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Senate

The Senate met at 2 p.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Lord of life, source of our strength, in You we take refuge. Empower our lawmakers to be faithful in that which is least, knowing that great good can come from small matters. Lord, teach them to love You with all their mind, heart, and strength, always remaining attentive to the leading of Your loving Providence.

Today, as we celebrate George Washington's birthday by reading his Farewell Address, inspire our Senators to lift some burden, bring light to some darkness, and stand firm against evil.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

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, February 22, 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 R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

READING OF WASHINGTON'S FAREWELL ADDRESS

The ACTING PRESIDENT pro tempore. Pursuant to the order of the Senate on January 24, 1901, the Senator from Illinois, Mr. BURRIS, having been appointed by the Vice President, will now read Washington's Farewell Address, as follows:

Mr. BURRIS, at the rostrum, read the Farewell Address, as follows:

To the President of the Senate and to the people of the United States:

To the people of the United States:

FRIENDS AND FELLOW CITIZENS: The period for a new election of a citizen to administer the executive government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those out of whom a choice is to be made.

I beg you at the same time to do me the justice to be assured, that this resolution has not been taken without strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country—and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest, no deficiency of grateful respect for your past kindness, but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed towards the organization and administration of the government the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experience, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services, they were temporary, I have the consolation to believe that, while choice and prudence

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



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invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is intended to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country for the many honors it has conferred upon me, still more for the steadfast confidence with which it has supported me and for the opportunities I have thence enjoyed of manifesting my inviolable attachment by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise and as an instructive example in our annals, that, under circumstances in which the passions agitated in every direction were liable to mislead, amidst appearances sometimes dubious, vicissitudes of fortune often discouraging, in situations in which not unfrequently, want of success has countenanced the spirit of criticism, the constancy of your support was the essential prop of the efforts and a guarantee of the plans by which they were effected. Profoundly penetrated with this idea, I shall carry it with me to my grave as a strong incitement to unceasing vows that Heaven may continue to you the choicest tokens of its beneficence; that your union and brotherly affection may be perpetual; that the free constitution, which is the work of your hands, may be sacredly maintained; that its administration in every department may be stamped with wisdom and virtue; that, in fine, the happiness of the people of these states, under the auspices of liberty, may be made complete by so careful a preservation and so prudent a use of this blessing as will acquire to them the glory of recommending it to the applause, the affection, and adoption of every nation which is yet a stranger to it.

Here, perhaps, I ought to stop. But a solicitude for your welfare, which cannot end but with my life, and the apprehension of danger natural to that solicitude, urge me on an occasion like the present to offer to your solemn contemplation, and to recommend to your frequent review, some sentiments which are the result of much reflection, of no inconsiderable observation, and which appear to me all important to the permanency of your felicity as a people. These will be offered to you with the more freedom as you can only see in them the disinterested warnings of a parting friend, who can possibly have no personal motive to bias his counsel. Nor can I forget, as an encouragement to it, your indulgent reception of my sentiments on a former and not dissimilar occasion.

Interwoven as is the love of liberty with every ligament of your hearts, no recommendation of mine is necessary to fortify or confirm the attachment.

The unity of government which constitutes you one people is also now

dear to you. It is justly so; for it is a main pillar in the edifice of your real independence, the support of your tranquillity at home, your peace abroad, of your safety, of your prosperity, of that very liberty which you so highly prize. But as it is easy to foresee that, from different causes and from different quarters, much pains will be taken, many artifices employed, to weaken in your minds the conviction of this truth; as this is the point in your political fortress against which the batteries of internal and external enemies will be most constantly and actively (though often covertly and insidiously) directed, it is of infinite moment that you should properly estimate the immense value of your national Union to your collective and individual happiness; that you should cherish a cordial, habitual, and immovable attachment to it; accustoming yourselves to think and speak of it as of the palladium of your political safety and prosperity; watching for its preservation with jealous anxiety; discountenancing whatever may suggest even a suspicion that it can, in any event, be abandoned; and indignantly frowning upon the first dawning of every attempt to alienate any portion of our country from the rest, or to enfeeble the sacred ties which now link together the various parts.

For this you have every inducement of sympathy and interest. Citizens by birth or choice of a common country, that country has a right to concentrate your affections. The name of American, which belongs to you in your national capacity, must always exalt the just pride of patriotism more than any appellation derived from local discriminations. With slight shades of difference, you have the same religion, manners, habits, and political principles. You have in a common cause fought and triumphed together. The independence and liberty you possess, are the work of joint councils and joint efforts—of common dangers, sufferings and successes.

But these considerations, however powerfully they address themselves to your sensibility, are greatly outweighed by those which apply more immediately to your interest. Here every portion of our country finds the most commanding motives for carefully guarding and preserving the Union of the whole.

The North, in an unrestrained intercourse with the South, protected by the equal laws of a common government, finds in the productions of the latter, great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the same agency of the North, sees its agriculture grow and its commerce expand. Turning partly into its own channels the seamen of the North, it finds its particular navigation invigorated; and while it contributes, in different ways, to nourish and increase the general

mass of the national navigation, it looks forward to the protection of a maritime strength to which itself is unequally adapted. The East, in a like intercourse with the West, already finds, and in the progressive improvement of interior communications by land and water will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home. The West derives from the East supplies requisite to its growth and comfort—and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and the future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest as one nation. Any other tenure by which the West can hold this essential advantage, whether derived from its own separate strength or from an apostate and unnatural connection with any foreign power, must be intrinsically precarious.

While then every part of our country thus feels an immediate and particular interest in union, all the parts combined cannot fail to find in the united mass of means and efforts greater strength, greater resource, proportionably greater security from external danger, a less frequent interruption of their peace by foreign nations; and, what is of inestimable value! they must derive from union an exemption from those broils and wars between themselves which so frequently afflict neighboring countries not tied together by the same government, which their own rivalships alone would be sufficient to produce, but which opposite foreign alliances, attachments, and intrigues would stimulate and embitter. Hence likewise, they will avoid the necessity of those overgrown military establishments, which under any form of government are inauspicious to liberty, and which are to be regarded as particularly hostile to republican liberty. In this sense it is, that your Union ought to be considered as a main prop of your liberty, and that the love of the one ought to endear to you the preservation of the other.

These considerations speak a persuasive language to every reflecting and virtuous mind, and exhibit the continuance of the Union as a primary object of patriotic desire. Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it. To listen to mere speculation in such a case were criminal. We are authorized to hope that a proper organization of the whole, with the auxiliary agency of governments for the respective subdivisions, will afford a happy issue to the experiment. It is well worth a fair and full experiment. With such powerful and obvious motives to union, affecting all parts of our country, while experience shall not have demonstrated its impracticability, there will always be reason to distrust the patriotism of those who

in any quarter may endeavor to weaken its bands.

In contemplating the causes which may disturb our Union, it occurs as matter of serious concern, that any ground should have been furnished for characterizing parties by geographical discriminations—northern and southern—Atlantic and western; whence designing men may endeavor to excite a belief that there is a real difference of local interests and views. One of the expedients of party to acquire influence within particular districts, is to misrepresent the opinions and aims of other districts. You cannot shield yourself too much against the jealousies and heart burnings which spring from these misrepresentations. They tend to render alien to each other those who ought to be bound together by fraternal affection. The inhabitants of our western country have lately had a useful lesson on this head. They have seen, in the negotiation by the executive—and in the unanimous ratification by the Senate—of the treaty with Spain, and in the universal satisfaction at that event throughout the United States, a decisive proof how unfounded were the suspicions propagated among them of a policy in the general government and in the Atlantic states, unfriendly to their interests in regard to the Mississippi. They have been witnesses to the formation of two treaties, that with Great Britain and that with Spain, which secure to them everything they could desire, in respect to our foreign relations, towards confirming their prosperity. Will it not be their wisdom to rely for the preservation of these advantages on the Union by which they were procured? Will they not henceforth be deaf to those advisers, if such they are, who would sever them from their brethren and connect them with aliens?

To the efficacy and permanency of your Union, a government for the whole is indispensable. No alliances, however strict, between the parts can be an adequate substitute. They must inevitably experience the infractions and interruptions which all alliances, in all times, have experienced. Sensible of this momentous truth, you have improved upon your first essay, by the adoption of a Constitution of government, better calculated than your former, for an intimate Union and for the efficacious management of your common concerns. This government, the offspring of our own choice, uninfluenced and unawed, adopted upon full investigation and mature deliberation, completely free in its principles, in the distribution of its powers, uniting security with energy, and containing within itself a provision for its own amendment, has a just claim to your confidence and your support. Respect for its authority, compliance with its laws, acquiescence in its measures, are duties enjoined by the fundamental maxims of true liberty. The basis of our political systems is the right of the people to make and to

alter their constitutions of government.—But the Constitution which at any time exists, until changed by an explicit and authentic act of the whole people, is sacredly obligatory upon all. The very idea of the power, and the right of the people to establish government, presupposes the duty of every individual to obey the established government.

All obstructions to the execution of the laws, all combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberation and action of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency. They serve to organize faction; to give it an artificial and extraordinary force; to put in the place of the delegated will of the nation the will of a party, often a small but artful and enterprising minority of the community; and, according to the alternate triumphs of different parties, to make the public administration the mirror of the ill concerted and incongruous projects of faction, rather than the organ of consistent and wholesome plans digested by common councils, and modified by mutual interests. However combinations or associations of the above description may now and then answer popular ends, they are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people, and to usurp for themselves the reins of government; destroying afterwards the very engines which have lifted them to unjust dominion.

Towards the preservation of your government and the permanency of your present happy state, it is requisite, not only that you steadily discountenance irregular opposition to its acknowledged authority but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are at least as necessary to fix the true character of governments as of other human institutions, that experience is the surest standard by which to test the real tendency of the existing constitution of a country, that facility in changes upon the credit of mere hypotheses and opinion exposes to perpetual change from the endless variety of hypotheses and opinion; and remember, especially, that for the efficient management of your common interests in a country so extensive as ours, a government of as much vigor as is consistent with the perfect security of liberty is indispensable; liberty itself will find in such a government, with powers properly distributed and adjusted, its surest guard-

ian. It is indeed little else than a name, where the government is too feeble to withstand the enterprises of faction, to confine each member of the society within the limits prescribed by the laws, and to maintain all in the secure and tranquil enjoyment of the rights of person and property.

I have already intimated to you the danger of parties in the state, with particular reference to the founding of them on geographical discriminations. Let me now take a more comprehensive view and warn you in the most solemn manner against the baneful effects of the spirit of party, generally.

This spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form it is seen in its greatest rankness, and is truly their worst enemy.

The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purpose of his own elevation on the ruins of public liberty.

Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight) the common and continual mischiefs of the spirit of party are sufficient to make it in the interest and duty of a wise people to discourage and restrain it.

It serves always to distract the public councils, and enfeeble the public administration. It agitates the community with ill founded jealousies and false alarms, kindles the animosity of one part against another, forments occasional riot and insurrection. It opens the door to foreign influence and corruption, which finds a facilitated access to the government itself through the channels of party passions. Thus the policy and the will of one country are subjected to the policy and will of another.

There is an opinion that parties in free countries are useful checks upon the administration of the government, and serve to keep alive the spirit of liberty. This within certain limits is probably true—and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged. From their natural tendency, it is certain there will always be enough of that spirit for every salutary

purpose. And there being constant danger of excess, the effort ought to be by force of public opinion to mitigate and assuage it. A fire not to be quenched, it demands a uniform vigilance to prevent it bursting into a flame, lest instead of warming, it should consume.

It is important likewise, that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal against invasions of the others, has been evinced by experiments ancient and modern, some of them in our country and under our own eyes. To preserve them must be as necessary as to institute them. If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle.

It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to

every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?

Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that the public opinion should be enlightened.

As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasions of expense, but by vigorous exertions in time of peace to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear. The execution of these maxims belongs to your representatives, but it is necessary that public opinion should cooperate. To facilitate to them the performance of their duty, it is essential that you should practically bear in mind that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant; that the intrinsic embarrassment inseparable from the selection of the proper objects (which is always a choice of difficulties) ought to be a decisive motive for a candid construction of the conduct of the government in making it, and for a spirit of acquiescence in the measures for obtaining revenue, which the public exigencies may at any time dictate.

Observe good faith and justice towards all nations; cultivate peace and harmony with all; religion and morality enjoin this conduct, and can it be that good policy does not equally enjoin it? It will be worthy of a free, enlightened, and, at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence. Who can doubt but, in the course of time and things the fruits of such a plan would richly repay any temporary advantages which might be lost by a steady adherence to it? Can it be that Providence has not connected the permanent felicity of a nation with its virtue? The experiment, at least, is recommended by every sentiment which ennobles human nature. Alas! is it rendered impossible by its vices?

In the execution of such a plan nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachment for others should be excluded and that in place of them just and amicable feelings towards all should be cultivated. The nation which indulges

towards another an habitual hatred, or an habitual fondness, is in some degree a slave. It is a slave to its animosity, or to its affection, either of which is sufficient to lead it astray from its duty and its interest. Antipathy in one nation against another disposes each more readily to offer insult and injury, to lay hold of slight causes of umbrage, and to be haughty and intractable when accidental or trifling occasions of dispute occur. Hence frequent collisions, obstinate, envenomed, and bloody contests. The nation, prompted by ill will and resentment, sometimes impels to war the government, contrary to the best calculations of policy. The government sometimes participates in the national propensity and adopts through passion what reason would reject; at other times, it makes the animosity of the nation's subservient to projects of hostility, instigated by pride, ambition and other sinister and pernicious motives. The peace often, sometimes perhaps the liberty of nations, has been the victim.

So likewise, a passionate attachment of one nation for another produces a variety of evils. Sympathy for the favorite nation, facilitating the illusion of an imaginary common interest in cases where no real common interest exists and infusing into one the enmities of the other, betrays the former into a participation in the quarrels and wars of the latter, without adequate inducements or justifications. It leads also to concessions, to the favorite nation of privileges denied to others, which is apt doubly to injure the nation making the concessions, by unnecessarily parting with what ought to have been retained and by exciting jealousy, ill will, and a disposition to retaliate in the parties from whom equal privileges are withheld. And it gives to ambitious, corrupted or deluded citizens (who devote themselves to the favorite nation) facility to betray or sacrifice the interests of their own country, without odium, sometimes even with popularity gilding with the appearances of virtuous sense of obligation, a commendable deference for public opinion, or a laudable zeal for public good, the base or foolish compliances of ambition, corruption, or infatuation.

As avenues to foreign influence in innumerable ways, such attachments are particularly alarming to the truly enlightened and independent patriot. How many opportunities do they afford to tamper with domestic factions, to practice the arts of seduction, to mislead public opinion, to influence or awe the public councils! Such an attachment of a small or weak towards a great and powerful nation, dooms the former to be the satellite of the latter.

Against the insidious wiles of foreign influence (I conjure you to believe me, fellow citizens) the jealousy of a free people ought to be constantly awake, since history and experience prove, that foreign influence is one of the most baneful foes of republican government. But that jealousy to be useful

must be impartial; else it becomes the instrument of the very influence to be avoided, instead of a defense against it. Excessive partiality for one foreign nation and excessive dislike for another cause those whom they actuate to see danger only on one side, and serve to veil and even second the arts of influence on the other. Real patriots, who may resist the intrigues of the favorite, are liable to become suspected and odious, while its tools and dupes usurp the applause and confidence of the people to surrender their interests.

The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations, to have with them as little political connection as possible. So far as we have already formed engagements, let them be fulfilled with perfect good faith. Here let us stop.

Europe has a set of primary interests, which to us have none or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence therefore it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics or the ordinary combinations and collisions of her friendships or enmities.

Our detached and distant situation invites and enables us to pursue a different course. If we remain one people, under an efficient government, the period is not far off when we may defy material injury from external annoyance; when we may take such an attitude as will cause the neutrality we may at any time resolve upon to be scrupulously respected; when belligerent nations, under the impossibility of making acquisitions upon us, will not lightly hazard the giving us provocation, when we may choose peace or war, as our interest guided by justice shall counsel.

Why forgo the advantages of so peculiar a situation? Why quit our own to stand upon foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, or caprice?

It is our true policy to steer clear of permanent alliance with any portion of the foreign world—so far, I mean, as we are now at liberty to do it, for let me not be understood as capable of patronizing infidelity to existing engagements. (I hold the maxim no less applicable to public than private affairs, that honesty is always the best policy)—I repeat it, therefore, let those engagements be observed in their genuine sense. But in my opinion, it is unnecessary, and would be unwise to extend them.

Taking care always to keep ourselves, by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies.

Harmony, liberal intercourse with all nations, are recommended by policy,

humanity, and interest. But even our commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce but forcing nothing; establishing with powers so disposed, in order to give trade a stable course—in order to give to trade a stable course, to define the rights of our merchants, and to enable the government to support them, conventional rules of intercourse, the best that present circumstances and mutual opinion will permit, but temporary, and liable to be from time to time abandoned or varied as experience and circumstances shall dictate; constantly keeping in view, that it is folly in one nation to look for disinterested favors from another—that is must pay with a portion of its independence for whatever it may accept under that character—that by such acceptance, it may place itself in the condition of having given equivalents for nominal favors and yet of being reproached with ingratitude for not giving more. There can be no greater error than to expect or calculate upon real favors from nation to nation. It is an illusion which experience must cure, which a just pride ought to discard.

In offering to you, my countrymen, these counsels of an old and affectionate friend, I dare not hope they will make the strong and lasting impression I could wish—that they will control the usual current of the passions or prevent our nation from running the course which has hitherto marked the destiny of nations. But if I may even flatter myself that they may be productive of some partial benefit, some occasional good, that they may now and then recur to moderate the fury of party spirit, to warn against the mischiefs of foreign intrigue, to guard against the impostures of pretended patriotism—this hope will be a full recompense for the solicitude for your welfare by which they have been dictated.

How far in the discharge of my official duties, I have been guided by the principles which have been delineated, the public records and other evidences of my conduct must witness to you and to the world. To myself, the assurance of my own conscience is, that I have, at least, believed myself to be guided by them.

In relation to the still subsisting war in Europe, my proclamation of the 22d of April 1793 is the index to my plan. Sanctioned by your approving voice and by that of your representatives in both houses of Congress, the spirit of that measure has continually governed me, uninfluenced by any attempts to deter or divert me from it.

After deliberate examination with the aid of the best lights I could obtain, I was well satisfied that our country, under all the circumstances of the case, had a right to take, and was

bound in duty and interest to take—a neutral position. Having taken it, I determined, as far as should depend upon me, to maintain it with moderation, perseverance and firmness.

The considerations which respect the right to hold this conduct it is not necessary on this occasion to detail. I will only observe that, according to my understanding of the matter, that right, so far from being denied by any of the belligerent powers, has been virtually admitted by all.

The duty of holding a neutral conduct may be inferred, without anything more, from the obligation which justice and humanity impose on every nation, in cases in which it is free to act, to maintain inviolate the relations of peace and amity towards other nations.

The inducements of interest for observing that conduct will best be referred to your own reflections and experience. With me, a predominant motive has been to endeavor to gain time to our country to settle and mature its yet recent institutions and to progress, without interruption to that degree of strength and consistency which is necessary to give it, humanly speaking, the command of its own fortunes.

Though in reviewing the incidents of my administration I am unconscious of intentional error, I am nevertheless too sensible of my defects not to think it probable that I may have committed many errors. Whatever they may be, I fervently beseech the Almighty to avert or mitigate the evils to which they may tend. I shall also carry with me the hope that my country will never cease to view them with indulgence and that, after forty-five years of my life dedicated to its service with an upright zeal, the faults of incompetent abilities will be consigned to oblivion, as myself must soon be to the mansions of rest.

Relying on its kindness in this as in other things, and actuated by that fervent love towards it which is so natural to a man who views in it the native soil of himself and his progenitors for several generations, I anticipate with pleasing expectation that retreat, in which I promise myself to realize without alloy the sweet enjoyment of partaking in the midst of my fellow citizens the benign influence of good laws under a free government—the ever favorite object of my heart, and the happy reward, as I trust, of our mutual cares, labors and dangers.

GEO. WASHINGTON.

Mr. BURRIS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COMMERCE, JUSTICE, SCIENCE,
AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to concur with an amendment to the House amendment to the Senate amendment to H.R. 2847, which the clerk will report.

The legislative clerk read as follows:

A House message to accompany H.R. 2847, a bill making appropriations for the Department of Commerce, Justice, Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid amendment No. 3310 (to the House amendment to the Senate amendment), in the nature of a substitute.

Reid amendment No. 3311 (to amendment No. 3310), to change the enactment date.

Reid amendment No. 3312, to provide for a study.

Reid amendment No. 3313 (to amendment No. 3312), of a perfecting nature.

Reid amendment No. 3314 (to amendment No. 3313), of a perfecting nature.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for as much time as I may consume.

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

Mr. DORGAN. Mr. President, later this afternoon, the Senate will consider a piece of legislation to try to create some jobs. I understand that the Federal Government, by passing legislation, doesn't automatically create jobs, although it can in some circumstances. For example, a summer youth program can put some kids to work in the summer if the Federal Government or State government sponsors it. By and large, the private sector creates jobs.

This piece of legislation this afternoon is a payroll tax exemption—trying to encourage small- and medium-sized businesses that are ready to expand and capable to expand—giving them extra incentive to hire people and put them back to work. Section 179, business expensing, is another incentive to business. The highway trust fund extension—we know building highways puts people to work almost instantly. We have plenty of backlog in highway and bridge repair.

This is a piece of legislation that will put people back to work and create the incentives for companies—whether it is highway contractors or small- and medium-sized businesses—to hire those employees. Why is that important? Because we have probably somewhere around 25 million people today who wake up without a job. The hard-core unemployment, as known in the statistics, is about 17 million people. But 20 million to 26 million people are effectively unemployed in this country. They woke up this morning wanting a job and looking for a job but cannot find a job.

I recognize that one of the prevailing moods in the Congress is to do nothing. Those are the two words that best de-

scribe what we have seen, particularly from the minority recently, "do nothing." It is a pretty easy position to take, but it is so wrong. Generally, it has always been wrong on the significant issues of the day. If this country doesn't believe that having 20 million, 25 or 26 million people out of work—and they don't believe that is something that is significantly wrong, something that weakens our country, then there is something wrong with their thinking.

This is a serious and urgent priority the Congress must address.

The do-nothing approach to public policy is something we have seen before. It goes all the way back to the basic rights of people—women's rights, civil rights, workers' rights. I have spoken on the floor previously, talking about the struggles to improve in those areas. Those struggles were against those who said let's do nothing. Women didn't have the right to vote for over the first half of this country's existence. They weren't allowed to vote. It took the beating in Occoquan Prison in 1917, when Lucy Burns, at night, was manacled and a chain between her wrists, hung over a cell door, with blood running down her arms all night long; and Alice Paul, a tube forced down her throat, force-feeding, to where she nearly drowned in her own vomit. She and 33 other women were arrested and chained to the White House gate. That is how women got the right to vote in this country. It is not because we had people who said let's do nothing, it is fine that women cannot vote. People pushed back and said what is going on is wrong.

Workers' rights. I wrote a book about the struggle to get workers' rights in this country. I said James Fyler died of lead poisoning. James Fyler was shot 54 times. Why? He felt people who went underground to mine for coal ought to be paid a fair wage. Think of the struggle for workers' rights and civil rights. I served in the Congress with John Lewis in the House of Representatives, who was beaten in Montgomery, AL. He was beaten because he believed one ought to be able to sit at a lunch counter as an African American. In some areas, it was against the law to drink from certain water fountains and ride in the front of the bus. It was against the law to sit at the lunch counter at Woolworth's.

Workers rights, civil rights, women's rights—all these things were struggles. There were those all along the way who said let's do nothing. Today, they say let's do nothing about the fact that 25 million or 26 million Americans are out of work.

By the way, here is a new report that shows that not everybody is out of work. We know that. A lot of people are working. In fact, there is full employment, according to the Northeastern Center for Labor Studies, among those who earn more than \$150,000 a year. Their unemployment is 3 percent, but that is called full em-

ployment. Not everybody is having trouble. The more affluent Americans have full employment. It is a lot of folks at the bottom who are struggling and getting laid off and are out looking for work. So change is very hard.

The question is, Is this Congress going to do something about it? Does it care about it? In every case, you can go back a century, and the wailing and the whining of those who have opposed everything for the first time and said it can't be done, it will not work, it will ruin our country—they are the ones who dug in their heels and said let's do nothing.

What about today? What is our responsibility today? Well, it seems to me, in this economic crisis—a crisis, by the way, that is not some natural disaster; this wasn't some massive storm that enveloped America, some tornado or cyclone or some massive natural event that occurred. This was an economic wreck that was caused by unbelievable avarice and greed in some of our Nation's largest institutions. There was nearly criminal negligence on the part of regulators who wouldn't regulate. There was shameful, greedy behavior by people at the top of the financial food chain, whose business philosophy was to maximize profits at any cost, it doesn't matter.

Now we find ourselves in a desperate position. Yes, I think we have a foundation where we have found the bottom and are going to try to build from this point on. The question is, How do we move this process along to give hope to people who, at this point, get up this morning and don't have a job? Some say let's work on the faucet—that is what this bill is today, and I will support it. Let's work on the faucet that will put more jobs in this tank. I say also let's work on the drain because you can turn the faucet on, if the drain is wide open you are not going to make much headway. I will talk about the drain, but first I will talk about the faucet.

There is no social program as important as a good job that pays well. That is why this needs to be a priority with us. It is why we should pass this piece of legislation this afternoon. No, it is not going to fix every issue. I understand that. I mentioned we have full employment with the people on the top. What about the people who shower after work—the people who work hard all day and have to take a shower after work to get rid of the evidence of that work? Well, let's talk about them for a moment. I met with a group of people who were losing their jobs just before Christmas this year—500 people who worked for a company that made one of America's best products. They were told their plant was going to close down—500 of them. Can you imagine the Christmas they spent with their families, because there were no other jobs in that area. Yet 500 jobs is a reasonably small amount of the total number of jobs we have been losing.

That describes the drain on this economy of ours with respect to jobs. Let me talk a bit about that.

I am talking about particularly jobs in which Americans make something, produce something. Our manufacturing sector is rapidly losing steam. We have lost 5½ million manufacturing jobs since 2000. We now have 11.7 million manufacturing jobs left. That is the fewest number of manufacturing jobs since the early 1940s. Since 2001, we have seen the closing of 42,000 factories in America. One-third of all the factories that employ over 1,000 people have closed since 2001 in this country. They are gone. Some people blame the workers because they want a living wage. They say: If you cannot compete with 50 cents an hour in China, tough luck, you don't deserve to compete. It is an international economic system and if you cannot compete, that is too bad. That is a pretty ignorant way to look at it. This is a global economy, but who decided, after spending a century lifting standards, requiring safe workplaces, better labor standards, better wages and benefits, that all that should be washed away because we can't compete with somebody who worked for 50 cents an hour, somebody who works in a factory where they live in cinder block, little rooms, with 12 in a room at night, and they work 7 days a week, 12 to 14 hours a day—who decided that ought to be the standard with which we have to compete? That doesn't make sense to me.

I guess there are people who believe that "made in the USA" doesn't matter anymore. We don't have to be a country that manufactures. If we don't have a strong manufacturing base, we will not long remain a world economic power. That is a fact. This manufacturing base of ours is being sequentially and systematically destroyed.

We have, essentially, lost the area of producing machine tools in this country. We have lost electronics. We have lost automobile parts. We have lost furniture manufacturing. We have lost telecom. We have lost appliances. I am talking about the manufacture of these things. In 1960, 30 percent of our GDP in this country was manufacturing. Now it is 11 percent. There are 1.2 billion cell phones sold on this planet every year. Not one is made in America—1.2 billion and not one is made in America. We have lost 60 percent of the furniture manufacturing. You don't need to know all the stories, but I have spoken about the one we lost in Pennsylvania. Pennsylvania House Furniture, which was an upscale fine furniture company. Governor Rendell did everything he could to stop it from moving to China. They used a special Pennsylvania wood to make this furniture. What they did is closed the plant and shipped the wood to China, made the furniture there and shipped it back and called it American production. The last piece of furniture that came down off the line—for a company that lasted 100 years, making top-of-

the-line furniture—the very last piece of furniture, those workmen in that plant turned it over and all the people who worked in the plant signed their names because they said there would not be furniture such as this made again. Their jobs were gone in an instant, and 60 percent of furniture manufacturing is gone.

The list goes on and on and on. Eighty-four percent of the circuit boards, which used to be ours—we developed circuit boards—are now made in Asia. We defend, as all of us understand, our military security aggressively. Do we care about our economic security—that we are hollowing out the manufacturing base of our country? Apparently not.

In this economic recovery bill that was passed, I included on the Senate side something called "Buy American." One would have thought I was exploding all of the relationships that existed around the globe. People here even had apoplectic seizures: What are you doing? Are you trying to start a trade war? No, I was not. "Buy American" is perfectly permitted in the WTO trade rules. In fact, Mr. Pascal Lamy, the WTO chief, says "Buy American meets world trade rules." If we had not put a "Buy American" provision in so State and local governments and the Federal Government, when contracting to buy steel and to buy products with which to make highways and other items we are investing in, had we not done that, we would be spending our taxpayers' money to purchase from China, to import the steel from China. I thought we were doing that to put Americans back to work. So I put in a "Buy American" provision. If you read the New York Times and the Washington Post, you just thought they were having seizures about it. Unbelievable, they say. No, it is not unbelievable to me. If you are going to try to get economic recovery in this country, you do not do that by incentivizing production in China and Japan. By the way, in their programs in China and Japan, they have their own provisions to purchase at home.

Here is the trade deficit we have with the world. This is why I say I support trying to do something with the faucet about jobs, to put more jobs in this economy. I am going to vote this afternoon on the proposal coming before the Senate. But here is the drain. Even as we do that, more and more jobs are leaving this country. Anybody who talks about fiscal policy deficits and is really worried that these fiscal policy deficits are going to sink this country, you can make a case—I used to teach a little economics in college—you can make a case that the fiscal policy deficit is money we owe to ourselves. You cannot make a case that this amount of red—these red lines go down, down, down, \$800 billion a year for the last 3 years in a row. That is money we owe to other countries. That is money that will be repaid by a lower standard of living in the United States.

I say to all of those who care about fiscal policy deficits—and I do—you

better care about this as well because this is a description of moving American jobs overseas in addition to indebting ourselves deep in debt to especially China, as this chart shows. This chart shows the red lines. This is only China, a country with which we have a \$260 billion trade deficit and growing every single year.

By the way, we have with the country of China a reasonably ignorant bilateral which says to China—I am taking one piece of it now—it says: You are ramping up a very large automobile export industry, and we will very soon see Chinese cars on the streets of America. When they come to America under our agreement with you, you have a very large deficit with us, China, so when you ship us your cars—and they are coming—we will impose a 2.5-percent tariff on automobiles from China into the United States. We agree that if we ship cars made in the United States to China, you may impose a 25-percent tariff. A country with which we have a \$260 billion trade deficit, we agreed to give them a 10-to-1 advantage on tariffs on bilateral automobile trading. I don't know how other people define ignorance, but I believe that is ignorant of our country's economic interest.

