the strategy described in the report submitted under subsection (a).

(B) A description of the progress made in carrying out such strategy.

(C) A description of the challenges, if any, encountered by the Administrator in carrying out such strategy.

SEC. 327. DEFINITIONS.

In this title:

(1) ADMINISTRATION.—The term ''Administration'' means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(3) NEXTGEN.—The term ''NextGen'' means the Next Generation Air Transportation System.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 328. FINANCIAL INCENTIVES FOR NEXTGEN EQUIPAGE.

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into agreements to fund the costs of equipping aircraft with communications, surveillance, navigation, and other avionics to enable NextGen air traffic control capabilities.

(b) FUNDING INSTRUMENT.—The Administrator may make grants or other instruments authorized under section 106(l)(6) of title 49, United States Code, to carry out subsection (a).

TITLE IV—AIRLINE SERVICE AND SMALL COMMUNITY AIR SERVICE IMPROVEMENTS

SUBTITLE A—CONSUMER PROTECTION

SEC. 401. AIRLINE CUSTOMER SERVICE COMMITMENT.

(a) IN GENERAL.—Chapter 417 is amended by adding at the end the following:

''SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

''§ 41781. Air carrier and airport contingency plans for long on-board tarmac delays

''(a) DEFINITION OF TARMAC DELAY.—The term 'tarmac delay' means the holding of an aircraft on the ground before taking off or after landing with no opportunity for its passengers to deplane.

''(b) SUBMISSION OF AIR CARRIER AND AIRPORT PLANS.—Not later than 60 days after the date of the enactment of the FAA Air Transportation Modernization and Safety Improvement Act, each air carrier and airport operator shall submit, in accordance with the requirements under this section, a proposed contingency plan to the Secretary of Transportation for review and approval.

''(c) MINIMUM STANDARDS.—The Secretary of Transportation shall establish minimum standards for elements in contingency plans required to be submitted under this section to ensure that such plans effectively address long on-board tarmac delays and provide for the health and safety of passengers and crew.

''(d) AIR CARRIER PLANS.—The plan shall require each air carrier to implement at a minimum the following:

''(1) PROVISION OF ESSENTIAL SERVICES.—Each air carrier shall provide for the essential needs of passengers on board an aircraft at an airport in any case in which the departure of a flight is delayed or disembarkation of passengers on an arriving flight that has landed is substantially delayed, including—

''(A) adequate food and potable water;

''(B) adequate restroom facilities;

''(C) cabin ventilation and comfortable cabin temperatures; and

''(D) access to necessary medical treatment.

''(2) RIGHT TO DEPLANE.—

''(A) IN GENERAL.—Each air carrier shall submit a proposed contingency plan to the Secretary of Transportation that identifies a clear time frame under which passengers would be permitted to deplane a delayed aircraft. After the Secretary has reviewed and approved the proposed plan, the air carrier shall make the plan available to the public.

''(B) DELAYS.—

''(i) IN GENERAL.—As part of the plan, except as provided under clause (iii), an air carrier shall provide passengers with the option of deplaning and returning to the terminal at which such deplaning could be safely completed, or deplaning at the terminal if—

''(I) 3 hours have elapsed after passengers have boarded the aircraft, the aircraft doors are closed, and the aircraft has not departed; or

''(II) 3 hours have elapsed after the aircraft has landed and the passengers on the aircraft have been unable to deplane.

''(ii) FREQUENCY.—The option described in clause (i) shall be offered to passengers at a minimum not less often than once during each successive 3-hour period that the plane remains on the ground.

''(iii) EXCEPTIONS.—This subparagraph shall not apply if—

''(I) the pilot of such aircraft reasonably determines that the aircraft will depart or be unloaded at the terminal not later than 30 minutes after the 3 hour delay; or

''(II) the pilot of such aircraft reasonably determines that permitting a passenger to deplane would jeopardize passenger safety or security.

''(C) APPLICATION TO DIVERTED FLIGHTS.—This section applies to aircraft without regard to whether they have been diverted to an airport other than the original destination.

''(D) REPORTS.—Not later than 30 days after any flight experiences a tarmac delay lasting at least 3 hours, the air carrier responsible for such flight shall submit a written description of the incident and its resolution to the Aviation Consumer Protection Office of the Department of Transportation.

''(e) AIRPORT PLANS.—Each airport operator shall submit a proposed contingency plan under subsection (b) that contains a description of—

''(1) how the airport operator will provide for the deplanement of passengers following a long tarmac delay; and

''(2) how, to the maximum extent practicable, the airport operator will provide for the sharing of facilities and make gates available at the airport for use by aircraft experiencing such delays.

''(f) UPDATES.—The Secretary shall require periodic reviews and updates of the plans as necessary.

''(g) APPROVAL.—

''(1) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Secretary of Transportation shall—

''(A) review the initial contingency plans submitted under subsection (b); and

''(B) approve plans that closely adhere to the standards described in subsections (d) or (e), whichever is applicable.

''(2) UPDATES.—Not later than 60 days after the submission of an update under subsection (f) or an initial contingency plan by a new air carrier or airport, the Secretary shall—

''(A) review the plan; and

''(B) approve the plan if it closely adheres to the standards described in subsections (d) or (e), whichever is applicable.

''(h) CIVIL PENALTIES.—The Secretary may assess a civil penalty under section 46301 against

any air carrier or airport operator that does not submit, obtain approval of, or adhere to a contingency plan submitted under this section.

''(i) PUBLIC ACCESS.—Each air carrier and airport operator required to submit a contingency plan under this section shall ensure public access to an approved plan under this section by—

''(1) including the plan on the Internet Web site of the carrier or airport; or

''(2) disseminating the plan by other means, as determined by the Secretary.

''§ 41782. Air passenger complaints hotline and information

''(a) AIR PASSENGER COMPLAINTS HOTLINE TELEPHONE NUMBER.—The Secretary of Transportation shall establish a consumer complaints hotline telephone number for the use of air passengers.

''(b) PUBLIC NOTICE.—The Secretary shall notify the public of the telephone number established under subsection (a).

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, which sums shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 417 is amended by adding at the end the following:

''SUBCHAPTER IV—AIRLINE CUSTOMER SERVICE

''41781. Air carrier and airport contingency plans for long on-board tarmac delays

''41782. Air passenger complaints hotline and information''.

SEC. 402. PUBLICATION OF CUSTOMER SERVICE DATA AND FLIGHT DELAY HISTORY.

(a) IN GENERAL.—Section 41722 is amended by adding at the end the following:

''(f) CHRONICALLY DELAYED FLIGHTS.—

''(1) PUBLICATION OF LIST OF FLIGHTS.—Each air carrier holding a certificate issued under section 41102 that conducts scheduled passenger air transportation shall, on a monthly basis—

''(A) publish and update on the Internet website of the air carrier a list of chronically delayed flights operated by such air carrier; and

''(B) share such list with each entity that is authorized to book passenger air transportation for such air carrier for inclusion on the Internet website of such entity.

''(2) DISCLOSURE TO CUSTOMERS WHEN PURCHASING TICKETS.—For each individual who books passenger air transportation on the Internet website of an air carrier, or the Internet website of an entity that is authorized to book passenger air transportation for an air carrier, for any flight for which data is reported to the Department of Transportation under part 234 of title 14, Code of Federal Regulations, such air carrier or entity, as the case may be, shall prominently disclose to such individual, before such individual makes such booking, the following:

''(A) The on-time performance for the flight if the flight is a chronically delayed flight.

''(B) The cancellation rate for the flight if the flight is a chronically canceled flight.

''(3) DEFINITIONS.—In this subsection:

''(A) CHRONICALLY DELAYED FLIGHT.—The term 'chronically delayed flight' means a regularly scheduled flight that has failed to arrive on time (as such term is defined in section 234.2 of title 14, Code of Federal Regulations) at least 40 percent of the time during the most recent 3-month period for which data is available.

''(B) CHRONICALLY CANCELED FLIGHT.—The term 'chronically canceled flight' means a regularly scheduled flight at least 30 percent of the departures of which have been canceled during the most recent 3-month period for which data is available.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 403. EXPANSION OF DOT AIRLINE CONSUMER COMPLAINT INVESTIGATIONS.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of Transportation shall investigate consumer complaints regarding—

(1) flight cancellations;

(2) compliance with Federal regulations concerning overbooking seats flights;

(3) lost, damaged, or delayed baggage, and difficulties with related airline claims procedures;

(4) problems in obtaining refunds for unused or lost tickets or fare adjustments;

(5) incorrect or incomplete information about fares, discount fare conditions and availability, overcharges, and fare increases;

(6) the rights of passengers who hold frequent flier miles, or equivalent redeemable awards earned through customer-loyalty programs; and

(7) deceptive or misleading advertising.

(b) BUDGET NEEDS REPORT.—The Secretary shall provide, as an annex to its annual budget request, an estimate of resources which would have been sufficient to investigate all such claims the Department of Transportation received in the previous fiscal year. The annex shall be transmitted to the Congress when the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code.

SEC. 404. ESTABLISHMENT OF ADVISORY COMMITTEE FOR AVIATION CONSUMER PROTECTION.

(a) IN GENERAL.—The Secretary of Transportation shall establish an advisory committee for aviation consumer protection to advise the Secretary in carrying out airline customer service improvements, including those required by subchapter IV of chapter 417 of title 49, United States Code.

(b) MEMBERSHIP.—The Secretary shall appoint members of the advisory committee comprised of one representative each of—

(1) air carriers;

(2) airport operators;

(3) State or local governments who has expertise in consumer protection matters; and

(4) a nonprofit public interest group who has expertise in consumer protection matters.

(c) VACANCIES.—A vacancy in the advisory committee shall be filled in the manner in which the original appointment was made.

(d) TRAVEL EXPENSES.—Members of the advisory committee shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) CHAIRPERSON.—The Secretary shall designate, from among the individuals appointed under subsection (b), an individual to serve as chairperson of the advisory committee.

(f) DUTIES.—The duties of the advisory committee shall include—

(1) evaluating existing aviation consumer protection programs and providing recommendations for the improvement of such programs, if needed; and

(2) providing recommendations to establish additional aviation consumer protection programs, if needed.

(g) REPORT.—Not later than February 1 of each of the first 2 calendar years beginning after the date of enactment of this Act, the Secretary shall transmit to Congress a report containing—

(1) the recommendations made by the advisory committee during the preceding calendar year; and

(2) an explanation of how the Secretary has implemented each recommendation and, for each recommendation not implemented, the Secretary's reason for not implementing the recommendation.

SEC. 405. DISCLOSURE OF PASSENGER FEES.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary of Transportation shall complete a rulemaking that requires each air carrier operating in the United States under part 121 of title 49, Code of Federal Regulations, to make available to the public and to the Secretary a list of all passenger fees and charges (other than airfare) that may be imposed by the air carrier, including fees for—

(1) checked baggage or oversized or heavy baggage;

(2) meals, beverages, or other refreshments;

(3) seats in exit rows, seats with additional space, or other preferred seats in any given class of travel;

(4) purchasing tickets from an airline ticket agent or a travel agency; or

(5) any other good, service, or amenity provided by the air carrier, as required by the Secretary.

(b) PUBLICATION; UPDATES.—In order to ensure that the fee information required by subsection (a) is both current and widely available to the travelling public, the Secretary—

(1) may require an air carrier to make such information on any public website maintained by an air carrier, to make such information available to travel agencies, and to notify passengers of the availability of such information when advertising airfares; and

(2) shall require air carriers to update the information as necessary, but no less frequently than every 90 days unless there has been no increase in the amount or type of fees shown in the most recent publication.

SEC. 406. DISCLOSURE OF AIR CARRIERS OPERATING FLIGHTS FOR TICKETS SOLD FOR AIR TRANSPORTATION.

Section 41712 is amended by adding at the end the following:

''(c) DISCLOSURE REQUIREMENT FOR SELLERS OF TICKETS FOR FLIGHTS.—

''(1) IN GENERAL.—It shall be an unfair or deceptive practice under subsection (a) for any ticket agent, air carrier, foreign air carrier, or other person offering to sell tickets for air transportation on a flight of an air carrier to not disclose, whether verbally in oral communication or in writing in written or electronic communication, prior to the purchase of a ticket—

''(A) the name (including any business or corporate name) of the air carrier providing the air transportation; and

''(B) if the flight has more than one flight segment, the name of each air carrier providing the air transportation for each such flight segment.

''(2) INTERNET OFFERS.—In the case of an offer to sell tickets described in paragraph (1) on an Internet Web site, disclosure of the information required by paragraph (1) shall be provided on the first display of the Web site following a search of a requested itinerary in a format that is easily visible to a viewer.''.

SEC. 407. NOTIFICATION REQUIREMENTS WITH RESPECT TO THE SALE OF AIRLINE TICKETS.

(a) IN GENERAL.—The Office of Aviation Consumer Protection and Enforcement of the Department of Transportation shall establish rules to ensure that all consumers are able to easily and fairly compare airfares and charges paid when purchasing tickets for air transportation, including all taxes and fees.

(b) NOTICE OF TAXES AND FEES APPLICABLE TO TICKETS FOR AIR TRANSPORTATION.—Section 41712, as amended by this Act, is further amended by adding at the end the following:

''(d) NOTICE OF TAXES AND FEES APPLICABLE TO TICKETS FOR AIR TRANSPORTATION.—

''(1) IN GENERAL.—It shall be an unfair or deceptive practice under subsection (a) for an air carrier, foreign air carrier, or ticket agent to sell a ticket for air transportation on the Internet unless the air carrier, foreign air carrier, or ticket agent, as the case may be—

''(A) displays information with respect to the taxes and fees described in paragraph (2), including the amount and a description of each such tax or fee, in reasonable proximity to the price listed for the ticket; and

''(B) provides to the purchaser of the ticket information with respect to the taxes and fees described in paragraph (2), including the amount and a description of each such tax or fee, before requiring the purchaser to provide any personal information, including the name, address, phone number, e-mail address, or credit card information of the purchaser.

''(2) TAXES AND FEES DESCRIBED.—The taxes and fees described in this paragraph are all taxes, fees, and charges applicable to a ticket for air transportation, consisting of—

''(A) all taxes, fees, charges, and surcharges included in the price paid by a purchaser for the ticket, including fuel surcharges and surcharges relating to peak or holiday travel; and

''(B) any fees for baggage, seating assignments; and

''(C) operational services that are charged when the ticket is purchased.''.

(c) REGULATIONS.—The Secretary of Transportation, in consultation with the Administrator of the Federal Aviation Administration, shall prescribe such regulations as may be necessary to carry out subsection (d) of section 41712 of title 49, United States Code, as added by subsection (b) of this section.

SUBTITLE B—ESSENTIAL AIR SERVICE; SMALL COMMUNITIES

SEC. 411. EAS CONNECTIVITY PROGRAM.

Section 406(a) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) is amended by striking ''may'' and inserting ''shall''.

SEC. 412. EXTENSION OF FINAL ORDER ESTABLISHING MILEAGE ADJUSTMENT ELIGIBILITY.

Section 409(d) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 41731 note) is amended by striking ''September 30, 2010.'' and inserting ''September 30, 2013.''.

SEC. 413. EAS CONTRACT GUIDELINES.

Section 41737(a)(1) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (B);

(2) by striking ''provided.'' in subparagraph (C) and inserting ''provided;''; and

(3) by adding at the end the following:

''(D) include provisions under which the Secretary may encourage carriers to improve air service to small and rural communities by incorporating financial incentives in essential air service contracts based on specified performance goals; and

''(E) include provisions under which the Secretary may execute long-term essential air service contracts to encourage carriers to provide air service to small and rural communities where it would be in the public interest to do so.''.

SEC. 414. CONVERSION OF FORMER EAS AIRPORTS.

(a) IN GENERAL.—Section 41745 is amended to read as follows:

''§ 41745. Conversion of lost eligibility airports

''(a) IN GENERAL.—The Secretary shall establish a program to provide general aviation conversion funding for airports serving eligible places that the Secretary has determined no longer qualify for a subsidy.

''(b) GRANTS.—A grant under this section—

''(1) may not exceed twice the compensation paid to provide essential air service to the airport in the fiscal year preceeding the fiscal year in which the Secretary determines that the place served by the airport is no longer an eligible place; and

''(2) may be used—

''(A) for airport development (as defined in section 47102(3)) that will enhance general aviation capacity at the airport;

''(B) to defray operating expenses, if such use is approved by the Secretary; or

''(C) to develop innovative air service options, such as on-demand or air taxi operations, if such use is approved by the Secretary.

''(c) AIP REQUIREMENTS.—An airport sponsor that uses funds provided under this section for an airport development project shall comply with the requirements of subchapter I of chapter 471 applicable to airport development projects funded under that subchapter with respect to the project funded under this section.

''(d) LIMITATION.—The sponsor of an airport receiving funding under this section is not eligible for funding under section 41736.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 is amended by striking the item relating to section 41745 and inserting the following:

''417454. Conversion of lost eligibility airports.''.

SEC. 415. EAS REFORM.

Section 41742(a) is amended—

(1) by adding at the end of paragraph (1) ''Any amount in excess of $50,000,000 credited for any fiscal year to the account established under section 45303(c) shall be obligated for programs under section 406 of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 40101 note) and section 41745 of this title. Amounts appropriated pursuant to this section shall remain available until expended.''; and

(2) by striking ''$77,000,000'' in paragraph (2) and inserting ''$150,000,000''.

SEC. 416. SMALL COMMUNITY AIR SERVICE.

(a) PRIORITIES.—Section 41743(c)(5) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (D);

(2) by striking ''fashion.'' in subparagraph (E) and inserting ''fashion; and''; and

(3) by adding at the end the following:

''(F) multiple communities cooperate to submit a region or multistate application to improve air service.''.

(b) EXTENSION OF AUTHORIZATION.—Section 41743(e)(2) is amended—

(1) by striking ''is appropriated'' and inserting ''are appropriated''; and

(2) by striking ''2009'' and inserting ''2011''.

SEC. 417. EAS MARKETING.

The Secretary of Transportation shall require all applications to provide service under subchapter II of chapter 417 of title 49, United States Code, include a marketing plan.

SEC. 418. RURAL AVIATION IMPROVEMENT.

(a) COMMUNITIES ABOVE PER PASSENGER SUBSIDY CAP.—

(1) IN GENERAL.—Subchapter II of chapter 417 is amended by adding at the end the following:

''§ 41749. Essential air service for eligible places above per passenger subsidy cap

''(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for an air carrier to provide air transportation to a place described in subsection (b).

''(b) PLACE DESCRIBED.—A place described in this subsection is a place—

''(1) that is otherwise an eligible place; and

''(2) for which the per passenger subsidy exceeds the dollar amount allowable under this subchapter.

''(c) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) for compensation for an air carrier to provide air transportation to a place described in subsection (b), the Secretary shall—

''(1) decide whether to provide compensation for the air carrier to provide air transportation to the place; and

''(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

''(A) the per passenger subsidy; and

''(B) the dollar amount allowable for such subsidy under this subchapter.

''(d) COMPENSATION PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

''(2) DURATION OF PAYMENTS.—The Secretary shall continue to pay compensation under this section only as long as—

''(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

''(B) the Secretary decides the compensation is necessary to maintain air transportation to the place.

''(e) REVIEW.—

''(1) IN GENERAL.—The Secretary shall periodically review the type and level of air service provided under this section.

''(2) CONSULTATION.—The Secretary may make appropriate adjustments in the type and level of air service to a place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

''(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—An air carrier providing air transportation to a place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the air carrier provides notice of the intent of the air carrier to end, suspend, or reduce such air transportation to—

''(1) the Secretary;

''(2) the affected community; and

''(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 417 is amended by adding after the item relating to section 41748 the following new item:

''41749. Essential air service for eligible places above per passenger subsidy cap''.

(b) PREFERRED ESSENTIAL AIR SERVICE.—

(1) IN GENERAL.—Subchapter II of chapter 417, as amended by subsection (a), is further amended by adding after section 41749 the following:

''§ 41750. Preferred essential air service

''(a) PROPOSALS.—A State or local government may submit a proposal to the Secretary of Transportation for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place.

''(b) PREFERRED AIR CARRIER DESCRIBED.—A preferred air carrier described in this subsection is an air carrier that—

''(1) submits an application under section 41733(c) to provide air transportation to an eligible place;

''(2) is not the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

''(3) is an air carrier that the affected community prefers to provide air transportation to the eligible place instead of the air carrier that submits the lowest cost bid.

''(c) DECISIONS.—Not later than 90 days after receiving a proposal under subsection (a) for compensation for a preferred air carrier described in subsection (b) to provide air transportation to an eligible place, the Secretary shall—

''(1) decide whether to provide compensation for the preferred air carrier to provide air transportation to the eligible place; and

''(2) approve the proposal if the State or local government or a person is willing and able to pay the difference between—

''(A) the rate of compensation the Secretary would provide to the air carrier that submits the lowest cost bid to provide air transportation to the eligible place; and

''(B) the rate of compensation the preferred air carrier estimates to be necessary to provide air transportation to the eligible place.

''(d) COMPENSATION PAYMENTS.—

''(1) IN GENERAL.—The Secretary shall pay compensation under this section at such time and in such manner as the Secretary determines is appropriate.

''(2) DURATION OF PAYMENTS.—The Secretary shall continue to pay compensation under this section only as long as—

''(A) the State or local government or person agreeing to pay compensation under subsection (c)(2) continues to pay such compensation; and

''(B) the Secretary decides the compensation is necessary to maintain air transportation to the eligible place.

''(e) REVIEW.—

''(1) IN GENERAL.—The Secretary shall periodically review the type and level of air service provided under this section.

''(2) CONSULTATION.—The Secretary may make appropriate adjustments in the type and level of air service to an eligible place under this section based on the review under paragraph (1) and consultation with the affected community and the State or local government or person agreeing to pay compensation under subsection (c)(2).

''(f) ENDING, SUSPENDING, AND REDUCING AIR TRANSPORTATION.—A preferred air carrier providing air transportation to an eligible place under this section may end, suspend, or reduce such air transportation if, not later than 30 days before ending, suspending, or reducing such air transportation, the preferred air carrier provides notice of the intent of the preferred air carrier to end, suspend, or reduce such air transportation to—

''(1) the Secretary;

''(2) the affected community; and

''(3) the State or local government or person agreeing to pay compensation under subsection (c)(2).''.