That is the reason I indicated in the economic recovery—what is called the stimulus program—that if we are going to spend money to try to restart this economy, to try to get this engine restarted and put people back to work, we at least ought to have some understanding that the products we are purchasing with that are not purchased from China and Japan, with which we have these very large budget deficits.

Since repetition is so very important here—I received a letter the other day from someone who said: Mr. Senator, if you are, at the end of your third term in the Senate this year, going to leave the Senate, who is going to speak for Huffy bicycles?

I said: I don't know who is going to speak for Huffy bicycles, but I am going to continue to do so until the end of the year because it is a perfect description of what is wrong in this country with respect to this so-called bathtub which should hold jobs but has a wide open drain.

Huffy was an Ohio company. Not anymore. They all got fired, all of them, because all these bicycles are produced in China. Why? Because the folks in Ohio were making \$11 an hour and that is way too much money to pay an American worker. I know where they are made now. They are made in China for 50 cents an hour by people who work 7 days a week, 12 to 14 hours a day.

The poignant story about Huffy bicycles is when the last factory closed and the last Huffy bicycle was made in America, all the workers, as they drove out of the parking lot, left a pair of empty shoes in the space where their car once parked. It was the only way they could send a message to the company: You can ship our jobs to China,

but you are never really going to fill this space of ours. So no more Huffy bicycles.

The list is endless. Huffy bicycles and Radio Flyer, the little red wagon every child has ridden in, are examples of what we do not make here anymore. Radio Flyer was made in Illinois for 110 years. The little red wagon was made by an immigrant who came to this country who not only loved airplanes—and so he named a red wagon “Radio Flyer”—but was a very good businessman. Every American child sat in those little red wagons and played in those little red wagons for 110 years, made in America. Not anymore. They are all made in China.

My point is this: I am going to vote for this bill this afternoon. It is the right thing to do. We will have people come here and spread the mantra again today as they have for so many weeks and months: Do nothing. Do nothing. Things will be fine.

Things are not fine. It is our responsibility to do something to address these issues. I want us to do something to try to create new jobs.

I chaired a hearing of the policy committee not too long ago. We had three small to medium-size businesses come testify. All of them were ready to expand and ready to hire new people. All of them were profitable businesses, all of them were ready to expand, and none of them could expand because none of them could find credit from the banks. Think of this: The biggest banks in America are now making record profits. I am talking about the biggest banks on Wall Street. They are making record profits and are prepared to pay record bonuses at a time when small and medium-size businesses that create the jobs in this country cannot find credit to expand even when they are profitable.

There is something wrong with this system. This system is not working. There are a lot of reasons for us to care a lot about what has happened in this country. I regret that there has never been the kinds of hearings with subpoena power that develops the master narrative of what has happened in the last 6 or 8 years that caused this economic wreck. The American people need to know. I understand there is now a commission, but that is not a substitute for what the Congress has a responsibility to do.

In 200 years in this country, we have gone from times when the productive sector—those who produce and manufacture—had the upper hand to other times when the financing sector had the upper hand. More recently, the financing sector has had the upper hand in this country. Manufacturing is an afterthought, and we are losing, losing, losing our manufacturing base.

The financing side, as all of us know, has become much larger. In fact, just about 15, 18 months ago, then-Treasury Secretary Paulson and the Chairman of the Federal Reserve Board came to the Congress and said: Look, we are facing

near imminent collapse of this entire economy. At that time, one of the things they said was that we have too much concentration in the biggest financial firms in the country. Yes, that was true, except, you know what, the concentration is even much greater now, engineered by some of the same people who said there is too much already.

This is not rocket science. Too big to fail meant no-fault capitalism. The biggest financial firms in the country got bailed out. Why? Because it was feared they were too big to fail. I think too big to fail is just too big. This is not rocket science. If you are too big to fail, you are too big. Yet the very institutions that are too big to fail are getting bigger, not smaller, imposing more risk.

By the way, the biggest ones that are showing significant record profits and ready to pay record bonuses—we are told somewhere around \$140 billion to \$160 billion—the biggest firms are engaged in the same kind of activity that steered the country into the ditch. We still have the credit default swaps and derivatives out there that represent very substantial risks.

If anybody really wants to understand how this relates, just go to Las Vegas or a casino someplace. Look up and understand what a synthetic derivative means. It means you are buying a credit default swap to insure a bond, except this transition does not relate to anything that is real. It is just a wager. That is exactly what has gone on in this country, unimpeded by regulators who did not look, who were woefully blind, and who boasted about it for some years. Who pays the price for all of that? The 25 or 26 million people who got up this morning and could not find a job. In some cases, they got up on a morning a month ago, a morning a year ago, in some cases 2 years ago, and still could not find work. They are the victims. And the very folks at the top who steered this country into the ditch are reporting record profits. The folks at the top, as I just described with the new study from Northeastern University, have full employment.

It seems to me there is something wrong with this picture. How does one come to the floor of the Senate this evening and say: Let's do nothing. I have an idea: let's keep doing nothing, they say.

We have watched that inaction, and that does not work. The American people deserve better than that. I hope this afternoon we will have most Members of the Senate coming to the floor to say: Let's do something. Let's care today not about the people at the top of the financial food chain who are now making record profits and preparing to pay record bonuses, but let's do something for the folks at the bottom who have lost their jobs—5.5 million manufacturing workers just in the last decade. Let's do something to see if we can find a way to put them back to work. If we do that, maybe we will get a

strong vote today for people saying we care about jobs.

We would like to work together—Republicans and Democrats—to get the best ideas both have to offer rather than the worst of each and see if we can advance the economic interests of this country once again.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that the time from 5 p.m. to 5:30 p.m. today be equally divided and controlled between the leaders or their designees, with the majority leader controlling the final 15 minutes prior to the 5:30 p.m. cloture vote.

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

Mr. DORGAN. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Mr. President, jobs. We are here today to help create jobs. Everyone is thinking about jobs and ways to create more of them.

Business owners, workers, community leaders across the country, especially in my home State of Montana, are asking what Congress is doing to create jobs. I might say when I was home last week, Mr. President, I had some job forums. At one of them, we had lots of different ways to create jobs and a lot of ideas.

At the end, I said: OK, everybody. What does this all boil down to? Give me one or two or three things that we can do to create more jobs. There was a big chorus of: more jobs, more jobs, better-paying jobs. So it is there, and it should be there because unemployment is so high and there is a huge need.

In his State of the Union Address, President Obama said: “Jobs must be our No. 1 focus in 2010.” Here in the Senate, a group of us have been working on finding the best way to create new jobs. I am pleased to have worked together across the aisle with a thoughtful bipartisan group of Senators to craft legislation to create tax incentives for job creation. I applaud my colleagues, Senators SCHUMER and HATCH, for working together to bring good ideas to the table. I thank my very good friend, CHUCK GRASSLEY, for

working with us once again, and I appreciate the tremendous help from Senators DORGAN, CASEY, and DURBIN who have been spearheading the broader jobs effort.

Some of the provisions on which these Senators have worked are before us today. The provisions before us today would address the immediate needs of businesses on many different levels. For example, it would allow smaller businesses faster depreciation of equipment purchases. This provision helps create jobs, clearly. As the demand for services and products increase, so does the demand for workers.

But the amendment before us would do more. The amendment would go to the heart of the matter to provide simple and immediate tax incentives for businesses to employ new workers. The amendment answers the challenge of doing something that would make a difference for the unemployed right now. Let me explain the tax incentive for hiring in the amendment.

This year any business that hires someone who has been out of work for 60 days or more would qualify for the credit. The business would not have to pay its share of Social Security payroll taxes on that employee for the remainder of the year. It is that simple.

This incentive would be available for every new worker hired no matter the size of the business. Moreover, if that business retains the new employee for a full year, then the business would be able to take an additional \$1,000 income tax credit against next year's taxes.

So, for example, the mom-and-pop grocery store owner in Billings, MT, that employs a previously unemployed store clerk and pays him \$25,000 for the rest of the year would save \$1,550 on payroll taxes. The medium-sized trucking company that can employ 10 new workers at \$35,000 each for the rest of the year would save \$21,700 on payroll taxes.

The large manufacturer that employs 100 new assembly-line workers at \$45,000 each for the rest of the year would save almost \$300,000 in payroll taxes. All of these businesses would get another \$1,000 for each new employee they retained for a full year.

Let me explain why this is a good package. First of all, the incentive is simple. We want all businesses to be able to take the incentive, not just those that can afford an attorney to explain it or an accountant to prepare the necessary paperwork. All private businesses that create jobs and employ the currently unemployed would be entitled to a payroll tax holiday; and because it is simple to understand, we hope the program will enjoy broad news coverage. That way more employers would hear about the incentive and opt in.

Second, the amendment would provide an immediate benefit. Employers need help now, and we want to create jobs now. As soon as a business hires a new employee, the business would re-

ceive the benefit as a payroll tax holiday on that new employee. The business would get the benefit of every payroll tax deposit it would make. The business would not have to wait until it filed its tax return next year, and the cash that the business would save from the payroll tax cut could be used to help pay the wages of the new employee or the cash could be invested in the business. That is right now. The amendment would not hurt the Social Security trust fund. The government would make the trust fund whole in the full amount of the payroll tax holiday.

The third reason this is a good provision is the amendment would encourage faster hiring. An employee with a salary of \$50,000 hired on July 1 would save the business about \$1,500 in taxes. But the same worker hired earlier, say, on March 1, would save the business about \$2,600 in taxes. The faster a business hires, the more benefit the business would receive. The incentive would boost the economy today, and it would create an additional demand for workers sooner.

What is the fourth reason this is a good idea? Just this one provision I have been talking about—and that is the payroll tax holiday. The amendment would encourage jobs that pay good wages. The higher the wage, the higher the credit. That is because the incentive is directly tied to the wages subject to the Social Security payroll tax.

Fifth, the amendment targets the unemployed. The incentive would reward businesses that hire those who are currently out of work. It would reward those businesses that create employment, not those that shift workers from another job. Yet it would not require the employee be collecting unemployment insurance benefits. For all sorts of reasons, not all persons take unemployment benefits. The incentive would be as broad as possible. It would help all those currently not working who want to be.

What is the sixth reason for this payroll tax holiday provision? It is fair. The incentive sets no limits on the size of the business that can utilize it. Job creation happens with all sizes and types of businesses—from the sole proprietor seeking to expand, to the largest manufacturer recovering from downsizing. Because the credit would be on payroll taxes rather than income taxes, the incentive would also help tax-exempt organizations and businesses currently operating at a loss. Those businesses have no income tax to offset with an income tax credit.

Seventh, the amendment would provide ease of hiring. The employer would only have to get a signed affidavit from a new employee that the employee had been out of work for the previous 60 days. That is pretty simple—no lengthy certification process through State agencies, as some current wage credits require.

Eighth, the amendment would encourage employee retention. Employ-

ers that retain their new employees for a year would get an added bonus.

Ninth, and most importantly, the amendment would increase employment. The nonpartisan Congressional Budget Office studied a number of options for job creation in the year 2010. After receiving many ideas, CBO stated that the payroll tax deduction for firms that increase their payroll is the most cost-effective policy for creating jobs. Economists suggest the same thing. While all thoughtful observers are careful to point out no company would hire unneeded workers just for a tax credit, many economists believe that a hiring incentive may be the push that many companies waiting on the sidelines need to hire those extra people.

Business owners have flexibility in hiring. They can work longer hours themselves, substitute machines for labor, or pay overtime to current employees. But those employers on the fence may believe this package of tax cuts and hiring incentives are enough of a boost for them to hire new employees now.

The National Federation of Independent Businesses indicated in December that there are many companies starting and growing businesses during this recession. In the past, the NFIB has supported a fixed-length payroll tax holiday. Economist Mark Zandi reported that "various business surveys suggest firms are more open to expanding their payrolls."

He added:

A tax break for hiring could be particularly effective this summer. By then, businesses will have had more time to come to terms with the Great Recession, and banks should be extending credit somewhat more freely by then.

Former Labor Secretary Robert Reich has suggested a new jobs tax credit for every new job created by small businesses this year. Although he thinks that a job credit does not do much under normal circumstances, he says that these are not normal circumstances, and businesses need a boost.

David Greenlaw and Ted Wieseman of Morgan Stanley Research have said that a new job credit, designed correctly, could represent an important source of effective stimulus.

And Ted Gayer of the nonpartisan Brookings Institution said that timing of an employment tax credit matters. He warned:

The more you dither, then people will wait on the sidelines and not hire now. You want it to be immediate and you want it to go a set length.

Let us not delay. Let us answer the call from Americans to help and let us enact this package to get more people to work.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. MCCONNELL. I thank the Chair.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE AND THE JOBS BILL

Mr. MCCONNELL. Mr. President, first, I want to welcome everybody back. I don't think there is any snow in the forecast, so hopefully we can get some work done around here. Having spent the past week in Kentucky, I can assure you that my constituents are concerned, first and foremost, about jobs and the economy. And another thing they are concerned about is lawmakers in Washington making matters worse.

Americans are worried about the growing national debt. That is why Republicans hope to offer amendments to the jobs bill that we will be voting on today that would lower it. Those ideas should be considered.

Millions of Americans want to get back to work. That is why Republicans will offer ideas that will make it easier for businesses to hire new workers. Those ideas should be considered too.

Small business owners want greater certainty about the future. That is why Republicans will propose ideas that will keep their taxes from going up and make it easier for them to invest in their businesses. Those and other ideas from both sides of the aisle should be considered.

Later this week, we will have the health care summit at the White House. Americans want the administration to scrap its massive government scheme in favor of an incremental approach to health care reform. Unfortunately, the White House still seems unwilling to do the one thing Americans want most. It is still clinging to a massive bill that Americans have overwhelmingly rejected again and again for months.

The tragedy of this approach is that the longer Washington sticks with its failed approach to health care, the longer Americans will have to wait for the real, step-by-step reforms that will actually lower costs and lead to a better system. That is the kind of real reform Americans have wanted all along. That is what they have been asking for and that is what Republicans in Congress will continue to fight for.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CASEY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. CASEY. Mr. President, I ask consent to speak as in morning business.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. CASEY. I thank the Chair.

(The remarks of Mr. CASEY pertaining to the submission of S. Res. 418 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. CASEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. BOXER. Mr. President, we all went home over this recess—most of us did—and we heard very clear messages. At least I can tell you I did. The messages are: Address the problems that face us and reach out a hand across the aisle and do it together. Pretty simple. Today we have a chance to do that.

Today we have a very clear chance to do that and to lift the spirits of the American people. The bill we will be voting on—actually we are voting to take it up, in essence; we need 60 votes to do that, unfortunately, because there is a filibuster again on this—is a very simple, straightforward jobs bill.

It has four parts. Two relate to tax breaks for business for doing good things. One is buying new equipment and getting a break on the expensing. The other is hiring people who have been unemployed for 60 days or more. The other two pieces involve the extension of the highway trust fund and the Build America Bond program, and that relates to building our infrastructure. In the case of the highway trust fund, of course, it does fund transportation of all kinds: transit systems as well as highways, bridges, roads. Very important.

Build America Bonds is a way to help the States issue bonds that they have voter approval to do, and helps them with the interest rate. In California, that program—Build America Bonds—resulted in billions of dollars of bonding to build roads and schools and all kinds of important necessities for my people back home.

So we have four things before us in one package: two tax breaks very important to businesses and two very important infrastructure measures.

I want to have printed in the RECORD—and I ask unanimous consent to do so—a very important letter sent to us by the American Association of State Highway and Transportation Officials, the American Road and Transportation Builders Association, the Associated General Contractors of America, the U.S. Chamber of Commerce, the Laborers International Union, and the International Union of Operating Engineers.

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

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS, THE AMERICAN ROAD AND TRANSPORTATION BUILDERS ASSOCIATION, THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, THE U.S. CHAMBER OF COMMERCE, THE LABORERS INTERNATIONAL UNION, INTERNATIONAL UNION OF OPERATING ENGINEERS.

Hon. RICHARD DURBIN,

Majority Whip,

Hon. BARBARA BOXER,

Chairman, The Environment and Public Works Committee,

Hon. MAX BAUCUS,

Chairman, Finance Committee,

Hon. JAMES INHOFE,

Ranking Member, Environment and Public Works Committee.

DEAR SENATORS: We are writing on behalf of the undersigned organizations to express our strong support for prompt Senate passage of an extension of the highway and transit programs in the SAFETEA-LU legislation and inclusion of a transfer of General Funds into the Highway Trust Fund in an amount sufficient to support the appropriated FY10 funding levels consistent with at least a nine month period and should the Senate decide a one year extension period.

Passage of legislation that includes an extension and the funds transfer will provide much needed certainty and stability within the states, local transportation authorities and transit agencies to make long-term capital commitments and plan for a full season of work. All 50 states continue their highway construction season through September and into October, at least 45 states continue highway work into November and one-third of the states are still working in December. Without an extension that also stabilizes the Highway Trust Fund, the transportation construction industry will continue to decline and much needed transportation investments cannot be made.

We continue to support Congressional efforts to enact a well-funded, long-term surface transportation bill. That work can go on in Congress while the program continues to fund needed transportation assets. Swift passage of a multiyear bill will have an impact in the out years but shoring up the trust fund now will allow the maximum job creation during the 2010 construction season. We face a shortfall in the trust fund at this time that makes an extension and funds transfer essential to creating much needed jobs in the construction industry this year and to continuing to improve this nation's transportation infrastructure. The nation needs these investments now and we urge the Senate to act to move this critical legislation.

It is critically important given the urgency of the investment and jobs issues that these provisions be included in the Senate jobs bill to be introduced next week.

Mrs. BOXER. I have to say I have worked with these organizations over the break to talk to them about what will happen if we vote this measure down and we do not continue our funding through the highway trust fund. They are very clear, and I am going to give you the information they told me about job losses that will happen if we do not act today.

As I read this list, I hope, Mr. President, you realize these organizations are Republican organizations, Democratic organizations, bipartisan organizations. They have Independents, Republicans, and Democrats. The Chamber of Commerce, we all know they

tend to go with the Republican side most of the time. They want a “yes” vote. The general contractors, they generally go—generally go—with the Republicans. They want a “yes” vote. Then you look at the unions, the workers, they generally go with the Democrats. They want a “yes” vote.

And why? Because they are fearing if we do not act, we are going to hurt business and we are going to hurt the working people of this country. They say:

Passage of [this] legislation . . . will provide much needed certainty and stability within the States, local transportation authorities and transit agencies to make long-term capital commitments and plan for a full season of work. . . . Without an extension that . . . stabilizes the Highway Trust Fund—

Which, by the way, this does—

the transportation construction industry will continue to decline and much needed transportation investments cannot be made.

I want to repeat that. This is not a quote from a Senator, Republican or Democratic or Independent. This is a quote from the Republicans and the Democrats and the Independents who are represented by the American Association of State Highway and Transportation Officials, the American Road and Transportation Builders Association, the Associated General Contractors of America, the U.S. Chamber of Commerce, the Laborers International Union, and the International Union of Operating Engineers. They are telling us this is critical. They say: “The Nation needs these investments now.” They put the word “now” in bold letters. Not tomorrow, not next week but now.

We urge the Senate to act to move this critical legislation. It is critically important, given the urgency of the investment in jobs issues that these provisions be included in the Senate jobs bill and they are.

Today, we have a chance to have a fresh start by voting for cloture—in other words, ending a filibuster—on this package of four bills, two tax breaks for businesses and two very important investments in our infrastructure.

I wish to give the numbers that were given to us by the American Association of State Highway Officials.

We have asked the State highway officials in our States—and I see Senator CASEY here; in his State—we have asked them all to give us an idea of the jobs we would lose if we do not make that \$20 billion transfer into the highway trust fund that is included in the Reid jobs bill. In Arizona, it is estimated we would see 6,800 jobs lost; in California, 31,000; in Florida, 17,000—I am rounding these off—in Illinois, 11,000; Iowa, 4,000; Maine, 1,400; Massachusetts, 5,300; Michigan, 9,300; Missouri, 7,800; Nevada, 2,590, to be exact; Ohio, 12,000 jobs—let me repeat, 12,000 jobs would be lost in Ohio—in South Carolina, 5,000; Texas, 29,000-plus jobs would be lost if we don’t get moving on

this bill; in Utah, 2,600; and in Wisconsin, 6,500.

I just picked these States out for purposes of explanation.

If we fail to pass an extension, period, we would lose 1 million jobs in this great Nation.

So there are two scenarios. One is if we fail to extend the program, this is what will happen. The States will lose jobs immediately. If we don’t authorize this program, we will lose 1 million jobs. Without the transfer, this highway trust fund will not have any funds by the summer. Some people say June. Some people say August. I ask my colleagues who may be watching this debate: Please consider what it will be like when you have your contractors come and tell you they have had to stop a project in midstream—a highway, a bike path, a freeway, fixing a bridge that is perhaps in danger of collapsing.

So I will tell my colleagues I don’t think we have a choice.

I ask unanimous consent to have printed in the RECORD the estimated job loss if there is no extension whatsoever of the highway trust fund.

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

| State | Estimated job loss under no CR or extension |
|----------------------|---|
| Arizona | 15,558 |
| California | 70,111 |
| Florida | 39,244 |
| Illinois | 25,831 |
| Iowa | 8,794 |
| Maine | 3,219 |
| Massachusetts | 12,121 |
| Michigan | 21,294 |
| Missouri | 17,921 |
| Nevada | 5,903 |
| Ohio | 26,934 |
| South Carolina | 12,683 |
| Texas | 66,434 |
| Utah | 5,964 |
| Wisconsin | 14,894 |

Mrs. BOXER. Mr. President, this is a pretty straightforward vote for us today. In essence, everything in this jobs bill is bipartisan. Everything in it is bipartisan. I can tell my colleagues right now that my Republican colleagues tell me they want to reauthorize this highway trust fund through the end of the year. They want to make sure the trust fund has the dollars it needs. Well, then, what is the reason why one might not vote to end the filibuster?

Some say we didn’t get everything we wanted in this bill. Well, neither did I. There are many things I would like to see in a jobs bill, believe me. I didn’t get them in this bill because Senator REID said we have to go slowly. We are going to have these smaller packages. They are more understandable. I think he has a point. But each of us could write our own jobs bill. Senator MCCONNELL could write his. I could write mine. The fact is, what Senator REID has done is to take four provisions that are bipartisan in nature and put them in this jobs package.

Frankly, I don’t know how anyone could face their constituents in a time

of unemployment that we are seeing now. Even though we have certainly gone from bleeding—600,000 jobs a month, 700,000 jobs a month—to very few in comparison, we have a long way to go. Building the infrastructure of this Nation is done by the private sector. We hear the Republicans on the other side say: Well, we want this to be built by the private sector. That is how this program works.

I ask unanimous consent to have printed in the RECORD at this time a notice that went out from the Missouri Department of Transportation, if I may.

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

MISSOURI DEPARTMENT
OF TRANSPORTATION,
Jefferson City, MO, February 19, 2010.
SPECIAL NOTICE TO CONTRACTORS: BID
OPENING

All bidders—PLEASE TAKE NOTE!—Unless the federal government takes the necessary steps to ensure the availability of federal funds for the remaining fiscal year prior to 12:00 p.m. on February 25, 2010, the scheduled February 26, 2010 bid opening will be Postponed/Withdrawn until further notice.

If necessary, the final Notice to Postpone/Withdraw the scheduled February 26, 2010 bid opening will be posted at 12:00 p.m. on February 25, 2010.

As many of you are aware, the Surface Transportation Act, titled SAFETEA-LU, which provides \$42 billion per year nationally in federal funding for highway and bridge projects to cities, counties and states, expired on September 30, 2009. The U.S. Congress provided for an extension of SAFETEA-LU, but funded it at \$30 billion per year. MoDOT, like other State Departments of Transportation, developed its highway program with the assumption that Congress would fully fund the federal program at, or above, the SAFETEA-LU level. This action by Congress has not happened.

Congress has until February 28, 2010 to correct the shortfall in transportation funding. If Congress takes no action by February 28 to correct the federal funding shortfall, MoDOT and other State DOTs will have to make adjustments to their existing highway programs. The impact to MoDOT, cities and counties will be a reduction of \$250 million in federal funds for the remainder of this fiscal year. This lack of action directly affects the scheduled-highway bid openings at MoDOT through the May 21, 2010 bid opening. Because the February 26, 2010 bid opening is prior to the February 28 deadline for Congress to address the federal funding shortfall, MoDOT believes it is prudent to postpone or withdraw the February 26, 2010 bid opening until Congress has acted on the federal level for highway and bridge funding.

If you have any questions related to MoDOT’s bid opening schedules, please feel free to contact Dave Nichols, director of program delivery, at 573-751-4586 or email at: david.nichols@modot.mo.gov.

Link to the projects scheduled in the February 26, 2010 bid opening: http://www.modot.org/eBidLettingPublicWeb/viewStream.do?documentType=general_info&key=1198.

Mrs. BOXER. Mr. President, I wish my colleagues to hear this because it is very shocking, and it could happen in Delaware, California, Pennsylvania, any of our States. It is a special notice to contractors, dated February 19:

All bidders take note. Unless the Federal Government takes the necessary steps to ensure the availability of Federal funds for the remaining fiscal year prior to 12 p.m. on February 25, the scheduled February 26 bid opening will be postponed or withdrawn until further notice.

This is real. This is real. I know this is a political season. I know firsthand it is a political season. But there comes a time when we have to put politics aside for 5 minutes—I would say 15 minutes—when we vote, put it aside for 15 minutes and let's not have a circumstance where we hear from the Missouri Department of Transportation that they are about to shut down their bidding process.

I also ask unanimous consent to have printed in the RECORD a letter from the American Highway Users Alliance.

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

AMERICAN HIGHWAY
USERS ALLIANCE,

Washington, DC, February 3, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate, Washington, DC.
Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Washington, DC.
Hon. RICHARD J. DURBIN,
Majority Whip, U.S. Senate, Washington, DC.
Hon. JON KYL,
Minority Whip, U.S. Senate, Washington, DC.

DEAR SENATE LEADERS: On behalf of our 270 motoring clubs, non-profit associations and businesses with an interest in safe and efficient highways, the American Highway Users Alliance asks for your support for the highway bill extension and Highway Trust Fund restoration in the initial "jobs bill" pending in the Senate.

Our members represent millions of motorists, RVers, motorcyclists, as well as hundreds of truck and bus companies. It is critical to us that the Highway Trust Fund remains solvent, that the expired highway bill is extended through the current fiscal year, and that rescissions that took effect on September 30, 2009 are repealed.

Compared to last year, the Federal Highway Administration is distributing about \$1 billion less per month to the States in budget authority for highways. This cut is devastating all 50 state highway programs and will create serious impacts on the safety and efficiency of our Nation's commerce corridors.

If the initial job bill is enacted with an extension of the highway bill and a restoration of funds to the Highway Trust Fund, FY10 contract authority will be restored to pre-rescission FY09 levels and the highway program will remain solvent through the summer construction season.

We also take this opportunity to urge your support for additional highway funding in future jobs bills to be considered this year. The House has proposed that \$27.5 billion be appropriated for highways in their bill. We strongly support this funding level and ask that the Senate concur with the House on this provision. The use of jobs bill funding for highways will not only add immediate construction jobs, but will also create and support hundreds of thousands of supply chain and induced jobs in every part of our country.

Thank you for your leadership on highway issues. Please do not hesitate to contact me if you have any questions.

Sincerely,

GREGORY M. COHEN,
President and CEO.

Mrs. BOXER. Mr. President, it is signed by their CEO and President. They are asking us to support this bill. Here is what he says:

Our members represent millions of motorists, RVers, motorcyclists, as well as hundreds of truck and bus companies. It is critical that the Highway Trust Fund remain solvent, that the expired bill be extended through the current fiscal year, and that the rescissions that took effect in September be repealed.

They get it. These are our constituents who drive on the highways and the freeways, and they are begging us to act and set aside our political games for 15 minutes and vote cloture. By the way, I am hopeful we can; I am.

I also have a letter to the Members of the Senate:

The current lack of funding certainty in the Federal highway market is having a devastating effect on the transportation construction industry. Our industry is in dire economic shape. We urge the Senate to act promptly on passing the Reid amendment.

Let me tell my colleagues who signed this letter. The President and CEO of American Concrete Pavement Association, the President of the National Asphalt Pavement Association, the President of the National Ready Mixed Concrete Association, the President and CEO of Portland Cement, the President and CEO of the National Stone, Sand, and Gravel Association.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

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

FEBRUARY 19, 2010.

TO THE MEMBERS OF THE UNITED STATES SENATE: As the principal suppliers of materials used to manufacture our nation's roads, highways and bridges, we call on the U.S. Senate to promptly enact the Reid amendment that extends the surface transportation programs and provides \$19.5 billion for the Highway Trust Fund.

The current lack of funding certainty in the federal highway market is having a devastating effect on the transportation construction industry. Since SAFETEA-LU expired on September 30, 2009, the program has been extended 151 days under which state highway funds have been reduced by 30 percent. As a result, state transportation departments and contractors cannot plan for a full season of work just as the transportation construction industry is suffering its worst construction cycle since the Great Depression.

Our industry is in dire economic shape. Production of asphalt and concrete pavements experienced double digit declines in 2009. Nearly one in four construction workers are unemployed, and more job losses will occur in 2010 due to a lack of contract awards by state transportation departments across the country. While the American Recovery and Reinvestment Act (ARRA) staved off a catastrophic decline in highway construction, uncertainty about longterm federal investment in state and local highway programs, combined with a lingering recession and associated state budget problems, poses a significant threat to the future of transportation builders and suppliers.

We urge the Senate to act promptly on passing the Reid amendment. This legislation provides for a full year extension of the

Federal Highway Program and funding to shore up the Highway Trust Fund.

Sincerely,

GERALD F. VOIGT,
President and CEO,
American Concrete
Pavement Association.

MIKE ACOTT,
President, National
Asphalt Pavement
Association.

ROBERT A. GARBINI,
President, National
Ready Mixed Concrete
Association.

JENNIFER JOY WILSON,
President and CEO,
National Stone,
Sand and Gravel Association.

BRIAN MCCARTHY,
President & CEO,
Portland Cement Association.

Mrs. BOXER. Mr. President, these letters are stark in their message to us. If we don't listen to this incredible group of people who are writing us these letters—these are Republicans, they are Democrats, they are Independents, they are Americans. They are saying: Set aside your differences and fund the highway trust fund. This vote will send a shiver through the spine of our entire business community and our working people if we don't get 60 votes today.

So we have an opportunity today to send the clearest of messages that we are ready to come together around a simple premise; that is, the transportation infrastructure of this Nation is not a political whipping boy. There is no time to play politics here—no time. We have one State already saying: Beware. We are putting off our contracting. What more do we need to see than that? This is just the beginning of what is going to happen. We know the Build America Bonds program, which will allow State and local governments to borrow at lower costs, is going to put people to work. Our treasurer, California treasurer Bill Lockyer, said Build America Bonds have enabled the State—our State—to sell more than \$19 billion in general obligation funds to meet voter-approved mandates for more than 7,000 vital infrastructure projects, in turn creating or sustaining more than 100,000 solid, middle-class, private sector jobs and businesses, large and small, in California.

The Build America Bond program is something our local people want, whether they are in California or anywhere else in the Nation. This program can cover bonds for school construction, clean energy, and all the rest. It will allow us to put people to work, and the decisions will not be made here but in our cities, our counties, and our States.