(2) CLERICAL AMENDMENT.—The table of contents for chapter 417, as amended by subsection (a), is further amended by adding after the item relating to section 41749 the following new item:

''41750. Preferred essential air service''.

(c) RESTORATION OF ELIGIBILITY TO A PLACE DETERMINED BY THE SECRETARY TO BE INELIGIBLE FOR SUBSIDIZED ESSENTIAL AIR SERVICE.—Section 41733 is amended by adding at the end the following:

''(f) RESTORATION OF ELIGIBILITY FOR SUBSIDIZED ESSENTIAL AIR SERVICE.—

''(1) IN GENERAL.—If the Secretary of Transportation terminates the eligibility of an otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c), a State or local government may submit to the Secretary a proposal for restoring such eligibility.

''(2) DETERMINATION BY SECRETARY.—If the per passenger subsidy required by the proposal submitted by a State or local government under paragraph (1) does not exceed the per passenger subsidy cap provided under this subchapter, the Secretary shall issue an order restoring the eligibility of the otherwise eligible place to receive basic essential air service by an air carrier for compensation under subsection (c).''.

(d) OFFICE OF RURAL AVIATION.—

(1) ESTABLISHMENT.—There is established within the Office of the Secretary of Transportation the Office of Rural Aviation.

(e) FUNCTIONS.—The functions of the Office are—

(1) to develop a uniform 4-year contract for air carriers providing essential air service to communities under subchapter II of chapter 417 of title 49, United States Code;

(2) to develop a mechanism for comparing applications submitted by air carriers under section 41733(c) to provide essential air service to communities, including comparing—

(A) estimates from air carriers on—

(i) the cost of providing essential air service; and

(ii) the revenues air carriers expect to receive when providing essential air service; and

(B) estimated schedules for air transportation; and

(3) to select an air carrier from among air carriers applying to provide essential air service, based on the criteria described in paragraph (2).

(f) EXTENSION OF AUTHORITY TO MAKE AGREEMENTS UNDER THE ESSENTIAL AIR SERVICE PROGRAM.—Section 41743(e)(2) is amended by striking ''2009'' and inserting ''2011''.

(g) ADJUSTMENTS TO COMPENSATION FOR SIGNIFICANTLY INCREASED COSTS.—Section 41737 is amended by adding at the end thereof the following:

''(f) FUEL COST SUBSIDY DISREGARD.—Any amount provided as an adjustment in compensation pursuant to subsection (a)(1)(D) shall be disregarded for the purpose of determining whether the amount of compensation provided under this subchapter with respect to an eligible place exceeds the per passenger subsidy exceeds the dollar amount allowable under this subchapter.''.

SEC. 419. REPEAL OF ESSENTIAL AIR SERVICE LOCAL PARTICIPATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by striking section 41747, and such title 49 shall be applied as if such section 41747 had not been enacted.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

SUBTITLE C—MISCELLANEOUS

SEC. 431. CLARIFICATION OF AIR CARRIER FEE DISPUTES.

(a) IN GENERAL.—Section 47129 is amended—

(1) by striking the section heading and inserting the following:

''§ 47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees'' ;

(2) by inserting ''AND FOREIGN AIR CARRIER'' after ''CARRIER'' in the heading for subsection (d);

(3) by inserting ''AND FOREIGN AIR CARRIER'' after ''CARRIER'' in the heading for subsection (d)(2);

(4) by striking ''air carrier'' each place it appears and inserting ''air carrier or foreign air carrier'';

(5) by striking ''air carrier's'' each place it appears and inserting ''air carrier's or foreign air carrier's'';

(6) by striking ''air carriers'' and inserting ''air carriers or foreign air carriers''; and

(7) by striking ''(as defined in section 40102 of this title)'' in subsection (a) and inserting ''(as those terms are defined in section 40102 of this title)''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by striking the item relating to section 47129 and inserting the following:

''47129. Resolution of airport-air carrier and foreign air carrier disputes concerning airport fees''.

SEC. 432. CONTRACT TOWER PROGRAM.

(a) COST-BENEFIT REQUIREMENT.—Section 47124(b)(1) is amended—

(1) by inserting ''(A)'' after ''(1)''; and

(2) by adding at the end the following:

''(B) If the Secretary determines that a tower already operating under this program has a benefit to cost ratio of less than 1.0, the airport sponsor or State or local government having jurisdiction over the airport shall not be required to pay the portion of the costs that exceeds the benefit for a period of 18 months after such determination is made.

''(C) If the Secretary finds that all or part of an amount made available to carry out the program continued under this paragraph is not required during a fiscal year, the Secretary may use during such fiscal year the amount not so required to carry out the program established under paragraph (3) of this section.''.

(b) COSTS EXCEEDING BENEFITS.—Subparagraph (D) of section 47124(b)(3) is amended—

(1) by striking ''benefit.'' and inserting ''benefit, with the maximum allowable local cost share for FAA Part 139 certified airports capped at 20 percent for those airports with fewer than 50,000 annual passenger enplanements.''.

(c) FUNDING.—Subparagraph (E) of section 47124(b)(3) is amended—

(1) by striking ''and'' after ''2006,''; and

(2) by striking ''2007'' and inserting ''2007, $9,500,000 for fiscal year 2010, and $10,000,000 for fiscal year 2011'' after ''2007,''; and

(3) by inserting after ''paragraph.'' the following: ''If the Secretary finds that all or part of an amount made available under this subparagraph is not required during a fiscal year to carry out this paragraph, the Secretary may use during such fiscal year the amount not so required to carry out the program continued under subsection (b)(1) of this section.''.

(d) FEDERAL SHARE.—Subparagraph (C) of section 47124(b)(4) is amended by striking ''$1,500,000.'' and inserting ''$2,000,000.''.

(e) SAFETY AUDITS.—Section 41724 is amended by adding at the end the following:

''(c) SAFETY AUDITS.—The Secretary shall establish uniform standards and requirements for safety assessments of air traffic control towers that receive funding under this section in accordance with the Administration's safety management system.''.

SEC. 433. AIRFARES FOR MEMBERS OF THE ARMED FORCES.

(a) FINDINGS.—The Congress finds that—

(1) the Armed Forces is comprised of approximately 1,450,000 members who are stationed on active duty at more than 6,000 military bases in 146 different countries;

(2) the United States is indebted to the members of the Armed Forces, many of whom are in grave danger due to their engagement in, or exposure to, combat;

(3) military service, especially in the current war against terrorism, often requires members of the Armed Forces to be separated from their families on short notice, for long periods of time, and under very stressful conditions;

(4) the unique demands of military service often preclude members of the Armed Forces from purchasing discounted advance airline tickets in order to visit their loved ones at home; and

(5) it is the patriotic duty of the people of the United States to support the members of the Armed Forces who are defending the Nation's interests around the world at great personal sacrifice.

(b) SENSE OF CONGRESS.—It is the sense of Congress that each United States air carrier should—

(1) establish for all members of the Armed Forces on active duty reduced air fares that are comparable to the lowest airfare for ticketed flights; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees (including baggage fees), ancillary costs, or penalties.

SEC. 434. AUTHORIZATION OF USE OF CERTAIN LANDS IN THE LAS VEGAS MCCARRAN INTERNATIONAL AIRPORT ENVIRONS OVERLAY DISTRICT FOR TRANSIENT LODGING AND ASSOCIATED FACILITIES.

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Clark County, Nevada, is authorized to permit transient lodging, including hotels, and associated facilities, including enclosed auditoriums, concert halls, sports arenas, and places of public assembly, on lands in the Las Vegas McCarran International Airport Environs Overlay District that fall below the forecasted 2017 65 dB day-night annual average noise level (DNL), as identified in the Noise Exposure Map Notice published by the Federal Aviation Administration in the Federal Register on July 24, 2007 (72 Fed. Reg. 40357), and adopted into the Clark County Development Code in June 2008.

(b) LIMITATION.—No structure may be permitted under subsection (a) that would constitute a hazard to air navigation, result in an increase to minimum flight altitudes, or otherwise pose a significant adverse impact on airport or aircraft operations.

TITLE V—SAFETY

SUBTITLE A—AVIATION SAFETY

SEC. 501. RUNWAY SAFETY EQUIPMENT PLAN.

Not later than December 31, 2009, the Administrator of the Federal Aviation Administration shall issue a plan to develop an installation and deployment schedule for systems the Administration is installing to alert controllers and flight crews to potential runway incursions. The plan shall be integrated into the annual Federal Aviation Administration NextGen Implementation Plan.

SEC. 502. JUDICIAL REVIEW OF DENIAL OF AIRMAN CERTIFICATES.

(a) JUDICIAL REVIEW OF NTSB DECISIONS.—Section 44703(d) is amended by adding at the end the following:

''(3) JUDICIAL REVIEW.—A person substantially affected by an order of the Board under this subsection, or the Administrator when the Administrator decides that an order of the Board will have a significant adverse impact on carrying out this part, may obtain judicial review of the order under section 46110 of this title. The Administrator shall be made a party to the judicial review proceedings. The findings of fact of the Board in any such case are conclusive if supported by substantial evidence.''.

(b) CONFORMING AMENDMENT.—Section 1153(c) is amended by striking ''section 44709 or'' and inserting ''section 44703(d), 44709, or''.

SEC. 503. RELEASE OF DATA RELATING TO ABANDONED TYPE CERTIFICATES AND SUPPLEMENTAL TYPE CERTIFICATES.

Section 44704(a) is amended by adding at the end the following:

''(5) RELEASE OF DATA.—

''(A) Notwithstanding any other provision of law, the Administrator may designate, without the consent of the owner of record, engineering data in the agency's possession related to a type certificate or a supplemental type certificate for an aircraft, engine, propeller or appliance as public data, and therefore releasable, upon request, to a person seeking to maintain the airworthiness of such product, if the Administrator determines that—

''(i) the certificate containing the requested data has been inactive for 3 years;

''(ii) the owner of record, or the owner of record's heir, of the type certificate or supplemental certificate has not been located despite a search of due diligence by the agency; and

''(iii) the designation of such data as public data will enhance aviation safety.

''(B) In this section, the term 'engineering data' means type design drawings and specifications for the entire product or change to the product, including the original design data, and any associated supplier data for individual parts or components approved as part of the particular aeronautical product certificate.''.

SEC. 504. DESIGN ORGANIZATION CERTIFICATES.

Section 44704(e) is amended—

(1) by striking ''Beginning 7 years after the date of enactment of this subsection,'' in paragraph (1) and inserting ''Effective January 1, 2013,'';

(2) by striking ''testing'' in paragraph (2) and inserting ''production''; and

(3) by striking paragraph (3) and inserting the following:

''(3) ISSUANCE OF CERTIFICATE BASED ON DESIGN ORGANIZATION CERTIFICATION.—The Administrator may rely on the Design Organization for certification of compliance under this section.''.

SEC. 505. FAA ACCESS TO CRIMINAL HISTORY RECORDS OR DATABASE SYSTEMS.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end thereof the following:

''§ 40130. FAA access to criminal history records or databases systems

''(a) ACCESS TO RECORDS OR DATABASES SYSTEMS.—

''(1) Notwithstanding section 534 of title 28 and the implementing regulations for such section (28 C.F.R. part 20), the Administrator of the Federal Aviation Administration is authorized to access a system of documented criminal justice information maintained by the Department of Justice or by a State but may do so only for the purpose of carrying out its civil and administrative responsibilities to protect the safety and security of the National Airspace System or to support the missions of the Department of Justice, the Department of Homeland Security, and other law enforcement agencies. The Administrator shall be subject to the same conditions or procedures established by the Department of Justice or State for access to such an information system by other governmental agencies with access to the system.

''(2) The Administrator may not use the access authorized under paragraph (1) to conduct criminal investigations.

''(b) DESIGNATED EMPLOYEES.—The Administrator shall, by order, designate those employees of the Administration who shall carry out the authority described in subsection (a). Such designated employees may—

''(1) have access to and receive criminal history, driver, vehicle, and other law enforcement information contained in the law enforcement databases of the Department of Justice, or of any jurisdiction in a State in the same manner as a police officer employed by a State or local authority of that State who is certified or commissioned under the laws of that State;

''(2) use any radio, data link, or warning system of the Federal Government and of any jurisdiction in a State that provides information about wanted persons, be-on-the-lookout notices, or warrant status or other officer safety information to which a police officer employed by a State or local authority in that State who is certified or commission under the laws of that State has access and in the same manner as such police officer; or

''(3) receive Federal, State, or local government communications with a police officer employed by a State or local authority in that State in the same manner as a police officer employed by a State or local authority in that State who is commissioned under the laws of that State.

''(c) SYSTEM OF DOCUMENTED CRIMINAL JUSTICE INFORMATION DEFINED.—In this section the term 'system of documented criminal justice information' means any law enforcement databases, systems, or communications containing information concerning identification, criminal history, arrests, convictions, arrest warrants, or wanted or missing persons, including the National Crime Information Center and its incorporated criminal history databases and the National Law Enforcement Telecommunications System.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 401 is amended by inserting after the item relating to section 40129 the following:

''40130. FAA access to criminal history records or databases systems''.

SEC. 506. PILOT FATIGUE.

(a) FLIGHT AND DUTY TIME REGULATIONS.—

(1) IN GENERAL.—In accordance with paragraph (2), the Administrator of the Federal Aviation Administration shall issue regulations, based on the best available scientific information—

(A) to specify limitations on the hours of flight and duty time allowed for pilots to address problems relating to pilot fatigue; and

(B) to require part 121 air carriers to develop and implement fatigue risk management plans.

(2) DEADLINES.—The Administrator shall issue—

(A) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under paragraph (1); and

(B) not later than one year after the date of enactment of this Act, a final rule under paragraph (1).

(b) FATIGUE RISK MANAGEMENT PLAN.—

(1) SUBMISSION OF FATIGUE RISK MANAGEMENT PLAN BY PART 121 AIR CARRIERS.—Not later than 90 days after the date of enactment of this Act, each part 121 air carrier shall submit to the Administrator for review and approval a fatigue risk management plan.

(2) CONTENTS OF PLAN.—A fatigue risk management plan submitted by a part 121 air carrier under paragraph (1) shall include the following:

(A) Current flight time and duty period limitations.

(B) A rest scheme that enables the management of fatigue, including annual training to increase awareness of—

(i) fatigue;

(ii) the effects of fatigue on pilots; and

(iii) fatigue countermeasures.

(C) Development and use of a methodology that continually assesses the effectiveness of the program, including the ability of the program—

(i) to improve alertness; and

(ii) to mitigate performance errors.

(3) PLAN UPDATES.—A part 121 air carrier shall update its fatigue risk management plan under paragraph (1) every 2 years and submit the update to the Administrator for review and approval.

(4) APPROVAL.—

(A) INITIAL APPROVAL OR MODIFICATION.—Not later than 9 months after the date of enactment of this Act, the Administrator shall review and approve or require modification to fatigue risk management plans submitted under this subsection to ensure that pilots are not operating aircraft while fatigued.

(B) UPDATE APPROVAL OR MODIFICATION.—Not later than 9 months after submission of a plan update under paragraph (3), the Administrator shall review and approve or require modification to such update.

(5) CIVIL PENALTIES.—A violation of this subsection by a part 121 air carrier shall be treated as a violation of chapter 447 of title 49, United States Code, for purposes of the application of civil penalties under chapter 463 of that title.

(6) LIMITATION ON APPLICABILITY.—The requirements of this subsection shall cease to apply to a part 121 air carrier on and after the effective date of the regulations to be issued under subsection (a).

(c) EFFECT OF COMMUTING ON FATIGUE.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the effects of commuting on pilot fatigue and report its findings to the Administrator.

(2) STUDY.—In conducting the study, the National Academy of Sciences shall consider—

(A) the prevalence of pilot commuting in the commercial air carrier industry, including the number and percentage of pilots who commute;

(B) information relating to commuting by pilots, including distances traveled, time zones crossed, time spent, and methods used;

(C) research on the impact of commuting on pilot fatigue, sleep, and circadian rhythms;

(D) commuting policies of commercial air carriers (including passenger and all-cargo air carriers), including pilot check-in requirements and sick leave and fatigue policies;

(E) post-conference materials from the Federal Aviation Administration's June 2008 symposium entitled ''Aviation Fatigue Management Symposium: Partnerships for Solutions'';

(F) Federal Aviation Administration and international policies and guidance regarding commuting; and

(G) any other matters as the Administrator considers appropriate.

(3) PRELIMINARY FINDINGS.—Not later than 90 days after the date of entering into arrangements under paragraph (1), the National Academy of Sciences shall submit to the Administrator its preliminary findings under the study.

(4) REPORT.—Not later than 6 months after the date of entering into arrangements under

paragraph (1), the National Academy of Sciences shall submit a report to the Administrator containing its findings under the study and any recommendations for regulatory or administrative actions by the Federal Aviation Administration concerning commuting by pilots.

(5) RULEMAKING.—Following receipt of the report of the National Academy of Sciences under paragraph (4), the Administrator shall—

(A) consider the findings and recommendations in the report; and

(B) update, as appropriate based on scientific data, regulations required by subsection (a) on flight and duty time.

SEC. 507. INCREASING SAFETY FOR HELICOPTER AND FIXED WING EMERGENCY MEDICAL SERVICE OPERATORS AND PATIENTS.

(a) COMPLIANCE REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 18 months after the date of enactment of this Act, helicopter and fixed wing aircraft certificate holders providing emergency medical services shall comply with part 135 of title 14, Code of Federal Regulations, if there is a medical crew on board, without regard to whether there are patients on board.

(2) EXCEPTION.—If a certificate holder described in paragraph (1) is operating under instrument flight rules or is carrying out training therefor—

(A) the weather minimums and duty and rest time regulations under such part 135 of such title shall apply; and

(B) the weather reporting requirement at the destination shall not apply until such time as the Administrator of the Federal Aviation Administration determines that portable, reliable, and accurate ground-based weather measuring and reporting systems are available.

(b) IMPLEMENTATION OF FLIGHT RISK EVALUATION PROGRAM.—

(1) INITIATION.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking—

(A) to create a standardized checklist of risk evaluation factors based on Notice 8000.301, which was issued by the Administration on August 1, 2005; and

(B) to require helicopter and fixed wing aircraft emergency medical service operators to use the checklist created under subparagraph (A) to determine whether a mission should be accepted.

(2) COMPLETION.—The rulemaking initiated under paragraph (1) shall be completed not later than 18 months after it is initiated.

(c) COMPREHENSIVE CONSISTENT FLIGHT DISPATCH PROCEDURES.—

(1) INITIATION.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a rulemaking—

(A) to require that helicopter and fixed wing emergency medical service operators formalize and implement performance based flight dispatch and flight-following procedures; and

(B) to develop a method to assess and ensure that such operators comply with the requirements described in subparagraph (A).

(2) COMPLETION.—The rulemaking initiated under paragraph (1) shall be completed not later than 18 months after it is initiated.

(d) IMPROVING SITUATIONAL AWARENESS.—Within 1 year after the date of enactment of this Act, any helicopter or fixed-wing aircraft used for emergency medical service shall have on board a device that performs the function of a terrain awareness and warning system and a means of displaying that information that meets the requirements of the applicable Federal Aviation Administration Technical Standard Order or other guidance prescribed by the Administrator.

(e) IMPROVING THE DATA AVAILABLE ON AIR MEDICAL OPERATIONS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall require each certificate holder for helicopters and fixed-wing aircraft used for emergency medical service operations to report not later than 1 year after the date of enactment of this Act and annually thereafter on—

(A) the number of aircraft and helicopters used to provide air ambulance services, the registration number of each of these aircraft or helicopters, and the base location of each of these aircraft or helicopters;

(B) the number of flights and hours flown by each such aircraft or helicopter used by the certificate holder to provide such services during the reporting period;

(C) the number of flights and the purpose of each flight for each aircraft or helicopter used by the certificate holder to provide such services during the reporting period;

(D) the number of flight requests for a helicopter providing helicopter air ambulance services that were accepted or declined by the certificate holder and the type of each such flight request (such as scene response, inter-facility transport, organ transport, or ferry or repositioning flight);

(E) the number of accidents involving helicopters operated by the certificate holder while providing helicopter air ambulance services and a description of the accidents;

(F) the number of flights and hours flown under instrument flight rules by helicopters operated by the certificate holder while providing helicopter air ambulance services;

(G) the time of day of each flight flown by helicopters operated by the certificate holder while providing helicopter air ambulance services; and

(H) The number of incidents where more helicopters arrive to transport patients than is needed in a flight request or scene response.

(2) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration shall report to Congress on the information received pursuant to paragraph (1) of this subsection no later than 18 months after the date of enactment of this Act.

(f) IMPROVING THE DATA AVAILABLE TO NTSB INVESTIGATORS AT CRASH SITES.—

(1) STUDY.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue a report that indicates the availability, survivability, size, weight, and cost of devices that perform the function of recording voice communications and flight data information on existing and new helicopters and existing and new fixed wing aircraft used for emergency medical service operations.

(2) RULEMAKING.—Not later than 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations that require devices that perform the function of recording voice communications and flight data information on board aircraft described in paragraph (1).

SEC. 508. CABIN CREW COMMUNICATION.

(a) IN GENERAL.—Section 44728 is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following:

''(f) MINIMUM LANGUAGE SKILLS.—

''(1) IN GENERAL.—No certificate holder may use any person to serve, nor may any person serve, as a flight attendant under this part, unless that person has demonstrated to an individual qualified to determine proficiency the ability to read, speak, and write English well enough to—

''(A) read material written in English and comprehend the information;

''(B) speak and understand English sufficiently to provide direction to, and understand and answer questions from, English-speaking individuals;

''(C) write incident reports and statements and log entries and statements; and

''(D) carry out written and oral instructions regarding the proper performance of their duties.

''(2) FOREIGN FLIGHTS.—The requirements of paragraph (1) do not apply to service as a flight attendant serving solely between points outside the United States.''.

(b) ADMINISTRATION.—The Administrator of the Federal Aviation Administration shall work with certificate holders to which section 44728(f) of title 49, United States Code, applies to facilitate compliance with the requirements of section 44728(f)(1) of that title.