Clearly, the two infrastructure pieces in the Reid bill are essential in both

saving jobs and creating new jobs. Investments in infrastructure are a crucial component of job creation in our Nation. As we work our way out of this recession, the last thing we want to do is create uncertainty about our transportation funding. Too many people are counting on it.

I wish to mention, as the chair of the Environment and Public Works Committee, that what we are doing today will give us the time we need to pass a larger authorization, and I am working on that authorization with Republicans and Democrats on our committee. I wish to commend, in particular, Senator VOINOVICH for reaching out to me in an extraordinary way. He is reaching out his hand and he says: Let's get started. I say to him, through my remarks on the Senate floor: Absolutely. We are going to start working. That bill is going to be transformational. It is going to, I think, be another boon to our economy.

There is one thing I can say after spending so much time back home. I have not heard one of my constituents in my State—and I traveled to every part of my State and I met with Democrats, Republicans, Independents, business, labor, nurses, firefighters, everybody—not one disagrees with this point; that is, a great nation must have a great infrastructure. Our infrastructure must be updated. That means our roads, our bridges, our highways, our transit systems, our sewer systems, our water systems. We have water systems with arsenic in them. We have water systems that are not healthful for our families. No great nation can be a great nation if our people are not at the top of their game. You can't be at the top of your game if your child is getting ill because they are drinking tainted water. These are the things we have to do, and they are done in the private sector. On the transportation side, there is a separate fund for that highway trust fund, separate funds that go into that user fee, and that is how we fund our highways and transit systems. It is a very sound idea.

Again, I say to all colleagues: If we turn our back today on this very straightforward proposal that extends the highway trust fund and gives it the funding it needs to spend at the authorized levels, we are going to see more State departments of transportation, such as this one in Missouri:

Special Notice: Unless the Federal Government takes the necessary steps to ensure the availability of Federal funds for the remaining fiscal year, then the bid opening will be postponed or withdrawn until further notice.

That is not a threat; it is real.

I yield the floor.

• Mr. HATCH. Mr. President, I oppose invoking cloture on the motion to concur with the House amendment to the Senate amendment to HR 2847, also known as Senator REID's Hiring Incentives to Restore Employment Act.

Only 2 weeks after President Obama stood in the House of Representatives to deliver his State of the Union ad-

dress calling for a bipartisan solution to creating job growth, the majority leader has pulled the rug from underneath both Democrats and Republicans. Senators BAUCUS, GRASSLEY, and others, including myself, had been spearheading an effort to put forth a bipartisan jobs bill. However, the majority leader inexplicably decided to gut our work product.

Let me be clear, there is no doubt in my mind and in the mind of many of my colleagues that passing a jobs bill is crucial. We have seen our unemployment rate remain stagnant at around 10 percent since last September. The American people sent us here to do a job, and it is way past time we did it.

That is why I worked with Senator SCHUMER to come up with a payroll tax holiday for those companies that hired more employees. Under this incentive, the sooner a company hired an unemployed worker the more tax incentive the company would receive.

Regrettably, because of the majority leader's decision, it looks as though President Obama's hope for a bipartisan solution to job creation only lasted 2 weeks. What a shame.

The original package, negotiated by Senate Finance Committee Chairman BAUCUS and Ranking Member GRASSLEY, included an array of tax provisions aimed at providing the private sector with the ability to hire more employees and invest in more equipment.

The extension of these expired tax provisions only support proven growth of companies that are slowly beginning to see the light at the end of the tunnel.

The President set the tone at the beginning of the year by calling on Congress to put forth a bipartisan solution to creating jobs in this country. In response, both Democrats and Republicans brought innovative ideas to the table. Then, in a sudden change of events, many Republican ideas have been excluded from the jobs bill the majority leader has brought to the floor.

And again, the majority leader has maneuvered this legislation to prevent any amendments from being offered by our side. If this is not an arrogance of power, then I do not know what is. I only hope the majority leader heeds to President Obama's plea for a bipartisan solution.

I think it would be a grave injustice to the American people to pass this bill in this way. How is the minority supposed to have faith that the minority will not be excluded from debate of future legislation, such as health care and energy legislation? It is easy to label the Republicans as the party of no when you completely exclude them from the legislative process. No is the only option that remains. •

Mr. GRASSLEY. Mr. President, the Senate is about to engage in a cloture vote on the Senate Democratic leadership's third stimulus bill. What I find surprising is that what we are about to

vote on indisputably and absolutely belongs to the majority leader. That is to say we are not going to vote on a bipartisan package that I put together with Finance Committee Chairman BAUCUS. I was under the impression that the Senate Democratic leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic leader was highly involved in the development of a bipartisan bill, he arbitrarily decided to replace it with a bill he hopes to jam through the Senate.

As much as I was surprised by the Senate Democratic leader's disregard for bipartisanship, I am even more surprised by the explanations given by him and his cohorts.

Perhaps the most significant change between the bipartisan package Chairman BAUCUS and I helped put together and the package we will be voting to move to is that a package of expired tax provisions has been removed. Normally referred to as extenders, these generally very popular and certainly bipartisan provisions have been extended several times over the past few years.

What is surprising is that hyperpartisan members of the majority have suddenly decided that the tax extenders are partisan pork for Republicans. A representative sample comes from one report, which describes the bipartisan bill as "an extension of soon-to-expire tax breaks that are highly beneficial to major corporations, known as tax extenders, as well as other corporate giveaways that had been designed to win GOP support." Just today the Washington Post includes this attribution to the Senate Democratic Leadership. From the Post: "We're pretty close," {the majority leader} said Friday during a television appearance in Nevada, adding that he thought "fat cats" would have benefitted too much from the larger Baucus-Grassley bill.

The portrait being painted by certain members of the majority, echoed without critical examination in some press reports, is wildly inaccurate. For one thing, the tax extenders include provisions such as the deduction for qualified tuition and related expenses and also the deduction for certain expenses of elementary and secondary school teachers. If you are going to school or if you are a grade school teacher, the Senate Democratic leadership thinks you are a fat cat so you are on your own. If your house was destroyed in a recent natural disaster and you still need any of the temporary disaster relief provisions contained in the extenders package, too bad, because helping you would amount to a corporate giveaway in the eyes of some.

The tax extenders have been routinely passed repeatedly because they are bipartisan and very popular. Democrats have consistently voted in favor of extending these tax provisions.

House Speaker NANCY PELOSI released a very strong statement upon House passage of tax extenders in December of 2009, saying this was, "good

for businesses, good for homeowners, and good for our communities.” December of 2009 was not very long ago. In 2006, the then-Democratic leader released a blistering statement: “After Bush Republicans in the Senate blocked passage of critical tax extenders, . . . American families and businesses are paying the price because this Do Nothing Republican Congress refuses to extend important tax breaks.” I ask unanimous consent that both of these statements be printed in the RECORD in their entirety.

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

PELOSI: TAX EXTENDERS ACT CREATES NEW JOBS, GROWTH, INNOVATION, AND OPPORTUNITY FOR EVERY AMERICAN

WASHINGTON, DC—Speaker Nancy Pelosi released the following statement today after the House passed the Tax Extenders Act of 2009, which will help to create jobs and cut taxes for American middle-class families. The House passed the bill by a vote of 241 to 181.

“Today, Congress took another positive step forward in our drive to create more jobs, strengthen our economy, and lay the foundation for long-term prosperity. By passing the Tax Extenders Act, we are placing our working families at the center of our economic recovery.

“This legislation is good for businesses, good for homeowners, and good for our communities. The bill extends research and development tax credits for American companies, encouraging them to invest in innovation and clean energy, and create the high-tech jobs of the 21st century. It provides property tax relief to 30 million families, ensures our men and women called to serve overseas do not face a pay cut here at home, and offers some security for millions of parents, teachers, and consumers by extending deductions for college tuition, classroom expenses, and state and local sales taxes.

“Maintaining our commitment to fiscal discipline, this legislation will not add to the deficit. The costs of this proposal are fully paid for because we put an end to the preferential tax treatment for hedge fund managers and investment bankers and crack down on offshore tax havens.

“This bill is a down payment on new jobs, growth, innovation, and opportunity for every American.”

REID: REPUBLICANS SHOULD STOP BLOCKING TAX EXTENDERS

WASHINGTON, DC—Senate Democratic Leader Harry Reid today issued the following statement after Bush Republicans in the Senate blocked passage of critical tax extenders.

“American families and businesses are paying the price because this Do Nothing Republican Congress refuses to extend important tax breaks. Families who just recently took their sons and daughters to college now wonder whether the tuition deduction that Republicans allowed to expire last year will get reinstated. Teachers, forced to reach into their own pockets to provide supplies for their students, now wonder why Republicans refuse to extend the modest tax break they get for doing so. Instead of holding such important tax provisions hostage to ill-fated estate tax giveaways to multi-millionaires, Republicans should join Democrats to pass these measures today. Middle-class Americans deserve a new direction, where they will not be forced to endure a tax increase because of Republican inaction and obstruction.

Mr. GRASSLEY. Recent bipartisan votes in the Senate on extending expiring tax provisions have come in the Emergency Economic Stabilization Act of 2008; the Tax Relief and Health Care Act of 2006, which passed the Senate by unanimous consent; and the Working Families Tax Relief Act of 2004, which originally passed the Senate by voice vote although the conference report received 92 votes in favor and a whopping 3 against. According to the nonpartisan Congressional Research Service, extension of several of these provisions go back even further, including the Tax Relief Extension Act of 1999, which again passed the Senate by unanimous consent but lost one vote on the conference report.

Blinded and dazed by the power of their now not-so-super majority, certain Democrats have in the last few weeks turned against the extenders. One Democrat said:

Our side isn't sure that the Republicans are real interested in developing good policy and to move forward together. Instead, they are more inclined to play rope-a-dope again. My own view is, let's test them.

Another member of this large 59-vote majority exclaimed:

It looks more like a tax bill than a jobs bill to me. What the Democratic Caucus is going to put on the floor is something that's more focused on job creation than on tax breaks.

The only explanation for this behavior is that certain Senators have decided that it serves a deeply partisan goal to slander what have been for several years bipartisan and popular tax provisions benefitting many different people.

Today's Washington Post article I quoted from earlier includes a statement from a Senate Democratic leadership aide saying:

No decisions have been made, but anyone expecting us immediately to go back to a bill that includes tax extenders will be sorely disappointed.

Having put their heads into the sand, this chamber's Democratic leaders seem intent on keeping them there. I appeal to all of you to vote against the Democratic Leadership's effort today to jam the Senate. A vote for the Senate Democratic Leadership's cloture motion is a vote to foreclose an opportunity to improve the bill. It also is a vote to forbid any corrections to mistakes in the bill. And there is a significant mistake in the Senate Democratic Leadership's bill. The bill as currently written would allow employers of illegal workers to benefit from the payroll tax holiday. We should correct that mistake with an amendment.

The Senate Democratic Leadership's posture prohibits this correction.

Either the Democratic leaders are playing partisan politics with tax extenders, or they don't understand the worth of the provisions to the economy, including job retention and creation. The biodiesel industry alone says 23,000 jobs are at risk due to the biodiesel tax credit being allowed to expire. Those workers are not fat cats.

And in case anyone thinks biodiesel is something only Iowans worry about, these green jobs are in 44 of the 50 states. There are 24 facilities in Texas. There are 15 facilities in Iowa. There are 6 facilities in Illinois and 6 in Missouri. There are 4 facilities in Washington. Ohio has 11 facilities. There are 5 facilities in Indiana. There are 3 facilities each in Mississippi and South Carolina. There are 7 facilities in Pennsylvania and 4 in Arkansas. New Jersey has 2 facilities.

There is one facility in North Dakota. Only 6 of the 50 States do not have some biodiesel production. They are Alaska, Delaware, Maine, New Hampshire, Vermont, and Wyoming. The other 44 States have some biodiesel presence. I have an article from the Erie, PA, newspaper, describing the struggles of a local biodiesel plant.

So we need to turn away from talk of fat cats. We need to get back to work on the bipartisan package that was in the works until the Senate Democratic Leadership's dramatic change in direction. Many people who are not fat cats or a part of large corporations are counting on these provisions being extended, and they are counting on their elected representatives to work together, as we were doing, to get the job done.

I ask unanimous consent the article be printed in the RECORD.

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

ERIE-BASED BIODIESEL COMPANY PRESSES FOR RETURN OF TAX CREDIT

HERO BX SUFFERS WITHOUT BIODIESEL INCENTIVE

(By Jim Martin)

A major financial incentive to purchase biodiesel fuel disappeared Jan. 1, and companies such as Erie-based Hero BX are feeling the pain.

Hero, which can make up to 45 million gallons a year and ranks as Pennsylvania's largest biodiesel company, ran full steam for most of 2009.

But now, the loss of a \$1-a-gallon tax credit for buyers who blend biodiesel with petroleum-based fuels has softened demand dramatically, said Mike Noble, Hero BX president.

The plant has operated only about 10 days since that credit expired at the end of 2009, he said.

“We are running today and tomorrow. Then we will be done for a few days,” he said Friday. “It comes and goes, but there is not a lot of demand.”

He's hoping the problem is temporary. So far this year, however, efforts to reintroduce the tax credit, which makes biodiesel prices more competitive, have fallen flat.

An extension of the credit was included in a draft of an \$85 billion Senate jobs bill.

However, Senate Majority Leader Harry Reid, a Democrat from Nevada, announced he would trim the tax credit, along with other provisions, to a more modest \$15 billion.

Now, Reid and other Democrats in the Senate are under pressure to restore the tax credit, not only from Republican senators, but from Agriculture Secretary Tom Vilsack, who has called the credit, “an important credit and support mechanism” for renewable fuels.

There seems to be general agreement in Washington that the credit will eventually be extended. The question that remains is, "When?"

The timing matters a great deal to Hero BX, where Noble said biofuel production supports 40 jobs directly and another 40 or so office jobs indirectly.

So far, none of those employees have been laid off, despite a dramatically reduced production schedule.

"Once we get them trained, it's a very technical job. I really don't want to lay them off," Noble said, citing the time and expense of training new employees.

Noble said Hero BX has received support from U.S. Sens. Arlen Specter and Bob Casey, both Pennsylvania Democrats.

"Senator Casey thinks we must quickly restore the biodiesel tax credit to preserve jobs in Erie and promote energy independence," Stephanie Zarecky, his press secretary, said in a statement. "Senate leadership has announced their intention to bring an extension to the floor. Senator Casey hopes that it will come to the floor soon and receive bipartisan support."

Kate Kelly, press secretary for Specter, said her boss has been a champion for the industry as a co-sponsor of the Biodiesel Tax Incentive Reform and Extension Act of 2009, which would have extended the tax credit through 2014.

She said in a statement that "Senator Specter's office has been working closely with stakeholders on the matter and is looking for an appropriate legislative vehicle through which to reinstate the tax credit so that companies like Hero BX can get back on their feet."

Both Hero BX and Erie-based American Biodiesel Energy Inc. can look forward to May 1, when a new state mandate takes effect that will require a 2 percent blend of biodiesel in all diesel sold for over-the-road use in Pennsylvania.

Noble said that mandate will be good for business but hopes he doesn't have to wait that long to see some relief.

"The longer it takes, the further we go in debt and the harder it will be to get out of the hole," he said.

Mr. REID. Mr. President, what is the order before the Senate at this time?

The PRESIDING OFFICER. The time until 5:30 p.m. is under the majority leader's control.

Mr. REID. Mr. President, if we are going to get the American economy back on track, we have to get the American people back to work. We know our serious troubles were not created in 1 day and we know they will not be solved overnight. But we have to begin. We have to take that first step. That is what the bill before us represents: a strong first step in the right direction.

This is a jobs plan that will cut businesses' taxes as an incentive to hire unemployed workers. It is a plan that includes tax breaks for keeping those workers on the payroll and even more help for small businesses to write off their investments. In fact, this legislation will allow small businesses to write off up to \$250,000 for equipment and materials they purchased. That is a good deal. They do not have to depreciate it.

It will extend the highway trust fund and expand Build America Bonds. I just finished a meeting a few minutes ago with 11 Governors. This is one of the

best programs with which they have ever dealt. We have no more money. It creates jobs immediately. It is oversubscribed. It is a wonderful program that will build roads, will build other projects, bridges. The highway trust fund, for example, will save 1 million jobs; in Nevada, thousands of jobs.

I have a letter, if people think this is not a serious issue we are dealing with—and I do this because it is the only one I have—from the Missouri Department of Transportation:

All bidders—PLEASE TAKE NOTE!—Unless the federal government takes the necessary steps to ensure the availability of federal funds for the remaining fiscal year prior to 12:00 p.m. on February 25, 2010, the scheduled February 26, 2010 bid opening will be Postponed/Withdrawn until further notice.

That is how it is. Missouri is not alone.

With this bill, we will create the right conditions for the private sector to start hiring again, and we are doing so in the right places.

These moneys, even though they come from Congress, the taxpayers' dollars go to create private jobs. These highways are not built by a bunch of Federal employees; they are built by private contractors. For every \$1 billion we invest in infrastructure, we create 47,500 high-paying jobs and other jobs that spin off from them.

With this first bill, we will create the right conditions for the private sector to start hiring again. I think we are doing it in the right places. When we help small businesses thrive, we will create jobs that will let more entrepreneurs innovate and invent. When we invest in improving our roads and bridges, we will create jobs so workers can support their families but also create infrastructure to support our growing Nation.

This bill is as good for the employees as it is for the employers. This bill is good for the employers who will do the hiring. This is such a good deal. If a person is out of work for 30 days, a business can hire them. If they hire them for up to 30 hours a week, they do not have to pay their withholding tax, and at the end of the year they get a \$1,000 tax credit.

On my trip home, businesses on the verge of hiring people said: This is going to allow us to hire people. We can afford to do this. This is as good for the employers doing the hiring as it is for the employees who will be getting hired.

One thing about this bill. Everybody should hear this. It is fully paid for, no deficit spending, which means we are not adding a single dime to the deficit, not a penny. We are doing this the responsible way, holding ourselves to the same budgeting standards we teach our children: You can only spend the money you have.

Each of these components—what are they? The Build America Bonds provision I talked about; extending the highway bill for a year; the provision Senator HATCH and Senator SCHUMER

came up with that I talked about that allows an employer to hire somebody who has been off work for up to 60 days; and the final provision that allows them to write off \$250,000 in purchases—is a good deal. That is what is in this bill.

We are doing this bill in a way that is responsible. You should not spend money you do not have, and that is what we are doing here. Each of these components—the tax breaks, the support to help small businesses grow and hire more workers, the new construction projects, and the fiscally responsible way we are doing it—is a non-partisan idea. Republicans have supported every part of this bill in the past—every part of this bill—and Democrats have also done the same. There is simply no reason it should not receive overwhelming support from both sides of the aisle. But so far, I am sorry to say, this has not happened. I am disappointed that this has been the case.

As the Presiding Officer knows, we had to file cloture some 70 times last year—70 times. That is remarkably bad. Let's change that. I have spoken some with some of my Republican colleagues this past week and said: Let's don't do that anymore. Let's work together.

Who can complain about this bill? I have told the Republican leader and I have told anyone who will listen that we are going to move very quickly to a bill that will take about a day—travel promotion—after this. In every State in the Union, No. 1, No. 2, sometimes No. 3, but mostly No. 1 and No. 2, the economic driver is tourism. We are the only modern Nation that does not advertise itself. Watch TV and see the advertisements coming from Australia, New Zealand, South American countries, the Caribbean islands, and European countries. We should do the same. The Travel Promotion Act will save \$½ billion, and it also pays for itself. There is no deficit spending.

As we finish that bill—it should be toward the end of the week—we are going to move into the tax extenders, unemployment, COBRA, issues such as those. I have explained that to the Republican leader.

Rather than figuring out how we can up the other politically, let's figure how to put Americans back to work. I am sorry to say my friends on the other side of the aisle are looking for ways not to vote for this bill. The business community supports this legislation. It is jobs. Rather than rally around a plan we know will create jobs, I have heard excuse after tired excuse. But the American people want us to work together. They are not buying these excuses.

Why wouldn't we do this bill? We can create jobs starting in just a few days. If someone could explain to me what is wrong with this bill, I would be happy to listen to them. What is wrong with this legislation? Some have questioned the size of the bill. Only in Washington

is a \$15 billion investment to create and save more than 1 million jobs not enough. I was stunned to hear on the radio this morning—when I received my press briefing, I was told that the unions and the left—whoever that is—oppose our bill because it is not big enough. Now try that one on, Mr. President. Only in Washington is a \$15 billion investment to create and save more than 1 million jobs not enough.

The answer is not to do nothing. It is to do something to create jobs and then create more jobs and then create more jobs after that. That is why this is not the only jobs bill we are going to be dealing with or the last jobs bill we will bring to the floor. We have a jobs agenda, not a jobs bill. We are not going to stop until every American who wants a job can get one.

Some Senators—one Senator in particular, but there are others; this Senator does not stand alone—think that money that was spent on TARP should be returned for the deficit. Other Senators said: I think the money that has not been spent from the stimulus should be returned to employees. These are all good ideas, and amendments are going to be able to be offered when we get to our package later this week. That is the way it should be.

We want every person in America who needs a job to get a job, but we cannot do it alone. My friends on the other side of the aisle share this responsibility. When I had 60 votes, all the responsibility was mine. It is no longer that way. We are down to 59, and 1 of my Senators is sick today. I did speak with Senator LAUTENBERG last night. He is doing fine. He is such a strong man. He said he will be back in a week or two. He is doing just fine.

If Republicans support this bill, as they have all the elements of it in the past, and they join us to pass it, we are going to do many more bills just like this to create jobs. However, if my friends on the other side of the aisle want to put partisanship ahead of people—people who are out of work—if they once again try to distract from the issue at hand, they will only confirm their reputation as the party of no. They will only confirm the American people's fear that Republicans refuse to do anything to help them.

So to my Republican colleagues, I say as seriously and fervently as I can: Work with us. Show us you are serious about legislating. Show our constituents you are serious about leading. Show the skeptics that you know that putting people back to work is far more important than putting points up on the political scoreboard. Most important, I ask my Republican colleagues to show those Americans who deserve a job they can go to every morning, a job they can get up and go to, that we are willing to do our job tonight.

It is remarkable we have to hold a procedural vote on a bill that will create jobs. It will be regrettable if the minority prevents us from moving for-

ward, from taking that first step, from giving millions of unemployed Americans the hope that tomorrow will be better than yesterday.

Think what it is for someone to get up in the morning and have no place to go to work. I have met with some people, while I was home, dealing with domestic abuse. It has gotten out of hand. Why? Men do not have jobs. Women do not have jobs, either, but women are not abusive, most of the time. Men, when they are out of work, tend to become abusive. Our domestic crisis shelters in Nevada are jammed. That is the way it is all over the country. Jobs bring dignity, and that is what this legislation is all about.

I hope we can pass this legislation and move on during this work period and work together in doing some good things for this country.

We have a couple minutes until 5:30 p.m. It is my understanding the vote is to occur at that time. Since there is no one on the floor, I ask unanimous consent that the vote start early, and we will not cut it off early.

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

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur with an amendment to the House amendment to the Senate amendment to H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Harry Reid, Patrick J. Leahy, Barbara Boxer, Charles E. Schumer, Mark R. Warner, Tom Harkin, Kay R. Hagan, Daniel K. Inouye, Bill Nelson, Al Franken, Max Baucus, John D. Rockefeller IV, Robert Menendez, Amy Klobuchar, Daniel K. Akaka, Frank R. Lautenberg, Byron L. Dorgan, Richard Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to concur with an amendment to the House amendment to the Senate amendment to H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from Wyoming (Mr. ENZI), the Senator from Alabama (Mr. SESSIONS), the Senator from Georgia (Mr. ISAKSON), and the Senator from Utah (Mr. HATCH).

Further, if present and voting, the Senator from Georgia (Mr. ISAKSON) would have voted "nay," and the Senator from Utah (Mr. HATCH), would have voted "nay."

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

The result was announced—yeas 62, nays 30, as follows:

[Rollcall Vote No. 23 Leg.]

YEAS—62

| | | |
|------------|------------|-------------|
| Akaka | Feingold | Murray |
| Baucus | Feinstein | Nelson (FL) |
| Bayh | Franken | Pryor |
| Begich | Gillibrand | Reed |
| Bennet | Hagan | Reid |
| Bingaman | Harkin | Rockefeller |
| Bond | Inouye | Sanders |
| Boxer | Johnson | Schumer |
| Brown (MA) | Kaufman | Shaheen |
| Brown (OH) | Kerry | Snowe |
| Burris | Klobuchar | Specter |
| Byrd | Kohl | Stabenow |
| Cantwell | Landrieu | Tester |
| Cardin | Leahy | Udall (CO) |
| Carper | Levin | Udall (NM) |
| Casey | Lieberman | Voinovich |
| Collins | Lincoln | Warner |
| Conrad | McCaskill | Webb |
| Dodd | Menendez | Whitehouse |
| Dorgan | Merkley | Wyden |
| Durbin | Mikulski | |

NAYS—30

| | | |
|-----------|-----------|-------------|
| Alexander | Ensign | McCain |
| Barrasso | Graham | McConnell |
| Bunning | Grassley | Murkowski |
| Chambliss | Gregg | Nelson (NE) |
| Coburn | Hutchison | Risch |
| Cochran | Inhofe | Roberts |
| Corker | Johanns | Shelby |
| Cornyn | Kyl | Thune |
| Crapo | LeMieux | Vitter |
| DeMint | Lugar | Wicker |

NOT VOTING—8

| | | |
|-----------|---------|------------|
| Bennett | Enzi | Lautenberg |
| Brownback | Hatch | Sessions |
| Burr | Isakson | |

The PRESIDING OFFICER (Mrs. SHAHEEN.) On this vote, the yeas are 62, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Cloture having been invoked on the motion to concur with an amendment, the motion to refer falls.

Mr. REID. Madam President, I hope this is the beginning of a new day in the Senate. Whether this new day was created by the new Senator from Massachusetts or some other reason, I am very happy that we were able to get this vote. But there are some winners—not any individual Senator, not Democrats or Republicans; the winners are small business people throughout this country.

On my trip home this past 10 days, people are excited about the fact they may be able to write off \$250,000 for things they badly need—not depreciate it, just write it off. The other three

provisions are wonderful. To extend the highway bill for a year is going to save thousands of jobs in Nevada and 1 million jobs throughout the country. So the small business communities throughout this country are winners, and also workers. This is going to create jobs.

I had a long conversation today with the Republican leader, and I told him what the plans are in the Senate. He listened very closely, and we had a very good conversation. We are going to move, for a day or two after we complete this, to travel promotion, another bipartisan bill. It will save \$½ billion. It will create thousands and thousands of jobs. All around the world countries advertise their tourism, but we do not. In this great country of ours, we do not see anything on TV. All we see is money being spent by other countries having us go to their countries. We want to do the same in their countries. That is what this is all about. Every State in the Union, all 50, the No. 1, 2, and in a few instances the third economic driving factor is tourism. This will help tourism.

As soon as we finish that, toward the end of this week, what we will do is move to the Finance Committee matters that they worked on before, and they worked very hard. I am glad we have made progress in that regard. I told Senator MCCONNELL that will be open to amendment. I will try to work out with him so many amendments on each side. If we cannot do that, we will not do that. I hope we can do that. But if we cannot, we will move forward on the tax extenders, the expiring provisions, and a few other things.

It is really a new day. I look forward to this work period being one where we can all go home and say: You know, ladies and gentlemen from Nevada and New Hampshire and Illinois and New Jersey and New York and Arkansas, we are working together. We are really getting things done together. That is what legislation should be about. Legislation is the art of compromise. It is building consensus and working together.

Basically that is what this piece of legislation is all about. This is not the jobs bill that we just completed. At least cloture has been invoked, and we will vote on that in another day or so. It is part of an agenda. We are going to have, later this month, another jobs bill. I have spoken to a number of Republican Senators. They have specific provisions they want in this bill. It will deal with small business. During the last 10 years, 96 percent of all jobs in America were created by small businesses. I am very happy we were able to do this.

I express my appreciation to Senator BOXER, chairman of the Public Works Committee. She has worked so hard. I love her committee. I was chairman on two separate occasions. It is a committee I have fond memories of serving on. Every time I see the enthusiasm of BARBARA BOXER, I know why the State of California cares so much about her.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, before the majority leader leaves the floor, I want to say to him that today jobs triumphed over politics. That is a great day around here. Jobs triumphed over politics. I want to say to Senator REID, this idea you have to keep these bills very straightforward and very easy to understand, this bill, four parts to it, two parts dealt with infrastructure, two parts dealt with tax breaks that were related to making capital investments and hiring unemployed workers, is very simple for people to understand. I have to say to my Democratic colleagues, 57 of whom voted for this, thank you. And to the five Republicans who joined us, thank you so much. It means so much to the working families of this country, to the business community.

I want to say a special word to Senator LAUTENBERG if he is watching. I know how strongly he supports transportation. He is kind of Mr. Transportation in New Jersey. We all wish him well. We know he would have been here if there was any way for him to be here. I will not say any more than I said before. I want to thank specific people out there around the country whom I talked to on several conference calls over this break. They were always there. Night and day we talked. I explained to them how close this vote would be. They explained to me that they understood what the stakes were, a million jobs at stake in relation to the highway trust fund, thousands more at stake in relation to the Build America bonds. This is a good day.

I thank the American Association of State Highway and Transportation Officials; the American Road and Transportation Builders Association; the Associated General Contractors of America; the U.S. Chamber of Commerce; the Laborers International Union; the International Union of Operating Engineers; the American Highway Users Alliance; Faster, Better, Safer Americans for Transportation Mobility; the AAA, which wrote to us. I want to say to all of them, they made this vote work because they knew what was happening on the ground.

In closing, I have one more thank you. This is a strange thing to say but I want to thank the Missouri Department of Transportation for telling the truth. Listen to what they wrote:

All bidders—PLEASE TAKE NOTE!—Unless the federal government takes the necessary steps to ensure the availability of federal funds for the remaining fiscal year, bid openings will be postponed or withdrawn until further notice.

In other words, the Department of Transportation in Missouri, being the first State to be hit with this mess—by the way, followed closely by North Dakota, they are very close to this place, all of our States are—they came forward and told the truth that we had to act today. I hope the House will act with us, and we will get this resolved.

In March we will start on the new bill. It is a good day.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Let me thank the Senator from California, Mrs. BOXER, and certainly Senator REID and others. This vote was very important. The question for the Senate and the Congress is when 25, 26 million people wake up in this country and go looking for a job and can't find it—the numbers I know are 16 to 17 million people, but the real number of people who are unemployed in America is much higher than that. There are many who have given up hope. At a time when that many Americans are looking for work and can't find it, they need some hope. This Senate has a choice of doing nothing or doing something. There are too many in this Senate who have always been satisfied to do nothing. Tonight, finally, in a piece of legislation that will put people to work, we know, for example, that the private sector hires people, small and medium-size businesses. But we also know that when you spend money for highways, highway contractors are going to put people on payrolls immediately, because those programs and those projects are already engineered, already designed, ready to go. The money doesn't exist for them. When the money is made available, people will be hired immediately.