SEC. 509. CLARIFICATION OF MEMORANDUM OF UNDERSTANDING WITH OSHA.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) establish milestones, in consultation with the Occupational Safety and Health Administration, through a report to Congress for the completion of work begun under the August 2000 memorandum of understanding between the 2 Administrations and to address issues needing further action in the Administrations' joint report in December 2000; and

(2) initiate development of a policy statement to set forth the circumstances in which Occupational Safety and Health Administration requirements may be applied to crewmembers while working in the aircraft.

(b) POLICY STATEMENT.—The policy statement to be developed under subsection (a)(2) shall be completed within 18 months after the date of enactment of this Act and shall satisfy the following principles:

(1) The establishment of a coordinating body similar to the Aviation Safety and Health Joint Team established by the August 2000 memorandum of understanding that includes representatives designated by both Administrations—

(A) to examine the applicability of current and future Occupational Safety and Health Administration regulations;

(B) to recommend policies for facilitating the training of Federal Aviation Administration inspectors; and

(C) to make recommendations that will govern the inspection and enforcement of safety and health standards on board aircraft in operation and all work-related environments.

(2) Any standards adopted by the Federal Aviation Administration shall set forth clearly—

(A) the circumstances under which an employer is required to take action to address occupational safety and health hazards;

(B) the measures required of an employer under the standard; and

(C) the compliance obligations of an employer under the standard.

SEC. 510. ACCELERATION OF DEVELOPMENT AND IMPLEMENTATION OF REQUIRED NAVIGATION PERFORMANCE APPROACH PROCEDURES.

(a) IN GENERAL.—

(1) ANNUAL MINIMUM REQUIRED NAVIGATION PERFORMANCE PROCEDURES.—The Administrator shall set a target of achieving a minimum of 200 Required Navigation Performance procedures each fiscal year through fiscal year 2012, with 25 percent of that target number meeting the low visibility approach criteria consistent with the NextGen Implementation Plan.

(2) USE OF THIRD PARTIES.—The Administrator is authorized to provide third parties the ability to design, flight check, and implement Required Navigation Performance approach procedures.

(b) DOT INSPECTOR GENERAL REVIEW OF OPERATIONAL AND APPROACH PROCEDURES BY A THIRD PARTY.—

(1) REVIEW.—The Inspector General of the Department of Transportation shall conduct a review regarding the effectiveness of the oversight activities conducted by the Administration in connection with any agreement with or delegation of authority to a third party for the development of flight procedures, including public

use procedures, for the National Airspace System.

(2) ASSESSMENTS.—The Inspector General shall include, at a minimum, in the review—

(A) an assessment of the extent to which the Administration is relying or intends to rely on a third party for the development of new procedures and a determination of whether the Administration has established sufficient mechanisms and staffing to provide safety oversight functions, which may include quality assurance processes, flight checks, integration of procedures into the National Aviation System, and operational assessments of procedures developed by third parties; and

(B) an assessment regarding whether the Administration has sufficient existing personnel and technical resources or mechanisms to develop such flight procedures in a safe and efficient manner to meet the demands of the National Airspace System without the use of third party resources.

(c) REPORT.—No later than 1 year after the date of enactment of this Act, the Inspector General shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the results of the review conducted under this section.

SEC. 511. IMPROVED SAFETY INFORMATION.

Not later than December 31, 2009, the Administrator of the Federal Aviation Administration shall issue a final rule in docket No. FAA–2008–0188, Re-registration and Renewal of Aircraft Registration. The final rule shall include—

(1) provision for the expiration of a certificate for an aircraft registered as of the date of enactment of this Act, with re-registration requirements for those aircraft that remain eligible for registration;

(2) provision for the periodic expiration of all certificates issued after the effective date of the rule with a registration renewal process; and

(3) other measures to promote the accuracy and efficient operation and value of the Administration's aircraft registry.

SEC. 512. VOLUNTARY DISCLOSURE REPORTING PROCESS IMPROVEMENTS.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) take such action as may be necessary to ensure that the Voluntary Disclosure Reporting Process requires inspectors—

(A) to evaluate corrective action proposed by an air carrier with respect to a matter disclosed by that air carrier is sufficiently comprehensive in scope and application and applies to all affected aircraft operated by that air carrier before accepting the proposed voluntary disclosure;

(B) to verify that corrective action so identified by an air carrier is completed within the timeframe proposed; and

(C) to verify by inspection that the carrier's corrective action adequately corrects the problem that was disclosed; and

(2) establish a second level supervisory review of disclosures under the Voluntary Disclosure Reporting Process before any proposed disclosure is accepted and closed that will ensure that a matter disclosed by an air carrier—

(A) has not been previously identified by a Federal Aviation Administration inspector; and

(B) has not been previously disclosed by the carrier in the preceding 5 years.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the Voluntary Disclosure Reporting Program.

(2) REVIEW.—In conducting the study, the Comptroller General shall examine, at a minimum, whether—

(A) there is evidence that voluntary disclosure is resulting in regulated entities discovering and correcting violations to a greater extent than would otherwise occur if there was no program for immunity from enforcement action;

(B) the voluntary disclosure program makes the Federal Aviation Administration aware of violations that it would not have discovered if there was not a program, and if a violation is disclosed voluntarily, whether the Administration insists on stronger corrective actions than would have occurred if the regulated entity knew of a violation, but the Administration did not;

(C) the information the Administration gets under the program leads to fewer violations by other entities, either because the information leads other entities to look for similar violations or because the information leads Administration investigators to look for similar violations at other entities; and

(D) there is any evidence that voluntary disclosure has improved compliance with regulations, either for the entities making disclosures or for the industry generally.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the results of the study conducted under this subsection.

SEC. 513. PROCEDURAL IMPROVEMENTS FOR INSPECTIONS.

(a) IN GENERAL.—Section 44711 is amended by adding at the end the following:

''(d) POST-EMPLOYMENT RESTRICTIONS FOR FLIGHT STANDARDS INSPECTORS.—

''(1) PROHIBITION.—A person holding an operating certificate issued under title 14, Code of Federal Regulations, may not knowingly employ, or make a contractual arrangement which permits, an individual to act as an agent or representative of the certificate holder in any matter before the Federal Aviation Administration if the individual, in the preceding 3-year period—

''(A) served as, or was responsible for oversight of, a flight standards inspector of the Administration; and

''(B) had responsibility to inspect, or oversee inspection of, the operations of the certificate holder.

''(2) WRITTEN AND ORAL COMMUNICATIONS.—For purposes of paragraph (1), an individual shall be considered to be acting as an agent or representative of a certificate holder in a matter before the Federal Aviation Administration if the individual makes any written or oral communication on behalf of the certificate holder to the Administration (or any of its officers or employees) in connection with a particular matter, whether or not involving a specific party and without regard to whether the individual has participated in, or had responsibility for, the particular matter while serving as a flight standards inspector of the Administration.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall not apply to an individual employed by a certificate holder as of the date of enactment of this Act.

SEC. 514. INDEPENDENT REVIEW OF SAFETY ISSUES.

Within 30 days after the date of enactment of this Act, the Comptroller General shall initiate a review and investigation of air safety issues identified by Federal Aviation Administration employees and reported to the Administrator. The Comptroller General shall report the Government Accountability Office's findings and recommendations to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure on an annual basis.

SEC. 515. NATIONAL REVIEW TEAM.

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a national review team within the Administration to conduct periodic, unannounced, and random reviews of the Administration's oversight of air carriers and report annually its findings and recommendations to the Administrator, the Senate Commerce, Science, and Transportation Committee, and the House of Representatives Committee on Transportation and Infrastructure.

(b) LIMITATION.—The Administrator shall prohibit a member of the National Review Team from participating in any review or audit of an air carrier under subsection (a) if the member has previously had responsibility for inspecting, or overseeing the inspection of, the operations of that air carrier.

(c) INSPECTOR GENERAL REPORTS.—The Inspector General of the Department of Transportation shall provide progress reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the review teams and their effectiveness.

SEC. 516. FAA ACADEMY IMPROVEMENTS.

(a) REVIEW.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall conduct a comprehensive review and evaluation of its Academy and facility training efforts.

(b) FACILITY TRAINING PROGRAM.—The Administrator shall—

(1) clarify responsibility for oversight and direction of the Academy's facility training program at the national level;

(2) communicate information concerning that responsibility to facility managers; and

(3) establish standards to identify the number of developmental controllers that can be accommodated at each facility, based on—

(A) the number of available on-the-job-training instructors;

(B) available classroom space;

(C) the number of available simulators;

(D) training requirements; and

(E) the number of recently placed new personnel already in training.

SEC. 517. REDUCTION OF RUNWAY INCURSIONS AND OPERATIONAL ERRORS.

(a) PLAN.—The Administrator of the Federal Aviation Administration shall develop a plan for the reduction of runway incursions by reviewing every commercial service airport (as defined in section 47102 of title 49, United States Code) in the United States and initiating action to improve airport lighting, provide better signage, and improve runway and taxiway markings.

(b) PROCESS.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a process for tracking and investigating operational errors and runway incursions that includes—

(1) identifying the office responsible for establishing regulations regarding operational errors and runway incursions;

(2) identifying who is responsible for tracking and investigating operational errors and runway incursions and taking remedial actions;

(3) identifying who is responsible for tracking operational errors and runway incursions, including a process for lower level employees to report to higher supervisory levels; and

(4) periodic random audits of the oversight process.

SEC. 518. AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.

Section 106 is amended by adding at the end the following:

''(s) AVIATION SAFETY WHISTLEBLOWER INVESTIGATION OFFICE.—

''(1) ESTABLISHMENT.—There is established in the Administration an Aviation Safety Whistleblower Investigation Office.

''(2) DIRECTOR.—

''(A) APPOINTMENT.—The head of the Office shall be the Director, who shall be appointed by the Secretary of Transportation.

''(B) QUALIFICATIONS.—The Director shall have a demonstrated ability in investigations and knowledge of or experience in aviation.

''(C) TERM.—The Director shall be appointed for a term of 5 years.

''(D) VACANCY.—Any individual appointed to fill a vacancy in the position of the Director occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed for the remainder of that term.

''(3) COMPLAINTS AND INVESTIGATIONS.—

''(A) AUTHORITY OF DIRECTOR.—The Director shall—

''(i) receive complaints and information submitted by employees of persons holding certificates issued under title 14, Code of Federal Regulations, and employees of the Administration concerning the possible existence of an activity relating to a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety;

''(ii) assess complaints and information submitted under clause (i) and determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred; and

''(iii) based on findings of the assessment conducted under clause (ii), make recommendations to the Administrator in writing for further investigation or corrective actions.

''(B) DISCLOSURE OF IDENTITIES.—The Director shall not disclose the identity of an individual who submits a complaint or information under subparagraph (A)(i) unless—

''(i) the individual consents to the disclosure in writing; or

''(ii) the Director determines, in the course of an investigation, that the disclosure is unavoidable.

''(C) INDEPENDENCE OF DIRECTOR.—The Secretary, the Administrator, or any officer or employee of the Administration may not prevent or prohibit the Director from initiating, carrying out, or completing any assessment of a complaint or information submitted subparagraph (A)(i) or from reporting to Congress on any such assessment.

''(D) ACCESS TO INFORMATION.—In conducting an assessment of a complaint or information submitted under subparagraph (A)(i), the Director shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other material necessary to determine whether a substantial likelihood exists that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred.

''(4) RESPONSES TO RECOMMENDATIONS.—The Administrator shall respond to a recommendation made by the Director under subparagraph (A)(iii) in writing and retain records related to any further investigations or corrective actions taken in response to the recommendation.

''(5) INCIDENT REPORTS.—If the Director determines there is a substantial likelihood that a violation of an order, regulation, or standard of the Administration or any other provision of Federal law relating to aviation safety may have occurred that requires immediate corrective action, the Director shall report the potential violation expeditiously to the Administrator and the Inspector General of the Department of Transportation.

''(6) REPORTING OF CRIMINAL VIOLATIONS TO INSPECTOR GENERAL.—If the Director has reasonable grounds to believe that there has been a violation of Federal criminal law, the Director shall report the violation expeditiously to the Inspector General.

''(7) ANNUAL REPORTS TO CONGRESS.—Not later than October 1 of each year, the Director shall submit to Congress a report containing—

''(A) information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period;

''(B) summaries of those submissions;

''(C) summaries of further investigations and corrective actions recommended in response to the submissions; and

''(D) summaries of the responses of the Administrator to such recommendations.''.

SEC. 519. MODIFICATION OF CUSTOMER SERVICE INITIATIVE.

(a) MODIFICATION OF INITIATIVE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall modify the customer service initiative, mission and vision statements, and other statements of policy of the Administration—

(1) to remove any reference to air carriers or other entities regulated by the Administration as ''customers'';

(2) to clarify that in regulating safety the only customers of the Administration are members of the traveling public; and

(3) to clarify that air carriers and other entities regulated by the Administration do not have the right to select the employees of the Administration who will inspect their operations.

(b) SAFETY PRIORITY.—In carrying out the Administrator's responsibilities, the Administrator shall ensure that safety is given a higher priority than preventing the dissatisfaction of an air carrier or other entity regulated by the Administration with an employee of the Administration.

SEC. 520. HEADQUARTERS REVIEW OF AIR TRANSPORTATION OVERSIGHT SYSTEM DATABASE.

(a) REVIEWS.—The Administrator of the Federal Aviation Administration shall establish a process by which the air transportation oversight system database of the Administration is reviewed by a team of employees of the Agency on a monthly basis to ensure that—

(1) any trends in regulatory compliance are identified; and

(2) appropriate corrective actions are taken in accordance with Agency regulations, advisory directives, policies, and procedures.

(b) MONTHLY TEAM REPORTS.—

(1) IN GENERAL.—The team of employees conducting a monthly review of the air transportation oversight system database under subsection (a) shall submit to the Administrator, the Associate Administrator for Aviation Safety, and the Director of Flight Standards a report on the results of the review.

(2) CONTENTS.—A report submitted under paragraph (1) shall identify—

(A) any trends in regulatory compliance discovered by the team of employees in conducting the monthly review; and

(B) any corrective actions taken or proposed to be taken in response to the trends.

(c) QUARTERLY REPORTS TO CONGRESS.—The Administrator, on a quarterly basis, shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the results of reviews of the air transportation oversight system database conducted under this section, including copies of reports received under subsection (b).

SEC. 521. INSPECTION OF FOREIGN REPAIR STATIONS.

(a) IN GENERAL.—Chapter 447 is amended by adding at the end the following:

''§ 44730. Inspection of foreign repair stations

''(a) IN GENERAL.—Within 1 year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act the Administrator of the Federal Aviation Administration shall establish and implement a safety assessment system for all part 145 repair stations based on the type, scope, and complexity of work being performed. The system shall—

''(1) ensure that repair stations outside the United States are subject to appropriate inspections based on identified risk and consistent with existing United States requirements;

''(2) consider inspection results and findings submitted by foreign civil aviation authorities operating under a maintenance safety or maintenance implementation agreement with the United States in meeting the requirements of the safety assessment system; and

''(3) require all maintenance safety or maintenance implementation agreements to provide an opportunity for the Federal Aviation Administration to conduct independent inspections of covered part 145 repair stations when safety concerns warrant such inspections.

''(b) NOTICE TO CONGRESS OF NEGOTIATIONS.—The Administrator shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 30 days after initiating formal negotiations with foreign aviation authorities or other appropriate foreign government agencies on a new maintenance safety or maintenance implementation agreement.

''(c) ANNUAL REPORT.—The Administrator shall publish an annual report on the Federal Aviation Administration's oversight of part 145 repair stations and implementation of the safety assessment system required by subsection (a). The report shall—

''(1) describe in detail any improvements in the Federal Aviation Administration's ability to identify and track where part 121 air carrier repair work is performed;

''(2) include a staffing model to determine the best placement of inspectors and the number of inspectors needed;

''(3) describe the training provided to inspectors; and

''(4) include an assessment of the quality of monitoring and surveillance by the Federal Aviation Administration of work provided by its inspectors and the inspectors of foreign authorities operating under a maintenance safety or implementation agreement.

''(d) ALCOHOL AND CONTROLLED SUBSTANCE TESTING PROGRAM REQUIREMENTS.—

''(1) IN GENERAL.—The Secretaries of State and Transportation jointly shall request the governments of foreign countries that are members of the International Civil Aviation Organization to establish international standards for alcohol and controlled substances testing of persons that perform safety sensitive maintenance functions upon commercial air carrier aircraft.

''(2) APPLICATION TO PART 121 AIRCRAFT WORK.—Within 1 year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act the Administrator shall promulgate a proposed rule requiring that all part 145 repair station employees responsible for safety-sensitive functions on part 121 air carrier aircraft are subject to an alcohol and controlled substance testing program determined acceptable by the Administrator and consistent with the applicable laws of the country in which the repair station is located.

''(e) BIANNUAL INSPECTIONS.—The Administrator shall require part 145 repair stations to be inspected twice each year by Federal Aviation Administration safety inspectors, regardless of where the station is located, in a manner consistent with United States obligations under international agreements.

''(f) DEFINITIONS.—In this section:

''(1) PART 121 AIR CARRIER.—The term 'part 121 air carrier' means an air carrier that holds a certificate issued under part 121 of title 14, Code of Federal Regulations.

''(2) PART 145 REPAIR STATION.—The term 'part 145 repair station' means a repair station that holds a certificate issued under part 145 of title 14, Code of Federal Regulations.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 447 is amended by adding at the end thereof the following:

''44730. Inspection of foreign repair stations''.

SEC. 522. NON-CERTIFICATED MAINTENANCE PROVIDERS.

(a) REGULATIONS.—Not later than 3 years after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations requiring that all covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, be performed by individuals in accordance with subsection (b).

(b) PERSONS AUTHORIZED TO PERFORM CERTAIN WORK.—No individual may perform covered maintenance work on aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations unless that individual is employed by—

(1) a part 121 air carrier;

(2) a part 145 repair station or a person authorized under section 43.17 of title 14, Code of Federal Regulations;

(3) a person that provides contract maintenance workers or services to a part 145 repair station or part 121 air carrier, and the individual—

(A) meets the requirements of the part 121 air carrier or the part 145 repair station;

(B) performs the work under the direct supervision and control of the part 121 air carrier or the part 145 repair station directly in charge of the maintenance services; and

(C) carries out the work in accordance with the part 121 air carrier's maintenance manual;

(4) by the holder of a type certificate, production certificate, or other production approval issued under part 21 of title 14, Code of Federal Regulations, and the holder of such certificate or approval—

(A) originally produced, and continues to produce, the article upon which the work is to be performed; and

(B) is acting in conjunction with a part 121 air carrier or a part 145 repair station.

(d) DEFINITIONS.—In this section:

(1) COVERED MAINTENANCE WORK.—The term ''covered maintenance work'' means maintenance work that is essential maintenance, regularly scheduled maintenance, or a required inspection item, as determined by the Administrator.

(2) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' has the meaning given that term in section 44730(f)(1) of title 49, United States Code.

(3) PART 145 REPAIR STATION.—The term ''part 145 repair station'' has the meaning given that term in section 44730(f)(2) of title 49, United States Code.

SUBTITLE B—FLIGHT SAFETY

SEC. 551. FAA PILOT RECORDS DATABASE.

(a) RECORDS OF EMPLOYMENT OF PILOT APPLICANTS.—Section 44703(h) is amended by adding at the end the following:

''(16) APPLICABILITY.—This subsection shall cease to be effective on the date specified in regulations issued under subsection (i).''.

(b) ESTABLISHMENT OF FAA PILOT RECORDS DATABASE.—Section 44703 is amended—

(1) by redesignating subsections (i) and (j) as subsections (j) and (k), respectively; and

(2) by inserting after subsection (h) the following:

''(i) FAA PILOT RECORDS DATABASE.—

''(1) IN GENERAL.—Before allowing an individual to begin service as a pilot, an air carrier shall access and evaluate, in accordance with the requirements of this subsection, information pertaining to the individual from the pilot records database established under paragraph (2).

''(2) PILOT RECORDS DATABASE.—The Administrator shall establish an electronic database (in this subsection referred to as the 'database') containing the following records:

''(A) FAA RECORDS.—From the Administrator—

''(i) records that are maintained by the Administrator concerning current airman certificates, including airman medical certificates and associated type ratings and information on any limitations to those certificates and ratings;

''(ii) records that are maintained by the Administrator concerning any failed attempt of an individual to pass a practical test required to obtain a certificate or type rating under part 61 of title 14, Code of Federal Regulations; and

''(iii) summaries of legal enforcement actions resulting in a finding by the Administrator of a violation of this title or a regulation prescribed or order issued under this title that was not subsequently overturned.

''(B) AIR CARRIER AND OTHER RECORDS.—From any air carrier or other person (except a branch of the Armed Forces, the National Guard, or a reserve component of the Armed Forces) that has employed an individual as a pilot of a civil or public aircraft, or from the trustee in bankruptcy for such air carrier or person—

''(i) records pertaining to the individual that are maintained by the air carrier (other than records relating to flight time, duty time, or rest time), including records under regulations set forth in—

''(I) section 121.683 of title 14, Code of Federal Regulations;

''(II) paragraph (A) of section VI, appendix I, part 121 of such title;

''(III) paragraph (A) of section IV, appendix J, part 121 of such title;

''(IV) section 125.401 of such title; and

''(V) section 135.63(a)(4) of such title; and

''(ii) other records pertaining to the individual's performance as a pilot that are maintained by the air carrier or person concerning—

''(I) the training, qualifications, proficiency, or professional competence of the individual, including comments and evaluations made by a check airman designated in accordance with section 121.411, 125.295, or 135.337 of such title;

''(II) any disciplinary action taken with respect to the individual that was not subsequently overturned; and

''(III) any release from employment or resignation, termination, or disqualification with respect to employment.

''(C) NATIONAL DRIVER REGISTER RECORDS.—In accordance with section 30305(b)(8) of this title, from the chief driver licensing official of a State, information concerning the motor vehicle driving record of the individual.

''(3) WRITTEN CONSENT; RELEASE FROM LIABILITY.—An air carrier—

''(A) shall obtain the written consent of an individual before accessing records pertaining to the individual under paragraph (1); and

''(B) may, notwithstanding any other provision of law or agreement to the contrary, require an individual with respect to whom the carrier is accessing records under paragraph (1) to execute a release from liability for any claim arising from accessing the records or the use of such records by the air carrier in accordance with this section (other than a claim arising from furnishing information known to be false and maintained in violation of a criminal statute).

''(4) REPORTING.—

''(A) REPORTING BY ADMINISTRATOR.—The Administrator shall enter data described in paragraph (2)(A) into the database promptly to ensure that an individual's records are current.

''(B) REPORTING BY AIR CARRIERS AND OTHER PERSONS.—

''(i) IN GENERAL.—Air carriers and other persons shall report data described in paragraphs (2)(B) and (2)(C) to the Administrator promptly for entry into the database.

''(ii) DATA TO BE REPORTED.—Air carriers and other persons shall report, at a minimum, under clause (i) the following data described in paragraph (2)(B):

''(I) Records that are generated by the air carrier or other person after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act.

''(II) Records that the air carrier or other person is maintaining, on such date of enactment, pursuant to subsection (h)(4).

''(5) REQUIREMENT TO MAINTAIN RECORDS.—The Administrator—

''(A) shall maintain all records entered into the database under paragraph (2) pertaining to an individual until the date of receipt of notification that the individual is deceased; and

''(B) may remove the individual's records from the database after that date.

''(6) RECEIPT OF CONSENT.—The Administrator shall not permit an air carrier to access records pertaining to an individual from the database under paragraph (1) without the air carrier first demonstrating to the satisfaction of the Administrator that the air carrier has obtained the written consent of the individual.

''(7) RIGHT OF PILOT TO REVIEW CERTAIN RECORDS AND CORRECT INACCURACIES.—Notwithstanding any other provision of law or agreement, the Administrator, upon receipt of written request from an individual—

''(A) shall make available, not later than 30 days after the date of the request, to the individual for review all records referred to in paragraph (2) pertaining to the individual; and

''(B) shall provide the individual with a reasonable opportunity to submit written comments to correct any inaccuracies contained in the records.

''(8) REASONABLE CHARGES FOR PROCESSING REQUESTS AND FURNISHING COPIES.—The Administrator may establish a reasonable charge for the cost of processing a request under paragraph (1) or (7) and for the cost of furnishing copies of requested records under paragraph (7).

''(9) PRIVACY PROTECTIONS.—

''(A) USE OF RECORDS.—An air carrier that accesses records pertaining to an individual under paragraph (1) may use the records only to assess the qualifications of the individual in deciding whether or not to hire the individual as a pilot. The air carrier shall take such actions as may be necessary to protect the privacy of the individual and the confidentiality of the records accessed, including ensuring that information contained in the records is not divulged to any individual that is not directly involved in the hiring decision.

''(B) DISCLOSURE OF INFORMATION.—

''(i) IN GENERAL.—Except as provided by clause (ii), information collected by the Administrator under paragraph (2) shall be exempt from the disclosure requirements of section 552 of title 5.

''(ii) EXCEPTIONS.—Clause (i) shall not apply to—

''(I) de-identified, summarized information to explain the need for changes in policies and regulations;

''(II) information to correct a condition that compromises safety;

''(III) information to carry out a criminal investigation or prosecution;

''(IV) information to comply with section 44905, regarding information about threats to civil aviation; and

''(V) such information as the Administrator determines necessary, if withholding the information would not be consistent with the safety responsibilities of the Federal Aviation Administration.

''(10) PERIODIC REVIEW.—Not later than 18 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, and at least once every 3 years thereafter, the Administrator shall transmit to Congress a statement that contains, taking into account recent developments in the aviation industry—

''(A) recommendations by the Administrator concerning proposed changes to Federal Aviation Administration records, air carrier records, and other records required to be included in the database under paragraph (2); or

''(B) reasons why the Administrator does not recommend any proposed changes to the records referred to in subparagraph (A).

''(11) REGULATIONS FOR PROTECTION AND SECURITY OF RECORDS.—The Administrator shall

prescribe such regulations as may be necessary—

''(A) to protect and secure—

''(i) the personal privacy of any individual whose records are accessed under paragraph (1); and

''(ii) the confidentiality of those records; and

''(B) to preclude the further dissemination of records received under paragraph (1) by the person who accessed the records.

''(12) GOOD FAITH EXCEPTION.—Notwithstanding paragraph (1), an air carrier may allow an individual to begin service as a pilot, without first obtaining information described in paragraph (2)(B) from the database pertaining to the individual, if—

''(A) the air carrier has made a documented good faith attempt to access the information from the database; and

''(B) has received written notice from the Administrator that the information is not contained in the database because the individual was employed by an air carrier or other person that no longer exists or by a foreign government or other entity that has not provided the information to the database.

''(13) LIMITATIONS ON ELECTRONIC ACCESS TO RECORDS.—

''(A) ACCESS BY INDIVIDUALS DESIGNATED BY AIR CARRIERS.—For the purpose of increasing timely and efficient access to records described in paragraph (2), the Administrator may allow, under terms established by the Administrator, an individual designated by an air carrier to have electronic access to the database.

''(B) TERMS.—The terms established by the Administrator under subparagraph (A) for allowing a designated individual to have electronic access to the database shall limit such access to instances in which information in the database is required by the designated individual in making a hiring decision concerning a pilot applicant and shall require that the designated individual provide assurances satisfactory to the Administrator that—

''(i) the designated individual has received the written consent of the pilot applicant to access the information; and

''(ii) information obtained using such access will not be used for any purpose other than making the hiring decision.

''(14) REGULATIONS.—

''(A) IN GENERAL.—The Administrator shall issue regulations to carry out this subsection.

''(B) EFFECTIVE DATE.—The regulations shall specify the date on which the requirements of this subsection take effect and the date on which the requirements of subsection (h) cease to be effective.

''(C) EXCEPTIONS.—Notwithstanding subparagraph (B)—

''(i) the Administrator shall begin to establish the database under paragraph (2) not later than 90 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act;

''(ii) the Administrator shall maintain records in accordance with paragraph (5) beginning on the date of enactment of that Act; and

''(iii) air carriers and other persons shall maintain records to be reported to the database under paragraph (4)(B) in the period beginning on such date of enactment and ending on the date that is 5 years after the requirements of subsection (h) cease to be effective pursuant to subparagraph (B).

''(15) SPECIAL RULE.—During the one-year period beginning on the date on which the requirements of this section become effective pursuant to paragraph (15)(B), paragraph (7)(A) shall be applied by substituting '45 days' for '30 days'.''.

(c) CONFORMING AMENDMENTS.—

(1) LIMITATION ON LIABILITY; PREEMPTION OF STATE LAW.—Section 44703(j) (as redesignated by subsection (b)(1) of this section) is amended—

(A) in the subsection heading by striking ''LIMITATION'' and inserting ''LIMITATIONS'';

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking ''paragraph (2)'' and inserting ''subsection (h)(2) or (i)(3)'';

(ii) in subparagraph (A) by inserting ''or accessing the records of that individual under subsection (i)(1)'' before the semicolon; and

(iii) in the matter following subparagraph (D) by striking ''subsection (h)'' and inserting ''subsection (h) or (i)'';

(C) in paragraph (2) by striking ''subsection (h)'' and inserting ''subsection (h) or (i)'';

(D) in paragraph (3), in the matter preceding subparagraph (A), by inserting ''or who furnished information to the database established under subsection (i)(2)'' after ''subsection (h)(1)''; and

(E) by adding at the end the following:

''(4) PROHIBITION ON ACTIONS AND PROCEEDINGS AGAINST AIR CARRIERS.—

''(A) HIRING DECISIONS.—An air carrier may refuse to hire an individual as a pilot if the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute the release from liability requested under subsection (h)(2)(B) or (i)(3)(B).

''(B) ACTIONS AND PROCEEDINGS.—No action or proceeding may be brought against an air carrier by or on behalf of an individual who has applied for or is seeking a position as a pilot with the air carrier if the air carrier refused to hire the individual after the individual did not provide written consent for the air carrier to receive records under subsection (h)(2)(A) or (i)(3)(A) or did not execute a release from liability requested under subsection (h)(2)(B) or (i)(3)(B).''.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Section 44703(k) (as redesignated by subsection (b)(1) of this section) is amended by striking ''subsection (h)'' and inserting ''subsection (h) or (i)''.

SEC. 552. AIR CARRIER SAFETY MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Within 60 days after the date of enactment of this Act, the Administrator shall initiate and complete a rulemaking to require part 121 air carriers—

(1) to implement, as part of their safety management systems—

(A) an Aviation Safety Action Program;

(B) a Flight Operations Quality Assurance Program;

(C) a Line Operational Safety Audit Program; and

(D) a Flight Crew Fatigue Risk Management Program;

(2) to implement appropriate privacy protection safeguards with respect to data included in such programs; and

(3) to provide appropriate collaboration and operational oversight of regional/commuter air carriers by affiliated major air carriers that include—

(A) periodic safety audits of flight operations;

(B) training, maintenance, and inspection programs; and

(C) provisions for the exchange of safety information.

(b) EFFECT ON ADVANCED QUALIFICATION PROGRAM.—Implementation of the programs under subsection (a)(1) neither limits nor invalidates the Federal Aviation Administration's advanced qualification program.

(c) LIMITATIONS ON DISCIPLINE AND ENFORCEMENT.—The Administrator shall require that each of the programs described in subsection (a)(1)(A) and (B) establish protections for an air carrier or employee submitting data or reports against disciplinary or enforcement actions by any Federal agency or employer. The protections shall not be less than the protections provided under Federal Aviation Administration Advisory Circulars governing those programs, including Advisory Circular AC No. 120–66 and AC No. 120–82.

(d) CVR DATA.—The Administrator, acting in collaboration with aviation industry interested parties, shall consider the merits and feasibility of incorporating cockpit voice recorder data in safety oversight practices.

(e) ENFORCEMENT CONSISTENCY.—Within 9 months after the date of enactment of this Act, the Administrator shall—

(1) develop and implement a plan that will ensure that the FAA's safety enforcement plan is consistently enforced; and

(2) ensure that the FAA's safety oversight program is reviewed periodically and updated as necessary.

SEC. 553. SECRETARY OF TRANSPORTATION RESPONSES TO SAFETY RECOMMENDATIONS.

(a) IN GENERAL.—The first sentence of section 1135(a) is amended by inserting ''to the National Transportation Safety Board'' after ''shall give''.

(b) AIR CARRIER SAFETY RECOMMENDATIONS.—Section 1135 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c) ANNUAL REPORT ON AIR CARRIER SAFETY RECOMMENDATIONS.—

''(1) IN GENERAL.—The Secretary shall submit an annual report to the Congress and the Board on the recommendations made by the Board to the Secretary regarding air carrier operations conducted under part 121 of title 14, Code of Federal Regulations.

''(2) RECOMMENDATIONS TO BE COVERED.—The report shall cover—

''(A) any recommendation for which the Secretary has developed, or intends to develop, procedures to adopt the recommendation or part of the recommendation, but has yet to complete the procedures; and

''(B) any recommendation for which the Secretary, in the preceding year, has issued a response under subsection (a)(2) or (a)(3) refusing to carry out all or part of the procedures to adopt the recommendation.

''(3) CONTENTS.—

''(A) PLANS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(A), the report shall contain—

''(i) a description of the recommendation;

''(ii) a description of the procedures planned for adopting the recommendation or part of the recommendation;

''(iii) the proposed date for completing the procedures; and

''(iv) if the Secretary has not met a deadline contained in a proposed timeline developed in connection with the recommendation under subsection (b), an explanation for not meeting the deadline.

''(B) REFUSALS TO ADOPT RECOMMENDATIONS.—For each recommendation of the Board described in paragraph (2)(B), the report shall contain—

''(i) a description of the recommendation; and

''(ii) a description of the reasons for the refusal to carry out all or part of the procedures to adopt the recommendation.''.

SEC. 554. IMPROVED FLIGHT OPERATIONAL QUALITY ASSURANCE, AVIATION SAFETY ACTION, AND LINE OPERATIONAL SAFETY AUDIT PROGRAMS.

(a) LIMITATION ON DISCLOSURE AND USE OF INFORMATION.—

(1) IN GENERAL.—Except as provided by this section, a party in a judicial proceeding may not use discovery to obtain—

(A) an Aviation Safety Action Program report;

(B) Flight Operational Quality Assurance Program data; or

(C) a Line Operations Safety Audit Program report.

(2) FOIA NOT APPLICABLE.—Section 522 of title 5, United States Code, shall not apply to reports or data described in paragraph (1).

(3) EXCEPTIONS.—Nothing in paragraph (1) or (2) prohibits the FAA from disclosing information contained in reports or data described in

paragraph (1) if withholding the information would not be consistent with the FAA's safety responsibilities, including—

(A) a summary of information, with identifying information redacted, to explain the need for changes in policies or regulations;

(B) information provided to correct a condition that compromises safety, if that condition continues uncorrected; or

(C) information provided to carry out a criminal investigation or prosecution.

(b) PERMISSIBLE DISCOVERY FOR SUCH REPORTS AND DATA.—Except as provided in subsection (c), a court may allow discovery by a party of an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report if, after an in camera review of the information, the court determines that a party to a claim or defense in the proceeding shows a particularized need for the report or data that outweighs the need for confidentiality of the report or data, considering the confidential nature of the report or data, and upon a showing that the report or data is both relevant to the preparation of a claim or defense and not otherwise known or available.

(c) PROTECTIVE ORDER.—When a court allows discovery, in a judicial proceeding, of an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report, the court shall issue a protective order—

(1) to limit the use of the information contained in the report or data to the judicial proceeding;

(2) to prohibit dissemination of the report or data to any person that does not need access to the report for the proceeding; and

(3) to limit the use of the report or data in the proceeding to the uses permitted for privileged self-analysis information as defined under the Federal Rules of Evidence.

(d) SEALED INFORMATION.—A court may allow an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report to be admitted into evidence in a judicial proceeding only if the court places the report or data under seal to prevent the use of the report or data for purposes other than for the proceeding.

(e) SAFETY RECOMMENDATIONS.—This section does not prevent the National Transportation Safety Board from referring at any time to information contained in an Aviation Safety Action Program report, Flight Operational Quality Assurance Program data, or a Line Operations Safety Audit Program report in making safety recommendations.

(f) WAIVER.—Any waiver of the privilege for self-analysis information by a protected party, unless occasioned by the party's own use of the information in presenting a claim or defense, must be in writing.

SEC. 555. RE-EVALUATION OF FLIGHT CREW TRAINING, TESTING, AND CERTIFICATION REQUIREMENTS.

(a) TRAINING AND TESTING.—The Administrator shall develop and implement a plan for reevaluation of flight crew training regulations in effect on the date of enactment of this Act, including regulations for—

(1) classroom instruction requirements governing curriculum content and hours of instruction;

(2) crew leadership training; and

(3) initial and recurrent testing requirements for pilots, including the rigor and consistency of testing programs such as check rides.

(b) BEST PRACTICES.—The plan shall incorporate best practices in the aviation industry with respect to training protocols, methods, and procedures.

(c) CERTIFICATION.—The Administrator shall initiate a rulemaking to re-evaluate FAA regulations governing the minimum requirements—

(1) to become a commercial pilot;

(2) to receive an Air Transport Pilot Certificate to become a captain; and

(3) to transition to a new type of aircraft.

(d) REMEDIAL TRAINING PROGRAMS.—

(1) IN GENERAL.—The Administrator shall initiate a rulemaking to require part 121 air carriers to establish remedial training programs for flightcrew members who have demonstrated performance deficiencies or experienced failures in the training environment.

(2) DEADLINES.—The Administrator shall—

(A) not later than 180 days after the date of enactment of this Act, issue a notice of proposed rulemaking under paragraph (1); and

(B) not later than 24 months after the date of enactment of this Act, issue a final rule for the rulemaking.

(e) STICK PUSHER TRAINING AND WEATHER EVENT TRAINING.—

(1) MULTIDISCIPLINARY PANEL.—Not later than 120 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary panel of specialists in aircraft operations, flightcrew member training, human factors, and aviation safety to study and submit to the Administrator a report on methods to increase the familiarity of flightcrew members with, and improve the response of flightcrew members to, stick pusher systems, icing conditions, and microburst and windshear weather events.

(2) REPORT TO CONGRESS.—Not later than one year after the date on which the Administrator convenes the panel, the Administrator shall—

(A) submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation based on the findings of the panel; and

(B) with respect to stick pusher systems, initiate appropriate actions to implement the recommendations of the panel.

SEC. 556. FLIGHTCREW MEMBER MENTORING, PROFESSIONAL DEVELOPMENT, AND LEADERSHIP.

(a) AVIATION RULEMAKING COMMITTEE.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall conduct an aviation rulemaking committee proceeding with stakeholders to develop procedures for each part 121 air carrier to take the following actions:

(A) Establish flightcrew member mentoring programs under which the air carrier will pair highly experienced flightcrew members who will serve as mentor pilots and be paired with newly employed flightcrew members. Mentor pilots should be provided, at a minimum, specific instruction on techniques for instilling and reinforcing the highest standards of technical performance, airmanship, and professionalism in newly employed flightcrew members.

(B) Establish flightcrew member professional development committees made up of air carrier management and labor union or professional association representatives to develop, administer, and oversee formal mentoring programs of the carrier to assist flightcrew members to reach their maximum potential as safe, seasoned, and proficient flightcrew members.

(C) Establish or modify training programs to accommodate substantially different levels and types of flight experience by newly employed flightcrew members.

(D) Establish or modify training programs for second-in-command flightcrew members attempting to qualify as pilot-in-command flightcrew members for the first time in a specific aircraft type and ensure that such programs include leadership and command training.

(E) Ensure that recurrent training for pilots in command includes leadership and command training.

(F) Such other actions as the aviation rulemaking committee determines appropriate to enhance flightcrew member professional development.

(2) COMPLIANCE WITH STERILE COCKPIT RULE.—Leadership and command training described in paragraphs (1)(D) and (1)(E) shall include instruction on compliance with flightcrew member duties under part 121.542 of title 14, Code of Federal Regulations.

(3) STREAMLINED PROGRAM REVIEW.—

(A) IN GENERAL.—As part of the rulemaking required by subsection (a), the Administrator shall establish a streamlined process for part 121 air carriers that have in effect, as of the date of enactment of this Act, the programs required by paragraph (1).

(B) EXPEDITED APPROVALS.—Under the streamlined process, the Administrator shall—

(i) review the programs of such part 121 air carriers to determine whether the programs meet the requirements set forth in the final rule referred to in subsection (b)(2); and

(ii) expedite the approval of the programs that the Administrator determines meet such requirements.

(b) DEADLINES.—The Administrator shall issue—

(1) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under subsection (a); and

(2) not later than 24 months after such date of enactment, a final rule under subsection (a).

SEC. 557. FLIGHTCREW MEMBER SCREENING AND QUALIFICATIONS.

(a) REQUIREMENTS.—The Administrator of the Federal Aviation Administration shall conduct a rulemaking proceeding to require part 121 air carriers to develop and implement means and methods for ensuring that flightcrew members have proper qualifications and experience.

(b) MINIMUM EXPERIENCE REQUIREMENT.—

(1) IN GENERAL.—The final rule prescribed under subsection (a) shall, among any other requirements established by the rule, require that a pilot—

(A) have not less than 800 hours of flight time before serving as a flightcrew member for a part 121 air carrier; and

(B) demonstrate the ability to—

(i) function effectively in a multipilot environment;

(ii) function effectively in an air carrier operational environment;

(iii) function effectively in adverse weather conditions, including icing conditions if the pilot is expected to be operating aircraft in icing conditions;

(iv) function effectively during high altitude operations; and

(v) adhere to the highest professional standards.

(2) HOURS OF FLIGHT EXPERIENCE IN DIFFICULT OPERATIONAL CONDITIONS.—The total number of hours of flight experience required by the Administrator under paragraph (1) for pilots shall include a number of hours of flight experience in difficult operational conditions that may be encountered by an air carrier that the Administrator determines to be sufficient to enable a pilot to operate an aircraft safely in such conditions.

(c) DEADLINES.—The Administrator shall issue—

(1) not later than 180 days after the date of enactment of this Act, a notice of proposed rulemaking under subsection (a); and

(2) not later than December 31, 2011, a final rule under subsection (a).

(d) DEFAULT REQUIREMENTS.—If the Administrator fails to meet the deadline established by subsection (c))(2), then all flightcrew members for part 121 air carriers shall meet the requirements established by subpart G of part 61 of the Federal Aviation Administration's regulations (14 C.F.R. 61.151 et seq.).

(e) DEFINITIONS.—In this section:

(1) FLIGHTCREW MEMBER.—The term ''flightcrew member'' has the meaning given that term in section 1.1 of the Federal Aviation Administration's regulations (14 C.F.R. 1.1)).

(2) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' has the meaning given that term by section 41720(d)(1) of title 49, United States Code.

SEC. 558. PROHIBITION ON PERSONAL USE OF CERTAIN DEVICES ON FLIGHT DECK.

(a) IN GENERAL.—Chapter 447, as amended by section 521 of this Act, is further amended by adding at the end thereof the following:

''§ 44731. Use of certain devices on flight deck

''(a) IN GENERAL.—It is unlawful for any member of the flight crew of an aircraft used to provide air transportation under part 121 of title 14, Code of Federal Regulations, to use a personal wireless communications device or laptop computer while at the crew member's duty station on the flight deck of such an aircraft while the aircraft is being operated.

''(b) EXCEPTIONS.—Subsection (a) shall not apply to the use of a personal wireless communications device or laptop computer for a purpose directly related to operation of the aircraft, or for emergency, safety-related, or employment-related communications, in accordance with procedures established by the air carrier or the Federal Aviation Administration.

''(c) ENFORCEMENT.—In addition to the penalties provided under section 46301 of this title applicable to any violation of this section, the Administrator of the Federal Aviation Administration may enforce compliance with this section under section 44709.

''(d) PERSONAL WIRELESS COMMUNICATIONS DEVICE DEFINED.—The term 'personal wireless communications device' means a device through which personal wireless services (as defined in section 332(c)(7)(C)(i) of the Communications Act of 1934 (47 U.S.C. 332(c)(7)(C)(i))) are transmitted.''.

(b) PENALTY.—Section 44711(a) is amended—

(1) by striking ''or'' after the semicolon in paragraph (8);

(2) by striking ''title.'' in paragraph (9) and inserting ''title; or''; and

(3) by adding at the end the following:

''(10) violate section 44730 of this title or any regulation issued thereunder.''.

(c) CONFORMING AMENDMENT.—The table of contents for chapter 447 is amended by adding at the end thereof the following:

''44731. Use of certain devices on flight deck''.