The same is true with respect to the wage tax credits in this piece of legislation. I held a hearing in the policy committee. We had three small to medium-size businesses there, all of which are profitable, all wonderful businesses, all ready to expand. But none of them could because none of them could find capital or they had no access to capital from their banks. Money was not available. These are successful businesses, profitable businesses, businesses wanting to and ready to expand, wanting to hire more people and can't do it.

The fact is, this legislation is another step in the direction of saying to small to medium-size businesses, when you are ready to begin hiring again, here is an additional incentive to hire that next worker. Slowly but surely we have to find a way to give people confidence, give the American people confidence that this economy is improving, that there will be a job, there will be opportunity and hope in the future.

We don't so much spend our days with people who are out of work. Most people serving in the Senate have a pretty wonderful opportunity. They put on a suit in the morning. We are the kind of people, we shower in the morning, put on a suit, are dressed up all day, come here. Our jobs are not being shipped overseas. In most cases, people in this Chamber have not been so much subject to the deep recession. But a lot of people have. Five-and-a-half million people who used to work in manufacturing making things have lost their jobs in recent years. The

question for most of those people who are looking for some hope from their leaders is: Will somebody do something, or is the government going to be content to do nothing?

The action this evening by which these four pieces of legislation, which include some incentives for small and medium-size businesses, some bonding authority that will increase economic activity, the extension of the highway program that will put people back to work, expensing for small businesses—these are all things that are going to actually put people on payrolls. It is not a case where we will hire somebody as a government worker. It is a case of incentivizing highway contractors to hire people to help build roads and bridges and repair roads and bridges. It is a case of incentivizing small to medium-size businesses to say: If you need that extra little incentive to hire that next person, here it is.

Finally, and even more important than the incentive, is the signal this sends, the signal that maybe at least, at long last, we will begin to see some progress, some cooperation, circumstances in which Republicans and Democrats vote together in sufficient numbers that things can get passed and get done. With as deep a recession as we are in, the deepest since the Great Depression, there is an urgency. It ought to be treated as an urgent situation. This vote this evening may well put us on the road to understanding how urgent it is and how important it is that we take action rather than delay.

I thank the leader and so many others. Senator DURBIN and I worked on a jobs package. These four provisions are in that package. There are other pieces we can implement in the future that will also be substantially important in getting people back to work, putting America back to work. I know the Senator from Ohio will speak next. I know he hopes that perhaps we will not just put people back to work but perhaps will make products that say “made in America” once again. Wouldn’t that be a wonderful thing.

One additional point. I spoke earlier describing the metaphor of filling the bathtub. We are trying to get the faucet going with incentives to put people to work. At the same time you have to plug the drain a little bit. We have a drain of jobs going out of this country. The President, in the State of the Union, said: Let’s get rid of that unbelievable tax break that we provide people for moving jobs overseas. I have been in the Senate working on that for a long time. It is unbelievable that we say to somebody: Close up your factory, fire your workers, move the jobs overseas, and you get a big fat tax break. We need to plug the drain, in addition to opening the faucet to try to get additional jobs and work on that in addition to the progress we have made this evening that will give some hope to the American people who want to go to work and need a good job.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN of Ohio. Madam President, I thank Senator DORGAN, who has led with Senator DURBIN on all kinds of job creation efforts, understanding that although the private sector creates these jobs, it is a partnership with the private and public sector and State and local and Federal governments. He had it right. We need to follow his suggestions and those of Senator DURBIN as we move forward, including what was on the floor earlier this evening.

There are in my State some 640,000 unemployed people, in a State of about 11 million. There are hundreds of thousands more who are underemployed. There are tens of thousands of small businesses across Ohio. There are hundreds of thousands of Ohioans who help ensure that roads and bridges and transit systems serve the best interests of residents and businesses.

The bill we voted on today would help those Ohioans. These Ohioans didn’t bring about our Nation’s economic crisis. It wasn’t people who work every day in Zanesville and Lima or Findley who brought this on, but they are paying the price for it every day. Too many people are losing health insurance.

I was just on public television with the senior Senator from New Hampshire. I pointed out that 390 Ohioans every day lose their health insurance. This economy has squeezed more and more people, people who have jobs, let alone the anxiety of people who have jobs and are afraid that they will lose those jobs. Small businesses in my State have everything it takes to thrive, but they are undermined by this perilous economic climate. Construction workers, manufacturing workers, small businesses, other hard-working Ohioans who keep our State going are losing jobs, not because they are not good employees, not because they don’t show up, not because they aren’t working hard, but because the dollars aren’t there to pay them because employers are laying them off, whether in the private or public sector. Unemployed workers are remaining that way not because they don’t have the drive or the skills to succeed.

Majority Leader REID has introduced a bill based on proposals from Democrats and Republicans alike that would give tax breaks to small businesses and ensure dollars continue to flow into the highway trust fund. It is a bill designed to cut businesses a break. It is a bill designed to sustain our roads and bridges and transit systems to prevent massive job loss among the millions of Americans who work to ensure the safety and the effectiveness of our transportation infrastructure. If they are working, if our bus drivers in the cities who are getting particularly the elderly and low-income people to their doctors’ appointments or to their workplace, if they are working, if the

bus drivers and the transit workers and the construction workers and the highway builders, if they are working, then there is more money in the economy and more people are working.

It is a bill, unfortunately, most Republicans in this Chamber, for whatever reason—they always have a reason to be obstructive literally 100 times in this session, more than 100 times—it is a bill that most of my Republican colleagues are determined to kill. I thank Senator VOINOVICH, the senior Republican in my State, for his support. I thank the other four or five Republicans who voted at least to let us debate this bill, something in the past they haven’t even been willing to do on other legislation.

So at least we have made progress that way. But if the press is right, the Republican leadership and their lobbying friends gathered together. They have been working 24/7 to convince the public that a bill solely focused on small businesses and middle-class jobs is a bad bill. You may have seen news reports that 100 lobbyists sat down with Republicans and figured out a strategy to try to kill this jobs bill. It is the same story, it is the same movie we watched last year on health care. It is the same story again that we have seen, that they are doing whatever it takes to kill this legislation. Fortunately for the American people, fortunately for these hundreds of thousands of Ohioans who are unemployed or underemployed, they did not get away with it today, that enough Republicans broke with their leadership and supported efforts to move forward on jobs legislation.

Earlier today, I met with 200 to 300 Ohioans to unveil a report on how to get our State’s economy back on track. This was a group of Democrats, Republicans, and Independents, and it was a group that had everyone from the mayor of Mansfield and the mayor of Marietta, to small businesses, to large companies, a couple of executives, American Electric Power Company, to a whole host of citizen activists who want to do whatever it takes. They want to fight for made-in-America legislation that Senator DORGAN mentioned. They want a manufacturing industrial policy in this country. We are the only country in the developed world that does not have a real plan on how to do manufacturing, on how to build an industrial economy, on how we begin to lead the world not just in the technology, which we have done in solar and wind turbines and biomass and fuel cells—we lead in technology; we do not lead in industrial development and making those products. We developed the wind turbine technology in Sandusky, OH, about 30 miles from where I live, but most of the wind turbines, the components—a lot of components are made in Ohio, but most of the wind turbines are manufactured and assembled overseas. It is the same on solar technology, the same on biomass, the same on fuel cells. Our scientists, our engineers, our professors,

and our researchers develop a lot of this technology, but we are not making it in Ohio and New Hampshire and States around the country.

So today, as I said, all couple hundred, 250, 300 Ohioans—Democrats, Independents, Republicans—gathered to figure out how to do this, to move our State forward. As I said, there were a lot of Republicans. But Republicans in Washington look at the world differently. Many of them are trying to demonize a bill that provides tax breaks, that saves jobs. They need to take a step back, the Republicans in this body who I believe are very out of step with Republicans and everybody else in States such as mine. They need to take a step back and remember for whom they work.

Opposition for opposition's sake is not working for the American people. On the Senate floor, we need to work together to save small businesses, to help these small businesses get credit, to help these small businesses work with local communities to provide jobs. That is what they want to do. We can do this if we work together.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. BROWN of Ohio. Madam 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.

TRIBUTE TO THALIA DONDERO

Mr. REID. Madam President, Thalia Marie Sperry Dondero has lived in Nevada since 1942 when she transferred to Las Vegas for employment. She met and married Harvey Dondero, who worked for the U.S. Department of Education. He became an assistant superintendent of the Clark County School District. She began her community involvement through the Parent Teacher Organization as her five children were growing up. At the same time she was active in the Service League, director of the Las Vegas Girl Scouts for 10 years during which time she helped develop both Scout camps. She was also appointed to the Nevada State Parks Commission.

Thalia Dondero became the first woman elected to the Clark County Commission in 1974 where she promptly made the news by refusing to fill the role of coffee maker and secretary to the other male members of the Commission. Mrs. Dondero was a commis-

sioner for the next 20 years serving as chairperson three times.

Thalia's service mentored other women to run for office. During her tenure as commissioner, she was instrumental in the expansion of McCarran International Airport, the development of flood control projects and chaired the Las Vegas Valley Water District. Her efforts led to the expansion and protection of Clark County's recreational pearls, Red Rock Canyon, Kyle Canyon and Valley of Fire. In 1996, Thalia Dondero was elected to the Nevada System of Higher Education Board where she served two terms as chair.

In the past 50 years, all of Nevada and Southern Nevada specifically have been greatly affected by Thalia Dondero's lifelong dedication to the children of Nevada and their education. She has made significant contributions to the improvement of educational quality. She has continuously advocated for the Nevada environment. Thalia's single-minded civic responsibility and charitable contributions have played a major role in making Nevada and Las Vegas the destinations they have become.

TRADEMARK LAW TECHNICAL AND CONFORMING AMENDMENTS ACT

Mr. LEAHY. Madam President, on January 28, 2010, I introduced S. 2968, the Trademark Technical and Conforming Amendment Act of 2010, along with the ranking member of the Senate Judiciary Committee, Senator SESSIONS. I appreciate that the Senate moved quickly to call up and pass this legislation by unanimous consent. The speed with which the Senate acted on this legislation demonstrates what we can do when we work in a bipartisan fashion.

I recently received a suggestion from the chairman and ranking member of the House of Representatives Committee on the Judiciary, who introduced companion legislation, to improve and clarify the language of the section that requires a study and report. Specifically, they suggested that Congress should strike the words "by corporations" from paragraph (a)(1) of section 4. I agree that this suggestion adds clarity and, should S. 2968 be enacted, I will work with Senator SESSIONS and the House Committee on the Judiciary to amend the study language in subsequent legislation.

DIETARY SUPPLEMENT SAFETY ACT OF 2010

Mr. MCCAIN. Madam President, I wanted to take a moment to discuss the Dietary Supplement Safety Act of 2010 that Senator DORGAN and I introduced earlier this month. This legislation has been widely discussed since introduction and many falsehoods and misstatements regarding it have been raised. I want to take a moment to clarify what this bill will and will not do if passed into law.

We introduced this legislation at the request of the U.S. Anti-Doping Agency, Major League Baseball, National Basketball Association, National Football League, National Hockey League, U.S. Olympic Committee, American College of Sports Medicine, American Swimming Coaches Association, National Collegiate Athletic Association, PGA Tour, U.S. Lacrosse, U.S. Tennis Association, U.S.A. Cycling, U.S.A. Gymnastics, U.S.A. Swimming, U.S.A. Track and Field, and U.S.A. Triathlon. Additionally, scores of parents, spouses and high school athletic coaches requested action by Congress or the Food and Drug Administration (FDA) to assist them in ensuring the safety of dietary supplements.

I am proud that this legislation is so widely supported. However, opponents to this bill and their well-paid Washington lobbyists have spread false statements and rumors about the legislation, which is really a disservice to consumers, and instead proudly boast that they remain largely untouchable by the FDA.

This legislation would simply require dietary supplements to list all ingredients on the packaging, mandate that all dietary manufacturers register with the Food and Drug Administration—FDA—to ensure the FDA knows what is being sold and provide the FDA mandatory recall authority of any dietary supplement if the FDA finds the supplement to be hazardous to one's health.

Opponents have stated that the legislation would seek to limit consumers' ability to purchase dietary supplements, vitamins or prescription drugs. That is completely false. Opponents also claim the bill establishes a new regulatory structure for dietary supplements at the Food and Drug Administration. That is completely false. Opponents claim that this bill was only introduced to rein in a few athletes who took supplements and then tested positive for steroids or other substances banned by sports leagues. That is completely false.

This bill was introduced for the nearly half of all Americans who take a dietary supplement. People have died from taking dietary supplements, including a young mother and wife who lived in my home State, and thousands have had to be hospitalized or seen by a doctor due to an adverse reaction from a dietary supplement. It took nearly 10 years—and then a lengthy court battle—for the FDA to ban the inclusion of ephedra in dietary supplements after ephedra was linked to a number of deaths. Such a delay should never happen again.

Additionally, the more than 100 million Americans who consume dietary supplements should be able to know the ingredients of any supplement, and these supplements need to be required to be listed on the product's packaging. If you go to a grocery store and pick up a box of cereal, bread, yogurt or any product off the shelf, you can read the

product's label to clearly know the ingredients and be sure you aren't eating something that you find concerning, hazardous or unhealthy. Those who take dietary supplements should have the same option. Simply put, this legislation is about truth in labeling. This legislation is about giving consumers choice. If you take a vitamin now, this bill will in no way restrict your ability to take that vitamin. But the consumer needs to know the entirety of what is contained in that pill.

Additionally, clear labeling could save lives as it did for a Phoenix Suns star who took a dietary supplement sleep aid and stopped breathing. Fortunately, his teammates found the supplement bottle that listed the ingredients, and the emergency room doctors were able to use the information to give him an antidote in the emergency room moments later and save his life. The disclosure of ingredients on a dietary supplement can save lives; and therefore, it should be mandatory. With the new "buzz word" in Washington being "transparency," I don't understand how any lawmaker could oppose such a requirement.

HONORING OUR ARMED FORCES

SPECIALIST MARC P. DECOTEAU

Mrs. SHAHEEN. Madam President, it is with a heavy heart that I rise today to pay tribute to the life and service of Army SPC Marc P. Decoteau of Waterville Valley, NH. Tragically, this young soldier, just 19 years old, died while serving as part of Operation Enduring Freedom in Wardak Province, Afghanistan on January 29, 2010. Specialist Decoteau was a member of the 6th Psychological Operations Battalion, 4th Psychological Operations Group based at Fort Bragg, NC. He had been deployed in Afghanistan less than 1 month at the time of his death.

Specialist Decoteau enlisted in the Army shortly after his graduation from Plymouth Regional High School in 2008. He made this honorable decision without reservation, having long declared his desire to serve. Marc followed in the footsteps of his father, an Army veteran and West Point graduate. His decorations include the National Defense Service Medal, Afghanistan Campaign Medal with Campaign Star, Army Service Ribbon, and Global War on Terrorism Service Medal. Marc was posthumously awarded the Army Commendation Medal, Army Good Conduct Medal and NATO Medal.

Despite his young age, Specialist Decoteau left an indelible mark on those who knew him. Marc was an upstanding young man with an infectious sense of humor and warm smile. His hometown of Waterville Valley is an exceptionally tight-knit community of just 340 residents, and he was an integral member of it. While at Plymouth Regional, he was also an outstanding student-athlete who played lacrosse and football and was known for his work ethic. He was a member of two State champion football teams.

Each day, the men and women of our Armed Forces offer their service so that we might enjoy freedom and security. Specialist Decoteau selflessly gave his life to that cause. No words can diminish the pain of losing such a young soldier, but I hope Marc's family—and the town of Waterville Valley, his extended family—can find solace in knowing that all Americans share a deep appreciation of Marc's service. Daniel Webster's words, first spoken during his eulogy for Presidents Adams and Jefferson in 1826, are fitting: "Although no sculptured marble should rise to their memory, nor engraved stone bear record of their deeds, yet will their remembrance be as lasting as the land they honored." Specialist Decoteau has earned our country's enduring gratitude and recognition.

Specialist Decoteau is survived by his parents Nancy and Mark, his sister Medora and brother Andrew, as well as grandparents, aunts, uncles and cousins. This young patriot will be dearly missed by all; his death while deployed far from home is a true loss for New Hampshire and for our nation. I ask my colleagues and all Americans to join me in honoring the life, service and sacrifice of SPC Marc P. Decoteau.

CAPTAIN DANIEL WHITTEN

Mr. GRASSLEY. Madam President, I stand before you today with a somber task. I extend my most sincere gratitude to fallen soldier, CAPT Daniel Whitten, and his family. Captain Whitten was a decorated officer who served valiantly with Company C, 1st Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division out of Fort Bragg, NC, before he was killed by an improvised explosive device in the Zabul province, Afghanistan, on February 2, 2010.

When people described CAPT Daniel Whitten, comments such as, "always doing the right thing," "stood by his values," "true to his family and himself," "trusted his character" were common responses. It is a true testament to the character of Captain Whitten that those who knew him held him in such high regard.

Captain Whitten is a graduate of Johnston High School, class of 1999, and the U.S. Military Academy at West Point, class of 2004. He was a very motivated individual, always striving to be the best he could be. The men who served under him had only good things to say about him. People who knew him said that he was the exact type of person they would want defending this country.

My deepest sympathies go out to Captain Whitten's wife Starr, his mother Jill, his father Dan, and his sister CAPT Sarah Whitten who is currently serving her country in Afghanistan. It is men like CAPT Daniel Whitten who guarantee our Nation's security and our people's liberty. We all owe Captain Whitten and his family our profound gratitude for their tremendous sacrifice. I ask that they be in

your thoughts and prayers, as they are in mine.

ADDITIONAL STATEMENTS

REMEMBERING MYRON DONOVAN CROCKER

• Mrs. BOXER. Madam President, I ask my colleagues to join me in honoring the memory of Judge Myron Donovan "M.D." Crocker. Judge Crocker passed away on February 2 at his home in Chowchilla. He was 94 years old.

M.D. Crocker was born in Pasadena on September 4, 1915. In 1918, his family moved to Caruthers in Fresno County and then to the city of Fresno in 1921. After graduating from Fresno High School, he earned a degree in political science from Fresno State College. In 1940, he graduated from Boalt Hall Law School at University of California, Berkeley, and passed the California bar.

Instead of beginning his career in the legal field, Judge Crocker joined the FBI serving in Albany, NY, where he specialized in deciphering codes during World War II. After a stint in the FBI's Los Angeles office, he returned to the San Joaquin Valley in 1946 where he served as assistant district attorney in Madera County. In 1953, he was elected to the Justice Court in Chowchilla. Five years later, he was appointed by Governor Goodwin Knight as a Madera County Superior Court judge.

When he was appointed by President Dwight Eisenhower to the Federal court bench, Judge Crocker, at 44 years old, became the youngest Federal judge in the United States at the time. For 8 years, he commuted to his job in Los Angeles. In 1961, he became the first Fresno based Federal judge with the creation of the Eastern District of California. For the next 12 years, Judge Crocker heard all the cases in the southern section of the Eastern District until a second Federal judge was authorized in Fresno.

Judge Crocker would serve under 10 U.S. Presidents during a remarkable career on the Federal bench. Despite earning senior status in 1980, he continued to work and hear cases until he retired in 2002 at the age of 87.

A man of keen intellect, Judge Crocker was also acknowledged by those who knew him for his gregarious nature and gentlemanly ways. He was admired by his colleagues for his sharp memory. A giving person, he lent his time and talents to a number of community causes, including Lions Club and coaching Little League baseball. In his spare time, he enjoyed golfing, tending to his garden and playing bridge with his friends. He will be missed.

Judge Crocker was preceded in death by his beloved wife of 68 years, Elaine. He is survived by his son, Glenn; daughter and son-in-law, Holly and Robert Longatti; grandchildren, Donovan, Justin, Todd and Adam; great-

grandchildren, Luke, Noveli, Brandon and Tyler; and sister, Janice Ahlf.●

100TH ANNIVERSARY OF LINDSAY, CALIFORNIA

● Mrs. BOXER. Madam President, I ask my colleagues to join me in celebrating the 100th anniversary of the city of Lindsay, a vibrant, family-oriented community located in California's San Joaquin Valley.

In the late 1880s, the Southern Pacific Railroad expanded into Tulare County and the development of the Lindsay townsite progressed. On February 28, 1910, the city of Lindsay was incorporated with a population of 1,500 people.

The beginning of the 20th century would see economic growth and an increase in population in the area. Attracted by the promise of Lindsay's growing economy and appealing living conditions, the city of Lindsay became a popular destination for people in search of a better livelihood. The city's rail cars would transport the region's agricultural products to new markets, allowing the citrus and olive industries to flourish.

Spanning the 20th century, the city of Lindsay thrived with the addition of businesses, churches, schools, and community organizations. The ingenuity and determination of new generations of farmers would continue to enhance the city's agricultural eminence. Even when faced with the hardships of the Great Depression, community members and the Lindsay Chamber of Commerce pulled together to establish the first Orange Blossom Festival in 1932, which promoted the city's prolific citrus industry. To this day, the Orange Blossom Festival continues to be a city-wide celebration of the city's rich heritage in citrus growing.

In 1995, the city of Lindsay was awarded the prestigious All America City Award by the National Civic League. This well deserved recognition is a testament to the city of Lindsay's community spirit.

The city of Lindsay has grown from a town of 1,500 to a strong community of over 10,000 residents. The successful history of the city's first hundred years can be attributed to its vision, optimism, and an endearing sense of community. As the residents of the city work together to make their community a better place to call home, I congratulate them on their centennial celebration and wish them another 100 years of good fortune and success.●

RECOGNIZING THE UNI-CAPITOL WASHINGTON INTERNSHIP PROGRAMME

● Mr. CRAPO. Madam President, today I wish to take note of a great international internship program that is now celebrating its 11th year. I am proud to be involved for a 4th year in the Uni-Capitol Washington Internship Programme, UCWIP, an exchange pro-

gram in which outstanding college students from Australia's top universities compete to serve as interns for the U.S. Congress. This program has been bringing the Washington internship experience to students from Australia for more than 10 years. In addition to working in congressional offices, the program provides students with a number of other opportunities and activities including visits to U.S. historic sites, visits to government agencies and education events.

This semester Benjamin Watson, a student from the University of Western Australia, is spending a couple of months in my office, helping me serve Idaho constituents. But students from the Uni-Capitol Washington Programme can be found throughout congressional offices, working for both the House and the Senate.

I asked Ben to share his thoughts about this program, and he said, "The UCWIP has truly been a once-in-a-lifetime experience. Working in Senator CRAPO's office has given me an insight into the workings of the world's most influential democracy, adding a practical element to my studies in politics and law. My internship has given me the chance to interact with interesting people and understand the processes and procedures of U.S. Congress, within the friendly and welcoming environment of Senator CRAPO's office."

Ben has been a great addition to my intern staff for the spring semester, and has spent many hours helping keep my schedule and activities running smoothly. His efforts are much appreciated. And I am sure that the other offices that have participated in this program feel that way toward the work of those assigned to their offices.

I cannot conclude without recognizing the efforts put into this program each year by its director and founder, Eric Federling, who spent a number of years working on Capitol Hill himself. After he visited Australia a number of years ago, he determined to find a way to introduce the U.S. Congress to the students he met. He has done such great work in sharing his enthusiasm and experiences with so many Australian students. More than 100 students have made the long journey from their universities in Australia to Washington, DC, to take part in this program. In addition to the work opportunities provided on Capitol Hill, Uni-Capitol Washington also expands the yearly experience to include some of America's historical sites and famous landmarks, including Gettysburg and New York City.

It has been an honor to participate with this program, and I look forward to continuing my association with the Uni-Capitol Washington Internship Programme next year.●

TRIBUTE TO HAROLD MCGRAW, JR.

● Mr. DODD. Madam President, today I honor a great American from my home State of Connecticut, Harold McGraw, Jr.

After serving as a captain in the Army Air Corps during World War II, Mr. McGraw joined the family business, McGraw-Hill, as a sales representative in 1947. Over the next half century, he worked his way up to the position of president of the McGraw-Hill book company, and then CEO and chairman of the parent corporation, McGraw-Hill, Inc.

Not satisfied with simply succeeding in business, Mr. McGraw quickly became a leader in his community. In the 1980s, he founded the Business Council for Effective Literacy, BCEL, and served as its president for a decade. He spoke at events across the country to champion the cause of adult literacy, giving generously of his own wealth and raising funds from corporate and public entities alike.

A BCEL grant led to the formation of the National Coalition for Literacy and established Mr. McGraw as a key public policy expert on this important issue. His work laid the foundation for the National Literacy Act and the National Institute for Literacy, and those of us in Congress and in the executive branch quickly became familiar with his tireless advocacy. He spoke up in person and in letters. He mobilized the business community. And he was always accessible to adult learners, teachers, and local adult literacy programs.

Always cognizant of the role education played in his own success, Mr. McGraw has worked hard to make education a focus of his civic engagement, including efforts with the New York Public Library, the Council for Air to Education, the International Center for the Disabled, and the Barbara Bush Foundation for Family Literacy.

A proud Princeton graduate, Mr. McGraw gave back to his alma mater with a generous gift to establish The McGraw Center for Teaching and Learning at Princeton University. Princeton President Harold Shapiro said that the McGraw Center would help "redefine teaching and learning for future generations." Mr. McGraw has also lent his publishing expertise to the Princeton University Press.

The Harold W. McGraw, Jr. Prize in Education, established in 1988 by The McGraw-Hill Companies to mark the Company's 100th anniversary, honors those who have dedicated themselves to improving American education.

But Mr. McGraw is no stranger to honors himself. In 1990, President Bush awarded him the Nation's highest literacy award at a special White House ceremony.

And he is the recipient of honorary degrees from the Graduate School of Princeton University, the City University of New York, Ohio University, Pine Manor College, Fairfield University, Hofstra University, and Marymount Manhattan College, as well as the Cleveland E. Dodge Medal for Distinguished Service to Education from Columbia University's Teachers College.

Mr. McGraw has given so much to our country at large, but he hasn't forgotten the State he and I both love. A major supporter of the library in his town of Darien, he has also contributed generously to Norwalk Hospital and St. Joseph's Hospital, along with his local church. He has worked to support elderly care at the Waveny Care Center in New Canaan, CT, Pegasus Therapeutic Riding in Stamford, and a wide range of civic organizations, from the Boy Scouts to the Literary Volunteers of Connecticut.

Harold McGraw represents the best of American business and civic culture. All of us in Connecticut are proud to call him one of our own, and the many whose lives have been touched by his commitment to adult literacy are grateful for his efforts. We look forward to his continued good deeds and remain inspired by his example. It is my pleasure to honor this great American.●

REMEMBERING DIANE CAVES

● Mr. ISAKSON. Madam President, today I honor the life and service of Diane Caves, a bright and talented young woman whose life ended far too soon, in the tragic earthquake in Port-au-Prince, Haiti, on January 12, 2010.

Diane worked for the Centers for Disease Control and Prevention, as a policy analyst in the Office of Public Health Preparedness and Response. Her commitment to public service was recognized just last year when she was named 2009 Federal Employee of the Year for Atlanta in the Outstanding Professional Category, at the age of 30.

Diane led the development in 2008 of CDC's first comprehensive nationwide report on public health preparedness, "Public Health Preparedness: Mobilizing State by State." Her work launched a regular series of reports that demonstrate accountability and drive program improvements to help protect the Nation from public health emergencies.

She shined equally bright among her friends and in her community. She was an avid soccer player, an insatiable reader, and a world traveler. She brought people together to share their interests in food, knitting, books and sports, and motivated others with her energy, wit and unyielding optimism.

Diane recently volunteered for a short assignment to Haiti to work on the President's Emergency Plan for AIDS Relief, or PEPFAR. Congress reauthorized this historic commitment to the fight against global AIDS a little more than a year ago, with strong support from both parties. PEPFAR represents the very best of America. It is a remarkable program that is saving lives around the world with the contributions of people like Diane and her colleagues at CDC.

Diane didn't go to Haiti for the recognition. She went because she was passionate about public health, because she was a committed public servant,

and because, above all, she wanted to help people. She didn't go to Haiti because it would be easy or comfortable. She asked to go where the challenges were greatest, the work was the hardest and the potential to help was limitless.

Diane didn't go to Haiti to be a hero. But she has come home as one.

She was brought to Dover Air Force Base last week, and a family memorial service was held in her hometown of Oak Ridge, TN. Her family and friends will mourn her quietly and privately as a loved one. We will also mourn her as a nation, as we do any American who dies in service to this country. There will be a ceremony at CDC in her honor on March 1, 2010, where her name will be added to a memorial for employees who died while in service.

We are thankful for the life and service of Diane Caves. Her smile, her laugh and her spirit will always be remembered. Her service will always be celebrated. Her extraordinary gifts and talents were shared with many during her short life, and they will never be forgotten.

Our thoughts and prayers are with her husband Jeff Caves; her parents Lee and Linda Berry; her brother David Berry; and with Jeff's family and all of her friends and colleagues who will mourn her and miss her and strive always to live up to her example.●

TRIBUTE TO DR. SANDI SANDERS

● Mr. PRYOR. Madam President, today I pay tribute to the professional career and community achievements of Dr. Sandra Diane "Sandi" Sanders of Fort Smith, AR.

Dr. Sandi Sanders, who did her master's and doctoral work at the University of Arkansas, has been an educator and involved in the Fort Smith community all of her life. She played a major role in the development of the former Westark Community College which today is the University of Arkansas-Fort Smith, UAFS. She served in many different roles including provost, chief academic officer, senior vice chancellor and chief of staff, and most recently interim chancellor. Her leadership has guided UAFS to be one of the premiere community colleges in Arkansas and across the Nation.

She has served and continues to serve in the community in many different roles such as former director of the Arkansas State Chamber of Commerce, board of directors at Arvest Bank of Fort Smith, United Way Women's Leadership Giving Steering Committee, former campaign chairman for the 2005 United Way of Fort Smith, and many other activities. She is currently serving as project director for the U.S. Marshall Museum being built in Fort Smith. Her dedication to her community is shown through the numerous hours devoted to making her society a better place for her neighbors and for future residents.

Dr. Sanders has brought great leadership and outstanding integrity to the

Arkansas community. Her leadership has been and will continue to be critical in an ever-changing environment. The work of educating young people should not be taken lightly and I am proud to have Dr. Sanders teaching and advising students in our great State.