(d) REGULATIONS.—Within 30 days after the date of enactment of this Act, the Secretary of Transportation shall initiate a rulemaking procedure for regulations under section 44730 of title 49, United States Code, and shall issue a final rule thereunder within 1 year after the date of enactment of this Act.

(e) STUDY.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration shall review relevant air carrier data and carry out a study—

(A) to identify common sources of distraction for the cockpit flight crew on commercial aircraft; and

(B) to determine the safety impacts of such distractions.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—

(A) the findings of the study conducted under paragraph (1); and

(B) recommendations about ways to reduce distractions for cockpit flight crews.

SEC. 559. SAFETY INSPECTIONS OF REGIONAL AIR CARRIERS.

The Administrator shall, not less frequently than once each year, perform random, unannounced, on-site inspections of air carriers that provide air transportation pursuant to a contract with a part 121 air carrier to ensure that such air carriers are complying with all applicable safety standards of the Administration.

SEC. 560. ESTABLISHMENT OF SAFETY STANDARDS WITH RESPECT TO THE TRAINING, HIRING, AND OPERATION OF AIRCRAFT BY PILOTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a final rule with respect to the Notice of Proposed Rulemaking published in the Federal Register on January 12, 2009 (74 Fed. Reg. 1280), relating to training programs for flight crew members and aircraft dispatchers.

(b) EXPERT PANEL TO REVIEW PART 121 AND PART 135 TRAINING HOURS.—

(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall convene a multidisciplinary expert panel comprised of, at a minimum, air carrier representatives, training facility representatives, instructional design experts, aircraft manufacturers, safety organization representatives, and labor union representatives.

(2) ASSESSMENT AND RECOMMENDATIONS.—The panel shall assess and make recommendations concerning—

(A) the best methods and optimal time needed for flightcrew members of part 121 air carriers and flightcrew members of part 135 air carriers to master aircraft systems, maneuvers, procedures, take offs and landings, and crew coordination;

(B) the optimal length of time between training events for such crewmembers, including recurrent training events;

(C) the best methods to reliably evaluate mastery by such crewmembers of aircraft systems, maneuvers, procedures, take offs and landings, and crew coordination; and

(D) the best methods to allow specific academic training courses to be credited pursuant to section 11(d) toward the total flight hours required to receive an airline transport pilot certificate.

(3) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation based on the findings of the panel.

SEC. 561. OVERSIGHT OF PILOT TRAINING SCHOOLS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to Congress a plan for overseeing pilot schools certified under part 141 of title 14, Code of Federal Regulations, that includes—

(1) ensuring that the curriculum and course outline requirements for such schools under subpart C of such part are being met; and

(2) conducting on-site inspections of each such school not less frequently than once every 2 years.

(b) GAO STUDY.—The Comptroller General shall conduct a comprehensive study of flight schools, flight education, and academic training requirements for certification of an individual as a pilot.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the results of the study.

SEC. 562. ENHANCED TRAINING FOR FLIGHT ATTENDANTS AND GATE AGENTS.

(a) IN GENERAL.—Chapter 447, as amended by section 558 of this Act, is further amended by adding at the end the following:

''§ 44732. Training of flight attendants and gate agents

''(a) TRAINING REQUIRED.—In addition to other training required under this chapter, each air carrier shall provide initial and annual recurring training for flight attendants and gate agents employed or contracted by such air carrier regarding—

''(1) serving alcohol to passengers;

''(2) recognizing intoxicated passengers; and

''(3) dealing with disruptive passengers.

''(b) SITUATIONAL TRAINING.—In carrying out the training required under subsection (a), each air carrier shall provide situational training to flight attendants and gate agents on the proper method for dealing with intoxicated passengers who act in a belligerent manner.

''(c) DEFINITIONS.—In this section:

''(1) AIR CARRIER.—The term 'air carrier' means a person or commercial enterprise that has been issued an air carrier operating certificate under section 44705.

''(2) FLIGHT ATTENDANT.—The term 'flight attendant' has the meaning given the term in section 44728(f).

''(3) GATE AGENT.—The term 'gate agent' means an individual working at an airport whose responsibilities include facilitating passenger access to commercial aircraft.

''(4) PASSENGER.—The term 'passenger' means an individual traveling on a commercial aircraft, from the time at which the individual arrives at the airport from which such aircraft departs until the time the individual leaves the airport to which such aircraft arrives.''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 447 is amended by adding at the end the following:

''44732. Training of flight attendants and gate agents''.

(c) RULEMAKING.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out section 44730 of title 49, United States Code, as added by subsection (a).

SEC. 563. DEFINITIONS.

In this subtitle:

(1) AVIATION SAFETY ACTION PROGRAM.—The term ''Aviation Safety Action Program'' means the program described under Federal Aviation Administration Advisory Circular No. 120–66B that permits employees of participating air carriers and repair station certificate holders to identify and report safety issues to management and to the Administration for resolution.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator.

(3) AIR CARRIER.—The term ''air carrier'' has the meaning given that term by section 40102(2) of title 49, United States Code.

(4) FAA.—The term ''FAA'' means the Federal Aviation Administration.

(5) FLIGHT OPERATIONAL QUALITY ASSURANCE PROGRAM.—The term ''Flight Operational Quality Assurance Program'' means the voluntary safety program authorized under section 13.401 of title 14, Code of Federal Regulations, that permits commercial air carriers and pilots to share confidential aggregate information with the Administration to permit the Administration to target resources to address operational risk issues.

(6) LINE OPERATIONS SAFETY AUDIT PROGRAM.—The term ''Line Operations Safety Audit Program'' has the meaning given that term by Federal Aviation Administration Advisory Circular Number 120–90.

(7) PART 121 AIR CARRIER.—The term ''part 121 air carrier'' has the meaning given that term by section 41719(d)(1) of title 49, United States Code.

SEC. 564. STUDY OF AIR QUALITY IN AIRCRAFT CABINS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study of air quality in aircraft cabins to—

(1) assess bleed air quality on the full range of commercial aircraft operating in the United States;

(2) identify oil-based contaminants, hydraulic fluid toxins, and other air toxins that appear in

cabin air and measure the quantity and prevalence, or absence of those toxins through a comprehensive sampling program;

(3) determine the specific amount and duration of toxic fumes present in aircraft cabins that constitutes a health risk to passengers;

(4) develop a systematic reporting standard for smoke and fume events in aircraft cabins;

(5) identify the potential health risks to individuals exposed to toxic fumes during flight; and

(6) determine the extent to which the installation of sensors and air filters on commercial aircraft would provide a public health benefit.

(b) AUTHORITY TO MONITOR AIR IN AIRCRAFT CABINS.—For purposes of conducting the study required by subsection (a), the Administrator of the Federal Aviation Administration shall require domestic air carriers to allow air quality monitoring on their aircraft in a manner that imposes no significant costs on the air carrier and does not interfere with the normal operation of the aircraft.

TITLE VI—AVIATION RESEARCH

SEC. 601. AIRPORT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 44511(f) is amended—

(1) by striking ''establish a 4-year pilot'' in paragraph (1) and inserting ''maintain an''; and

(2) by inserting ''pilot'' in paragraph (4) before ''program'' the first time it appears; and

(3) by striking ''program, including recommendations as to the need for establishing a permanent airport cooperative research program.'' in paragraph (4) and inserting ''program.''.

(b) AIRPORT COOPERATIVE RESEARCH PROGRAM.—Not more than $15,000,000 per year for fiscal years 2010 and 2011 may be appropriated to the Secretary of Transportation from the amounts made available each year under subsection (a) for the Airport Cooperative Research Program under section 44511 of this title, of which not less than $5,000,000 per year shall be for research activities related to the airport environment, including reduction of community exposure to civil aircraft noise, reduction of civil aviation emissions, or addressing water quality issues.

SEC. 602. REDUCTION OF NOISE, EMISSIONS, AND ENERGY CONSUMPTION FROM CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Administrator of the Federal Aviation Administration shall establish a research program related to reducing civilian aircraft energy use, emissions, and source noise with equivalent safety through grants or other measures, which may include cost-sharing, authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) ESTABLISHMENT OF CONSORTIUM.—

(1) DESIGNATION AS CONSORTIUM.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall designate, using a competitive process, one or more institutions or entities described in paragraph (2) as a Consortium for Continuous Low Energy, Emissions, and Noise (CLEEN) to perform research in accordance with this section.

(2) PARTICIPATION.—The Administrator shall include educational and research institutions or private sector entities that have existing facilities and experience for developing and testing noise, emissions and energy reduction engine and aircraft technology, and developing alternative fuels in the research program required by subsection (a).

(3) COORDINATION MECHANISMS.—In conducting the research program, the Consortium designated under paragraph (1) shall—

(A) coordinate its activities with the Department of Agriculture, the Department of Energy, the National Aeronautics and space Administration, and other relevant Federal agencies; and

(B) consult on a regular basis with the Commercial Aviation Alternative Fuels Initiative.

(c) PERFORMANCE OBJECTIVES.—Not later than January 1, 2016, the research program shall accomplish the following objectives:

(1) Certifiable aircraft technology that reduces fuel burn 33 percent compared to current technology, reducing energy consumption and carbon dioxide emissions.

(2) Certifiable engine technology that reduces landing and takeoff cycle nitrogen oxide emissions by 60 percent, at a pressure ratio of 30 over the International Civil Aviation Organization standard adopted at the 6th Meeting of the Committee on Aviation Environmental Protection, with commensurate reductions over the full pressure ratio range, while limiting or reducing other gaseous or particle emissions.

(3) Certifiable aircraft technology that reduces noise levels by 32 Effective Perceived Noise in decibels (EPNdb) cumulative, relative to Stage 4 standards.

(4) Advance qualification and environmental assurance of alternative aviation fuels to support a goal of having 20 percent of the jet fuel available for purchase by United States commercial airlines and cargo carriers be alternative fuels.

(5) Determination of the extent to which new engine and aircraft technologies may be used to retrofit or re-engine aircraft so as to increase the level of penetration into the commercial fleet.

SEC. 603. PRODUCTION OF ALTERNATIVE FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.

(a) IN GENERAL.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from natural gas, biomass and other renewable sources through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies.

(b) PARTICIPATION IN PROGRAM.—The Secretary shall—

(1) include educational and research institutions that have existing facilities and experience in the research, small-scale development, testing, or evaluation of technologies related to the creation, processing, and production of a variety of feedstocks into aviation fuel under the program required by subsection (a); and

(2) consider utilizing the existing capacity in Aeronautics research at Langley Research Center of the National Aeronautics and Space Administration to carry out the program required by subsection (a).

(c) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (b) as a Center of Excellence for Alternative Jet-Fuel Research in Civil Aircraft. The Center of Excellence shall be a member of the CLEEN Consortium established under section 602(b), and shall be part of a Joint Center of Excellence with the Partnership for Air Transportation Noise and Emission Reduction FAA Center of Excellence.

SEC. 604. PRODUCTION OF CLEAN COAL FUEL TECHNOLOGY FOR CIVILIAN AIRCRAFT.

(a) ESTABLISHMENT OF RESEARCH PROGRAM.—From amounts made available under section 48102(a) of title 49, United States Code, the Secretary of Transportation shall establish a research program related to developing jet fuel from clean coal through grants or other measures authorized under section 106(l)(6) of such title, including reimbursable agreements with other Federal agencies. The program shall include participation by educational and research institutions that have existing facilities and experience in the development and deployment of technology that processes coal to aviation fuel.

(b) DESIGNATION OF INSTITUTION AS A CENTER OF EXCELLENCE.—Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall designate an institution described in subsection (a) as a Center of Excellence for Coal-to-Jet-Fuel Research.

SEC. 605. ADVISORY COMMITTEE ON FUTURE OF AERONAUTICS.

(a) ESTABLISHMENT.—There is established an advisory committee to be know as the ''Advisory Committee on the Future of Aeronautics''.

(b) MEMBERSHIP.—The Advisory Committee shall consist of 7 members appointed by the President from a list of 15 candidates proposed by the Director of the National Academy of Sciences.

(c) CHAIRPERSON.—The Advisory Committee members shall elect 1 member to serve as chairperson of the Advisory Committee.

(d) FUNCTIONS.—The Advisory Committee shall examine the best governmental and organizational structures for the conduct of civil aeronautics research and development, including options and recommendations for consolidating such research to ensure continued United States leadership in civil aeronautics. The Committee shall consider transferring responsibility for civil aeronautics research and development from the National Aeronautics and Space Administration to other existing departments or agencies of the Federal Government or to a non-governmental organization such as academic consortia or not-for-profit organizations. In developing its recommendations, the Advisory Committee shall consider, as appropriate, the aeronautics research policies developed pursuant to section 101(d) of Public Law 109–155 and the requirements and priorities for aeronautics research established by title IV of Public Law 109–155.

(e) REPORT.—Not later than 12 months after the date on which the full membership of the Advisory Committee is appointed, the Advisory Committee shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committees on Science and Technology and on Transportation and Infrastructure on its findings and recommendations. The report may recommend a rank ordered list of acceptable solutions.

(f) TERMINATION.—The Advisory Committee shall terminate 60 days after the date on which it submits the report to the Congress.

SEC. 606. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.

(a) CONTINUATION OF PROGRAM.—The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of airfield pavements to aid in the development of safer, more cost effective, and more durable airfield pavements.

(b) USE OF GRANTS OR COOPERATIVE AGREEMENTS.—The Administrator may use grants or cooperative agreements in carrying out this section.

SEC. 607. WAKE TURBULENCE, VOLCANIC ASH, AND WEATHER RESEARCH.

Within 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall—

(1) initiate evaluation of proposals that would increase capacity throughout the air transportation system by reducing existing spacing requirements between aircraft of all sizes, including research on the nature of wake vortices;

(2) begin implementation of a system to improve volcanic ash avoidance options for aircraft, including the development of a volcanic ash warning and notification system for aviation; and

(3) establish research projects on—

(A) ground de-icing/anti-icing, ice pellets, and freezing drizzle;

(B) oceanic weather, including convective weather;

(C) en route turbulence prediction and detection; and

(D) all hazards during oceanic operations, where commercial traffic is high and only rudimentary satellite sensing is available, to reduce the hazards presented to commercial aviation.

SEC. 608. INCORPORATION OF UNMANNED AIRCRAFT SYSTEMS INTO FAA PLANS AND POLICIES.

(a) RESEARCH.—

(1) EQUIPMENT.—Section 44504, as amended by section 216 of this Act, is further amended—

(A) by inserting ''unmanned and manned'' in subsection (a) after ''improve'';

(B) by striking ''and'' after the semicolon in subsection (b)(7);

(C) by striking ''emitted.'' in subsection (b)(8) and inserting ''emitted; and''; and

(D) by adding at the end of subsection (b) the following:

''(9) in conjunction with other Federal agencies as appropriate, to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, and processes, for use in all classes of unmanned aircraft systems that could result in a catastrophic failure.''.

(2) HUMAN FACTORS; SIMULATIONS.—Section 44505(b) is amended—

(A) by striking ''and'' after the semicolon in paragraph (4);

(B) by striking ''programs.'' in paragraph (5)(C) and inserting ''programs; and''; and

(C) by adding at the end thereof the following:

''(6) to develop a better understanding of the relationship between human factors and unmanned aircraft systems air safety; and

''(7) to develop dynamic simulation models of integrating all classes of unmanned aircraft systems into the National Airspace System.''.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT.—

(1) IN GENERAL.—Within 3 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Academy of Sciences for an assessment of unmanned aircraft systems that may include consideration of—

(A) human factors regarding unmanned aircraft systems operation;

(B) ''detect, sense and avoid technologies'' with respect to both cooperative and non-cooperative aircraft;

(C) spectrum issues and bandwidth requirements;

(D) operation in suboptimal winds and adverse weather conditions;

(E) mechanisms such as the use of transponders for letting other entities know where the unmanned aircraft system is flying;

(F) airworthiness and system redundancy;

(G) flight termination systems for safety and security;

(H) privacy issues;

(I) technologies for unmanned aircraft systems flight control;

(J) technologies for unmanned aircraft systems propulsion;

(K) unmanned aircraft systems operator qualifications, medical standards, and training requirements;

(L) unmanned aircraft systems maintenance requirements and training requirements; and

(M) any other unmanned aircraft systems-related issue the Administrator believes should be addressed.

(2) REPORT.—Within 12 months after initiating the study, the National Academy shall submit its report to the Administrator, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing its findings and recommendations.

(c) PILOT PROJECTS.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish 3 2-year cost-shared pilot projects in sparsely populated, low-density Class G air traffic airspace new test sites to conduct experiments and collect data in order to accelerate the safe integration of unmanned aircraft systems into the National Airspace System as follows:

(A) 1 project shall address operational issues required for integration of Category 1 unmanned aircraft systems defined as analogous to RC models covered in the FAA Advisory Circular AC 91–57.

(B) 1 project shall address operational issues required for integration of Category 2 unmanned aircraft systems defined as non-standard aircraft that perform special purpose operations. Operators must provide evidence of airworthiness and operator qualifications.

(C) 1 project shall address operational issues required for integration of Category 3 unmanned aircraft systems defined as capable of flying throughout all categories of airspace and conforming to part 91 of title 14, Code of Federal Regulations.

(D) All 3 pilot projects shall be operational no later than 6 months after being established.

(2) USE OF CONSORTIA.—In conducting the pilot projects, the Administrator shall encourage the formation of participating consortia from the public and private sectors, educational institutions, and non-profit organization.

(3) REPORT.—Within 90 days after completing the pilot projects, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure setting forth the Administrator's findings and conclusions concerning the projects.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal years 2010 and 2011 such sums as may be necessary to conduct the pilot projects.

(d) UNMANNED AIRCRAFT SYSTEMS ROADMAP.—Within 30 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall approve and make available in print and on the Administration's website a 5-year ''roadmap'' for the introduction of unmanned aircraft systems into the National Airspace System being coordinated by its Unmanned Aircraft Program Office. The Administrator shall update the ''roadmap'' annually.

(e) UPDATED POLICY STATEMENT.—Not later than 90 days after the date of enactment of this Act, the Administrator shall issue a notice of proposed rulemaking to update the Administration's most recent policy statement on unmanned aircraft systems, Docket No. FAA–2006–25714.

(f) EXPANDING THE USE OF UAS IN THE ARCTIC.—Within 6 months after the date of enactment of this Act, the Administrator, in consultation with the National Oceanic and Atmospheric Administration, the Coast Guard, and other Federal agencies as appropriate, shall identify permanent areas in the Arctic where small unmanned aircraft may operate 24 hours per day from 2000 feet to the surface and beyond line-of-sight for research and commercial purposes. Within 12 months after the date of enactment of this Act, the Administrator shall have established and implemented a single process for approving unmanned aircraft use in the designated arctic regions regardless of whether the unmanned aircraft is used as a public aircraft, a civil aircraft, or as a model aircraft.

(g) DEFINTIONS.—In this section:

(1) ARCTIC.—The term ''Arctic'' means the United States zone of the Chukchi, Beaufort, and Bering Sea north of the Aleutian chain.

(2) PERMANENT AREAS.—The term ''permanent areas'' means areas on land or water that provide for terrestrial launch and recovery of small unmanned aircraft.

SEC. 609. REAUTHORIZATION OF CENTER OF EXCELLENCE IN APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.

Section 708(b) of the Vision 100—Century of Aviation Reauthorization Act (49 U.S.C. 44504 note) is amended by striking ''$500,000 for fiscal year 2004'' and inserting ''$1,000,000 for each of fiscal years 2008 through 2012''.

SEC. 610. PILOT PROGRAM FOR ZERO EMISSION AIRPORT VEHICLES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47136 the following:

''§ 47136A. Zero emission airport vehicles and infrastructure

''(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program under which the sponsor of a public-use airport may use funds made available under section 47117 or section 48103 for use at such airports or passenger facility revenue (as defined in section 40117(a)(6)) to carry out activities associated with the acquisition and operation of zero emission vehicles (as defined in section 88.120–94 of title 40, Code of Federal Regulations), including the construction or modification of infrastructure to facilitate the delivery of fuel and services necessary for the use of such vehicles. Any use of funds authorized by the preceding sentence shall be considered to be an authorized use of funds under section 47117 or section 48103, or an authorized use of passenger facility revenue (as defined in section 40117(a)(6)), as the case may be.

''(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

''(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))).

''(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

''(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the program.

''(d) FEDERAL SHARE.—Notwithstanding any other provision of this subchapter, the Federal share of the costs of a project carried out under the program shall be 50 percent.

''(e) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The sponsor of a public-use airport carrying out activities funded under the program may not use more than 10 percent of the amounts made available under the program in any fiscal year for technical assistance in carrying out such activities.

''(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the program shall use an eligible consortium (as defined in section 5506 of this title) in the region of the airport to receive technical assistance described in paragraph (1).

''(f) MATERIALS IDENTIFYING BEST PRACTICES.—The Secretary may develop and make available materials identifying best practices for carrying out activities funded under the program based on projects carried out under section 47136 and other sources.''.

(b) REPORT ON EFFECTIVENESS OF PROGRAM.—Not later than 18 months after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary of Transportation shall transmit a report to the Senate Committee on Commerce, Science, and

Transportation the House of Representatives Committee on Transportation and Infrastructure containing—

(1) an evaluation of the effectiveness of the pilot program;

(2) an identification of all public-use airports that expressed an interest in participating in the program; and

(3) a description of the mechanisms used by the Secretary to ensure that the information and know-how gained by participants in the program is transferred among the participants and to other interested parties, including other public-use airports.

(c) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47136 the following:

''47136A. Zero emission airport vehicles and infrastructure''.

SEC. 611. REDUCTION OF EMISSIONS FROM AIRPORT POWER SOURCES.

(a) IN GENERAL.—Subchapter I of chapter 471 is amended by inserting after section 47140 the following:

''§ 47140A. Reduction of emissions from airport power sources

''(a) IN GENERAL.—The Secretary of Transportation shall establish a program under which the sponsor of each airport eligible to receive grants under section 48103 is encouraged to assess the airport's energy requirements, including heating and cooling, base load, back-up power, and power for on-road airport vehicles and ground support equipment, in order to identify opportunities to reduce harmful emissions and increase energy efficiency at the airport.

''(b) GRANTS.—The Secretary may make grants under section 48103 to assist airport sponsors that have completed the assessment described in subsection (a) to acquire or construct equipment, including hydrogen equipment and related infrastructure, that will reduce harmful emissions and increase energy efficiency at the airport. To be eligible for such a grant, the sponsor of such an airport shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 471 is amended by inserting after the item relating to section 47140 the following:

''47140A. Reduction of emissions from airport power sources''.

SEC. 612. SITING OF WINDFARMS NEAR FAA NAVIGATIONAL AIDES AND OTHER ASSETS.

(a) SURVEY AND ASSESSMENT.—

(1) IN GENERAL.—In order to address safety and operational concerns associated with the construction, alteration, establishment, or expansion of wind farms in proximity to critical FAA facilities, the Administrator shall, within 60 days after the date of enactment of this Act, complete a survey and assessment of leases for critical FAA facility sites, including—

(A) an inventory of the leases that describes, for each such lease—

(i) the periodic cost, location, site, terms, number of years remaining, and lessor;

(ii) other Administration facilities that share the leasehold, including surveillance and communications equipment; and

(iii) the type of transmission services supported, including the terms of service, cost, and support contract obligations for the services; and

(B) a list of those leases for facilities located in or near areas suitable for the construction and operation of wind farms, as determined by the Administrator in consultation with the Secretary of Energy.

(2) REPORT.—Upon completion of the survey and assessment, the Administrator shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the Comptroller General containing the Administrator's findings, conclusions, and recommendations.

(b) GAO ASSESSMENT.—

(1) IN GENERAL.—Within 180 days after receiving the Administrator's report under subsection (a)(2), the Comptroller General, in consultation with the Administrator, shall report on—

(A) the current and potential impact of wind farms on the national airspace system;

(B) the extent to which the Department of Defense and the Federal Aviation Administration have guidance, processes, and procedures in place to evaluate the impact of wind farms on the implementation of the Next Generation air traffic control system; and

(C) potential mitigation strategies, if necessary, to ensure that wind farms do not have an adverse impact on the implementation of the Next Generation air traffic control system, including the installation of navigational aides associated with that system.

(c) ISSUANCE OF GUIDELINES; PUBLIC INFORMATION.—

(1) GUIDANCE.—Within 60 days after the Administrator receives the Comptroller's recommendations, the Administrator shall publish guidelines for the construction and operation of wind farms to be located in proximity to critical Federal Aviation Administration facilities. The guidelines may include—

(A) the establishment of a zone system for wind farms based on proximity to critical FAA assets;

(B) the establishment of turbine height and density limitations on such wind farms;

(C) requirements for notice to the Administration under section 44718(a) of title 49, United States Code, before the construction, alteration, establishment, or expansion of a such a wind farm; and

(D) any other requirements or recommendations designed to address Administration safety or operational concerns related to the construction, alteration, establishment, or expansion of such wind farms.

(2) PUBLIC ACCESS TO INFORMATION.—To the extent feasible, taking into consideration security, operational, and public safety concerns (as determined by the Administrator), the Administrator shall provide public access to information regarding the planning, construction, and operation of wind farms in proximity to critical FAA facilities on, or by linkage from, the homepage of the Federal Aviation Administration's public website.

(d) CONSULTATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Administrator and the Comptroller General shall consult, as appropriate, with the Secretaries of the Army, the Navy, the Air Force, Homeland Security, and Energy—

(1) to coordinate the requirements of each department for future air space needs;

(2) to determine what the acceptable risks are to the existing infrastructure of each department; and

(3) to define the different levels of risk for such infrastructure.

(e) REPORTS.—The Administrator and the Comptroller General shall provide a copy of reports under subsections (a) and (b), respectively, to the Senate Committee on Homeland Security and Governmental Affairs, the Senate Committee on Armed Services, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Armed Services, and the House of Representatives Committee on Science and Technology, as appropriate.

(f) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term ''Administration'' means the Federal Aviation Administration.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Federal Aviation Administration.

(3) CRITICAL FAA FACILITIES.—The term ''critical FAA facilities'' means facilities on which are located navigational aides, surveillance systems, or communications systems used by the Administration in administration of the national airspace system.

(4) WIND FARM.—The term ''wind farm'' means an installation of 1 or more wind turbines used for the generation of electricity.

SEC. 613. RESEARCH AND DEVELOPMENT FOR EQUIPMENT TO CLEAN AND MONITOR THE ENGINE AND APU BLEED AIR SUPPLIED ON PRESSURIZED AIRCRAFT.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall, to the degree practicable, implement a research program for the identification or development of appropriate and effective air cleaning technology and sensor technology for the engine and auxiliary power unit (APU) bleed air supplied to the passenger cabin and flight deck of all pressurized aircraft.

(b) TECHNOLOGY REQUIREMENTS.—The technology referred to in subsection (a) should, at a minimum, have the capacity—

(1) to remove oil-based contaminants from the bleed air supplied to the passenger cabin and flight deck; and

(2) to detect and record oil-based contaminants in the portion of the total air supplied to the passenger cabin and flight deck from bleed air.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the research and development work carried out under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are as necessary to carry out this section.

TITLE VII—MISCELLANEOUS

SEC. 701. GENERAL AUTHORITY.

(a) THIRD PARTY LIABILITY.—Section 44303(b) is amended by striking ''December 31, 2009,'' and inserting ''December 31, 2012,''.

(b) EXTENSION OF PROGRAM AUTHORITY.—Section 44310 is amended by striking ''December 31, 2013.'' and inserting ''October 1, 2017.''.

(c) WAR RISK.—Section 44302(f)(1) is amended—

(1) by striking ''September 30, 2009,'' and inserting ''September 30, 2011,''; and

(2) by striking ''December 31, 2009,'' and inserting ''December 31, 2011,''.

SEC. 702. HUMAN INTERVENTION MANAGEMENT STUDY.

Within 6 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a Human Intervention Management Study program for cabin crews employed by commercial air carriers in the United States.

SEC. 703. AIRPORT PROGRAM MODIFICATIONS.

The Administrator of the Federal Aviation Administration—

(1) shall establish a formal, structured certification training program for the airport concessions disadvantaged business enterprise program; and

(2) may appoint 3 additional staff to implement the programs of the airport concessions disadvantaged business enterprise initiative.

SEC. 704. MISCELLANEOUS PROGRAM EXTENSIONS.

(a) MARSHALL ISLANDS, FEDERATED STATES OF MICRONESIA, AND PALAU.—Section 47115(j) is amended by striking ''2009,'' and inserting ''2011,''.

(b) MIDWAY ISLAND AIRPORT.—Section 186(d) of the Vision 100—Century of Aviation Reauthorization Act (117 Stat. 2518) is amended by striking ''2009,'' and inserting ''2011,''.

SEC. 705. EXTENSION OF COMPETITIVE ACCESS REPORTS.

Section 47107(s) is amended by striking paragraph (3).

SEC. 706. UPDATE ON OVERFLIGHTS.

(a) IN GENERAL.—Section 45301(b) is amended to read as follows:

''(b) LIMITATIONS.—

''(1) IN GENERAL.—In establishing fees under subsection (a), the Administrator shall ensure that the fees required by subsection (a) are reasonably related to the Administration's costs, as determined by the Administrator, of providing the services rendered. Services for which costs may be recovered include the costs of air traffic control, navigation, weather services, training, and emergency services which are available to facilitate safe transportation over the United States, and other services provided by the Administrator or by programs financed by the Administrator to flights that neither take off nor land in the United States. The determination of such costs by the Administrator is not subject to judicial review.

''(2) ADJUSTMENT OF FEES.—The Administrator shall adjust the overflight fees established by subsection (a)(1) by expedited rulemaking and begin collections under the adjusted fees by October 1, 2010. In developing the adjusted overflight fees, the Administrator shall seek and consider the recommendations, if any, offered by the Aviation Rulemaking Committee for Overflight Fees that are intended to ensure that overflight fees are reasonably related to the Administrator's costs of providing air traffic control and related services to overflights. In addition, the Administrator may periodically modify the fees established under this section either on the Administrator's own initiative or on a recommendation from the Air Traffic Control Modernization Board.

''(3) COST DATA.—The adjustment of overflight fees under paragraph (2) shall be based on the costs to the Administration of providing the air traffic control and related activities, services, facilities, and equipment using the available data derived from the Administration's cost accounting system and cost allocation system to users, as well as budget and operational data.

''(4) AIRCRAFT ALTITUDE.—Nothing in this section shall require the Administrator to take into account aircraft altitude in establishing any fee for aircraft operations in en route or oceanic airspace.

''(5) COSTS DEFINED.—In this subsection, the term 'costs' means those costs associated with the operation, maintenance, debt service, and overhead expenses of the services provided and the facilities and equipment used in such services, including the projected costs for the period during which the services will be provided.

''(6) PUBLICATION; COMMENT.—The Administrator shall publish in the Federal Register any fee schedule under this section, including any adjusted overflight fee schedule, and the associated collection process as a proposed rule, pursuant to which public comment will be sought and a final rule issued.''.

(b) ADMINISTRATIVE PROVISION.—Section 45303(c)(2) is amended to read as follows:

''(2) shall be available to the Administrator for expenditure for purposes authorized by Congress for the Federal Aviation Administration, however, fees established by section 45301(a)(1) of this title shall be available only to pay the cost of activities and services for which the fee is imposed, including the costs to determine, assess, review, and collect the fee; and''.

SEC. 707. TECHNICAL CORRECTIONS.

Section 40122(g), as amended by section 307 of this Act, is further amended—

(1) by striking ''section 2302(b), relating to whistleblower protection,'' in paragraph (2)(A) and inserting ''sections 2301 and 2302,'';

(2) by striking ''and'' after the semicolon in paragraph (2)(H);

(3) by striking ''Plan.'' in paragraph (2)(I)(iii) and inserting ''Plan;'';

(4) by adding at the end of paragraph (2) the following:

''(J) section 5596, relating to back pay; and

''(K) sections 6381 through 6387, relating to Family and Medical Leave.''; and

(5) by adding at the end of paragraph (3) ''Notwithstanding any other provision of law, retroactive to April 1, 1996, the Board shall have the same remedial authority over such employee appeals that it had as of March 31, 1996.''.

SEC. 708. FAA TECHNICAL TRAINING AND STAFFING.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the training of airway transportation systems specialists of the Federal Aviation Administration that includes—

(A) an analysis of the type of training provided to such specialists;

(B) an analysis of the type of training that such specialists need to be proficient in the maintenance of the latest technologies;

(C) actions that the Administration has undertaken to ensure that such specialists receive up-to-date training on such technologies;

(D) the amount and cost of training provided by vendors for such specialists;

(E) the amount and cost of training provided by the Administration after developing in-house training courses for such specialists;

(F) the amount and cost of travel required of such specialists in receiving training; and

(G) a recommendation regarding the most cost-effective approach to providing such training.

(2) REPORT.—Within 1 year after the date of enactment of this Act, the Comptroller General shall transmit a report on the study containing the Comptroller General's findings and recommendations to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) STUDY BY NATIONAL ACADEMY OF SCIENCES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall contract with the National Academy of Sciences to conduct a study of the assumptions and methods used by the Federal Aviation Administration to estimate staffing needs for Federal Aviation Administration air traffic controllers, system specialists, and engineers to ensure proper maintenance, certification, and operation of the National Airspace System. The National Academy of Sciences shall consult with the Exclusive Bargaining Representative certified under section 7111 of title 5, United States Code, and the Administration (including the Civil Aeronautical Medical Institute) and examine data entailing human factors, traffic activity, and the technology at each facility.

(2) CONTENTS.—The study shall include—

(A) recommendations for objective staffing standards that maintain the safety of the National Airspace System; and

(B) the approximate length of time for developing such standards.

(3) REPORT.—Not later than 24 months after executing a contract under subsection (a), the National Academy of Sciences shall transmit a report containing its findings and recommendations to the Congress.

(c) AVIATION SAFETY INSPECTORS.—

(1) SAFETY STAFFING MODEL.—Within 12 months after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall develop a staffing model for aviation safety inspectors. In developing the model, the Administrator shall consult with representatives of the aviation safety inspectors and other interested parties.

(2) SAFETY INSPECTOR STAFFING.—The Federal Aviation Administration aviation safety inspector staffing requirement shall be no less than the staffing levels indicated as necessary in the staffing model described under subsection (a).

(d) ALASKA FLIGHT SERVICE STATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in conjunction with flight service station personnel, shall submit a report to Congress on the future of flight service stations in Alaska, which includes—

(1) an analysis of the number of flight service specialists needed, the training needed by such personnel, and the need for a formal training and hiring program for such personnel;

(2) a schedule for necessary inspection, upgrades, and modernization of stations and equipment; and

(3) a description of the interaction between flight service stations operated by the Administration and flight service stations operated by contractors.

SEC. 709. COMMERCIAL AIR TOUR OPERATORS IN NATIONAL PARKS.

(a) SECRETARY OF THE INTERIOR AND OVERFLIGHTS OF NATIONAL PARKS.—

(1) Section 40128 is amended—

(A) by striking paragraph (8) of subsection (f);

(B) by striking ''Director'' each place it appears and inserting ''Secretary of the Interior'';

(C) by striking ''National Park Service'' in subsection (a)(2)(B)(vi) and inserting ''Department of the Interior''; and

(D) in subsection (b)—

(i) in paragraph (1)—

(I) in subparagraph (A)—

(aa) by striking '', in cooperation with'' and inserting ''and''; and

(bb) by striking ''The air tour'' and all that follows; and

(II) by redesignating subparagraph (B) as subparagraph (C);

(III) by inserting after subparagraph (A) the following:

''(B) PROCESS AND APPROVAL.—The Federal Aviation Administration has sole authority to control airspace over the United States. The National Park Service has the sole responsibility for conserving the scenery and natural resources in National Parks and providing for the enjoyment of the National Parks unimpaired for future generations. Each air tour management plan shall be—

''(i) developed through a public process that complies with paragraph (4); and

''(ii) approved by the Administrator and the Director.''; and

(IV) by adding at the end the following:

''(D) EXCEPTION.—An application to begin commercial air tour operations at Crater Lake National Park may be denied without the establishment of an air tour management plan by the Director of the National Park Service if the Director determines that such operations would unacceptably impact park resources or visitor experiences.''; and

(ii) in paragraph (4)(C), by striking ''National Park Service'' and inserting ''Department of the Interior''.

(2) The National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note) is amended—

(A) by striking ''Director'' in section 804(b) and inserting ''Secretary of the Interior'';

(B) in section 805—

(i) by striking ''Director of the National Park Service'' in subsection (a) and inserting ''Secretary of the Interior'';

(ii) by striking ''Director'' each place it appears and inserting ''Secretary of the Interior'';

(iii) by striking ''National Park Service'' each place it appears in subsection (b) and inserting ''Department of the Interior'';

(iv) by striking ''National Park Service'' in subsection (d)(2) and inserting ''Department of the Interior''; and

(C) in section 807—

(i) by striking ''National Park Service'' in subsection (a)(1) and inserting ''Department of the Interior''; and

(ii) by striking ''Director of the National Park Service'' in subsection (b) and inserting ''Secretary of the Interior''.

(b) ALLOWING OVERFLIGHTS IN CASE OF AGREEMENT.—Paragraph (1) of subsection (a) of section 40128 is amended—

(1) by striking ''and'' after the semicolon in subparagraph (B);

(2) by striking ''lands.'' in subparagraph (C) and inserting ''lands; and''; and

(3) by adding at the end the following:

''(D) in accordance with a voluntary agreement between the commercial air tour operator and appropriate representatives of the national park or tribal lands, as the case may be.''.

(c) MODIFICATION OF INTERIM OPERATING AUTHORITY.—Section 40128(c)(2)(I) is amended to read as follows:

''(I) may allow for modifications of the interim operating authority without further environmental process, if—

''(i) adequate information on the existing and proposed operations of the commercial air tour operator is provided to the Administrator and the Secretary by the operator seeking operating authority;

''(ii) the Administrator determines that the modifications would not adversely affect aviation safety or the management of the national airspace system; and

''(iii) the Secretary agrees that the modifications would not adversely affect park resources and visitor experiences.''.

(d) REPORTING REQUIREMENTS FOR COMMERCIAL AIR TOUR OPERATORS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, each commercial air tour conducting commercial air tour operations over a national park shall report to the Administrator of the Federal Aviation Administration and the Secretary of the Interior on—

(A) the number of commercial air tour operations conducted by such operator over the national park each day;

(B) any relevant characteristics of commercial air tour operations, including the routes, altitudes, duration, and time of day of flights; and

(C) such other information as the Administrator and the Secretary may determine necessary to administer the provisions of the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note).

(2) FORMAT.—The report required by paragraph (1) shall be submitted in such form as the Administrator and the Secretary determine to be appropriate.

(3) EFFECT OF FAILURE TO REPORT.—The Administrator shall rescind the operating authority of a commercial air tour operator that fails to file a report not later than 180 days after the date for the submittal of the report described in paragraph (1).

(4) AUDIT OF REPORTS.—Not later than 2 years after the date of the enactment of this Act, and at such times thereafter as the Inspector General of the Department of Transportation determines necessary, the Inspector General shall audit the reports required by paragraph (1).

(e) COLLECTION OF FEES FROM AIR TOUR OPERATIONS.—

(1) IN GENERAL.—The Secretary of the Interior shall assess a fee in an amount determined by the Secretary under paragraph (2) on a commercial air tour operator conducting commercial air tour operations over a national park.

(2) AMOUNT OF FEE.—In determining the amount of the fee assessed under paragraph (1), the Secretary shall collect sufficient revenue, in the aggregate, to pay for the expenses incurred by the Federal Government to develop air tour management plans for national parks.

(3) EFFECT OF FAILURE TO PAY FEE.—The Administrator of the Federal Aviation Administration shall revoke the operating authority of a commercial air tour operator conducting commercial air tour operations over any national park, including the Grand Canyon National Park, that has not paid the fee assessed by the Secretary under paragraph (1) by the date that is 180 days after the date on which the Secretary determines the fee shall be paid.

(f) FUNDING FOR AIR TOUR MANAGEMENT PLANS.—The Secretary of the Interior shall use the amounts collected under subsection (e) to develop air tour management plans under section 40128(b) of title 49, United States Code, for the national parks the Secretary determines would most benefit from such a plan.

(g) GUIDANCE TO DISTRICT OFFICES ON COMMERCIAL AIR TOUR OPERATORS.—The Administrator of the Federal Aviation Administration shall provide to the Administration's district offices clear guidance on the ability of commercial air tour operators to obtain—

(1) increased safety certifications;

(2) exemptions from regulations requiring safety certifications; and

(3) other information regarding compliance with the requirements of this Act and other Federal and State laws and regulations.

(h) OPERATING AUTHORITY OF COMMERCIAL AIR TOUR OPERATORS.—

(1) TRANSFER OF OPERATING AUTHORITY.—

(A) IN GENERAL.—Subject to subparagraph (B), a commercial air tour operator that obtains operating authority from the Administrator under section 40128 of title 49, United States Code, to conduct commercial air tour operations may transfer such authority to another commercial air tour operator at any time.

(B) NOTICE.—Not later than 30 days before the date on which a commercial air tour operator transfers operating authority under subparagraph (A), the operator shall notify the Administrator and the Secretary of the intent of the operator to transfer such authority.

(C) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall prescribe regulations to allow transfers of operating authority described in subparagraph (A).

(2) TIME FOR DETERMINATION REGARDING OPERATING AUTHORITY.—Notwithstanding any other provision of law, the Administrator shall determine whether to grant a commercial air tour operator operating authority under section 40128 of title 49, United States Code, not later than 180 days after the earlier of the date on which—

(A) the operator submits an application; or

(B) an air tour management plan is completed for the national park over which the operator seeks to conduct commercial air tour operations.

(3) INCREASE IN INTERIM OPERATING AUTHORITY.—The Administrator and the Secretary may increase the interim operating authority while an air tour management plan is being developed for a park if—

(A) the Secretary determines that such an increase does not adversely impact park resources or visitor experiences; and

(B) the Administrator determines that granting interim operating authority does not adversely affect aviation safety or the management of the national airspace system.

(4) ENFORCEMENT OF OPERATING AUTHORITY.—The Administrator is authorized and directed to enforce the requirements of this Act and any agency rules or regulations related to operating authority.

SEC. 710. PHASEOUT OF STAGE 1 AND 2 AIRCRAFT.

(a) IN GENERAL.—Subchapter II of chapter 475 is amended by adding at the end the following:

''§ 47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels

''(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), a person may not operate a civil subsonic turbojet with a maximum weight of 75,000 pounds or less to or from an airport in the United States unless the Secretary of Transportation finds that the aircraft complies with stage 3 noise levels.

''(b) EXCEPTION.—Subsection (a) shall not apply to aircraft operated only outside the 48 contiguous States.

''(c) OPT-OUT.—Subsection (a) shall not apply at an airport where the airport operator has notified the Secretary that it wants to continue to permit the operation of civil subsonic turbojets with a maximum weight of 75,000 pounds or less that do not comply with stage 3 noise levels. The Secretary shall post the notices received under this subsection on its website or in another place easily accessible to the public.

''(d) LIMITATION.—The Secretary shall permit a person to operate Stage 1 and Stage 2 aircraft with a maximum weight of 75,000 pounds or less to or from an airport in the contiguous 48 States in order—

''(1) to sell, lease, or use the aircraft outside the 48 contiguous States;

''(2) to scrap the aircraft;

''(3) to obtain modifications to the aircraft to meet stage 3 noise levels;

''(4) to perform scheduled heavy maintenance or significant modifications on the aircraft at a maintenance facility located in the contiguous 48 states;

''(5) to deliver the aircraft to an operator leasing the aircraft from the owner or return the aircraft to the lessor;

''(6) to prepare or park or store the aircraft in anticipation of any of the activities described in paragraphs (1) through (5); or

''(7) to divert the aircraft to an alternative airport in the 48 contiguous States on account of weather, mechanical, fuel air traffic control or other safety reasons while conducting a flight in order to perform any of the activities described in paragraphs (1) through (6).

''(e) STATUTORY CONSTRUCTION.—Nothing in the section may be construed as interfering with, nullifying, or otherwise affecting determinations made by the Federal Aviation Administration, or to be made by the Administration, with respect to applications under part 161 of title 14, Code of Federal Regulations, that were pending on the date of enactment of the Aircraft Noise Reduction Act of 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 47531 is amended by striking ''47529, or 47530'' and inserting ''47529, 47530, or 47534''.