Madam President, I ask that my colleagues join me in recognizing the great contributions Dr. Sandi Sanders has made to Arkansas and the United States of America.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 2009, the Secretary of the Senate, on February 16, 2010, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

S. 2950. An act to extend the pilot program for volunteer groups to obtain criminal history background checks.

Under the authority of the order of the Senate of January 6, 2009, the enrolled bill was signed on February 17, 2010, during the adjournment of the Senate, by the President pro tempore (Mr. BYRD).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on February 17, 2010, during the adjournment of the Senate, she had presented to the President of the United States the following enrolled bill:

S. 2950. An act to extend the pilot program for volunteer groups to obtain criminal history background checks.

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-4670. 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 "Spiromesifen; Pesticide Tolerances"

(FRL No. 8436-9) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4671. 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 "Hexythiazox; Pesticide Tolerances for Emergency Exemptions" (FRL No. 8808-4) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4672. 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 "Dithianon; Pesticide Tolerances" (FRL No. 8808-8) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4673. 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 "Chlorantraniliprole; Pesticide Tolerances" (FRL No. 8809-3) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4674. 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 "Flumioxazin; Pesticide Tolerances" (FRL No. 8810-3) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4675. 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 "Acetamiprid; Pesticide Tolerances" (FRL No. 8809-9) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4676. 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 "Exemption from the Requirement of a Tolerance; Technical Amendment" (FRL No. 8809-4) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4677. 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 "Inert Ingredients; Extension of Effective Date of Revocation of Certain Tolerance Exemptions with Insufficient Data for Reassessment" (FRL No. 8812-3) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4678. 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 "Poly(oxy-1,2-ethanediyl), @-hydro-w-hydroxy-, polymer with 1, 1'-methylene-bis-[4-isocyanatocyclohexane]; Tolerance Exemption" (FRL No. 8807-8) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4679. 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 "Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment; Approval of Information Collection Request" (RIN0584-AD71) received in the Office of the President of the Senate on February 2, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4680. 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 "Special Supplemental Nutrition Program for Women, Infants and Children (WIC) Revisions in the WIC Food Packages Rule to Increase Case Value Vouchers for Women" (RIN0584-AD77) received in the Office of the President of the Senate on February 2, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4681. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, a report relative to the Administration's 2010 compensation program adjustments; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4682. A communication from the Management and Program Analyst, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Sale and Disposal of National Forest System Timber; Special Forest Products and Forest Botanical Products" (RIN0596-AB81) received during adjournment of the Senate in the Office of the President of the Senate on February 18, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-4683. 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 "Notice of Availability of Class Deviation; Disputes Resolution Procedures Related to Clean Water and Drinking Water State Revolving Fund (CWSRF and DWSRF, respectively) Reallocation Under the American Reinvestment and Recovery Act of 2009 (ARRA)" (FRL No. 9115-1) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Environment and Public Works.

EC-4684. 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 Air Quality Implementation Plans; Georgia: Update to Materials Incorporated by Reference" (FRL No. 9097-5) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4685. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmit-

ting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Baton Rouge 1-Hour Ozone Nonattainment Area; Determination of Attainment of the 1-Hour Ozone Standard" (FRL No. 9113-5) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4686. 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 Air Quality Implementation Plans; Maryland; Control of Carbon Monoxide Emissions from Basic Oxygen Furnaces" (FRL No. 9111-7) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4687. 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 Air Quality Implementation Plans; West Virginia; Removal of NO_x SIP Call Rules" (FRL No. 9111-5) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4688. 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 Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County" (FRL No. 9112-1) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4689. 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 "Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona, Maricopa County Air Quality Department; State of Nevada, Nevada Division of Environmental Protection, Washoe County District Health Department" (FRL No. 9111-2) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Environment and Public Works.

EC-4690. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Limitation on Procurements on Behalf of the Department of Defense" (DFARS Case 2008-D005) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Armed Services.

EC-4691. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Additional Requirements Applicable to Multiyear Contracts" (DFARS

Case 2008–D023) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Armed Services.

EC-4692. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled “Defense Federal Acquisition Regulation Supplement; Acquisition Strategies to Ensure Competition throughout the Life Cycle of Major Defense Acquisition Programs” (DFARS Case 2009–D014) received in the Office of the President of the Senate on February 9, 2010; to the Committee on Armed Services.

EC-4693. A communication from the Assistant Secretary of Defense (Homeland Defense), transmitting, pursuant to law, a report on Department of Defense assistance provided for essential security and safety for civilian sporting events during calendar year 2009; to the Committee on Armed Services.

EC-4694. A communication from the Assistant Secretary of Defense (Legislative Affairs), Department of Defense, transmitting, pursuant to law, a report relative to the current and future military strategy of Iran; to the Committee on Armed Services.

EC-4695. A communication from the Assistant Secretary of the Navy (Research, Development and Acquisition), transmitting, pursuant to law, a report relative to overseas ship repairs; to the Committee on Armed Services.

EC-4696. A communication from the Assistant Secretary of the Army (Acquisition, Logistics and Technology), transmitting, pursuant to law, an annual report relative to the Department’s Chemical Demilitarization Program; to the Committee on Armed Services.

EC-4697. A communication from the Assistant Secretary of Defense (Global Strategic Affairs), Department of Defense, transmitting, pursuant to law, a report relative to Cooperative Threat Reduction Programs; to the Committee on Armed Services.

EC-4698. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to a violation of the Antideficiency Act that occurred within the Department of the Army and was assigned case number 07-01; to the Committee on Armed Services.

EC-4699. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a quarterly report entitled, “Acceptance of Contributions for Defense Programs, Projects, and Activities; Defense Cooperation Account”; to the Committee on Armed Services.

EC-4700. 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 (Manpower and Reserve Affairs), received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Armed Services.

EC-4701. 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 Air Force, received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Armed Services.

EC-4702. 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 (Acquisition), received during adjournment of the Senate in

the Office of the President of the Senate on February 16, 2010; to the Committee on Armed Services.

EC-4703. 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 (Installations and Environment), received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Armed Services.

EC-4704. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Iran as declared in Executive Order 12957; to the Committee on Banking, Housing, and Urban Affairs.

EC-4705. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to persons undermining democratic processes or institutions in Zimbabwe declared in Executive Order 13288; to the Committee on Banking, Housing, and Urban Affairs.

EC-4706. A communication from the Senior Vice President and Chief Financial Officer of the Export-Import Bank, transmitting, pursuant to law, the Bank’s 2009 Annual Report; to the Committee on Banking, Housing, and Urban Affairs.

EC-4707. A communication from the Secretary of the Commission, Division of Privacy and Identity Protection, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled “Fair Credit Reporting Risk-Based Pricing Regulations” (RIN3084-AA94) received in the Office of the President of the Senate on February 2, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4708. A communication from the Legal Information Assistant, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled “Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs and Other Related Issues” (RIN1550-AC36) received during adjournment of the Senate in the Office of the President of the Senate on February 3, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4709. A communication from the Deputy to the Chairman for External Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled “Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Regulatory Capital; Impact of Modifications to Generally Accepted Accounting Principles; Consolidation of Asset-Backed Commercial Paper Programs and Other Related Issues; Final Rule” (RIN3064-AD54) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4710. A communication from the Deputy to the Chairman for External Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled “Community Reinvestment Act Regulations” (RIN3064-AD54) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4711. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting,

pursuant to law, the report of a rule entitled “Amendment to the Bank Secrecy Act Regulations—Expansion of Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity” (RIN1506-AB04) received during adjournment of the Senate in the Office of the President of the Senate on February 16, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-4712. A communication from the Assistant Secretary for Fish and Wildlife and Parks, National Park Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled “Special Regulation: Areas of the National Park System, National Capital Region; Correction” (RIN1024-AD71) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Energy and Natural Resources.

EC-4713. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department’s Alternative Fuel Vehicle program for fiscal year 2009; to the Committee on Energy and Natural Resources.

EC-4714. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the Commission’s Fiscal Year 2011 Congressional Performance Budget Request; to the Committee on Energy and Natural Resources.

EC-4715. A communication from the Assistant Secretary of Energy (Energy Efficiency and Renewable Energy), transmitting, pursuant to law, a report relative to the implementation of Energy Conservation Standards Activities; to the Committee on Energy and Natural Resources.

EC-4716. A communication from the Secretary of the Department of Energy, transmitting, pursuant to law, a report relative to the decision to authorize a noncompetitive extension of up to five years for the management and operation of the Oak Ridge National Laboratory; to the Committee on Energy and Natural Resources.

EC-4717. A communication from the Secretary of the Department of Energy, transmitting, pursuant to law, a report relative to an annual plan for the Ultra-Deepwater and Unconventional Natural Gas and Other Petroleum Resources Research and Development Program; to the Committee on Energy and Natural Resources.

EC-4718. A communication from the Deputy Associate Commissioner, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled “Transfer of Accumulated Benefit Payments” (RIN0960-AH08) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Finance.

EC-4719. 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 Final Rules Under the Mental Health Parity and Addiction Equity Act of 2008” (RIN1545-BJ05) received in the Office of the President of the Senate on February 2, 2010; to the Committee on Finance.

EC-4720. 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 “Guidance Under Internal Revenue Code Section 2511(c)” (Notice No. 2010-19) received during adjournment of the Senate in the Office of the President of the Senate on February 3, 2010; to the Committee on Finance.

EC-4721. 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. 2010-20) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Finance.

EC-4722. 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 911(d)(4)-2009 Update" (Notice No. 2010-17) received during adjournment of the Senate in the Office of the President of the Senate on February 17, 2010; to the Committee on Finance.

EC-4723. A communication from the Inspector General, Railroad Retirement Board, transmitting, pursuant to law, the Inspector General's Budget Justification for Fiscal Year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC-4724. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the Board's Congressional Justification of Budget Estimates for Fiscal Year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC-4725. A communication from the Assistant General Counsel of the Division of Regulatory Services, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Final Regulation—Student Assistance General Provisions; Teacher Education Assistance for College and Higher Education (TEACH) Grant Program; Federal Pell Grant Program; Academic Competitiveness Grant Program and National Science and Mathematics Access to Retain Talent Grant Program" (RIN1840-AC96) received in the Office of the President of the Senate on February 1, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-4726. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Interim Final Rules under the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008" (RIN1210-AB30) received in the Office of the President of the Senate on February 2, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-4727. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled "Age Discrimination in Employment Act; Retiree Health Benefits" (RIN3046-AA72) received in the Office of the President of the Senate on January 28, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-4728. A communication from General Counsel, Corporation for National and Community Service, transmitting, pursuant to law, the report of a rule entitled "Serve America Act Amendments to the National and Community Service Act of 1990 and the Domestic Volunteer Service Act of 1973" (RIN3045-AA50) received during adjournment of the Senate in the Office of the President of the Senate on February 12, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-4729. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2009-0015-2009-0028); to the Committee on Foreign Relations.

EC-4730. A communication from the Assistant Secretary, Legislative Affairs, Depart-

ment of State, transmitting, pursuant to law, a report relative to the proposed transfer of major defense equipment from the Government of Pakistan to Turkish Aerospace Industries with an original acquisition cost of \$14,000,000 (Transmittal No. RSAT-09-1973); to the Committee on Foreign Relations.

EC-4731. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. contributions to the United Nations and its affiliated agencies during fiscal year 2008; to the Committee on Foreign Relations.

EC-4732. A communication from the Director, Defense Security Cooperation Agency, transmitting, pursuant to law, a report relative to Section 25(a)(6) of the Arms Export Control Act; to the Committee on Foreign Relations.

EC-4733. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the quarterly report on unobligated and unexpended appropriated funds; to the Committee on Foreign Relations.

EC-4734. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, a report relative to Fiscal Year 2009 Competitive Sourcing efforts; to the Committee on Foreign Relations.

EC-4735. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-286, "Heights on Georgia Avenue Tax Exemption Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4736. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-287, "WMATA Compact Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4737. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-288, "State Board of Education License Plate Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4738. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-289, "51st State Commission Establishment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4739. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-290, "Park Place at Petworth, Highland Park, and Highland Park Phase II Economic Development Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4740. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-291, "Affordable Housing Opportunities Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4741. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-292, "Advisory Neighborhood Commission Vacancy Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4742. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-293, "District of Columbia Housing Authority Board of Commissioners Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4743. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-295, "High Technology Commercial Real Estate Database and Service Providers Tax Abatement Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4744. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-296, "Hospital and Medical Services Corporation Regulatory Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4745. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-297, "Agreements Between the District of Columbia and Boys and Girls Club of Greater Washington Temporary Approval Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4746. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-298, "Prevention of Child Abuse and Neglect Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4747. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-299, "Abe Pollin City Title Championship and Title Trophy Designation Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4748. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-300, "Executive Grant—Making Authority Limitation Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4749. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-301, "Unauthorized Contract Stop Payment Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4750. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-302, "Anacostia River Clean Up and Protection Clarification Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-4751. A communication from the Senior Procurement Executive, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Rewrite of Part 512, Acquisition of Commercial Items" (RIN3090-AI61) received in the Office of the President of the Senate on February 4, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-4752. A communication from the Secretary of the Department of Education, transmitting, pursuant to law, the Department's Performance and Accountability Report for Fiscal Year 2009; to the Committee on Homeland Security and Governmental Affairs.

EC-4753. A communication from the Associate Director for Human Resources, Court

Services and Offender Supervision Agency for the District of Columbia, transmitting, pursuant to law, a report relative to the Agency's use of the Category Rating system during the period ending July 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-4754. A communication from the Chairman, Merit System Protection Board, transmitting, pursuant to law, the Board's Strategic Plan for Fiscal Years 2010-2015; to the Committee on Homeland Security and Governmental Affairs.

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 Mrs. GILLIBRAND (for herself and Mr. SCHUMER):

S. 3012. A bill to designate the facility of the United States Postal Service located at 2-116th Street in North Troy, New York, as the Martin G. "Marty" Mahar Post Office; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for Mr. LAUTENBERG (for himself and Mr. MENENDEZ)):

S. 3013. A bill to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the "Sergeant Christopher R. Hrbek Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

By Ms. STABENOW (for herself, Mr. HATCH, Mr. SCHUMER, Ms. SNOWE, and Mr. BROWN of Ohio):

S. 3014. A bill to amend the Internal Revenue Code of 1986 to allow companies to utilize existing alternative minimum tax credits to create and maintain United States jobs, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself, Mr. MENENDEZ, Ms. MIKULSKI, and Mr. CARDIN):

S. 3015. A bill to amend chapter 53 of title 49, United States Code, to establish a public transportation safety program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BENNETT (for himself and Mr. HATCH):

S. 3016. A bill to prohibit the further extension or establishment of national monuments in Utah except by express authorization of Congress; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CASEY:

S. Res. 418. A resolution commemorating the life of the late Cynthia DeLores Tucker; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 182

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 182, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of

wages on the basis of sex, and for other purposes.

S. 213

At the request of Mrs. BOXER, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 213, a bill to amend title 49, United States Code, to ensure air passengers have access to necessary services while on a grounded air carrier, and for other purposes.

S. 471

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 471, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs, and for other purposes.

S. 504

At the request of Mr. ROBERTS, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 504, a bill to redesignate the Department of the Navy as the Department of the Navy and Marine Corps.

S. 571

At the request of Mr. MENENDEZ, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 571, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, and study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 656

At the request of Mr. REED, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 656, a bill to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residents.

S. 678

At the request of Mr. LEAHY, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 796

At the request of Mr. BINGAMAN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 796, a bill to modify the requirements applicable to locatable minerals on public domain land, and for other purposes.

S. 841

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 854

At the request of Mr. VOINOVICH, the name of the Senator from Michigan

(Ms. STABENOW) was added as a cosponsor of S. 854, a bill to amend the Federal Water Pollution Control Act to update a program to provide assistance for the planning, design, and construction of treatment works to intercept, transport, control, or treat municipal combined sewer overflows and sanitary sewer overflows, and to require the Administrator of the Environmental Protection Agency to update certain guidance used to develop and determine the financial capability of communities to implement clean water infrastructure programs.

S. 938

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 938, a bill to require the President to call a White House Conference on Children and Youth in 2010.

S. 987

At the request of Mr. DURBIN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 987, a bill to protect girls in developing countries through the prevention of child marriage, and for other purposes.

S. 1039

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1039, a bill to provide grants for the renovation, modernization or construction of law enforcement facilities.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Colorado (Mr. UDALL) 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. 1066

At the request of Mr. SCHUMER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1066, a bill to amend title XVIII of the Social Security Act to preserve access to ambulance services under the Medicare program.

S. 1067

At the request of Mr. FEINGOLD, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1173

At the request of Mr. FEINGOLD, the name of the Senator from Oregon (Mr.

MERKLEY) was added as a cosponsor of S. 1173, a bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes.

S. 1203

At the request of Mr. BAUCUS, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to extend the research credit through 2010 and to increase and make permanent the alternative simplified research credit, and for other purposes.

S. 1237

At the request of Mrs. MURRAY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 1237, a bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes.

S. 1244

At the request of Mr. MERKLEY, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1244, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers, to provide for a performance standard for breast pumps, and to provide tax incentives to encourage breastfeeding.

S. 1400

At the request of Ms. STABENOW, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1400, a bill to amend the Internal Revenue Code of 1986 to make permanent the depreciation classification of motorsports entertainment complexes.

S. 1414

At the request of Mr. BOND, his name was added as a cosponsor of S. 1414, a bill to confer upon the United States Court of Federal Claims jurisdiction to hear, determine, and render final judgment on any legal or equitable claim against the United States to receive just compensation for the taking of certain lands in the State of Missouri, and for other purposes.

S. 1480

At the request of Mr. KOHL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1480, a bill to amend the Child Nutrition Act of 1966 to establish a program to improve the health and education of children through grants to expand school breakfast programs, and for other purposes.

S. 1547

At the request of Mr. REED, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1547, a bill to amend title 38, United States Code, and the United States Housing Act of 1937 to

enhance and expand the assistance provided by the Department of Veterans Affairs and the Department of Housing and Urban Development to homeless veterans and veterans at risk of homelessness, and for other purposes.

S. 1589

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1589, a bill to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

At the request of Ms. CANTWELL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1589, *supra*.

S. 1610

At the request of Ms. CANTWELL, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to repeal the shipping investment withdrawal rules in section 955 and to provide an incentive to reinvest foreign shipping earnings in the United States.

S. 1611

At the request of Mr. GREGG, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1646

At the request of Mr. REED, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1646, a bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

S. 1681

At the request of Mrs. GILLIBRAND, her name was added as a cosponsor of S. 1681, a bill to ensure that health insurance issuers and medical malpractice insurance issuers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

S. 1743

At the request of Mrs. LINCOLN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1743, a bill to amend the Internal Revenue Code of 1986 to expand the rehabilitation credit, and for other purposes.

S. 1756

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1756, a bill to amend the Age Discrimination in Employment Act of 1967 to clarify the appropriate standard of proof.

S. 1791

At the request of Mr. BROWN of Ohio, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 1791, a bill to establish the Honorable Stephanie Tubbs Jones Fire Suppression Demonstration Incentive Program within the Department of

Education to promote installation of fire sprinkler systems, or other fire suppression or prevention technologies, in qualified student housing and dormitories, and for other purposes.

S. 1799

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1799, a bill to amend the Truth in Lending Act, to establish fair and transparent practices related to the marketing and provision of overdraft coverage programs at depository institutions, and for other purposes.

S. 1859

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1859, a bill to reinstate Federal matching of State spending of child support incentive payments.

S. 2052

At the request of Mr. UDALL of Colorado, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 2052, a bill to amend the Energy Policy Act of 2005 to require the Secretary of Energy to carry out a research and development and demonstration program to reduce manufacturing and construction costs relating to nuclear reactors, and for other purposes.

S. 2128

At the request of Mr. LEMIEUX, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 2128, a bill to provide for the establishment of the Office of Deputy Secretary for Health Care Fraud Prevention.

S. 2736

At the request of Mr. FRANKEN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2736, a bill to reduce the rape kit backlog and for other purposes.

S. 2747

At the request of Mr. BINGAMAN, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from New Hampshire (Mrs. SHAHEEN) were added as cosponsors of S. 2747, a bill to amend the Land and Water Conservation Fund Act of 1965 to provide consistent and reliable authority for, and for the funding of, the land and water conservation fund to maximize the effectiveness of the fund for future generations, and for other purposes.

S. 2869

At the request of Ms. LANDRIEU, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Washington (Mrs. MURRAY) and the Senator from Nebraska (Mr. JOHANNIS) were added as cosponsors of S. 2869, a bill to increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

S. 2904

At the request of Mr. FRANKEN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 2904, a bill to amend title

10, United States Code, to require emergency contraception to be available at all military health care treatment facilities.

S. 2924

At the request of Mr. LEAHY, the names of the Senator from Maine (Ms. COLLINS), the Senator from Montana (Mr. BAUCUS) and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 2924, a bill to reauthorize the Boys & Girls Clubs of America, in the wake of its Centennial, and its programs and activities.

S. 2946

At the request of Ms. STABENOW, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 2946, a bill to direct the Secretary of the Army to take action with respect to the Chicago waterway system to prevent the migration of bighead and silver carps into Lake Michigan, and for other purposes.

S. 2961

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2961, a bill to provide debt relief to Haiti, and for other purposes.

S. 2977

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 2977, a bill to prohibit the use of Department of Justice funds for the prosecution in Article III courts of the United States of individuals involved in the September 11, 2001 terrorist attacks.

S. 2983

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 2983, a bill to amend the Internal Revenue Code of 1986 to provide an exemption from employer social security taxes with respect to previously unemployed individuals, and to provide a credit for the retention of such individuals for at least 1 year.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 2990

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2990, a bill to establish an earmark moratorium for fiscal years 2010 and 2011.

S. 2998

At the request of Mrs. GILLIBRAND, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Illinois (Mr. BURRIS) were added as cosponsors of S. 2998, a bill to temporarily expand the V non-immigrant visa category to include Haitians whose petition for a family-sponsored immigrant visa was approved on or before January 12, 2010.

S. 3003

At the request of Mr. DODD, the name of the Senator from Ohio (Mr. BROWN)

was added as a cosponsor of S. 3003, a bill to enhance Federal efforts focused on public awareness and education about the risks and dangers associated with Shaken Baby Syndrome.

S.J. RES. 27

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 27, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

S. RES. 400

At the request of Mr. KERRY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. Res. 400, a resolution urging the implementation of a comprehensive strategy to address instability in Yemen.

S. RES. 404

At the request of Mr. FEINGOLD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 404, a resolution supporting full implementation of the Comprehensive Peace Agreement and other efforts to promote peace and stability in Sudan, and for other purposes.

S. RES. 409

At the request of Mr. FEINGOLD, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Alaska (Mr. BEGICH), the Senator from Florida (Mr. NELSON), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed "Anti-Homosexuality Bill", and for other purposes.

S. RES. 416

At the request of Mr. HARKIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 416, a resolution amending the Standing Rules of the Senate to provide for cloture to be invoked with less than a three-fifths majority after additional debate.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. MENENDEZ, Ms. MIKULSKI, and Mr. CARDIN):

S. 3015. A bill to amend chapter 53 of title 49, United States Code, to establish a public transportation safety program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise today to introduce, at the request of the administration and on behalf of my fellow original cosponsors Senator MENENDEZ, Senator MIKULSKI, and Senator CARDIN, the Public Transportation Safety Program Act of 2010. This legislation is designed to provide the Federal Transit Administration with the proper funding and rulemaking, examination, and enforcement authority to improve the safety of our nation's transit systems.

The issue of improving transit safety is a bipartisan issue, on which I think all Members can come to agreement. While this proposal from the administration is a good and appropriate first step in the Federal Government's efforts to improve transit safety, I look forward to working with my cosponsors and all of my colleagues on the Senate Banking Committee to make the final bill, which will emerge from the Senate Banking Committee, the strongest legislation possible for ensuring the safety of our nation's transit systems.

Transit is among the safest modes of transportation. Between 1998 and 2007, incidents on public transportation rail systems fell by half.

But in light of a recent series of high-profile accidents, Americans have grown concerned, and rightfully so. As our Nation's transit systems age, it is becoming increasingly clear that it is time for the Federal government to take a more direct role in their oversight.

Currently, the Federal Transit Administration has limited authority to implement and enforce national transit safety standards and we have gone without a proper national transit safety program for far too long.

Having been handed an unfunded mandate, States have been forced to scrape by with State Safety Oversight boards. Many of these boards lack authority, expertise, a dedicated budget or even full-time employees to monitor safety.

This is unacceptable. This ad hoc approach to transit safety oversight must be replaced with better oversight and clear national transit safety standards. Congress should provide the FTA with the authority and the resources to bring consistency and Federal leadership to our transit safety system. It is our duty to ensure that accidents like those that occurred in 2009 are prevented.

I commend the Administration, particularly Secretary LaHood and administrator Rogoff, for taking a leadership role on this very important issue and sending the proposed legislation to Congress. This proposal is a good start, and I look forward to discussing it with my colleagues.

The Obama administration has indicated its commitment to improving transit safety. It is time for us to do the same.

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

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

S. 3015

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Transportation Safety Program Act of 2010".

SEC. 2. PUBLIC TRANSPORTATION SAFETY PROGRAM.

(a) IN GENERAL.—Section 5329 of title 49, United States Code, is amended to read as follows:

“§ 5329. Public transportation safety program

“(a) RAIL FIXED GUIDEWAY SAFETY.—

“(1) PROGRAM.—The Secretary shall, as soon as practicable, establish and implement a public transportation safety program to improve the safety of, and reduce the number and severity of accidents involving, the design, construction, and revenue service operation of rail fixed guideway public transportation systems that receive financial assistance under this chapter.

“(2) EXCLUSION.—This section shall not apply to rail fixed guideway public transportation systems subject to regulation by the Federal Railroad Administration under subtitle V of this title and the Rail Safety Improvement Act of 2008 (Public Law 110-432; 122 Stat. 4848).

“(3) NATIONAL TRANSPORTATION SAFETY BOARD.—When promulgating public safety transportation regulations, the Secretary shall, to the extent practicable, take into consideration relevant recommendations of the National Transportation Safety Board.

“(b) BUS SAFETY.—The Secretary may establish and implement a public transportation safety program to improve the safety of, and reduce the number and severity of accidents involving, public transportation bus systems that receive financial assistance under this chapter in accordance with the provisions of this section.

“(c) REGULATIONS AND ORDERS.—

“(1) IN GENERAL.—The Secretary shall promulgate regulations and issue orders for the safe operation of rail fixed guideway public transportation systems, after appropriate consideration of costs and benefits. The Secretary shall ensure that the regulations establish a Federal certification program for employees and contractors who carry out a State public transportation safety program in compliance with this section and oversee the performance of employees or contractors responsible for performing safety activities identified in such program.

“(2) CONSULTATION BY DHS SECRETARY.—Before prescribing a security regulation or issuing a security order that affects the safety of public transportation design, construction or operations, the Secretary of Homeland Security shall consult with the Secretary.

“(3) WAIVERS.—The Secretary may waive compliance with any part of a regulation promulgated or order issued under this section if the waiver is in the public interest, or a regulation or order issued under this section. The Secretary shall not issue a waiver and shall immediately revoke a waiver if the waiver would not be consistent with the goals and objectives of this section. The Secretary shall make public the reasons for granting or revoking the waiver.

“(d) PREEMPTION.—

“(1) IN GENERAL.—A State may adopt or continue in force a law, regulation, or order related to public transportation safety until the Secretary promulgates a regulation or issues an order covering the subject matter of the State requirement. A State may adopt or continue in force an additional or more stringent law, regulation, or order related to public transportation safety only if the law, regulation, or order—

“(A) has a safety benefit;

“(B) is not incompatible with a law, regulation, or order of the United States Government; and

“(C) does not unreasonably burden interstate commerce.

“(2) DAMAGES.—Nothing in this section shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party—

“(A) has failed to comply with the Federal standard of care established by a regulation

or order issued by the Secretary under this section;

“(B) has failed to comply with its own program, rule, or standard that it created under a regulation or order issued by the Secretary; or

“(C) has failed to comply with a State law, regulation, or order that is not incompatible with paragraph (1) of this subsection.

“(3) EFFECTIVE DATE.—This subsection shall apply to all State law causes of action arising from events or activities occurring on or after the enactment of this section.

“(4) FEDERAL JURISDICTION.—Nothing in this section creates a Federal cause of action on behalf of an injured party or confers Federal question jurisdiction for State law causes of action.

“(e) SAFETY PROGRAM ACTIVITIES.—

“(1) IN GENERAL.—In carrying out this section, the Secretary may take actions the Secretary considers necessary, including—

“(A) conducting inspections, investigations, audits, examinations, and testing of a public transportation system's equipment, facilities, rolling stock, operations, and persons engaged in the business of a public transportation system;

“(B) delegating to a public entity or other qualified person the conduct of inspections, investigations, audits, examinations, and testing of a public transportation system's equipment, facilities, rolling stock, operations, and persons engaged in the business of a public transportation system;

“(C) making reports, issuing subpoenas, requiring the production of documents, taking depositions, and prescribing recordkeeping and reporting requirements; and

“(D) making grants or entering into agreements—

“(i) for research, development, testing and training of every area of public transportation safety; and

“(ii) to assist a public entity or qualified person in carrying out the delegated activities set forth in subparagraph (B) of this paragraph.

“(2) ACCIDENTS AND INCIDENTS.—Activities authorized under this subsection may be engaged in for safety purposes, including accident and incident prevention and investigation.

“(3) COST SHARING.—The Federal share of a grant awarded or an agreement entered into under paragraph (1)(D) of this section may be up to 100 percent.

“(4) ENTRY.—In carrying out this subsection, an officer or employee of the Secretary, or agent designated by the Secretary under paragraph (1)(B) of this subsection, at reasonable times and in a reasonable way, may enter and inspect public transportation equipment, facilities, rolling stock, operations, and relevant records. When requested, the officer, employee, or the designated agent shall display proper credentials. During an inspection, the officer, employee, or designated agent of the Secretary qualifies as an employee of the United States Government under chapter 171 of title 28.

“(f) STATE PARTICIPATION.—

“(1) SAFETY PROGRAM.—A State may establish and implement a State public transportation safety program through statute and regulation that requires, at a minimum, compliance with the regulations and policies issued by the Secretary under this section and complies with subsection (d) of this section.

“(2) GRANTS.—The Secretary may make grants or enter into agreements under this subsection to carry out a State public transportation safety program, including to train employees necessary to administer and manage the program, and to enforce Federal and State public transportation safety laws, regulations and orders, provided that—

“(A) employees responsible for carrying out the safety oversight functions of a State public transportation safety program meet the safety certification criteria established through regulations issued under subsection (c)(1) of this section;

“(B) a State submits its public transportation safety program, which shall provide a right of entry and inspection to carry out the program, to the Secretary for review and written approval prior to implementing the program; and

“(C) a State submits each amendment to its public transportation safety program to the Secretary for review and written decision at least 60 days before the amendment becomes effective. If a State does not receive a written response from the Secretary by the end of the 60-day period, the amendment shall be deemed to be approved.

“(3) MULTI-STATE REQUIREMENTS.—When a single public transportation authority operates in more than one State, the affected States, if establishing and implementing a public transportation safety program as authorized under this subsection, shall—

“(A) establish and implement the program jointly to ensure uniform safety standards and enforcement procedures that shall be, at a minimum, in compliance with this section and the regulations and policies issued by the Secretary under this section; or

“(B) designate an entity (other than the public transportation authority) to carry out the activities and requirements specified by subparagraph (A) of this paragraph.

“(4) CONFLICT OF INTEREST.—A State may not—

“(A) allocate grant funds awarded under paragraph (1) of this subsection to a State agency or local entity that operates a public transportation system that receives Federal transit assistance;

“(B) allow a State agency or local entity that operates a public transportation system to provide funds to a State agency or an entity designated by the State that is responsible for establishing, implementing, or maintaining a State public transportation safety program; or

“(C) allow a State agency or local entity that operates a public transportation system to participate in the oversight of establishing, implementing, or maintaining a State public transportation safety program.

“(5) COST SHARING.—In the case of a State that implements a safety program under this section, the following applies:

“(A) The Secretary shall reimburse the State from a grant made or agreement entered into under this section, an amount that is up to 100 percent of the costs incurred by the State in a fiscal year for developing, implementing and enforcing a State public transportation safety program.