(2) Section 47532 is amended by striking ''47528–47531'' and inserting ''47528 through 47531 or 47534''.

(3) The table of contents for chapter 475 is amended by inserting after the item relating to section 47533 the following:

''47534. Prohibition on operating certain aircraft weighing 75,000 pounds or less not complying with Stage 3 noise levels''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 5 years after the date of enactment of this Act.

SEC. 711. WEIGHT RESTRICTIONS AT TETERBORO AIRPORT.

On and after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration is prohibited from taking actions designed to challenge or influence weight restrictions or prior permission rules at Teterboro Airport in Teterboro, New Jersey, except in an emergency.

SEC. 712. PILOT PROGRAM FOR REDEVELOPMENT OF AIRPORT PROPERTIES.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall establish a pilot program at up to 4 public-use airports for local airport operators that have submitted a noise compatibility program approved by the Federal Aviation Administration under section 47504 of title 49, United States Code, under which such airport operators may use funds made available under section 47117(e) of that title, or passenger facility revenue collected under section 40117 of that title, in partnership with affected neighboring local jurisdictions, to support joint planning, engineering design, and environmental permitting for the assembly and redevelopment of property purchased with noise mitigation funds or passenger facility charge

funds, to encourage airport-compatible land uses and generate economic benefits to the local airport authority and adjacent community.

(b) NOISE COMPATIBILITY MEASURES.—Section 47504(a)(2) is amended—

(1) by striking ''and'' after the semicolon in subparagraph (D);

(2) by striking ''operations.'' in subparagraph (E) and inserting ''operations; and''; and

(3) by adding at the end the following:

''(F) joint comprehensive land use planning including master plans, traffic studies, environmental evaluation and economic and feasibility studies, with neighboring local jurisdictions undertaking community redevelopment in the area where the land or other property interest acquired by the airport operator pursuant to this subsection is located, to encourage and enhance redevelopment opportunities that reflect zoning and uses that will prevent the introduction of additional incompatible uses and enhance redevelopment potential.''.

(c) GRANT REQUIREMENTS.—The Administrator may not make a grant under subsection (a) unless the grant is made—

(1) to enable the airport operator and local jurisdictions undertaking the community redevelopment effort to expedite redevelopment efforts;

(2) subject to a requirement that the local jurisdiction governing the property interests in question has adopted zoning regulations that permit airport compatible redevelopment; and

(3) subject to a requirement that, in determining the part of the proceeds from disposing of the land that is subject to repayment or reinvestment under section 47107(c)(2)(A) of title 49, United States Code, the total amount of the grant issued under this section shall be added to the amount of any grants issued for acquisition of land.

(d) DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Administrator shall provide grants for up to 4 pilot property redevelopment projects distributed geographically and targeted to airports that demonstrate—

(A) a readiness to implement cooperative land use management and redevelopment plans with the adjacent community; and

(B) the probability of clear economic benefit to the local community and financial return to the airport through the implementation of the redevelopment plan.

(2) FEDERAL SHARE.—

(A) Notwithstanding any other provision of law, the Federal share of the allowable costs of a project carried out under the pilot program shall be 80 percent.

(B) In determining the allowable costs, the Administrator shall deduct from the total costs of the activities described in subsection (a) that portion of the costs which is equal to that portion of the total property to be redeveloped under this section that is not owned or to be acquired by the airport operator pursuant to the noise compatibility program or that is not owned by the affected neighboring local jurisdictions or other public entities.

(3) MAXIMUM AMOUNT.—Not more than $5,000,000 in funds made available under section 47117(e) of title 49, United States Code, may be expended under the pilot program at any single public-use airport.

(4) EXCEPTION.—Amounts paid to the Administrator under subsection (c)(3)—

(A) shall be in addition to amounts authorized under section 48203 of title 49, United States Code;

(B) shall not be subject to any limitation on grant obligations for any fiscal year; and

(C) shall remain available until expended.

(e) USE OF PASSENGER REVENUE.—An airport sponsor that owns or operates an airport participating in the pilot program may use passenger facility revenue collected under section 40117 of title 49, United States Code, to pay any project cost described in subsection (a) that is not financed by a grant under the program.

(f) SUNSET.—This section, other than the amendments made by subsections (b), shall not be in effect after September 30, 2011.

(g) REPORT TO CONGRESS.—The Administrator shall report to Congress within 18 months after making the first grant under this section on the effectiveness of this program on returning part 150 lands to productive use.

SEC. 713. TRANSPORTING MUSICAL INSTRUMENTS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end thereof the following:

''§ 41724. Musical instruments

''(a) IN GENERAL.—

''(1) SMALL INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a violin, guitar, or other musical instrument in the aircraft cabin without charge if—

''(A) the instrument can be stowed safely in a suitable baggage compartment in the aircraft cabin or under a passenger seat; and

''(B) there is space for such stowage at the time the passenger boards the aircraft.

''(2) LARGER INSTRUMENTS AS CARRY-ON BAGGAGE.—An air carrier providing air transportation shall permit a passenger to carry a musical instrument that is too large to meet the requirements of paragraph (1) in the aircraft cabin without charge if—

''(A) the instrument is contained in a case or covered so as to avoid injury to other passengers;

''(B) the weight of the instrument, including the case or covering, does not exceed 165 pounds;

''(C) the instrument can be secured by a seat belt to avoid shifting during flight;

''(D) the instrument does not restrict access to, or use of, any required emergency exit, regular exit, or aisle;

''(E) the instrument does not obscure any passenger's view of any illuminated exit, warning, or other informational sign;

''(F) neither the instrument nor the case contains any object not otherwise permitted to be carried in an aircraft cabin because of a law or regulation of the United States; and

''(G) the passenger wishing to carry the instrument in the aircraft cabin has purchased an additional seat to accommodate the instrument.

''(3) LARGE INSTRUMENTS AS CHECKED BAGGAGE.—An air carrier shall transport as baggage, without charge, a musical instrument that is the property of a passenger traveling in air transportation that may not be carried in the aircraft cabin if—

''(A) the sum of the length, width, and height measured in inches of the outside linear dimensions of the instrument (including the case) does not exceed 150 inches; and

''(B) the weight of the instrument does not exceed 165 pounds.

''(b) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to implement subsection (a).''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 417 is amended by inserting after the item relating to section 41723 the following:

''41724. Musical instruments''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act.

SEC. 714. RECYCLING PLANS FOR AIRPORTS.

(a) AIRPORT PLANNING.—Section 47102(5) is amended by striking ''planning.'' and inserting ''planning and a plan for recycling and minimizing the generation of airport solid waste, consistent with applicable State and local recycling laws, including the cost of a waste audit.''.

(b) MASTER PLAN.—Section 47106(a) is amended—

(1) by striking ''and'' in paragraph (4);

(2) by striking ''proposed.'' in paragraph (5) and inserting ''proposed; and''; and

(3) by adding at the end the following:

''(6) if the project is for an airport that has an airport master plan, the master plan addresses—

''(A) the feasibility of solid waste recycling at the airport;

''(B) minimizing the generation of solid waste at the airport;

''(C) operation and maintenance requirements;

''(D) the review of waste management contracts;

''(E) the potential for cost savings or the generation of revenue; and

''(F) training and education requirements.''.

SEC. 715. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM ADJUSTMENTS.

(a) PURPOSE.—It is the purpose of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113) to ensure that minority- and women-owned businesses do not face barriers because of their race or gender and so that they have a fair opportunity to compete in Federally assisted airport contracts and concessions.

(b) FINDINGS.—The Congress finds the following:

(1) While significant progress has occurred due to the enactment of the airport disadvantaged business enterprise program (49 U.S.C. 47107(e) and 47113), discrimination continues to be a barrier for minority- and women-owned businesses seeking to do business in airport-related markets. This continuing barrier merits the continuation of the airport disadvantaged business enterprise program.

(2) The Congress has received recent evidence of discrimination from numerous sources, including congressional hearings and roundtables, scientific reports, reports issued by public and private agencies, news stories, reports of discrimination by organizations and individuals, and discrimination lawsuits. This evidence also shows that race- and gender-neutral efforts alone are insufficient to address the problem.

(3) This evidence demonstrates that discrimination across the nation poses a barrier to full and fair participation in airport related businesses of women business owners and minority business owners in the racial groups detailed in parts 23 and 26 of title 49, Code of Federal Regulations, and has impacted firm development and many aspects of airport related business in the public and private markets.

(4) This evidence provides a strong basis for the continuation of the airport disadvantaged business enterprise program and the airport concessions disadvantaged business enterprise program.

(c) IN GENERAL.—Section 47107(e) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

''(8) MANDATORY TRAINING PROGRAM FOR AIRPORT CONCESSIONS.—

''(A) IN GENERAL.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall establish a mandatory training program for persons described in subparagraph (C) on the certification of whether a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

''(B) IMPLEMENTATION.—The training program may be implemented by one or more private entities approved by the Secretary.

''(C) PARTICIPANTS.—A person referred to in paragraph (1) is an official or agent of an airport owner or operator who is required to provide a written assurance under paragraph (1) that the airport owner or operator will meet the percentage goal of paragraph (1) or who is responsible for determining whether or not a small business concern in airport concessions qualifies as a small business concern owned and controlled by a socially and economically disadvantaged individual for purposes of paragraph (1).

''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this paragraph.''.

(d) REPORT.—Not later than 24 months after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and other appropriate committees of Congress on the results of the training program conducted under section 47107(e)(8) of title 49, United States Code, as added by subsection (a).

(e) DISADVANTAGED BUSINESS ENTERPRISE PERSONAL NET WORTH CAP; BONDING REQUIREMENTS.—Section 47113 is amended by adding at the end the following:

''(e) PERSONAL NET WORTH CAP.—Not later than 180 days after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue final regulations to adjust the personal net worth cap used in determining whether an individual is economically disadvantaged for purposes of qualifying under the definition contained in subsection (a)(2) and under section 47107(e). The regulations shall correct for the impact of inflation since the Small Business Administration established the personal net worth cap at $750,000 in 1989.

''(f) EXCLUSION OF RETIREMENT BENEFITS.—

''(1) IN GENERAL.—In calculating a business owner's personal net worth, any funds held in a qualified retirement account owned by the business owner shall be excluded, subject to regulations to be issued by the Secretary.

''(2) REGULATIONS.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue final regulations to implement paragraph (1), including consideration of appropriate safeguards, such as a limit on the amount of such accounts, to prevent circumvention of personal net worth requirements.

''(g) PROHIBITION ON EXCESSIVE OR DISCRIMINATORY BONDING REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall establish a program to eliminate barriers to small business participation in airport-related contracts and concessions by prohibiting excessive, unreasonable, or discriminatory bonding requirements for any project funded under this chapter or using passenger facility revenues under section 40117.

''(2) REGULATIONS.—Not later than one year after the date of enactment of the FAA Air Transportation Modernization and Safety Improvement Act, the Secretary shall issue a final rule to establish the program under paragraph (1).''.

SEC. 716. FRONT LINE MANAGER STAFFING.

(a) STUDY.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall initiate a study on front line manager staffing requirements in air traffic control facilities.

(b) CONSIDERATIONS.—In conducting the study, the Administrator may take into consideration—

(1) the number of supervisory positions of operation requiring watch coverage in each air traffic control facility;

(2) coverage requirements in relation to traffic demand;

(3) facility type;

(4) complexity of traffic and managerial responsibilities;

(5) proficiency and training requirements; and

(6) such other factors as the Administrator considers appropriate.

(c) DETERMINATIONS.—The Administrator shall transmit any determinations made as a result of the study to the Chief Operating Officer for the air traffic control system.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the results of the study and a description of any determinations submitted to the Chief Operating Officer under subsection (c).

SEC. 717. STUDY OF HELICOPTER AND FIXED WING AIR AMBULANCE SERVICES.

(a) IN GENERAL.— The Comptroller General shall conduct a study of the helicopter and fixed-wing air ambulance industry. The study shall include information, analysis, and recommendations pertinent to ensuring a safe air ambulance industry.

(b) REQUIRED INFORMATION.—In conducting the study, the Comptroller General shall obtain detailed information on the following aspects of the air ambulance industry:

(1) A review of the industry, for part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) a listing of the number, size, and location of helicopter and fixed-wing aircraft and their flight bases;

(B) affiliations of certificate holders and indirect carriers with hospitals, governments, and other entities;

(C) coordination of air ambulance services, with each other, State and local emergency medical services systems, referring entities, and receiving hospitals;

(D) nature of services contracts, sources of payment, financial relationships between certificate holders and indirect carriers providing air ambulance services and referring entities, and costs of operations; and

(E) a survey of business models for air ambulance operations, including expenses, structure, and sources of income.

(2) Air ambulance request and dispatch practices, including the various types of protocols, models, training, certifications, and air medical communications centers relating to part 135 certificate holders and indirect carriers providing helicopter and fixed-wing air ambulance services, including—

(A) the practices that emergency and medical officials use to request an air ambulance;

(B) information on whether economic or other nonmedical factors lead to air ambulance transport when it is not medically needed, appropriate, or safe; and

(C) the cause, occurrence, and extent of delays in air ambulance transport.

(3) Economic and medical issues relating to the air ambulance industry, including—

(A) licensing;

(B) certificates of need;

(C) public convenience and necessity requirements;

(D) assignment of geographic coverage areas;

(E) accreditation requirements;

(F) compliance with dispatch procedures; and

(G) requirements for medical equipment and personnel onboard the aircraft.

(4) Such other matters as the Comptroller General considers relevant to the purpose of the study.

(c) ANALYSIS AND RECOMMENDATIONS.—Based on information obtained under subsection (b) and other information the Comptroller General considers appropriate, the report shall also include an analysis and specific recommendations, as appropriate, related to—

(1) the relationship between State regulation and Federal preemption of rates, routes, and services of air ambulances;

(2) the extent to which Federal law may impact existing State regulation of air ambulances and the potential effect of greater State regulation—

(A) in the air ambulance industry, on the economic viability of air ambulance services, the availability and coordination of service, and costs of operations both in rural and highly populated areas;

(B) on the quality of patient care and outcomes; and

(C) on competition and safety; and

(3) whether systemic or other problems exist on a statewide, regional, or national basis with the current system governing air ambulances.

(d) REPORT.—Not later than June 1, 2010, the Comptroller General shall submit a report to the Secretary of Transportation, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the Government Accountability Office's findings and recommendations regarding the study under this section.

(e) ADOPTION OF RECOMMENDED POLICY CHANGES.—Not later than 60 days after the date of receipt of the report under subsection (d), the Secretary shall issue a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure that—

(1) specifies which, if any, policy changes recommended by the Comptroller General and any other policy changes with respect to air ambulances the Secretary will adopt and implement; and

(2) includes recommendations for legislative change, if appropriate

(f) PART 135 CERTIFICATE HOLDER DEFINED.—In this section, the term ''part 135 certificate holder'' means a person holding a certificate issued under part 135 of title 14, Code of Federal Regulations.

SEC. 718. REPEAL OF CERTAIN LIMITATIONS ON METROPOLITAN WASHINGTON AIRPORTS AUTHORITY.

(a) IN GENERAL.—Section 49108 is repealed.

(b) CONFORMING REPEAL.—The table of sections for chapter 491 is amended by striking the item relating to section 49108.

SEC. 719. STUDY OF AERONAUTICAL MOBILE TELEMETRY.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration, in consultation with other Federal agencies, shall submit a report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science and Technology, and the House of Representatives Committee on Energy and Commerce that identifies—

(1) the current and anticipated need over the next decade by civil aviation, including equipment manufacturers, for aeronautical mobile telemetry services; and

(2) the potential impact to the aerospace industry of the introduction of a new radio service operating in the same spectrum allocated to the aeronautical mobile telemetry service.

SEC. 720. FLIGHTCREW MEMBER PAIRING AND CREW RESOURCE MANAGEMENT TECHNIQUES.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study on aviation industry best practices with regard to flightcrew member pairing, crew resource management techniques, and pilot commuting.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to the House of Representatives Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation on the results of the study.

SEC. 721. CONSOLIDATION OR ELIMINATION OF OBSOLETE, REDUNDANT, OR OTHERWISE UNNECESSARY REPORTS; USE OF ELECTRONIC MEDIA FORMAT.

(a) CONSOLIDATION OR ELIMINATION OF REPORTS.—No later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Administrator of the Federal Aviation Administration shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure containing—

(1) a list of obsolete, redundant, or otherwise unnecessary reports the Administration is required by law to submit to the Congress or publish that the Administrator recommends eliminating or consolidating with other reports; and

(2) an estimate of the cost savings that would result from the elimination or consolidation of those reports.

(b) USE OF ELECTRONIC MEDIA FOR REPORTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Federal Aviation Administration—

(A) may not publish any report required or authorized by law in printed format; and

(B) shall publish any such report by posting it on the Administration's website in an easily accessible and downloadable electronic format.

(2) EXCEPTION.—Paragraph (1) does not apply to any report with respect to which the Administrator determines that—

(A) its publication in printed format is essential to the mission of the Federal Aviation Administration; or

(B) its publication in accordance with the requirements of paragraph (1) would disclose matter—

(i) described in section 552(b) of title 5, United States Code; or

(ii) the disclosure of which would have an adverse impact on aviation safety or security, as determined by the Administrator.

SEC. 722. LINE CHECK EVALUATIONS.

Section 44729(h) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (3) as paragraph (2).

SEC. 723. REPORT ON NEWARK LIBERTY AIRPORT AIR TRAFFIC CONTROL TOWER.

Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives, on the Federal Aviation Administration's plan to staff the Newark Liberty Airport air traffic control tower at negotiated staffing levels within 1 year after such date of enactment.

SEC. 724 PRIORITY REVIEW OF CONSTRUCTION PROJECTS IN COLD WEATHER STATES.

The Administrator of the Federal Aviation Administration shall, to the maximum extent practicable, schedule the Administrator's review of construction projects so that projects to be carried out in States in which the weather during a typical calendar year prevents major construction projects from being carried out before May 1 are reviewed as early as possible.

SEC. 725. AIR-RAIL CODESHARE STUDY.

(a) CODESHARE STUDY.—Not later than 180 days after the date of the enactment of this Act, the GAO shall conduct a study of—

(1) the current airline and intercity passenger rail codeshare arrangements;

(2) the feasibility and costs to taxpayers and passengers of increasing intermodal connectivity of airline and intercity passenger rail facilities and systems to improve passenger travel.

(b) CONSIDERATIONS.—The study shall consider—

(1) the potential benefits to passengers and costs to taxpayers from the implementation of more integrated scheduling between airlines and Amtrak or other intercity passenger rail carriers achieved through codesharing arrangements;

(2) airport operations that can improve connectivity to intercity passenger rail facilities and stations.

(c) REPORT.—Not later than 1 year after commencing the study required by subsection (a), the Comptroller shall submit the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any conclusions of the Comptroller resulting from the study.

SEC. 726. ON-GOING MONITORING OF AND REPORT ON THE NEW YORK/NEW JERSEY/PHILADELPHIA METROPOLITAN AREA AIRSPACE REDESIGN.

Not later than 270 days after the date of the enactment of this Act and every 180 days thereafter until the completion of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign, the Administrator of the Federal Aviation Administration shall, in conjunction with the Port Authority of New York and New Jersey and the Philadelphia International Airport—

(1) monitor the air noise impacts of the New York/New Jersey/Philadelphia Metropolitan Area Airspace Redesign; and

(2) submit to Congress a report on the findings of the Administrator with respect to the monitoring described in paragraph (1).

SEC. 727. STUDY ON AVIATION FUEL PRICES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study and report to Congress on the impact of increases in aviation fuel prices on the Airport and Airway Trust Fund and the aviation industry in general. The study shall include the impact of increases in aviation fuel prices on—

(1) general aviation;

(2) commercial passenger aviation;

(3) piston aircraft purchase and use;

(4) the aviation services industry, including repair and maintenance services;

(5) aviation manufacturing;

(6) aviation exports; and

(7) the use of small airport installations.

(b) ASSUMPTIONS ABOUT AVIATION FUEL PRICES.—In conducting the study required by subsection (a), the Comptroller General shall use the average aviation fuel price for fiscal year 2010 as a baseline and measure the impact of increases in aviation fuel prices that range from 5 percent to 200 percent over the 2010 baseline.

SEC. 728. LAND CONVEYANCE FOR SOUTHERN NEVADA SUPPLEMENTAL AIRPORT.

(a) DEFINITIONS.—In this section:

(1) COUNTY.—The term ''County'' means Clark County, Nevada.

(2) PUBLIC LAND.—The term ''public land'' means the land located at—

(A) sec. 23 and sec. 26, T. 26 S., R. 59 E., Mount Diablo Meridian;

(B) the NE ¼ and the N ½ of the SE ¼ of sec. 6, T. 25 S., R. 59 E., Mount Diablo Meridian, together with the SE ¼ of sec. 31, T. 24 S., R. 59 E., Mount Diablo Meridian; and

(C) sec. 8, T. 26 S., R. 60 E., Mount Diablo Meridian.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LAND CONVEYANCE.—

(1) IN GENERAL.—As soon as practicable after the date described in paragraph (2), subject to valid existing rights, and notwithstanding the land use planning requirements of sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the public land.

(2) DATE ON WHICH CONVEYANCE MAY BE MADE.—The Secretary shall not make the conveyance described in paragraph (1) until the later of the date on which the Administrator of the Federal Aviation Administration has—

(A) approved an airport layout plan for an airport to be located in the Ivanpah Valley; and

(B) with respect to the construction and operation of an airport on the site conveyed to the County pursuant to section 2(a) of the Ivanpah Valley Airport Public Lands Transfer Act (Public Law 106–362; 114 Stat. 1404), issued a record of decision after the preparation of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) WITHDRAWAL.—Subject to valid existing rights, the public land to be conveyed under paragraph (1) is withdrawn from—

(A) location, entry, and patent under the mining laws; and

(B) operation of the mineral leasing and geothermal leasing laws.

(4) USE.—The public land conveyed under paragraph (1) shall be used for the development of flood mitigation infrastructure for the Southern Nevada Supplemental Airport.

SEC. 729. CLARIFICATION OF REQUIREMENTS FOR VOLUNTEER PILOTS OPERATING CHARITABLE MEDICAL FLIGHTS.