“(B) The Secretary, through regulations promulgated under this section, shall establish a schedule of reimbursable costs that the Secretary shall use to assist the State in defraying the State's costs of developing, implementing and enforcing a State public transportation safety program.

“(C) To help defray the costs of developing, implementing and enforcing a State public transportation safety program, the State may submit to the Secretary a voucher that does not exceed the amount identified on the schedule of reimbursable costs for an eligible activity.

“(D) The Secretary shall pay the State an amount not more than the Federal Government's share of costs incurred as of the date of the voucher.

“(6) NOTICE OF WITHDRAWAL.—The Secretary shall ensure that the State is carrying out the State public transportation safety program, as follows:

“(A) If the Secretary finds, after notice and opportunity to comment, that the State transportation safety program previously approved is not being followed or has become inadequate to ensure enforcement of the regulations or orders, the Secretary shall withdraw approval of the program and notify the State.

“(B) A State public transportation safety program shall no longer be in effect upon the State's receipt of the Secretary's notice of withdrawal of approval.

“(C) A State receiving notice under subparagraph (A) of this paragraph may seek judicial review of the Secretary's decision under chapter 7 of title 5, United States Code.

“(D) Notwithstanding the withdrawal, a State may retain jurisdiction in administrative and judicial proceedings begun before the withdrawal if the issues involved are not related directly to the reasons for the withdrawal.

“(g) ENFORCEMENT.—

“(1) IN GENERAL.—The Secretary has the authority—

“(A) to establish, impose and compromise a civil penalty for a violation of a public transportation safety regulation promulgated or order issued under this section;

“(B) to establish, impose and compromise a civil penalty for violation of the alcohol and controlled substances testing provisions under section 5331 of this chapter;

“(C) to request an injunction for a violation of a public transportation safety regulation promulgated or order issued under this section; and

“(D) to notify the Attorney General when the Secretary receives evidence of a possible criminal violation under paragraph (5).

“(2) DEPOSIT OF CIVIL PENALTIES.—An amount collected by the Secretary under this section shall be deposited into the General Fund of the United States Treasury.

“(3) ENFORCEMENT BY THE ATTORNEY GENERAL.—At the request of the Secretary, the Attorney General shall bring a civil action—

“(A) for appropriate injunctive relief to ensure compliance with this section;

“(B) to collect a civil penalty imposed or an amount agreed upon in a compromise under paragraph (1) of this subsection; or

“(C) to enforce a subpoena, request for admissions, request for production of documents or other tangible things, or request for testimony by deposition issued by the Secretary under this section.

“(4) JURISDICTION.—An action under paragraph (3) of this subsection may be brought in a district court of the United States in any State in which the relief is required. On a proper showing, the court shall issue a temporary restraining order or preliminary or permanent injunction. An injunction under this section may order a public transportation agency receiving assistance under this chapter to comply with this section, or a regulation promulgated under this section.

“(5) CRIMINAL PENALTY.—A person who knowingly violates this section or a public transportation safety regulation or order issued under this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation results in death or bodily injury to any person. For purposes of this subparagraph—

“(A) a person acts knowingly when—

“(i) the person has actual knowledge of the facts giving rise to the violation; or

“(ii) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and

“(B) actual knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary is not

an element of an offense under this paragraph.

“(h) EMERGENCY AUTHORITY.—

“(1) ORDERING RESTRICTIONS AND PROHIBITIONS.—If, through testing, inspection, investigation, or research carried out under this section, the Secretary decides that an unsafe condition or practice, or a combination of unsafe conditions and practices, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary immediately may order restrictions and prohibitions, without regard to section 553 and section 554 of title 5, United States Code, that may be necessary to abate the emergency situation.

“(2) EMERGENCY CONDITION OR PRACTICE.—The order shall describe the condition or practice, or a combination of conditions and practices, that causes the emergency situation and promulgate standards and procedures for obtaining relief from the order. This paragraph does not affect the Secretary's discretion under this subsection to maintain the order in effect for as long as the emergency situation exists.

“(3) REVIEW OF ORDERS.—After issuing an order under this subsection, the Secretary shall provide an opportunity for review of the order under section 554 of title 5, United States Code. If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the order was issued, the order stops being effective at the end of that period unless the Secretary decides in writing that the emergency situation still exists.

“(4) CIVIL ACTIONS TO COMPEL ISSUANCE OF ORDERS.—An employee of a rail fixed guideway public transportation system provider who may be exposed to imminent physical injury during that employment because of the Secretary's failure, without any reasonable basis, to issue an order under paragraph (1) of this subsection, or the employee's authorized representative, may bring a civil action against the Secretary in a district court of the United States to compel the Secretary to issue an order. The action shall be brought in the judicial district in which the emergency situation is alleged to exist, in which the employing provider has its principal executive office, or in the District of Columbia. The Secretary's failure to issue an order under paragraph (1) of this subsection may be reviewed only under section 706 of title 5, United States Code.

“(i) EFFECT ON EMPLOYEE QUALIFICATIONS AND COLLECTIVE BARGAINING.—This section does not—

“(1) authorize the Secretary to promulgate regulations and issue orders related to qualifications of employees, except qualifications specifically related to safety; or

“(2) prohibit collective bargaining agreements between public transportation agencies and public transportation employees or their representatives, including agreements related to qualifications of the employees that are not inconsistent with regulations and orders promulgated under this section.

“(j) PUBLIC TRANSPORTATION EMPLOYEE PROTECTIONS.—Applicable provisions of the public transportation employee protection provisions under section 1413 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1142) apply to direct and indirect recipients of Federal transit assistance under this chapter.

“(k) JUDICIAL REVIEW.—A person adversely affected or aggrieved by a final action of the Secretary under this section or under section 5331 of this title may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides and

has its principal place of business. Judicial procedures require—

“(1) the petition be filed not more than 60 days after the Secretary's action becomes final;

“(2) the clerk of the court immediately send a copy of the petition filed under paragraph (3) of this section to the Secretary;

“(3) the Secretary file with the court a record of any proceeding in which the final action was issued as provided in section 2112 of title 28, United States Code; and

“(4) the court to consider an objection to a final action of the Secretary only if the objection was made in the course of the proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.”.

(b) AUTHORIZATIONS.—Section 5338 of title 49, United States Code, is amended—

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g) and (h), respectively;

(2) by inserting after subsection (d) the following:

“(e) SAFETY PROGRAM.—There are authorized to be appropriated such amounts in each fiscal year as necessary to administer section 5329 and to make grants or enter into agreements to carry out section 5329.”; and

(3) in subsection (h), as redesignated, by striking “and (d)” and inserting “(d) and (e)”.

(c) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—Section 5334(b)(I) of title 49, United States Code, is amended by inserting “or for purposes of establishing and enforcing programs to improve the safety of the nation's public transportation systems, and reducing accidents on rail fixed guideway and bus systems for public transportation,” after “emergency.”.

(d) ALCOHOL AND CONTROLLED SUBSTANCES TESTING.—Section 5331(b)(2) of title 49, United States Code, is amended—

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

(2) by inserting before subparagraph (B), as so redesignated, the following:

“(A) shall establish and implement an enforcement program, including the imposition of penalties for failure to comply with this section.”.

(e) CONFORMING AMENDMENT; REPEAL.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 53 of title 49, United States Code, is amended by striking the item relating to section 5329 and inserting the following:

“5329. Public Transportation Safety Program.”.

(2) REPEAL.—Section 5330 of title 49, United States Code, is repealed 3 years after the effective date of final regulations issued by the Secretary under section 5329 of title 49, as amended by this section.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 418—COMMEMORATING THE LIFE OF THE LATE CYNTHIA DELORES TUCKER

Mr. CASEY submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 418

Whereas the late Cynthia DeLores Tucker dedicated her life to eliminating racial barriers by championing civil rights and rights of women in the United States;

Whereas, having grown up in Philadelphia during the Great Depression, C. DeLores

Tucker overcame a childhood marked by economic hardship and segregation;

Whereas, having personally experienced the effects of racism, C. DeLores Tucker first became active in the postwar civil rights movement when she worked to register African American voters during the 1950 Philadelphia mayoral campaign;

Whereas C. DeLores Tucker became active in local politics, developed her skills as an accomplished fund raiser and public speaker, and quickly became the first African American and first woman to serve on the Philadelphia Zoning Board;

Whereas in 1965, in the midst of the Civil Rights Movement, C. DeLores Tucker participated in the White House Conference on Civil Rights and marched from Selma to Montgomery with Rev. Dr. Martin Luther King Jr., in support of the 1965 Voting Rights Bill, which was later signed into law by President Lyndon Johnson;

Whereas in January 1971, while still primarily focused on efforts to gain equality for all, C. DeLores Tucker was named Secretary of the Commonwealth of Pennsylvania by then-Governor Milton Shapp, making her the first female African American Secretary of a State in the Nation;

Whereas, under the leadership of C. DeLores Tucker as Secretary of the Commonwealth, Pennsylvania became one of the first states to pass the Equal Rights Amendment, lower the voting age from 21 to 18, and institute voter registration through mail;

Whereas, after leaving her position in Pennsylvania State government, C. DeLores Tucker became the first African American to serve as president of the National Federation of Democratic Women;

Whereas in 1984, C. DeLores Tucker founded the National Political Congress of Black Women, now known as the National Congress of Black Women, a non-profit organization dedicated to the educational, political, economic, and cultural development of African American Women and their families;

Whereas in 1983, C. DeLores Tucker founded the Philadelphia Martin Luther King Jr. Association for Non-Violence and, in 1986, the Bethune-DuBois Institute, both of which are dedicated to promoting the cultural and educational development of African American youth and young professionals;

Whereas C. DeLores Tucker served as a member of the Board of Trustees of the NAACP and numerous other boards, including the Points of Light Foundation and Delaware Valley College;

Whereas, in the later phase of her life, C. DeLores Tucker publicly criticized gangster rap music, arguing that such music denigrated women and promoted violence and drug use;

Whereas, as a student of history, C. DeLores Tucker led the successful campaign to have a bust of the pioneering activist and suffragist Sojourner Truth installed in the United States Capitol, along with other suffragette leaders;

Whereas C. DeLores Tucker received more than 400 honors and awards during her lifetime, including the NAACP Thurgood Marshall Award, the Martin Luther King, Jr. Distinguished Service Award, and the Philadelphia Urban League Whitney Young Award, and honorary Doctor of Law degrees from Morris College and Villa Maria College; and

Whereas the work of C. DeLores Tucker as crusader for civil rights and rights of women, through grace, dignity, and purpose has helped transform the perception of race and gender in the United States: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the life of the late Cynthia DeLores Tucker;

(2) salutes the lasting legacy of the achievements of C. DeLores Tucker; and

(3) encourages the continued pursuit of the vision of C. DeLores Tucker to eliminate racial and gender prejudice from all corners of our society.

Mr. CASEY. Mr. President, I rise today in support of a resolution honoring the lifetime achievements of C. DeLores Tucker. Along with her family and many friends with us today in Washington, we pay tribute to her life of service and courageous commitment to justice for women and for the African-American community.

Cynthia DeLores Nottage Tucker was born in Philadelphia, PA, on October 4, 1927 and was the tenth of eleven children in her family. Her Bahamian-born Baptist minister father and her hard-working mother approached life from a Christian perspective and encouraged their children to do so as well. She grew up in a nurturing and achievement-oriented household. "My mother and father gave us wonderful values," Tucker once told *Good Housekeeping* magazine. "They taught us to be good and loving, and to use our lives to help others."

Young DeLores originally intended to become a doctor and, as a girl, spent summers working in local hospitals. When she graduated from Girls' High of Philadelphia, her father took her to the Bahamas as a reward. During the trip, she became seriously ill and was restricted to a sickbed that kept her out of college for a year. This setback changed the course of her life. She subsequently finished her education at Temple University and the Wharton School of the University of Pennsylvania. She also received two honorary degrees, from Morris College in Alabama and Villa Maria College in Pennsylvania.

C. DeLores Tucker first became active in the postwar civil rights movement when she worked to register Black voters during a 1950 mayoral campaign. In July 1951, she married a friend of her brother, Bill Tucker, a construction company owner who also owned real estate in and around Philadelphia. For several years, DeLores sold real estate and insurance and was active in local politics. She also became an accomplished fundraiser and public speaker. The experience she gained in civic causes and work with her husband, helped to make her a well known figure in the city. She became the first African-American and first woman to serve on the Philadelphia Zoning Board.

As the civil rights movement gained momentum in the late 1950s and early 1960s, DeLores found the perfect channel for her activism. She joined the National Association for the Advancement of Colored People, NAACP, and helped the NAACP raise funds. She never shied away from sensitive political issues. As part of her civil rights activism, she walked with Dr. Martin Luther King, Jr. in the Selma to Montgomery march. In 1965, she participated

in the White House Conference on Civil Rights and was a strong advocate of the 1965 Voting Rights Bill signed by President Lyndon Johnson.

DeLores Tucker's life was guided by her deep convictions. Throughout the 1960s, she campaigned for African-American candidates and served on her party's state committee. Her strong will and organizing skills brought her to the attention of those in power. In January 1971, she was named Secretary of the Commonwealth by Governor Milton J. Shapp. This appointment made DeLores the first African-American woman in the United States to serve in such a role.

The responsibilities of her job were serious. As Secretary of the Commonwealth, she was the keeper of the Great Seal of the Commonwealth and had the duty of authenticating government documents through the seal's use. By statute, she was a member of a number of important state boards and commissions. She also helped implement an affirmative action program to bring more equality to Pennsylvania's hiring practices. During her tenure, she advocated for the appointment of women and African-Americans as judges and as members of state boards and commissions. She led the effort to make Pennsylvania one of the first states to develop voter registration by mail and reduce the voting age from 21 to 18. Further, she helped pass statutes that would permit students to register and vote from their college districts. *Ebony* magazine named her among the "100 most influential" African-Americans every year of her tenure.

After leaving state government, Dr. Tucker was a candidate for several political offices, including lieutenant governor and United States Senator. Although her efforts were unsuccessful, she never wavered in her commitment to public service. She continued her commitment to community service, working with underprivileged young people both in Philadelphia and across the country.

DeLores Tucker always continued to participate in politics. As a fundraiser and organizer, she was involved in Jesse Jackson's presidential campaign in 1984. She chaired the Black Caucus of her party's national committee for several years, where she worked to increase the involvement of African-American women in politics.

One of Dr. Tucker's greatest legacies was her work as a founder of the National Political Congress of Black Women in 1984 which was created to advance the interests of the African-American community, especially women. The group devised a comprehensive ten-point plan to reclaim and improve the African-American community by focusing on voter registration, educational quality and equity, welfare reform that would not victimize poor people, and fair and adequate legal services for everyone. The National Political Congress of Black Women addressed both broad national

issues as well as local issues by, for example, supporting African-American congresswomen, as well as honoring civil rights pioneers, including Myrlie Evers-Williams, Dr. Betty Shabazz, and Coretta Scott King. The organization encouraged Black women to participate in the political process as voters, candidates, policymakers, fundraisers and role models. Today, the organization is known as the National Congress for Black Women. In 1992, Dr. Tucker succeeded Shirley Chisholm as the national chair of the National Congress of Black Women and served in that role until her death in 2005.

In 1991, Dr. Tucker founded the Be-thune-DuBois Institute to promote the cultural and educational development of African-American youth. During this time, Dr. Tucker began her public criticism of some kinds of rap music. She argued that record companies should halt the distribution of popular music that she believed contained derogatory lyrics about women and minorities and had a negative impact on young people. Objecting to the sale of such lyrics to minors, she asked the Federal Bureau of Investigation to launch an inquiry. Both the NAACP and the Congressional Black Caucus supported Dr. Tucker's initiative.

Dr. Tucker rose to national prominence in African-American civil rights circles through her tireless activism and political fundraising. She worked to end racism and make the United States a more equal, multicultural society. Her career in civil rights spanned more than 50 years. Her husband, Bill Tucker, told the Washington Post that DeLores "was one of the most fearless individuals I have ever known . . . She will take on anyone, anything, if that's what she thinks is right."

Dr. Tucker chaired the Black Caucus of her party's national committee for 11 years and spoke at five national conventions. As a member of the national committee, she was one of the original organizers of the Black Caucus and the Women's Caucus. She worked tirelessly to ensure that women, African-Americans and other minorities had fair representation within her party. She was the first African-American to serve as President of the National Federation of Democratic Women. Dr. Tucker also served as a member of the NAACP Board of Trustees and on the board of the Points of Light Foundation. She was also a member of Alpha Kappa Alpha Sorority.

During her career, Dr. Tucker received more than 400 awards and honors, including the NAACP Thurgood Marshall Award, the Martin Luther King, Jr. Distinguished Service Award and the Philadelphia Urban League Whitney Young Award.

C. DeLores Tucker passed away on October 12, 2005. Her legacy lives on through the work of her husband, Bill Tucker, her many nieces and nephews, and the hundreds of people she helped and mentored during her life.

DeLores Tucker was a daughter of Philadelphia, a city that has produced many notable leaders, in fields as diverse as the fine arts, politics, science, athletics, business, literature and entertainment. In December of 1939, Marcia Davenport wrote an article in Collier's magazine about the great internationally known contralto, Philadelphia's Marian Anderson. Davenport's article described Anderson as a young girl in south Philadelphia—whose father, John Anderson, died when she was ten—playing on an imaginary piano and singing despite the poverty her family lived in.

But in the heart of Anna Anderson, as she watched her child throbbing with music, there was a steadfast belief that for any worthy end, a way will come.

For DeLores Tucker, through hard work, a passion for advocacy, a strong faith and a loving family, a way did come. A way to stand up for the powerless; a way to overcome racism, prejudice, and hatred; a way to shine the bright warm light of justice and compassion in the dark corners of America. Yes, a way did come for DeLores Tucker to use her voice to sing her own hymn of equal rights and opportunity for all, especially women and African-Americans.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3315. Mr. SESSIONS (for himself and Mrs. McCASKILL) submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 3316. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 3317. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 3318. Mr. VITTER (for himself, Mr. BARRASSO, Mr. BOND, Mr. BUNNING, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mrs. HUTCHISON, Mr. INHOFE, Mr. RISCH, Mr. SESSIONS, Mr. CRAPO, Mr. BROWNBACK, Mr. WICKER, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 3319. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 3320. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, supra; which was ordered to lie on the table.

SA 3321. Mr. BROWN, of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 345, deploring the rape and assault of women in Guinea and the killing of political protesters.

SA 3322. Mr. BROWN, of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) pro-

posed an amendment to the resolution S. Res. 345, supra.

SA 3323. Mr. BROWN, of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 345, supra.

TEXT OF AMENDMENTS

SA 3315. Mr. SESSIONS (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 01. DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

"DISCRETIONARY SPENDING LIMITS

"SEC. 316. (a) DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

"(b) LIMITS.—In this section, the term 'discretionary spending limits' has the following meaning subject to adjustments in subsection (c):

"(1) For fiscal year 2011—

"(A) for the defense category (budget function 050), \$564,293,000,000 in budget authority; and

"(B) for the nondefense category, \$529,662,000,000 in budget authority.

"(2) For fiscal year 2012—

"(A) for the defense category (budget function 050), \$573,612,000,000 in budget authority; and

"(B) for the nondefense category, \$533,232,000,000 in budget authority.

"(3) For fiscal year 2013—

"(A) for the defense category (budget function 050), \$584,421,000,000 in budget authority; and

"(B) for the nondefense category, \$540,834,000,000 in budget authority.

"(4) For fiscal year 2014—

"(A) for the defense category (budget function 050), \$598,249,000,000 in budget authority; and

"(B) for the nondefense category, \$550,509,000,000 in budget authority.

"(5) With respect to fiscal years following 2014, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

"(c) ADJUSTMENTS.—

"(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

"(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

“(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

“(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

“(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

“(i) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;

“(ii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority;

“(iii) with respect to fiscal year 2013, \$50,000,000,000 in new budget authority; and

“(iv) with respect to fiscal year 2014, \$50,000,000,000 in new budget authority.

“(B) EMERGENCY SPENDING.—For fiscal year 2011, 2012, 2013, or 2014 for appropriations for discretionary accounts designated as emergency requirements, the adjustment for purposes of paragraph (1) shall be the total of such appropriations in discretionary accounts designated as emergency requirements, but not to exceed \$10,454,000,000 for 2011, \$10,558,000,000 for 2012, \$10,664,000,000 for 2013, and \$10,877,000,000 for 2014. Appropriations designated as emergencies in excess of these limitations shall be treated as new budget authority.

“(C) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, for fiscal year 2013, \$7,315,000,000, and for fiscal year 2014, \$7,461,000,000.

“(II) For fiscal year 2011, \$899,000,000, for fiscal year 2012, \$908,000,000, for fiscal year 2013, \$917,000,000, and for fiscal year 2014, \$935,000,000.

“(D) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

“(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

“(I) For fiscal year 2011, \$276,000,000; for fiscal year 2012, \$278,000,000; for fiscal year 2013, \$281,000,000; for fiscal year 2014, \$287,000,000.

“(II) For fiscal year 2011, \$490,000,000; for fiscal year 2012, \$495,000,000; for fiscal year 2013, \$500,000,000; for fiscal year 2014, \$510,000,000.

“(iii) ASSET VERIFICATION.—

“(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

“(II) AMOUNTS.—For fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, for fiscal year 2013, \$35,030,000 and for fiscal year 2014, \$35,731,000.

“(E) HEALTH CARE FRAUD AND ABUSE.—

“(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

“(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, for fiscal year 2013, \$320,000,000, and for fiscal year 2014, \$327,000,000.

“(F) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

“(i) with respect to fiscal year 2011, \$51,000,000 in new budget authority; and

“(ii) with respect to fiscal year 2012, \$51,000,000 in new budget authority.

“(iii) with respect to fiscal year 2013, \$52,000,000 in new budget authority; and

“(iv) with respect to fiscal year 2014, \$53,000,000 in new budget authority.

“(G) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

“(d) EMERGENCY SPENDING.—

“(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

“(2) EXEMPTION OF EMERGENCY PROVISIONS.—Subject to the limitations provided in subsection (c)(2)(B), any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), and section 311 of S. Con.

Res. 70 (110th Congress) (relating to long-term deficits).

“(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

“(4) DEFINITIONS.—In this subsection, the terms ‘direct spending’, ‘receipts’, and ‘appropriations for discretionary accounts’ mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

“(5) POINT OF ORDER.—

“(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

“(B) SUPERMAJORITY WAIVER AND APPEALS.—

“(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, 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 paragraph.

“(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

“(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

“(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

“(6) CRITERIA.—

“(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

“(i) necessary, essential, or vital (not merely useful or beneficial);

“(ii) sudden, quickly coming into being, and not building up over time;

“(iii) an urgent, pressing, and compelling need requiring immediate action;

“(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

“(v) not permanent, temporary in nature.

“(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

“(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

“(f) POINT OF ORDER IN THE SENATE.—

“(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

“(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

“(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

“(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, 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 section.

“(3) LIMITATIONS ON CHANGES TO THIS SUBSECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.”

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Discretionary spending limits.”

SA 3316. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE —SMALL BUSINESS LOANS

SEC. 01. SHORT TITLE.

This title may be cited as the “Small Business Job Creation and Access to Capital Act of 2010”.

Subtitle A—Next Steps for Main Street Credit Availability

SEC. 21. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking “75 percent” and inserting “90 percent”; and

(B) in clause (ii), by striking “85 percent” and inserting “90 percent”; and

(2) in paragraph (3)(A), by striking “\$1,500,000 (or if the gross loan amount would exceed \$2,000,000)” and inserting “\$4,500,000 (or if the gross loan amount would exceed \$5,000,000)”.

(b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking “90 percent” and inserting “75 percent”; and

(B) in clause (ii), by striking “90 percent” and inserting “85 percent”; and

(2) in paragraph (3)(A), by striking “\$4,500,000” and inserting “\$3,750,000”.

SEC. 22. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking “\$1,500,000” and inserting “\$5,000,000”; and

(2) in clause (ii), by striking “\$2,000,000” and inserting “\$5,000,000”; and

(3) in clause (iii), by striking “\$4,000,000” and inserting “\$5,500,000”; and

(4) in clause (iv), by striking “\$4,000,000” and inserting “\$5,500,000”; and

(5) in clause (v), by striking “\$4,000,000” and inserting “\$5,500,000”.

SEC. 23. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking “\$35,000” and inserting “\$50,000”; and

(2) in paragraph (3)—

(A) in subparagraph (C), by striking “\$3,500,000” and inserting “\$5,000,000”; and

(B) in subparagraph (E), by striking “\$35,000” each place that term appears and inserting “\$50,000”; and

(3) in paragraph (11)(B), by striking “\$35,000” and inserting “\$50,000”.

SEC. 24. TEMPORARY FEE REDUCTIONS.

Section 501 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking “September 30, 2010” each place that term appears and inserting “December 31, 2010”.

SEC. 25. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

“(e) INVESTMENT LIMITATIONS.—

“(1) DEFINITION.—In this subsection, the term ‘covered New Markets Venture Capital company’ means a New Markets Venture Capital company—

“(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

“(B) that has obtained a financing from the Administrator.

“(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

“(A) the regulatory capital of the covered New Markets Venture Capital company; and

“(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.”

SEC. 26. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

“(5) ALTERNATIVE SIZE STANDARD.—

“(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

“(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section

7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

“(i) the maximum tangible net worth of the applicant is not more than \$15,000,000; and

“(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than \$5,000,000.”

SEC. 27. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

“(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than \$500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of \$500,000 and 1 increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any loan in a pool to be not more than \$500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.”

SEC. 28. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

Subtitle B—Small Business Access to Capital

SEC. 42. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

“(C) REFINANCING NOT INVOLVING EXPANSIONS.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the term ‘borrower’ means a small business concern that submits an application to a development company for financing under this subparagraph; and

“(II) the term ‘eligible fixed asset’ means tangible property relating to which the Administrator may provide financing under this section; and

“(III) the term ‘qualified debt’ means indebtedness—

“(aa) that—

“(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph; and

“(BB) is a commercial loan; and

“(CC) is not subject to a guarantee by a Federal agency; and

“(DD) the proceeds of which were used to acquire an eligible fixed asset; and

“(EE) was incurred for the benefit of the small business concern; and

“(FF) is collateralized by eligible fixed assets; and

“(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

“(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

“(I) the amount of the financing is not more than 80 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets

serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

“(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

“(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

“(iii) FINANCING FOR BUSINESS EXPENSES.—

“(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

“(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

“(aa) a specific description of the expenses for which the additional financing is requested; and

“(bb) an itemization of the amount of each expense.

“(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

“(iv) LOANS BASED ON JOBS.—

“(I) JOB CREATION AND RETENTION GOALS.—

“(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

“(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by \$65,000.

“(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

“(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

“(bb) the product obtained by multiplying—

“(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

“(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

“(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

“(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of \$4,000,000,000 of financing under this subparagraph for each fiscal year.”.

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking “subparagraph (B) or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

SA 3317. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2847, making ap-

propriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ SMALL BUSINESS TECHNICAL ASSISTANCE.

(a) SMALL BUSINESS ACT.—Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following:

“(g) WAIVER OF NON-FEDERAL SHARE FOR TECHNICAL ASSISTANCE AND COUNSELING PROGRAMS.—Upon request, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under a technical assistance or counseling program under this Act (including the microloan program under section 7(m), the small business development center program under section 21, and the women’s business center program under section 29) if the Administrator determines—

“(1) the requestor is suffering extreme economic hardship; and

“(2) waiving the requirement to obtain non-Federal funds will not undermine the credibility of the program.”.

(b) SMALL BUSINESS INVESTMENT ACT OF 1958.—Title I of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) is amended by adding at the end the following:

“SEC. 104. WAIVER OF NON-FEDERAL SHARE FOR TECHNICAL ASSISTANCE AND COUNSELING PROGRAMS.

“Upon request, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under a technical assistance or counseling program under this Act if the Administrator determines—

“(1) the requestor is suffering extreme economic hardship; and

“(2) waiving the requirement to obtain non-Federal funds will not undermine the credibility of the program.”.

SA 3318. Mr. VITTER (for himself, Mr. BARRASSO, Mr. BOND, Mr. BUNNING, Mr. COBURN, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mrs. HUTCHINSON, Mr. INHOFE, Mr. RISCH, Mr. SESSIONS, Mr. CRAPO, Mr. BROWNBACK, Mr. WICKER, and Mr. THUNE) submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—NO COST STIMULUS

SEC. .01. SHORT TITLE.

This title may be cited as the “No Cost Stimulus Act of 2010”.

Subtitle A—Outer Continental Shelf Leasing

SEC. .11. LEASING PROGRAM CONSIDERED APPROVED.

(a) IN GENERAL.—The Draft Proposed Outer Continental Shelf Oil and Gas Leasing Program 2010–2015 issued by the Secretary of the Interior (referred to in this section as the “Secretary”) under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is considered to have been approved by the Secretary as a final oil and gas leasing program under that section.

(b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—The Secretary is considered to have

issued a final environmental impact statement for the program described in subsection (a) in accordance with all requirements under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. .12. LEASE SALES.

(a) OUTER CONTINENTAL SHELF.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 30 days after the date of enactment of this Act and every 270 days thereafter, the Secretary of the Interior (referred to in this section as the “Secretary”) shall conduct a lease sale in each outer Continental Shelf planning area for which the Secretary determines that there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf.

(2) SUBSEQUENT DETERMINATIONS AND SALES.—If the Secretary determines that there is not a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in a planning area under this subsection, not later than 2 years after the date of enactment of the determination and every 2 years thereafter, the Secretary shall—

(A) determine whether there is a commercial interest in purchasing Federal oil and gas leases for production on the outer Continental Shelf in the planning area; and

(B) if the Secretary determines that there is a commercial interest described in subparagraph (A), conduct a lease sale in the planning area.

(b) RENEWABLE ENERGY AND MARICULTURE.—The Secretary may conduct commercial lease sales of resources owned by United States—

(1) to produce renewable energy (as defined in section 203(b) of the Energy Policy Act of 2005 (42 U.S.C. 15852(b))); or

(2) to cultivate marine organisms in the natural habitat of the organisms.

SEC. .13. COASTAL IMPACT ASSISTANCE PROGRAM AMENDMENTS.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended—

(1) in subsection (c), by adding at the end the following:

“(5) APPLICATION REQUIREMENTS; AVAILABILITY OF FUNDING.—On approval of a plan by the Secretary under this section, the producing State shall—

“(A) not be subject to any additional application or other requirements (other than notifying the Secretary of which projects are being carried out under the plan) to receive the payments; and

“(B) be immediately eligible to receive payments under this section.”; and

(2) by adding at the end the following:

“(e) FUNDING.—

“(1) STREAMLINING.—

“(A) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Secretary of the Interior (acting through the Director of the Minerals Management Service) (referred to in this subsection as the ‘Secretary’) shall develop a plan that addresses streamlining the process by which payments are made under this section, including recommendations for—

“(i) decreasing the time required to approve plans submitted under subsection (c)(1);

“(ii) ensuring that allocations to producing States under subsection (b) are adequately funded; and

“(iii) any modifications to the authorized uses for payments under subsection (d).

“(B) CLEAN WATER.—Not later than 180 days after the date of enactment of this subsection, the Secretary and the Administrator of the Environmental Protection Agency shall jointly develop procedures for streamlining the permit process required under the

Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) and State laws for restoration projects that are included in an approved plan under subsection (c).

“(C) ENVIRONMENTAL REQUIREMENTS.—A project funded under this section that does not involve wetlands shall not be subject to environmental review requirements under Federal law.

“(2) COST-SHARING REQUIREMENTS.—Any amounts made available to producing States under this section may be used to meet the cost-sharing requirements of other Federal grant programs, including grant programs that support coastal wetland protection and restoration.

“(3) EXPEDITED FUNDING.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop a procedure to provide expedited funding to projects under this section based on estimated revenues to ensure that the projects may—

“(A) secure additional funds from other sources; and

“(B) use the amounts made available under this section on receipt.”.

SEC. 14. SEAWARD BOUNDARIES OF STATES.

(a) SEAWARD BOUNDARIES.—Section 4 of the Submerged Lands Act (43 U.S.C. 1312) is amended by striking “three geographical miles” each place it appears and inserting “12 nautical miles”.

(b) CONFORMING AMENDMENTS.—Section 2 of the Submerged Lands Act (43 U.S.C. 1301) is amended—

(1) in subsection (a)(2), by striking “three geographical miles” and inserting “12 nautical miles”; and

(2) in subsection (b)—

(A) by striking “three geographical miles” and inserting “12 nautical miles”; and

(B) by striking “three marine leagues” and inserting “12 nautical miles”.

(c) EFFECT OF AMENDMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the amendments made by this section shall not effect Federal oil and gas mineral rights.

(2) SUBMERGED LAND.—Submerged land within the seaward boundaries of States shall be—

(A) subject to Federal oil and gas mineral rights to the extent provided by law;

(B) considered to be part of the Federal outer Continental Shelf for purposes of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(C) subject to leasing under the authority of that Act and to laws applicable to the leasing of the oil and gas resources of the Federal outer Continental Shelf.

(3) EXISTING LEASES.—The amendments made by this section shall not affect any Federal oil and gas lease in effect on the date of enactment of this Act.

(4) TAXATION.—

(A) IN GENERAL.—Subject to subparagraph (B), a State may exercise all of the sovereign powers of taxation of the State within the entire extent of the seaward boundaries of the State (as extended by the amendments made by this section).

(B) LIMITATION.—Nothing in this paragraph affects the authority of a State to tax any Federal oil and gas lease in effect on the date of enactment of this Act.

Subtitle B—Leasing Program for Land Within Coastal Plain

SEC. 21. DEFINITIONS.

In this subtitle:

(1) COASTAL PLAIN.—The term “Coastal Plain” means that area identified as the “1002 Coastal Plain Area” on the map.

(2) FEDERAL AGREEMENT.—The term “Federal Agreement” means the Federal Agreement and Grant Right-of-Way for the Trans-

Alaska Pipeline issued on January 23, 1974, in accordance with section 28 of the Mineral Leasing Act (30 U.S.C. 185) and the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(3) FINAL STATEMENT.—The term “Final Statement” means the final legislative environmental impact statement on the Coastal Plain, dated April 1987, and prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3142) and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(4) MAP.—The term “map” means the map entitled “Arctic National Wildlife Refuge”, dated September 2005, and prepared by the United States Geological Survey.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior (or the designee of the Secretary), acting through the Director of the Bureau of Land Management, in consultation with the Director of the United States Fish and Wildlife Service.

SEC. 22. LEASING PROGRAM FOR LAND WITHIN THE COASTAL PLAIN.

(a) IN GENERAL.—The Secretary shall take such actions as are necessary—

(1) to establish and implement, in accordance with this subtitle, a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain; and

(2) to administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that—

(A) ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, subsistence resources, and the environment; and

(B) require the application of the best commercially available technology for oil and gas exploration, development, and production to all exploration, development, and production operations under this subtitle in a manner that ensures the receipt of fair market value by the public for the mineral resources to be leased.

(b) REPEAL.—

(1) REPEAL.—Section 1003 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3143) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents contained in section 1 of that Act (16 U.S.C. 3101 note) is amended by striking the item relating to section 1003.

(3) COMPLIANCE WITH NEPA FOR OTHER ACTIONS.—

(A) IN GENERAL.—Before conducting the first lease sale under this subtitle, the Secretary shall prepare an environmental impact statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to the actions authorized by this subtitle that are not referred to in paragraph (2).

(B) IDENTIFICATION AND ANALYSIS.—Notwithstanding any other provision of law, in carrying out this paragraph, the Secretary shall not be required—

(i) to identify nonleasing alternative courses of action; or

(ii) to analyze the environmental effects of those courses of action.

(C) IDENTIFICATION OF PREFERRED ACTION.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(i) identify only a preferred action and a single leasing alternative for the first lease sale authorized under this subtitle; and

(ii) analyze the environmental effects and potential mitigation measures for those 2 alternatives.

(D) PUBLIC COMMENTS.—In carrying out this paragraph, the Secretary shall consider only public comments that are filed not later than 20 days after the date of publication of a draft environmental impact statement.

(E) EFFECT OF COMPLIANCE.—Notwithstanding any other provision of law, compliance with this paragraph shall be considered to satisfy all requirements for the analysis and consideration of the environmental effects of proposed leasing under this subtitle.

(c) RELATIONSHIP TO STATE AND LOCAL AUTHORITY.—Nothing in this subtitle expands or limits any State or local regulatory authority.

(d) SPECIAL AREAS.—

(1) DESIGNATION.—

(A) IN GENERAL.—The Secretary, after consultation with the State of Alaska, the North Slope Borough, Alaska, and the City of Kaktovik, Alaska, may designate not more than 45,000 acres of the Coastal Plain as a special area if the Secretary determines that the special area would be of such unique character and interest as to require special management and regulatory protection.

(B) SADLEROCHIT SPRING AREA.—The Secretary shall designate as a special area in accordance with subparagraph (A) the Sadlerochit Spring area, comprising approximately 4,000 acres as depicted on the map.

(2) MANAGEMENT.—The Secretary shall manage each special area designated under this subsection in a manner that preserves the unique and diverse character of the area, including fish, wildlife, subsistence resources, and cultural values of the area.

(3) EXCLUSION FROM LEASING OR SURFACE OCCUPANCY.—

(A) IN GENERAL.—The Secretary may exclude any special area designated under this subsection from leasing.

(B) NO SURFACE OCCUPANCY.—If the Secretary leases all or a portion of a special area for the purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the land comprising the special area.

(4) DIRECTIONAL DRILLING.—Notwithstanding any other provision of this subsection, the Secretary may lease all or a portion of a special area under terms that permit the use of horizontal drilling technology from sites on leases located outside the special area.

(e) LIMITATION ON CLOSED AREAS.—The Secretary may not close land within the Coastal Plain to oil and gas leasing or to exploration, development, or production except in accordance with this subtitle.

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than 15 months after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to carry out this subtitle, including rules and regulations relating to protection of the fish and wildlife, fish and wildlife habitat, subsistence resources, and environment of the Coastal Plain.

(2) REVISION OF REGULATIONS.—The Secretary shall periodically review and, as appropriate, revise the rules and regulations issued under paragraph (1) to reflect any significant biological, environmental, scientific or engineering data that come to the attention of the Secretary.

SEC. 23. LEASE SALES.

(a) IN GENERAL.—Land may be leased pursuant to this subtitle to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act (30 U.S.C. 181 et seq.).

(b) PROCEDURES.—The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal

Plain for inclusion in, or exclusion (as provided in subsection (c)) from, a lease sale;

(2) the holding of lease sales after that nomination process; and

(3) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale.

(c) **LEASE SALE BIDS.**—Bidding for leases under this subtitle shall be by sealed competitive cash bonus bids.

(d) **ACREAGE MINIMUM IN FIRST SALE.**—For the first lease sale under this subtitle, the Secretary shall offer for lease those tracts the Secretary considers to have the greatest potential for the discovery of hydrocarbons, taking into consideration nominations received pursuant to subsection (b)(1), but in no case less than 200,000 acres.

(e) **TIMING OF LEASE SALES.**—The Secretary shall—

(1) not later than 22 months after the date of enactment of this Act, conduct the first lease sale under this subtitle;

(2) not later than 90 days after the date of the completion of the sale, evaluate the bids in the sale and issue leases resulting from the sale; and

(3) conduct additional sales at appropriate intervals if sufficient interest in exploration or development exists to warrant the conduct of the additional sales.

SEC. 24. GRANT OF LEASES BY THE SECRETARY.

(a) **IN GENERAL.**—On payment by a lessee of such bonus as may be accepted by the Secretary, the Secretary may grant to the highest responsible qualified bidder in a lease sale conducted pursuant to section 23 a lease for any land on the Coastal Plain.

(b) **SUBSEQUENT TRANSFERS.**—

(1) **IN GENERAL.**—No lease issued under this subtitle may be sold, exchanged, assigned, sublet, or otherwise transferred except with the approval of the Secretary.

(2) **CONDITION FOR APPROVAL.**—Before granting any approval described in paragraph (1), the Secretary shall consult with and give due consideration to the opinion of the Attorney General.

SEC. 25. LEASE TERMS AND CONDITIONS.

An oil or gas lease issued pursuant to this subtitle shall—

(1) provide for the payment of a royalty of not less than 12½ percent of the amount or value of the production removed or sold from the lease, as determined by the Secretary in accordance with regulations applicable to other Federal oil and gas leases;

(2) provide that the Secretary may close, on a seasonal basis, such portions of the Coastal Plain to exploratory drilling activities as are necessary to protect caribou calving areas and other species of fish and wildlife;

(3) require that each lessee of land within the Coastal Plain shall be fully responsible and liable for the reclamation of land within the Coastal Plain and any other Federal land that is adversely affected in connection with exploration, development, production, or transportation activities within the Coastal Plain conducted by the lessee or by any of the subcontractors or agents of the lessee;

(4) provide that the lessee may not delegate or convey, by contract or otherwise, that reclamation responsibility and liability to another person without the express written approval of the Secretary;

(5) provide that the standard of reclamation for land required to be reclaimed under this subtitle shall be, to the maximum extent practicable—

(A) a condition capable of supporting the uses that the land was capable of supporting prior to any exploration, development, or production activities; or

(B) on application by the lessee, to a higher or better standard, as approved by the Secretary;

(6) contain terms and conditions relating to protection of fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment as required under section 22(a)(2);

(7) provide that each lessee, and each agent and contractor of a lessee, use their best efforts to provide a fair share of employment and contracting for Alaska Natives and Alaska Native Corporations from throughout the State of Alaska, as determined by the level of obligation previously agreed to in the Federal Agreement; and

(8) contain such other provisions as the Secretary determines to be necessary to ensure compliance with this subtitle and the regulations promulgated under this subtitle.

SEC. 26. COASTAL PLAIN ENVIRONMENTAL PROTECTION.

(a) **NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.**—In accordance with section 22, the Secretary shall administer this subtitle through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other provisions that—

(1) ensure, to the maximum extent practicable, that oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment;

(2) require the application of the best commercially available technology for oil and gas exploration, development, and production on all new exploration, development, and production operations; and

(3) ensure that the maximum surface acreage covered in connection with the leasing program by production and support facilities, including airstrips and any areas covered by gravel berms or piers for support of pipelines, does not exceed 2,000 acres on the Coastal Plain.

(b) **SITE-SPECIFIC ASSESSMENT AND MITIGATION.**—The Secretary shall require, with respect to any proposed drilling and related activities on the Coastal Plain, that—

(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, fish and wildlife habitat, subsistence resources, subsistence uses, and the environment;

(2) a plan be implemented to avoid, minimize, and mitigate (in that order and to the maximum extent practicable) any significant adverse effect identified under paragraph (1); and

(3) the development of the plan shall occur after consultation with the 1 or more agencies having jurisdiction over matters mitigated by the plan.

(c) **REGULATIONS TO PROTECT COASTAL PLAIN FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS, AND THE ENVIRONMENT.**—Before implementing the leasing program authorized by this subtitle, the Secretary shall prepare and issue regulations, lease terms, conditions, restrictions, prohibitions, stipulations, or other measures designed to ensure, to the maximum extent practicable, that the activities carried out on the Coastal Plain under this subtitle are conducted in a manner consistent with the purposes and environmental requirements of this subtitle.

(d) **COMPLIANCE WITH FEDERAL AND STATE ENVIRONMENTAL LAWS AND OTHER REQUIREMENTS.**—The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program under this subtitle shall require—

(1) compliance with all applicable provisions of Federal and State environmental law (including regulations);

(2) implementation of and compliance with—

(A) standards that are at least as effective as the safety and environmental mitigation measures, as described in items 1 through 29 on pages 167 through 169 of the Final Statement, on the Coastal Plain;

(B) seasonal limitations on exploration, development, and related activities, as necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning, and migration;

(C) design safety and construction standards for all pipelines and any access and service roads that minimize, to the maximum extent practicable, adverse effects on—

(i) the passage of migratory species (such as caribou); and

(ii) the flow of surface water by requiring the use of culverts, bridges, or other structural devices;

(D) prohibitions on general public access to, and use of, all pipeline access and service roads;

(E) stringent reclamation and rehabilitation requirements in accordance with this subtitle for the removal from the Coastal Plain of all oil and gas development and production facilities, structures, and equipment on completion of oil and gas production operations, except in a case in which the Secretary determines that those facilities, structures, or equipment—

(i) would assist in the management of the Arctic National Wildlife Refuge; and

(ii) are donated to the United States for that purpose;

(F) appropriate prohibitions or restrictions on—

(i) access by all modes of transportation;

(ii) sand and gravel extraction; and

(iii) use of explosives;

(G) reasonable stipulations for protection of cultural and archaeological resources;

(H) measures to protect groundwater and surface water, including—

(i) avoidance, to the maximum extent practicable, of springs, streams, and river systems;

(ii) the protection of natural surface drainage patterns and wetland and riparian habitats; and

(iii) the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling; and

(I) research, monitoring, and reporting requirements.

(3) that exploration activities (except surface geological studies) be limited to the period between approximately November 1 and May 1 of each year and be supported, if necessary, by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods (except that those exploration activities may be permitted at other times if the Secretary determines that the exploration will have no significant adverse effect on fish and wildlife, fish and wildlife habitat, and the environment of the Coastal Plain);

(4) consolidation of facility siting;

(5) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

(6) treatment and disposal of hazardous and toxic wastes, solid wastes, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, including, in accordance with applicable Federal and State environmental laws (including regulations)—

(A) preparation of an annual waste management report;

(B) development and implementation of a hazardous materials tracking system; and

(C) prohibition on the use of chlorinated solvents;

(7) fuel storage and oil spill contingency planning;

(8) conduct of periodic field crew environmental briefings;

(9) avoidance of significant adverse effects on subsistence hunting, fishing, and trapping;

(10) compliance with applicable air and water quality standards;

(11) appropriate seasonal and safety zone designations around well sites, within which subsistence hunting and trapping shall be limited; and

(12) development and implementation of such other protective environmental requirements, restrictions, terms, or conditions as the Secretary determines to be necessary.

(e) **CONSIDERATIONS.**—In preparing and issuing regulations, lease terms, conditions, restrictions, prohibitions, or stipulations under this section, the Secretary shall take into consideration—

(1) the stipulations and conditions that govern the National Petroleum Reserve-Alaska leasing program, as set forth in the 1999 Northeast National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement;

(2) the environmental protection standards that governed the initial Coastal Plain seismic exploration program under parts 37.31 through 37.33 of title 50, Code of Federal Regulations (or successor regulations); and

(3) the land use stipulations for exploratory drilling on the KIC-ASRC private land described in Appendix 2 of the agreement between Arctic Slope Regional Corporation and the United States dated August 9, 1983.

(f) **FACILITY CONSOLIDATION PLANNING.**—

(1) **IN GENERAL.**—After providing for public notice and comment, the Secretary shall prepare and periodically update a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of oil and gas resources from the Coastal Plain.

(2) **OBJECTIVES.**—The objectives of the plan shall be—

(A) the avoidance of unnecessary duplication of facilities and activities;

(B) the encouragement of consolidation of common facilities and activities;

(C) the location or confinement of facilities and activities to areas that will minimize impact on fish and wildlife, fish and wildlife habitat, subsistence resources, and the environment;

(D) the use of existing facilities, to the maximum extent practicable; and

(E) the enhancement of compatibility between wildlife values and development activities.

(g) **ACCESS TO PUBLIC LAND.**—The Secretary shall—

(1) manage public land in the Coastal Plain in accordance with subsections (a) and (b) of section 811 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3121); and

(2) ensure that local residents shall have reasonable access to public land in the Coastal Plain for traditional uses.

SEC. 27. EXPEDITED JUDICIAL REVIEW.

(a) **FILING OF COMPLAINTS.**—

(1) **DEADLINE.**—A complaint seeking judicial review of a provision of this subtitle or an action of the Secretary under this subtitle shall be filed—

(A) except as provided in subparagraph (B), during the 90-day period beginning on the date on which the action being challenged was carried out; or

(B) in the case of a complaint based solely on grounds arising after the 90-day period described in subparagraph (A), by not later than 90 days after the date on which the complainant knew or reasonably should have known about the grounds for the complaint.

(2) **VENUE.**—A complaint seeking judicial review of a provision of this subtitle or an

action of the Secretary under this subtitle shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(3) **SCOPE.**—

(A) **IN GENERAL.**—Judicial review of a decision of the Secretary relating to a lease sale under this subtitle (including an environmental analysis of such a lease sale) shall be—

(i) limited to a review of whether the decision is in accordance with this subtitle; and

(ii) based on the administrative record of the decision.

(B) **PRESUMPTIONS.**—Any identification by the Secretary of a preferred course of action relating to a lease sale, and any analysis by the Secretary of environmental effects, under this subtitle shall be presumed to be correct unless proven otherwise by clear and convincing evidence.

(b) **LIMITATION ON OTHER REVIEW.**—Any action of the Secretary that is subject to judicial review under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

SEC. 28. FEDERAL AND STATE DISTRIBUTION OF REVENUES.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from Federal oil and gas leasing and operations authorized under this subtitle for each fiscal year—

(1) 50 percent shall be paid to the State of Alaska; and

(2) except as provided in section 31(d), the balance shall be—

(A) used to offset the provisions of this title; and

(B) after making the offsets under subparagraph (A), transferred to the ANWR Alternative Energy Trust Fund established by section 32.

(b) **PAYMENTS TO ALASKA.**—Payments to the State of Alaska under this section shall be made semiannually.

SEC. 29. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.

(a) **IN GENERAL.**—The Secretary shall issue rights-of-way and easements across the Coastal Plain for the transportation of oil and gas—

(1) except as provided in paragraph (2), under section 28 of the Mineral Leasing Act (30 U.S.C. 185), without regard to title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.); and

(2) under title XI of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3161 et seq.), for access authorized by sections 1110 and 1111 of that Act (16 U.S.C. 3170, 3171).

(b) **TERMS AND CONDITIONS.**—The Secretary shall include in any right-of-way or easement issued under subsection (a) such terms and conditions as may be necessary to ensure that transportation of oil and gas does not result in a significant adverse effect on the fish and wildlife, subsistence resources, their habitat, and the environment of the Coastal Plain, including requirements that facilities be sited or designed so as to avoid unnecessary duplication of roads and pipelines.

(c) **REGULATIONS.**—The Secretary shall include in regulations under section 22(f) provisions granting rights-of-way and easements described in subsection (a).

SEC. 30. CONVEYANCE.

Notwithstanding section 1302(h)(2) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)(2)), to remove any cloud on title to land, and to clarify land ownership patterns in the Coastal Plain, the Secretary shall—

(1) to the extent necessary to fulfill the entitlement of the Kaktovik Inupiat Corpora-

tion under sections 12 and 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1613), as determined by the Secretary, convey to that Corporation the surface estate of the land described in paragraph (1) of Public Land Order 6959, in accordance with the terms and conditions of the agreement between the Secretary, the United States Fish and Wildlife Service, the Bureau of Land Management, and the Kaktovik Inupiat Corporation, dated January 22, 1993; and

(2) convey to the Arctic Slope Regional Corporation the remaining subsurface estate to which that Corporation is entitled under the agreement between that corporation and the United States, dated August 9, 1983.

SEC. 31. LOCAL GOVERNMENT IMPACT AID AND COMMUNITY SERVICE ASSISTANCE.

(a) **FINANCIAL ASSISTANCE AUTHORIZED.**—

(1) **IN GENERAL.**—The Secretary may use amounts available from the Coastal Plain Local Government Impact Aid Assistance Fund established by subsection (d) to provide timely financial assistance to entities that are eligible under paragraph (2).

(2) **ELIGIBLE ENTITIES.**—The North Slope Borough, the City of Kaktovik, and any other borough, municipal subdivision, village, or other community in the State of Alaska that is directly impacted by exploration for, or the production of, oil or gas on the Coastal Plain under this subtitle, as determined by the Secretary, shall be eligible for financial assistance under this section.

(b) **USE OF ASSISTANCE.**—Financial assistance under this section may be used only—

(1) to plan for mitigation, implement a mitigation plan, or maintain a mitigation project to address the potential effects of oil and gas exploration and development on environmental, social, cultural, recreational, and subsistence resources of the community;

(2) to develop, carry out, and maintain—

(A) a project to provide new or expanded public facilities; or

(B) services to address the needs and problems associated with the effects described in paragraph (1), including firefighting, police, water and waste treatment, first responder, and other medical services; and

(3) to establish a local coordination office, to be managed by the Mayor of the North Slope Borough, in coordination with the City of Kaktovik, Alaska—

(A) to coordinate with and advise developers on local conditions and the history of areas affected by development; and

(B) to provide to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annual reports on the status of the coordination between developers and communities affected by development.

(c) **APPLICATION.**—

(1) **IN GENERAL.**—Any community that is eligible for assistance under this section may submit an application for such assistance to the Secretary, in such form and under such procedures as the Secretary may prescribe by regulation.

(2) **NORTH SLOPE BOROUGH COMMUNITIES.**—A community located in the North Slope Borough may apply for assistance under this section either directly to the Secretary or through the North Slope Borough.

(3) **APPLICATION ASSISTANCE.**—The Secretary shall work closely with and assist the North Slope Borough and other communities eligible for assistance under this section in developing and submitting applications for assistance under this section.

(d) **ESTABLISHMENT OF FUND.**—

(1) **IN GENERAL.**—There is established in the Treasury the “Coastal Plain Local Government Impact Aid Assistance Fund” (referred to in this section as the “Fund”).

(2) **USE.**—Amounts in the Fund may be used only for providing financial assistance under this section.

(3) **DEPOSITS.**—Subject to paragraph (4), there shall be deposited into the Fund amounts received by the United States as revenues derived from rents, bonuses, and royalties from Federal leases and lease sales authorized under this subtitle.

(4) **LIMITATION ON DEPOSITS.**—The total amount in the Fund may not exceed \$11,000,000.

(5) **INVESTMENT OF BALANCES.**—The Secretary of the Treasury shall invest amounts in the Fund in interest bearing government securities.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary from the Fund to provide financial assistance under this section \$5,000,000 for each fiscal year.

SEC. 32. ANWR ALTERNATIVE ENERGY TRUST FUND.

(a) **ESTABLISHMENT OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the “ANWR Alternative Energy Trust Fund”, consisting of such amounts as may be transferred to the ANWR Alternative Energy Trust Fund as provided in section 28(a)(2).

(b) **EXPENDITURES FROM ANWR ALTERNATIVE ENERGY TRUST FUND.**—

(1) **IN GENERAL.**—Amounts in the ANWR Alternative Energy Trust Fund shall be available without further appropriation to carry out specified provisions of the Energy Policy Act of 2005 (Public Law 109-58; referred to in this section as “EPAct2005”) and the Energy Independence and Security Act of 2007 (Public Law 110-140; referred to in this section as “EISAct2007”) as follows:

The following percentage of annual receipts to the ANWR Alternative Energy Trust Fund, but not to exceed the limit on amount authorized, if any:

To carry out the provisions of:

| | |
|-----------------------------|---------------|
| EPAct2005: | |
| Section 210 | 1.5 percent |
| Section 242 | 1.0 percent |
| Section 369 | 2.0 percent |
| Section 401 | 6.0 percent |
| Section 812 | 6.0 percent |
| Section 931 | 19.0 percent |
| Section 942 | 1.5 percent |
| Section 962 | 3.0 percent |
| Section 968 | 1.5 percent |
| Section 1704 | 6.0 percent |
| EISAct2007: | |
| Section 207 | 15.0 percent |
| Section 607 | 1.5 percent |
| Title VI, Subtitle B | 3.0 percent |
| Title VI, Subtitle C | 1.5 percent |
| Section 641 | 9.0 percent |
| Title VII, Subtitle A | 10.0 percent |
| Section 1112 | 1.5 percent |
| Section 1304 | 11.0 percent. |

(2) **APPORTIONMENT OF EXCESS AMOUNT.**—Notwithstanding paragraph (1), any amounts allocated under paragraph (1) that are in excess of the amounts authorized in the applicable cited section or subtitle of EPAct2005 and EISAct2007 shall be reallocated to the remaining sections and subtitles cited in paragraph (1), up to the amounts otherwise authorized by law to carry out those sections and subtitles, in proportion to the amounts authorized by law to be appropriated for those other sections and subtitles.

Subtitle C—Regulatory Streamlining

SEC. 41. COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Subsection (e) of the Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005 (42 U.S.C. 15927(e)) is amended—

(1) in the first sentence, by striking “Not later” and inserting the following:

“(1) **IN GENERAL.**—Not later”;

(2) in the second sentence—

(A) by striking “If the Secretary” and inserting the following:

“(2) **LEASE SALES.**—

“(A) **IN GENERAL.**—If the Secretary”; and

(B) by striking “may” and inserting “shall”;

(3) in the last sentence, by striking “Evidence of interest” and inserting the following:

“(B) **EVIDENCE OF INTEREST.**—Evidence of interest”; and

(4) by adding at the end the following:

“(C) **SUBSEQUENT LEASE SALES.**—During any period for which the Secretary determines that there is sufficient support and interest in a State in the development of tar sands and oil shale resources, the Secretary shall—

“(i) at least annually, consult with the persons described in paragraph (1) to expedite the commercial leasing program for oil shale resources on public land in the State; and

“(ii) at least once every 270 days, conduct a lease sale in the State under the commercial leasing program regulations.”.

SEC. 42. LICENSING OF NEW NUCLEAR POWER PLANTS.

(a) **CONSTRUCTION PERMITS AND OPERATING LICENSES.**—Section 185 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2235(b)) is amended in the first sentence by striking “holding a public hearing” and inserting “any public hearing held”.

(b) **HEARINGS AND JUDICIAL REVIEW.**—Section 189 a.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)(A)) is amended—

(1) by striking the second sentence; and

(2) in the third sentence—

(A) by striking “In cases” and all that follows through “hearing, The” and inserting “The”; and

(B) by striking “an operating license” and inserting “a construction permit, an operating license”.

SEC. 43. JURISDICTION OVER COVERED ENERGY PROJECTS.

(a) **DEFINITION OF COVERED ENERGY PROJECT.**—In this section, the term “covered energy project” means any action or decision by a Federal official regarding—

(1) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(2) any action under such a lease, except that this section and Act shall not apply to a dispute between the parties to a lease entered into a provision of law authorizing the lease regarding obligations under the lease or the alleged breach of the lease.

(b) **EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.**—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this section or any other Act that arise from any covered energy project.

(c) **TIME FOR FILING COMPLAINT.**—

(1) **IN GENERAL.**—Each case or claim described in subsection (b) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by a Federal official that constitutes the covered energy project concerned.

(2) **PROHIBITION.**—Any cause or claim described in subsection (b) that is not filed within the time period described in paragraph (1) shall be barred.

(d) **DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.**—

(1) **IN GENERAL.**—Each proceeding that is subject to subsection (b) shall—

(A) be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(B) take precedence over all other pending matters before the district court.

(2) **FAILURE TO COMPLY WITH DEADLINE.**—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this section, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(e) **ABILITY TO SEEK APPELLATE REVIEW.**—An interlocutory or final judgment, decree, or order of the district court under this section may be reviewed by no other court except the Supreme Court.

(f) **DEADLINE FOR APPEAL TO THE SUPREME COURT.**—If a writ of certiorari has been granted by the Supreme Court pursuant to subsection (e), the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued.

SEC. 44. ENVIRONMENTAL IMPACT STATEMENTS.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end the following: “**SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL IMPACT STATEMENTS.**

“(a) **COMPLETION.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of law, each review carried out under section 102(2)(C) with respect to any action taken under any provision of law, or for which funds are made available under any provision of law, shall be completed not later than the date that is 270 days after the commencement of the review.

“(2) **FAILURE TO COMPLETE REVIEW.**—If a review described in paragraph (1) has not been completed for an action subject to section 102(2)(C) by the date specified in paragraph (1)—

“(A) the action shall be considered to have no significant impact described in section 102(2)(C); and

“(B) that classification shall be considered to be a final agency action.

“(b) **LEAD AGENCY.**—The lead agency for a review of an action under this section shall be the Federal agency to which funds are made available for the action.

“(c) **REVIEW.**—

“(1) **ADMINISTRATIVE APPEALS.**—There shall be a single administrative appeal for each review carried out pursuant to section 102(2)(C).

“(2) **JUDICIAL REVIEW.**—

“(A) **IN GENERAL.**—On resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

“(B) **ADMINISTRATIVE RECORD.**—An appeal to the court described in subparagraph (A) shall be based only on the administrative record.

“(C) **PENDENCY OF JUDICIAL REVIEW.**—After an agency has made a final decision with respect to a review carried out under this subsection, the decision shall be effective during the course of any subsequent appeal to a court described in subparagraph (A).

“(3) **CIVIL ACTION.**—Each civil action covered by this section shall be considered to arise under the laws of the United States.”.

SEC. 45. CLEAN AIR REGULATION.

(a) **REGULATION OF GREENHOUSE GASES.**—Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended—

(1) by striking “(g) The term” and inserting the following:

“(g) AIR POLLUTANT.—

“(1) IN GENERAL.—The term”;

(2) by striking “Such term” and inserting the following:

“(2) INCLUSIONS.—The term ‘air pollutant’”; and

(3) by adding at the end the following:

“(3) EXCLUSIONS.—The term ‘air pollutant’ does not include carbon dioxide, methane from agriculture or livestock, or water vapor.”.

(b) EMISSION WAIVERS.—The Administrator of the Environmental Protection Agency shall not grant to any State any waiver of Federal preemption of motor vehicle standards under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)) for preemption under that Act for any regulation of the State to control greenhouse gas emissions from motor vehicles.

SEC. 46. ENDANGERED SPECIES.

(a) EMERGENCIES.—Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following:

“(k) EMERGENCIES.—On the declaration of an emergency by the Governor of a State, the Secretary shall, for the duration of the emergency, temporarily exempt from the prohibition against taking, and the prohibition against the adverse modification of critical habitat, under this Act any action that is reasonably necessary to avoid or ameliorate the impact of the emergency, including the operation of any water supply or flood control project by a Federal agency.”.