In administering part 61.113(c) of title 14, Code of Federal Regulations, the Administrator of the Federal Aviation Administration shall allow an aircraft owner or aircraft operator who has volunteered to provide transportation for an individual or individuals for medical purposes to accept reimbursement to cover all or part of the fuel costs associated with the operation from a volunteer pilot organization.

SEC. 730. CYLINDERS OF COMPRESSED OXYGEN, NITROUS OXIDE, OR OTHER OXIDIZING GASES.

(a) IN GENERAL.—The transportation within Alaska of cylinders of compressed oxygen, nitrous oxide, or other oxidizing gases aboard aircraft shall be exempt from compliance with the requirements, under sections 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4) of the Pipeline and Hazardous Material Safety Administration's regulations (49 C.F.R. 173.302(f)(3) and (f)(4) and 173.304(f)(3) and (f)(4)), that oxidizing gases transported aboard aircraft be enclosed in outer packaging capable of passing the flame penetration and resistance test and the thermal resistance test, without regard to the end use of the cylinders, if—

(1) there is no other practical means of transportation for transporting the cylinders to their destination and transportation by ground or vessel is unavailable; and

(2) the transportation meets the requirements of subsection (b).

(b) EXEMPTION REQUIREMENTS.—Subsection (a) shall not apply to the transportation of cylinders of compressed oxygen, nitrous oxide, or other oxidizing gases aboard aircraft unless the following requirements are met:

(1) PACKAGING.—

(A) SMALLER CYLINDERS.—Each cylinder with a capacity of not more than 116 cubic feet shall be—

(i) fully covered with a fire or flame resistant blanket that is secured in place; and

(ii) placed in a rigid outer packaging or an ATA 300 Category 1 shipping container.

(B) LARGER CYLINDERS.—Each cylinder with a capacity of more than 116 cubic feet but not more than 281 cubic feet shall be—

(i) secured within a frame;

(ii) fully covered with a fire or flame resistant blanket that is secured in place; and

(iii) fitted with a securely attached metal cap of sufficient strength to protect the valve from damage during transportation.

(2) OPERATIONAL CONTROLS.—

(A) STORAGE; ACCESS TO FIRE EXTINGUISHERS.—Unless the cylinders are stored in a Class C cargo compartment or its equivalent on the aircraft, crew members shall have access to the cylinders and at least 2 fire extinguishers shall be readily available for use by the crew members.

(B) SHIPMENT WITH OTHER HAZARDOUS MATERIALS.—The cylinders may not be transported in the same aircraft with other hazardous materials other than Division 2.2 materials with no subsidiary risk, Class 9 materials, and ORM–D materials.

(3) AIRCRAFT REQUIREMENTS.—

(A) AIRCRAFT TYPE.—The transportation shall be provided only aboard a passenger-carrying aircraft or a cargo aircraft.

(B) PASSENGER-CARRYING AIRCRAFT.—

(i) SMALLER CYLINDERS ONLY.—A cylinder with a capacity of more than 116 cubic feet may not be transported aboard a passenger-carrying aircraft.

(ii) MAXIMUM NUMBER.—Unless transported in a Class C cargo compartment or its equivalent, no more than 6 cylinders in each cargo compartment may be transported aboard a passenger-carrying aircraft.

(C) CARGO AIRCRAFT.—A cylinder may not be transported aboard a cargo aircraft unless it is transported in a Class B cargo compartment or a Class C cargo compartment or its equivalent.

(c) DEFINITIONS.—Terms used in this section shall have the meaning given those terms in parts 106, 107, and 171 through 180 of the Pipeline and Hazardous Material Safety Administration's regulations (49 C.F.R. parts 106, 107, and 171–180).

SEC. 731. TECHNICAL CORRECTION.

Section 159(b)(2)(C) of title I of division A of the Consolidated Appropriations Act, 2010, is amended by striking clauses (i) and (ii) and inserting the following:

''(i) requiring inspections of any container containing a firearm or ammunition; and

''(ii) the temporary suspension of firearm carriage service if credible intelligence information indicates a threat related to the national rail system or specific routes or trains.''.

SEC. 732. PLAN FOR FLYING SCIENTIFIC INSTRUMENTS ON COMMERCIAL FLIGHTS.

(a) PLAN DEVELOPMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Transportation and the Secretary of Commerce, in consultation with interested representatives of the aviation industry and other relevant agencies, shall develop a plan and process to allow Federal agencies to fly scientific instruments on commercial flights with airlines who volunteer, for the purpose of taking measurements to improve weather forecasting.

TITLE VIII—AIRPORT AND AIRWAY TRUST FUND PROVISIONS AND RELATED TAXES

SEC. 800. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 801. EXTENSION OF TAXES FUNDING AIRPORT AND AIRWAY TRUST FUND.

(a) FUEL TAXES.—Subparagraph (B) of section 4081(d)(2) is amended by striking ''March 31, 2010'' and inserting ''September 30, 2013''.

(b) TICKET TAXES.—

(1) PERSONS.—Clause (ii) of section 4261(j)(1)(A) is amended by striking ''March 31, 2010'' and inserting ''September 30, 2013''.

(2) PROPERTY.—Clause (ii) of section 4271(d)(1)(A) is amended by striking ''March 31, 2010'' and inserting ''September 30, 2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2010.

SEC. 802. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 9502(d) is amended—

(1) by striking ''April 1, 2010'' in the matter preceding subparagraph (A) and inserting ''October 1, 2013'', and

(2) by striking the semicolon at the end of subparagraph (A) and inserting ''or the FAA Air Transportation Modernization and Safety Improvement Act;''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 9502(e) is amended by striking ''April 1, 2010'' and inserting ''October 1, 2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 2010.

SEC. 803. MODIFICATION OF EXCISE TAX ON KEROSENE USED IN AVIATION.

(a) RATE OF TAX ON AVIATION-GRADE KEROSENE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rates of tax) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 35.9 cents per gallon.''.

(2) FUEL REMOVED DIRECTLY INTO FUEL TANK OF AIRPLANE USED IN NONCOMMERCIAL AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use under section 4101, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) EXEMPTION FOR AVIATION-GRADE KEROSENE REMOVED INTO AN AIRCRAFT.—Subsection (e) of section 4082 is amended—

(A) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(B) by striking ''section 4081(a)(2)(A)(iii)'' and inserting ''section 4081(a)(2)(A)(iv)'', and

(C) by striking ''KEROSENE'' in the heading and inserting ''AVIATION-GRADE KEROSENE''.

(4) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 4081(a)(2)(A) is amended by inserting ''other than aviation-grade kerosene'' after ''kerosene''.

(B) The following provisions are each amended by striking ''kerosene'' and inserting ''aviation-grade kerosene'':

(i) Section 4081(a)(3)(A)(ii).

(ii) Section 4081(a)(3)(A)(iv).

(iii) Section 4081(a)(3)(D).

(C) Section 4081(a)(3)(D) is amended—

(i) by striking ''paragraph (2)(C)(i)'' in clause (i) and inserting ''paragraph (2)(C)'', and

(ii) by striking ''paragraph (2)(C)(ii)'' in clause (ii) and inserting ''paragraph (2)(A)(iv)''.

(D) Section 4081(a)(4) is amended—

(i) in the heading by striking ''KEROSENE'' and inserting ''AVIATION-GRADE KEROSENE'', and

(ii) by striking ''paragraph (2)(C)(i)'' and inserting ''paragraph (2)(C)''.

(E) Section 4081(d)(2) is amended by striking ''(a)(2)(C)(ii)'' and inserting ''(a)(2)(A)(iv)''.

(b) RETAIL TAX ON AVIATION FUEL.—

(1) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—Paragraph (2) of section 4041(c) is amended by inserting ''at the rate specified in subsection (a)(2)(A)(iv) thereof'' after ''section 4081''.

(2) RATE OF TAX.—Paragraph (3) of section 4041(c) is amended to read as follows:

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax in effect under section 4081(a)(2)(A)(iv) (4.3 cents per gallon with respect to any sale or use for commercial aviation).''.

(c) REFUNDS RELATING TO AVIATION-GRADE KEROSENE.—

(1) KEROSENE USED IN COMMERCIAL AVIATION.—Clause (ii) of section 6427(l)(4)(A) is amended by striking ''specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be,'' and inserting ''so imposed''.

(2) KEROSENE USED IN AVIATION.—Paragraph (4) of section 6427(l) is amended—

(A) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B), and

(B) by amending subparagraph (B), as redesignated by subparagraph (A), to read as follows:

''(B) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—With respect to any kerosene used in aviation (other than kerosene to which paragraph (6) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay (without interest) the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(3) AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—Subsection (l) of section 6427 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) REFUNDS FOR AVIATION-GRADE KEROSENE NOT USED IN AVIATION.—If tax has been imposed under section 4081 at the rate specified in section 4081(a)(2)(A)(iv) and the fuel is used other than in an aircraft, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the amount of tax imposed on such fuel reduced by the amount of tax that would be imposed under section 4041 if no tax under section 4081 had been imposed.''.

(4) CONFORMING AMENDMENTS.—

(A) Section 4082(d)(2)(B) is amended by striking ''6427(l)(5)(B)'' and inserting ''6427(l)(6)(B)''.

(B) Section 6427(i)(4) is amended—

(i) by striking ''(4)(C)'' the first two places it occurs and inserting ''(4)(B)'', and

(ii) by striking '', (l)(4)(C)(ii), and'' and inserting ''and''.

(C) The heading of section 6427(l) is amended by striking ''DIESEL FUEL AND KEROSENE'' and inserting ''DIESEL FUEL, KEROSENE, AND AVIATION FUEL''.

(D) Section 6427(l)(1) is amended by striking ''paragraph (4)(C)(i)'' and inserting ''paragraph (4)(B)''.

(E) Section 6427(l)(4) is amended—

(i) by striking ''KEROSENE USED IN AVIATION'' in the heading and inserting ''AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION'', and

(ii) in subparagraph (A)—

(I) by striking ''kerosene'' and inserting ''aviation-grade kerosene'',

(II) by striking ''KEROSENE USED IN COMMERCIAL AVIATION'' in the heading and inserting ''IN GENERAL''.

(d) TRANSFERS TO THE AIRPORT AND AIRWAY TRUST FUND.—

(1) IN GENERAL.—Subparagraph (C) of section 9502(b)(1) is amended to read as follows:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(2) TRANSFERS ON ACCOUNT OF CERTAIN REFUNDS.—

(A) IN GENERAL.—Subsection (d) of section 9502 is amended—

(i) in paragraph (2) by striking ''(other than subsection (l)(4) thereof)'', and

(ii) in paragraph (3) by striking ''(other than payments made by reason of paragraph (4) of section 6427(l))''.

(B) CONFORMING AMENDMENTS.—

(i) Section 9503(b)(4) is amended by striking ''or'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by inserting after subparagraph (D) the following:

''(E) section 4081 to the extent attributable to the rate specified in clause (ii) or (iv) of section 4081(a)(2)(A), or

''(F) section 4041(c).''.

(ii) Section 9503(c) is amended by striking paragraph (6).

(iii) Section 9502(a) is amended—

(I) by striking ''appropriated, credited, or paid into'' and inserting ''appropriated or credited to'', and

(II) by striking '', section 9503(c)(7),''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels removed, entered, or sold after June 30, 2010.

(f) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—In the case of aviation fuel which is held on July 1, 2010, by any person, there is hereby imposed a floor stocks tax on aviation fuel equal to—

(A) the tax which would have been imposed before such date on such fuel had the amendments made by this section been in effect at all times before such date, reduced by

(B) the sum of—

(i) the tax imposed before such date on such fuel under section 4081 of the Internal Revenue Code of 1986, as in effect on such date, and

(ii) in the case of kerosene held exclusively for such person's own use, the amount which such person would (but for this clause) reasonably expect (as of such date) to be paid as a refund under section 6427(l) of such Code with respect to such kerosene.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding aviation fuel on July 1, 2010, shall be liable for such tax.

(B) TIME AND METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury shall prescribe.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to the Airport and Airway Trust Fund, the tax imposed by this subsection shall be treated as imposed by section 4081(a)(2)(A)(iv) of the Internal Revenue Code of 1986.

(4) DEFINITIONS.—For purposes of this subsection—

(A) AVIATION FUEL.—The term ''aviation fuel'' means aviation-grade kerosene and aviation gasoline, as such terms are used within the meaning of section 4081 of the Internal Revenue Code of 1986.

(B) HELD BY A PERSON.—Aviation fuel shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(C) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or the Secretary's delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to any aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax is allowable under the Internal Revenue Code of 1986 for such use.

(6) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on any aviation fuel held on July 1, 2010, by any person if the aggregate amount of such aviation fuel held by such person on such date does not exceed 2,000 gallons. The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account any aviation fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5).

(C) CONTROLLED GROUPS.—For purposes of this subsection—

(i) CORPORATIONS.—

(I) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(II) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of the Internal Revenue Code of 1986; except that for such purposes the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(ii) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control if 1 or more of such persons is not a corporation.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 on the aviation fuel involved shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by such section.

SEC. 804. AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.

(a) IN GENERAL.—Section 9502 (relating to the Airport and Airway Trust Fund) is amended by adding at the end the following new subsection:

''(f) ESTABLISHMENT OF AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—

''(1) CREATION OF ACCOUNT.—There is established in the Airport and Airway Trust Fund a separate account to be known as the 'Air Traffic Control System Modernization Account' consisting of such amounts as may be transferred or credited to the Air Traffic Control System Modernization Account as provided in this subsection or section 9602(b).

''(2) TRANSFERS TO AIR TRAFFIC CONTROL SYSTEM MODERNIZATION ACCOUNT.—On October 1, 2010, and annually thereafter the Secretary shall transfer $400,000,000 to the Air Traffic Control System Modernization Account from amounts appropriated to the Airport and Airway Trust Fund under subsection (b) which are attributable to taxes on aviation-grade kerosene.

''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Air Traffic Control System Modernization Account shall be available subject to appropriation for expenditures relating to the modernization of the air traffic control system (including facility and equipment account expenditures).''.

(b) CONFORMING AMENDMENT.—Section 9502(d)(1) is amended by striking ''Amounts'' and inserting ''Except as provided in subsection (f), amounts''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 805. TREATMENT OF FRACTIONAL AIRCRAFT OWNERSHIP PROGRAMS.

(a) FUEL SURTAX.—

(1) IN GENERAL.—Subchapter B of chapter 31 is amended by adding at the end the following new section:

''SEC. 4043. SURTAX ON FUEL USED IN AIRCRAFT PART OF A FRACTIONAL OWNERSHIP PROGRAM.

''(a) IN GENERAL.—There is hereby imposed a tax on any liquid used during any calendar quarter by any person as a fuel in an aircraft which is—

''(1) registered in the United States, and

''(2) part of a fractional ownership aircraft program.

''(b) AMOUNT OF TAX.—The rate of tax imposed by subsection (a) is 14.1 cents per gallon.

''(c) FRACTIONAL OWNERSHIP AIRCRAFT PROGRAM.—For purposes of this section—

''(1) IN GENERAL.—The term 'fractional ownership aircraft program' means a program under which—

''(A) a single fractional ownership program manager provides fractional ownership program management services on behalf of the fractional owners,

''(B) 2 or more airworthy aircraft are part of the program,

''(C) there are 1 or more fractional owners per program aircraft, with at least 1 program aircraft having more than 1 owner,

''(D) each fractional owner possesses at least a minimum fractional ownership interest in 1 or more program aircraft,

''(E) there exists a dry-lease exchange arrangement among all of the fractional owners, and

''(F) there are multi-year program agreements covering the fractional ownership, fractional ownership program management services, and dry-lease aircraft exchange aspects of the program.

''(2) MINIMUM FRACTIONAL OWNERSHIP INTEREST.—

''(A) IN GENERAL.—The term 'minimum fractional ownership interest' means, with respect to each type of aircraft—

''(i) a fractional ownership interest equal to or greater than 1/16 of at least 1 subsonic, fixed wing or powered lift program aircraft, or

''(ii) a fractional ownership interest equal to or greater than 1/32 of a least 1 rotorcraft program aircraft.

''(B) FRACTIONAL OWNERSHIP INTEREST.—The term 'fractional ownership interest' means—

''(i) the ownership of an interest in a program aircraft,

''(ii) the holding of a multi-year leasehold interest in a program aircraft, or

''(iii) the holding of a multi-year leasehold interest which is convertible into an ownership interest in a program aircraft.

''(3) DRY-LEASE EXCHANGE ARRANGEMENT.—A 'dry-lease aircraft exchange' means an agreement, documented by the written program agreements, under which the program aircraft are available, on an as needed basis without crew, to each fractional owner.

''(d) TERMINATION.—This section shall not apply to liquids used as a fuel in an aircraft after September 30, 2013.''.

(2) CONFORMING AMENDMENT.—Section 4082(e) is amended by inserting ''(other than an aircraft described in section 4043(a))'' after ''an aircraft''.

(3) TRANSFER OF REVENUES TO AIRPORT AND AIRWAY TRUST FUND.—Section 9502(b)(1) is amended by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

''(B) section 4043 (relating to surtax on fuel used in aircraft part of a fractional ownership program),''.

(4) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 31 is amended by adding at the end the following new item:

''Sec. 4043. Surtax on fuel used in aircraft part of a fractional ownership program.''.

(b) FRACTIONAL OWNERSHIP PROGRAMS TREATED AS NON-COMMERCIAL AVIATION.—Subsection (b) of section 4083 is amended by adding at the end the following new sentence: ''For uses of aircraft before October 1, 2013, such term shall not include the use of any aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).''.

(c) EXEMPTION FROM TAX ON TRANSPORTATION OF PERSONS.—Section 4261, as amended by this Act, is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

''(j) EXEMPTION FOR AIRCRAFT IN FRACTIONAL OWNERSHIP AIRCRAFT PROGRAMS.—No tax shall be imposed by this section or section 4271 on any air transportation provided before October 1, 2013, by an aircraft which is part of a fractional ownership aircraft program (as defined by section 4043(c)).''.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to fuel used after June 30, 2010.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to uses of aircraft after June 30, 2010.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable transportation provided after June 30, 2010.

SEC. 806. TERMINATION OF EXEMPTION FOR SMALL AIRCRAFT ON NONESTABLISHED LINES.

(a) IN GENERAL.—Section 4281 is amended to read as follows:

''SEC. 4281. SMALL AIRCRAFT OPERATED SOLELY FOR SIGHTSEEING.

''The taxes imposed by sections 4261 and 4271 shall not apply to transportation by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing. For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the

maximum such weight contained in the type certificate or airworthiness certificate.''.

(b) CONFORMING AMENDMENT.—The item relating to section 4281 in the table of sections for part III of subchapter C of chapter 33 is amended by striking ''on nonestablished lines'' and inserting ''operated solely for sightseeing''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after June 30, 2010.

SEC. 807. TRANSPARENCY IN PASSENGER TAX DISCLOSURES.

(a) IN GENERAL.—Section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended—

(1) by redesignating subsection (c) as subsection (d),

(2) by striking ''subsection (a) or (b)'' in subsection (d), as so redesignated, and inserting ''subsection (a), (b), or (c)'', and

(3) by inserting after subsection (b) the following new subsection:

''(c) NON-TAX CHARGES.—

''(1) IN GENERAL.—In the case of transportation by air for which disclosure on the ticket or advertising for such transportation of the amounts paid for passenger taxes is required by subsection (a)(2) or (b)(1)(B), it shall be unlawful for the disclosure of the amount of such taxes on such ticket or advertising to include any amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261.

''(2) INCLUSION IN TRANSPORTATION COST.—Nothing in this subsection shall prohibit the inclusion of amounts not attributable to the taxes imposed by subsection (a), (b), or (c) of section 4261 in the disclosure of the amount paid for transportation as required by subsection (a)(1) or (b)(1)(A), or in a separate disclosure of amounts not attributable to such taxes.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable transportation provided after June 30, 2010.

TITLE IX—BUDGETARY EFFECTS

SEC. 901. BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

TITLE X—RESCISSION OF UNUSED TRANSPORTATION EARMARKS AND GENERAL REPORTING REQUIREMENT

SEC. 1001. DEFINITION.

In this title, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

SEC. 1002. RESCISSION.

Any earmark of funds provided for the Department of Transportation with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year, except that the Secretary of Transportation may delay any such rescission if the Secretary determines that an additional obligation of the earmark is likely to occur during the following 12-month period.

SEC. 1003. AGENCY WIDE IDENTIFICATION AND REPORTS.

(a) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(b) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(1) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, and the year when the funding expires, if applicable;

(2) the number of rescissions resulting from this title and the annual savings resulting from this title for the previous fiscal year; and

(3) a listing and accounting for earmarks provided for the Department of Transportation scheduled to be rescinded at the end of the current fiscal year.

Amend the title so as to read: ''An Act to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.''.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 467 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 467) to authorize representation by the Senate Legal Counsel in the case of Sollars v. Reid, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCONNELL. Mr. President, this resolution concerns a civil action filed against eight Senators for actions taken in their official capacity as legislators in the process of considering health care legislation. This lawsuit is not cognizable before the federal courts. The actions at issue in this case are part of the legislative process and are not subject to review by the courts. This resolution authorizes the Senate Legal Counsel to represent the Senators named as defendants in this case and to move for its dismissal.

Mr. BROWN of Ohio. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 467) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 467

Whereas, in the case of Sollars v. Reid, et al., Case No. 1:09–CV–361, pending in the United States District Court for the Northern District of Indiana, plaintiff has named as defendants eight Senators; and

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent all defendant Senators in the case of Sollars v. Reid, et al.

MEASURE READ THE FIRST TIME—S. 3158

Mr. BROWN of Ohio. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 3158) to require Congress to lead by example and freeze its own pay and fully offset the cost of the extension of unemployment benefits and other Federal aid.

Mr. BROWN of Ohio. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

ORDERS FOR WEDNESDAY, MARCH 24, 2010

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Wednesday, March 24; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of H.R. 4872.

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

PROGRAM

Mr. BROWN of Ohio. Mr. President, tomorrow the Senate will resume consideration of the Health Care and Education Reconciliation Act. Senators should expect a long day, with votes occurring throughout the day.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. BROWN of Ohio. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 10:33 p.m., adjourned until Wednesday, March 24, 2010, at 9 a.m.