(b) PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.—

(1) IN GENERAL.—The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end the following:

“SEC. 19. PROHIBITION OF CONSIDERATION OF IMPACT OF GREENHOUSE GAS.

“(a) DEFINITION OF GREENHOUSE.—In this section, the term ‘greenhouse gas’ means any of—

“(1) carbon dioxide;

“(2) methane;

“(3) nitrous oxide;

“(4) sulfur hexafluoride;

“(5) a hydrofluorocarbon;

“(6) a perfluorocarbon; or

“(7) any other anthropogenic gas designated by the Secretary for purposes of this section.

“(b) IMPACT OF GREENHOUSE GAS.—The impact of greenhouse gas on any species of fish or wildlife or plant shall not be considered for any purpose in the implementation of this Act.”.

(2) CONFORMING AMENDMENT.—The table of contents in the first section of the Endangered Species Act of 1973 (16 U.S.C. prec. 1531) is amended by adding at the end the following:

“Sec. 18. Annual cost analysis by the Fish and Wildlife Service.

“Sec. 19. Prohibition of consideration of impact of greenhouse gas.”.

SA 3319. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle B of title V and insert the following:

Subtitle B—Transfer of Stimulus Funds

SEC. 551. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub.

Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

TITLE VI—BUSINESS RELIEF

Subtitle A—General Provisions

SEC. 601. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) NONAPPLICATION OF AMENDMENTS.—The amendments made by section 201 of this Act shall not apply.

(b) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking “\$25,000” and all that follows in paragraph (1) and inserting “\$500,000.”;

(2) by striking “\$200,000” and all that follows in paragraph (2) and inserting “\$2,000,000.”;

(3) by striking “after 2007 and before 2011, the \$120,000 and \$500,000” in paragraph (5)(A) and inserting “after 2009, the \$500,000 and the \$2,000,000.”;

(4) by striking “2006” in paragraph (5)(A)(ii) and inserting “2008”, and

(5) by striking paragraph (7).

(c) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “and before 2011”.

(d) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. 602. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking “January 1, 2011” in subparagraph (A)(iv) and inserting “January 1, 2012”, and

(2) by striking “January 1, 2010” each place it appears and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking “JANUARY 1, 2010” and inserting “JANUARY 1, 2011”.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking “PRE-JANUARY 1, 2010” and inserting “PRE-JANUARY 1, 2011”.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

“(iv) ‘January 1, 2011’ shall be substituted for ‘January 1, 2012’ in subparagraph (A)(iv) thereof, and

“(v) ‘January 1, 2010’ shall be substituted for ‘January 1, 2011’ each place it appears in subparagraph (A) thereof.”.

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 603. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

“(a) EXCLUSION.—

“(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

“(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

“(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

“(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the Hiring Incentives to Restore Employment Act, and

“(C) 100 percent, in the case of stock issued after the date of the enactment of the Hiring Incentives to Restore Employment Act.

“(3) EMPOWERMENT ZONE BUSINESSES.—

“(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (2)(A) shall be applied by substituting ‘60 percent’ for ‘50 percent’.

“(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

“(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

“(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.”.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking “PARTIAL”.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking “Partial exclusion” and inserting “Exclusion”.

(C) Section 1223(13) is amended by striking “1202(a)(2).”.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: “The preceding sentence shall not apply to stock issued after the date of the enactment of the Hiring Incentives to Restore Employment Act.”.

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking “\$10,000,000” and inserting “\$15,000,000”.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking “paragraph (1)(A) shall be applied by substituting ‘\$5,000,000’ for ‘\$10,000,000’” and inserting “the amount under paragraph (1)(A) shall be half of the amount otherwise in effect”.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking “\$50,000,000” each place it appears and inserting “\$75,000,000”.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the \$15,000,000 amount in subsection (b)(1)(A), the \$75,000,000 amount in subsection (d)(1)(A), and the \$75,000,000 amount in subsection (d)(1)(B)

shall each be increased by an amount equal to—

“(A) such dollar amount, multiplied by
“(B) the cost of living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$1,000,000 such amount shall be rounded to the next lowest multiple of \$1,000,000.”.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 604. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

“(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

“(A) 9 percent of the lesser of—
“(i) the qualified production activities income of the taxpayer for the taxable year, or
“(ii) taxable income (determined without regard to this section) for the taxable year, and

“(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

“(i) the eligible small business income of the taxpayer for the taxable year, or
“(ii) taxable income (determined without regard to this section) for the taxable year.”.

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

“(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

“(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term ‘eligible small business’ means, with respect to any taxable year—

“(A) a corporation the stock of which is not publicly traded, or
“(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting ‘\$50,000,000’ for ‘\$5,000,000’ each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

“(2) ELIGIBLE SMALL BUSINESS INCOME.—

“(A) IN GENERAL.—For purposes of this section, the term ‘eligible small business income’ means the excess of—

“(i) the income of the eligible small business which—

“(I) is attributable to the actual conduct of a trade or business,

“(II) is income from sources within the United States (within the meaning of section 861), and

“(III) is not passive income (as defined in section 904(d)(2)(B)), over

“(ii) the sum of—

“(I) the cost of goods sold that are allocable to such income, and

“(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

“(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

“(i) Any income which is attributable to any property described in section 1400N(p)(3).

“(ii) Any income which is attributable to the ownership or management of any professional sports team.

“(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

“(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

“(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

“(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.”.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking “paragraph (1)” and inserting “paragraph (1)(A)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 605. NONAPPLICATION OF CERTAIN LABOR STANDARDS.

Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 shall not apply to any specified tax credit bond described in section 6431(f)(2)(A) of the Internal Revenue Code of 1986 (as added by section 301 of this Act).

SEC. 606. E-VERIFY PROGRAM PARTICIPATION REQUIREMENT FOR EMPLOYERS RECEIVING PAYROLL TAX FORGIVENESS.

(a) IN GENERAL.—Paragraph (2) of section 3111(d), as added by section 101, is amended by adding at the end the following new subparagraph:

“(C) E-VERIFY PROGRAM REQUIREMENT.—The term ‘qualified employer’ shall not include any employer that does not participate in the E-Verify Program carried out under subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as of the hiring date of any qualified individual.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in section 101 of this Act.

Subtitle B—Pension Funding Relief

PART I—SINGLE EMPLOYER PLANS

SEC. 611. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

“(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

“(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

“(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

“(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the 9-plan-year or 15-plan-year period, whichever is applicable, with respect to an election year under paragraph (2)(D), then the shortfall amortization

installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

“(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

“(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

“(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—Any amount includible in income with respect to the granting on or after February 4, 2010, of an equity interest described in subclause (II) shall not be taken into account under clause (i)(I), but only if all portions of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date which is 5 years after the date on which such interest is granted.

“(II) EQUITY INTERESTS.—An equity interest is described in this subclause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value on the date of the grant.

“(III) SUBSTANTIAL RISK OF FORFEITURE.—The term ‘substantial risk of forfeiture’ has the meaning given such term by section 83(c)(1) of the Internal Revenue Code of 1986.

“(IV) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is repaid. This subclause shall not apply to bonus payments payable under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds \$100,000.

“(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term ‘employee’ in-

cludes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term ‘compensation’ shall include earned income of such individual with respect to such self-employment.

“(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of \$1,000, such increase shall be rounded to the next lowest multiple of \$1,000.

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the sum of—

“(I) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4043(c)(11), plus

“(II) if the plan sponsor redeems, in any 12-month period ending during the plan year, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i)—

“(I) dividends shall be taken into account only if declared after February 4, 2010, and

“(II) if clause (i)(II) otherwise applies for any plan year (determined without regard to this subclause), only the fair market value of redemptions occurring after February 4, 2010, shall be taken into account in determining the amount under such clause for the plan year.

“(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—An extraordinary dividend paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i)(I).

“(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

“(i) BONUS PAYMENT.—The term ‘bonus payment’ means any payment which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate. Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986), welfare and fringe benefits, overtime pay, or expense reimbursements. The Secretary of the Treasury may recharacterize a payment that is a disguised bonus as a bonus payment for purposes of this paragraph.

“(ii) PLAN SPONSOR.—The term ‘plan sponsor’ includes any member of the plan sponsor’s controlled group (as defined in section 302(d)(3)).

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of

each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

“(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).”

(3) CONFORMING AMENDMENTS.—Section 303 of such Act (29 U.S.C. 1083) is amended—

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

(B) in subsection (j)(3), by adding at the end the following:

“(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).”

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

“(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

“(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

“(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

“(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the 9-plan-year or 15-plan-year period, whichever is applicable, with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

“(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

“(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

“(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under sub-

paragraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration

shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—Any amount includible in income with respect to the granting on or after February 4, 2010, of an equity interest described in subclause (II) shall not be taken into account under clause (i)(I), but only if all portions of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date which is 5 years after the date on which such interest is granted.

“(II) EQUITY INTERESTS.—An equity interest is described in this subclause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value on the date of the grant.

“(III) SUBSTANTIAL RISK OF FORFEITURE.—The term ‘substantial risk of forfeiture’ has the meaning given such term by section 83(c)(1).

“(IV) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is repaid. This subclause shall not apply to bonus payments payable under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds \$100,000.

“(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term ‘employee’ includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term ‘compensation’ shall include earned income of such individual with respect to such self-employment.

“(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of \$1,000, such increase shall be rounded to the next lowest multiple of \$1,000.

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the sum of—

“(I) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4043(c)(11) of the Employee Retirement Income Security Act of 1974, plus

“(II) if the plan sponsor redeems, in any 12-month period ending during the plan year, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares

of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i)—

“(I) dividends shall be taken into account only if declared after February 4, 2010, and

“(II) if clause (i)(II) otherwise applies for any plan year (determined without regard to this subclause), only the fair market value of redemptions occurring after February 4, 2010, shall be taken into account in determining the amount under such clause for the plan year.

“(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—An extraordinary dividend paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i)(I).

“(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

“(i) BONUS PAYMENT.—The term ‘bonus payment’ means any payment which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate. Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. The Secretary may recharacterize a payment that is a disguised bonus as a bonus payment for purposes of this paragraph.

“(ii) PLAN SPONSOR.—The term ‘plan sponsor’ includes any member of the plan sponsor’s controlled group (as defined in section 412(d)(3)).

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan’s relative reduction in the plan’s shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

“(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).”

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

(B) in subsection (j)(3), by adding at the end the following:

“(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 612. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) IN GENERAL.—Title I of the Pension Protection Act of 2006 is amended by redesignating section 107 as section 108 and by inserting the following after section 106:

“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

“(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an ‘election year’), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to ‘such Act’ or ‘such Code’ shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

“(b) APPLICATION OF 2 AND 7 RULE.—In the case of an election year to which this subsection applies—

“(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

“(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

“(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

“(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

“(c) APPLICATION OF 15-YEAR AMORTIZATION.—In the case of an election year to which this subsection applies, for purposes of applying section 302(d) of such Act and section 412(l) of such Code—

“(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

“(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, to

“(B) the increased unfunded new liability for such plan year, and

“(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

“(d) ELECTION.—

“(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

“(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects

to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

“(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

“(e) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

“(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term ‘pre-effective date plan year’ means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

“(3) INCREASED UNFUNDED NEW LIABILITY.—The term ‘increased unfunded new liability’ means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan’s assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

“(4) OTHER DEFINITIONS.—The terms ‘unfunded new liability’ and ‘current liability’ shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.”

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking “eligible cooperative plan” wherever it appears in subsections (a) and (b) and inserting “eligible cooperative plan or an eligible charity plan”, and

(2) by adding at the end the following new subsection:

“(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 613. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

“(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

“(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

“(I) such percentage, as determined without regard to this subparagraph, or

“(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

“(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

“(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

“(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

“(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term ‘applicable provision’ means—

“(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(II) paragraph (4).”

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

“(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

“(i) such percentage, as determined without regard to this paragraph, or

“(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

“(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

“(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

“(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

“(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term ‘applicable provision’ means—

“(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(ii) subsection (e).”

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement

Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

PART II—MULTIEMPLOYER PLANS

SEC. 621. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years beginning after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) NO EXTENSION ALLOWED.—If this subparagraph applies for any plan year, no extension of the amortization period under clause (i) shall be allowed under subsection (d).

“(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

“(B) EXPANDED SMOOTHING PERIOD.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years beginning after August 31, 2008, over a period of not more than 10 years,

“(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

“(III) makes both changes described in subclauses (I) and (II) to such method.

“(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

“(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

“(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

“(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan’s funded percentage and projected credit balances for such 2 plan years are reasonably expected to be substantially the same as such percentage and balances would have been if the benefit increase had not been adopted, or

“(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.”.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years beginning after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) NO EXTENSION ALLOWED.—If this subparagraph applies for any plan year, no extension of the amortization period under clause (i) shall be allowed under subsection (d).

“(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally

fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

“(B) EXPANDED SMOOTHING PERIOD.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years beginning after August 31, 2008, over a period of not more than 10 years,

“(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

“(III) makes both changes described in subclauses (I) and (II) to such method.

“(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

“(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

“(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

“(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan’s funded percentage and projected credit balances for such 2 plan years are reasonably expected to be substantially the same as such percentage and balances would have been if the benefit increase had not been adopted, or

“(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year beginning after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan’s funding standard account for the first plan year beginning after August 31,

2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF 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.

SA 3320. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3310 proposed by Mr. REID to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

Strike subtitle B of title V and insert the following:

Subtitle B—Black Liquor

SEC. 551. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 40(b)(6) is amended by adding at the end the following new clause:

“(iii) EXCLUSION OF UNPROCESSED FUELS.—The term ‘cellulosic biofuel’ shall not include any fuel if—

“(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

“(II) the ash content of such fuel is more than 1 percent (determined by weight).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

SEC. 552. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—The last sentence of section 6426(d)(2) is amended by striking “or biodiesel” and inserting “biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold or used after December 31, 2009.

Subtitle C—Homebuyer Credit

SEC. 561. TECHNICAL MODIFICATIONS TO HOME-BUYER CREDIT.

(a) EXPANDED DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking “or” at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

(3) by adding at the end the following new paragraphs:

“(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

“(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).”.

(b) MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking “returns for taxable years ending after the date of the enactment of this Act” and inserting “returns filed after the date of the enactment of this Act”.

(c) EFFECTIVE DATES.—

(1) DOCUMENTATION REQUIREMENTS.—The amendments made by subsection (a) shall apply to purchases on or after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle D—Economic Substance

SEC. 571. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

“(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

“(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

“(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

“(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

“(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

“(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

“(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

“(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

“(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

“(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) ECONOMIC SUBSTANCE DOCTRINE.—The term ‘economic substance doctrine’ means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

“(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

“(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

“(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection had never been enacted.

“(E) TRANSACTION.—The term ‘transaction’ includes a series of transactions.

“(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.”.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

“(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.”.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 is amended by adding at the end the following new subsection:

“(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

“(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting ‘40 percent’ for ‘20 percent’.

“(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term ‘nondisclosed noneconomic substance transaction’ means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

“(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.”.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended—

(A) by striking “section 6662(h)” and inserting “subsections (h) or (i) of section 6662”; and

(B) by striking “GROSS VALUATION MISSTATEMENT PENALTY” in the heading and inserting “CERTAIN INCREASED UNDERPAYMENT PENALTIES”.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking “paragraph (2)” in paragraph (4)(A), as so redesignated, and inserting “paragraph (3)”; and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).”.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking “paragraph (2)(C)” in paragraph (4), as so redesignated, and inserting “paragraph (3)(C)”; and

(C) by inserting after paragraph (1) the following new paragraph:

“(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).”.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

“(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.”.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

Subtitle E—Additional Provisions

SEC. 581. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(A) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of the Department of Defense Appropriations Act, 2010 (Public Law 111-118), is amended by striking “\$20,740,000,000” and inserting “\$10,240,000,000”.

SEC. 582. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

TITLE VI—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 601. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 602. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 603. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended by striking “5-year period” and inserting “6-year period”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

SEC. 604. CREDIT FOR REFINED COAL FACILITIES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(d)(8) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 605. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) APPLICABLE PERIOD.—Paragraph (4) of section 45H(c) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 339 of the American Jobs Creation Act of 2004.

SEC. 606. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 607. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2009.

SEC. 608. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) are each amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 609. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after December 31, 2009.

SEC. 610. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 611. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2009” and inserting “2009, or 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 612. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking “or 2009” and inserting “2009, or 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 613. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 614. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 615. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 616. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009.

SEC. 617. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 621. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) ELECTION FOR REFUNDABLE CREDITS.—

“(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State’s 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

“(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term ‘2010 low-income housing refundable credit election amount’ means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

“(A) the sum of—

“(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

“(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

“(B) 10.

“(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

“(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

“(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting ‘January 1, 2012’ for ‘January 1, 2011’.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting “42(n),” after “36A.”

Subtitle C—Business Tax Relief

SEC. 631. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 632. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 633. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting “and 2010” after “2009”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking “2014” and inserting “2015”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 634. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 635. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 636. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 637. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

(a) IN GENERAL.—Clause (vii) of section 168(e)(3)(B) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 638. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 168(e)(7)(A) is amended by striking “if such building is placed in service after December 31, 2008, and before January 1, 2010,”.

(2) Paragraph (8) of section 168(e) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 639. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 640. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 641. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 642. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 643. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 644. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 645. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 646. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 647. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

(2) by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 648. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 649. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 650. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking “means” and all that follows and inserting “means December 31, 2010”.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking “the first taxable year beginning after the date of the enactment of this subparagraph” and inserting “in a taxable year beginning before the termination date”.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting “in taxable years beginning” after “dispositions”.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting “in a taxable year beginning” after “sale”.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting “in a taxable year beginning” after “In the case of a sale”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 651. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 652. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act, and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code, such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 653. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 654. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 655. TEMPORARY REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) is amended by striking “ending” and all that follows through “such date”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) is amended to read as follows:

“(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account—

“(A) any portion of such taxable year after May 22, 2009, and before the date of the enactment of the Hiring Incentives to Restore Employment Act, and

“(B) any portion of such taxable year after December 31, 2010.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 656. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 657. EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Section 1391 is amended—

(1) by striking “December 31, 2009” in subsection (d)(1)(A)(i) and inserting “December 31, 2010”, and

(2) by striking the last sentence of subsection (h)(2).

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking “December 31, 2014” and inserting “December 31, 2015”, and

(2) by striking “2015” in the heading and inserting “2015”.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 658. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking “December 31, 2009” each place it appears and inserting “December 31, 2010”.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking “December 31, 2014” and inserting “December 31, 2015”, and

(ii) by striking “2014” in the heading and inserting “2015”.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking “December 31, 2014” and inserting “December 31, 2015”.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 659. RENEWAL COMMUNITY TAX INCENTIVES.

(a) IN GENERAL.—Subsection (b) of section 1400E is amended—

(1) by striking “December 31, 2009” in paragraphs (1)(A) and (3) and inserting “December 31, 2010”, and

(2) by striking “January 1, 2010” in paragraph (3) and inserting “January 1, 2011”.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking “December 31, 2014” and inserting “December 31, 2015”, and

(B) by striking “2014” in the heading and inserting “2015”.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking “and ‘December 31, 2014’ for ‘December 31, 2014’”.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking “after 2001 and before 2010” and inserting “which begins after 2001 and before the date referred to in subsection (g)”.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) ACQUISITIONS.—The amendments made by subsections (b)(1) and (d) shall apply to acquisitions after December 31, 2009.

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall apply to buildings placed in service after December 31, 2009.

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

SEC. 660. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 661. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended—

(1) by striking “first 4 taxable years” and inserting “first 5 taxable years”, and

(2) by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle D—Temporary Disaster Relief Provisions**PART I—NATIONAL DISASTER RELIEF****SEC. 671. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.**

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking “January 1, 2010” in subparagraphs (A)(i) and (B)(i) and inserting “January 1, 2011”.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 672. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) \$500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

(2) \$500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 673. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 674. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 675. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 681. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 682. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subpart B—GO Zone

SEC. 683. SPECIAL DEPRECIATION ALLOWANCE.

(a) IN GENERAL.—Paragraph (6) of section 1400N(d)(6) is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 684. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

Subpart C—Midwestern Disaster Areas

SEC. 685. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

(a) IN GENERAL.—Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110-343; 122 Stat. 3918) is amended—

(1) by striking “January 1, 2010” both places it appears and inserting “January 1, 2011”, and

(2) by striking “December 31, 2009” both places it appears and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008.

SEC. 686. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

(a) IN GENERAL.—Section 702(e)(4)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110-343; 122 Stat. 3918) is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2009.

TITLE VII—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 701. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(A) by striking “February 28, 2010” each place it appears and inserting “May 31, 2010”;

(B) in the heading for subsection (b)(2), by striking “FEBRUARY 28, 2010” and inserting “MAY 31, 2010”; and

(C) in subsection (b)(3), by striking “July 31, 2010” and inserting “November 1, 2010”.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking “February 28, 2010” and inserting “May 31, 2010”;

(B) in the heading for paragraph (2), by striking “FEBRUARY 28, 2010” and inserting “MAY 31, 2010”; and

(C) in paragraph (3), by striking “August 31, 2010” and inserting “November 30, 2010”.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking “February 28, 2010” each place it appears and inserting “May 31, 2010”; and

(B) in subsection (c), by striking “July 31, 2010” and inserting “November 1, 2010”.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking “July 31, 2010” and inserting “November 1, 2010”.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (B), by striking “and” at the end;

(2) in subparagraph (C), by striking “1009” and inserting “1009(a)(1)”; and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) the amendments made by section 601(a)(1) of the Hiring Incentives to Restore Employment Act; and”.

Subtitle B—Health Provisions

SEC. 711. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended by striking “February 28, 2010” and inserting “May 31, 2010”.

(b) CLARIFICATIONS RELATING TO SECTION 3001 OF ARRA.—

(1) CLARIFICATION REGARDING COBRA CONTINUATION RESULTING FROM REDUCTIONS IN HOURS.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(A) in paragraph (3)(C), by inserting before the period at the end the following: “or consists of a reduction of hours followed by such an involuntary termination of employment during such period”;

(B) in paragraph (16)—

(i) by striking clause (ii) of subparagraph (A), and inserting the following:

“(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under sub-

paragraph (D)(ii), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).”; and

(ii) by striking subclause (I) of subparagraph (C)(i), and inserting the following:

“(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and”;

(C) by adding at the end the following:

“(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

“(A) NEW ELECTION PERIOD.—

“(i) IN GENERAL.—For purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual after the date of the enactment of the Hiring Incentives to Restore Employment Act shall be treated as a qualifying event.

“(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual’s continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

“(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

“(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

“(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual’s involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

“(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred after the date of the enactment of the Hiring Incentives to Restore Employment Act.”.

(2) CLARIFICATION OF PERIOD OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking “of the first month”.

(3) ENFORCEMENT.—Subsection (a)(5) of such section is amended by adding at the end the following: “In addition to civil actions that may be brought to enforce applicable provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than \$110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor’s or issuer’s receipt of the determination.”.

(4) AMENDMENTS RELATING TO SECTION 3001 OF ARRA.—

(A) Subsection (g) of section 35 is amended by striking “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(B) Section 139C is amended by striking “section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(C) Section 6432 is amended—

(i) in subsection (a), by striking “section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009”;

(ii) in subsection (c)(3), by striking “section 3002(a)(1)(A) of such Act” in subsection (c)(3) and inserting “section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009”; and

(iii) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following new subsection:..

“(e) EMPLOYER DETERMINATION OF QUALIFYING EVENT AS INVOLUNTARY TERMINATION.—For purposes of this section, in any case in which—

“(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee’s employment, and

“(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee, the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee’s employment.”.

(D) Subsection (a) of section 6720C is amended by striking “section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009” and inserting “section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 to which they relate, except that—

(1) the amendments made by subsections (b)(1) shall apply to periods of coverage beginning after the date of the enactment of this Act; and

(2) the amendments made by paragraphs (2) and (3) of subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 712. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

SEC. 713. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

(a) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking “clause (ii)” and inserting “clauses (ii) and (iii)”;

(ii) by striking “January 1, 2010” and inserting “January 1, 2011”; and

(iii) by striking “and” at the end;

(B) in clause (ii)(II), by striking the period at the end and inserting “; and”;

(C) by inserting after clause (ii)(II) the following new clause:

“(iii)(I) subject to subclause (II), with respect to items and services furnished on or after January 1, 2011, the accreditation requirement of clause (i) shall not apply to a pharmacy described in subparagraph (G); and

“(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.”; and

(D) by adding at the end the following flush sentence:

“If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).”; and

(2) by adding at the end the following new subparagraph:

“(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

“(i) The total billings by the pharmacy for such items and services under this title are less than 5 percent of total pharmacy sales for a previous period (of not less than 24 months) specified by the Secretary.

“(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

“(iii) The pharmacy submits to the Secretary an attestation, in a form and manner, and at a time, specified by the Secretary, that the pharmacy meets the criteria described in clauses (i) and (ii).

“(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.”.

(b) CONFORMING AMENDMENTS.—Section 1834(a)(20)(E) of the Social Security Act (42 U.S.C. 1395m(a)(20)(E)) is amended—

(1) in the first sentence, by striking “The” and inserting “Except as provided in the third sentence, the”; and

(2) by adding at the end the following new sentences: “Notwithstanding the preceding sentences, any alternative quality standards and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.”.

(c) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w-3).

(e) WAIVER OF 1-YEAR REENROLLMENT BAR.—In the case of a pharmacy described in subparagraph (G) of section 1834(a)(20) of the Social Security Act, as added by subsection (a), whose billing privileges were revoked prior to January 1, 2011, by reason of non-compliance with subparagraph (F)(i) of such section, the Secretary of Health and Human Services shall waive any reenrollment bar imposed pursuant to section 424.535(d) of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this Act) for such pharmacy to reapply for such privileges.

SEC. 714. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

SEC. 715. EXTENSION OF AMBULANCE ADD-ONS.

(a) IN GENERAL.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “before January 1, 2010” and inserting “before January 1, 2011”; and

(B) in each of clauses (i) and (ii), by striking “before January 1, 2010” and inserting “before January 1, 2011”.

(b) AIR AMBULANCE IMPROVEMENTS.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “ending on December 31, 2009” and inserting “ending on December 31, 2010”.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended—

(1) in the first sentence, by striking “2010” and inserting “2011”; and

(2) by adding at the end the following new sentence: “For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.”.

SEC. 716. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before January 1, 2010” and inserting “before January 1, 2011”.

SEC. 717. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106-554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w-4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w-4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “and 2009” and inserting “2009, and 2010”.

SEC. 718. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

- (1) in subclause (II)—
- (A) in the first sentence, by striking “2010” and inserting “2011”; and
- (B) in the second sentence, by striking “or 2009” and inserting “, 2009, or 2010”; and
- (2) in subclause (III), by striking “January 1, 2010” and inserting “January 1, 2011”.

SEC. 719. EHR CLARIFICATION.

(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.—

(1) MEDICARE.—Section 1848(o)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w-4(o)(1)(C)(ii)) is amended by striking “setting (whether inpatient or outpatient)” and inserting “inpatient or emergency room setting”.

(2) MEDICAID.—Section 1903(t)(3)(D) of the Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is amended by striking “setting (whether inpatient or outpatient)” and inserting “inpatient or emergency room setting”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)).

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 720. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking “5-year period” and inserting “6-year period”.

SEC. 721. EXTENSION OF CERTAIN PAYMENT RULES FOR LONG-TERM CARE HOSPITAL SERVICES AND OF MORATORIUM ON THE ESTABLISHMENT OF CERTAIN HOSPITALS AND FACILITIES.

(a) EXTENSION OF CERTAIN PAYMENT RULES.—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111-5), is amended by striking “3-year period” each place it appears and inserting “4-year period”.

(b) EXTENSION OF MORATORIUM.—Section 114(d)(1) of such Act (42 U.S.C. 1395ww note), as amended by section 4302(b) of the American Recovery and Reinvestment Act (Public Law 111-5), in the matter preceding subparagraph (A), is amended by striking “3-year period” and inserting “4-year period”.

SEC. 722. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

Section 1820(j) of the Social Security Act (42 U.S.C. 1395i-4(j)) is amended—

- (1) by striking “2010, and for” and inserting “2010, for”; and
- (2) by inserting “and for making grants to all States under subsection (g), such sums as may be necessary in fiscal year 2011, to remain available until expended” before the period at the end.

SEC. 723. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), is amended by striking “September 30, 2009” and inserting “September 30, 2010”.

(b) SPECIAL RULE FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110-173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275)) for purposes of the implementation of paragraph (2) of such section 117(a), during fiscal year 2010, the Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

SEC. 724. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

(a) IN GENERAL.—Subsections (g)(2)(A) and (1)(8) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by inserting “101 percent of” before “the reasonable costs”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 405(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173; 117 Stat. 2266).

SEC. 725. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w-28(f)(1)) is amended by striking “2011” and inserting “2012”.

(b) TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275) is amended by striking “December 31, 2010” and inserting “December 31, 2011”.

SEC. 726. EXTENSION OF REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking “January 1, 2010” and inserting “January 1, 2011”.

SEC. 727. EXTENSION OF PARTICULAR WAIVER POLICY FOR EMPLOYER GROUP PLANS.

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services’ memorandum with the subject “2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans”) to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w-27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 728. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

SEC. 729. FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B)

of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b-3 note) is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

- “(i) for fiscal year 2009, of \$7,500,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.”.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119 is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Administration on Aging—

- “(i) for fiscal year 2009, of \$7,500,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.”.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119 is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Administration on Aging—

- “(i) for fiscal year 2009, of \$5,000,000; and
- “(ii) for fiscal year 2010, of \$6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.”.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119 is amended by striking “(42 U.S.C. 1395w-23(f))” and all that follows through the period at the end and inserting “(42 U.S.C. 1395w-23(f)), to the Administration on Aging—

- “(i) for fiscal year 2009, of \$5,000,000; and
- “(ii) for fiscal year 2010, of \$2,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.”.

SEC. 730. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking “fiscal year 2009” and inserting “each of fiscal years 2009 through 2011”.

SEC. 731. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this title that relate to titles XVIII and XIX of the Social Security Act, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, \$100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

Subtitle C—Other Provisions**SEC. 741. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.**

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111-118) is amended—

- (1) by striking “before March 1, 2010”; and
- (2) by inserting “for 2011” after “until updated poverty guidelines”.

SEC. 742. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 is amended by adding at the end the following new section:

“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

“(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.”

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

“Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

SEC. 743. STATE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

(1) in subsection (c)(2)(A), by striking “2010” and inserting “2011”; and

(2) in subsection (e), by striking “2010” and inserting “2011”.

SEC. 744. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), as amended by section 1005 of Public Law 111-118, is further amended by striking “by substituting” and all that follows through the period at the end, and inserting “by substituting May 31, 2010, for the date specified in each such section.”

SEC. 745. EXTENSION OF INTELLIGENCE AUTHORITY SUNSETS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking “February 28, 2010” and inserting “February 28, 2011”.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 118 Stat. 3742; 50 U.S.C. 1801 note) is amended by striking “February 28, 2010” and inserting “February 28, 2011”.

SEC. 746. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for “Small Business Administration – Business Loans Program Account”, \$354,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 151), as amended by this section, for loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), or section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 152), as amended by this section; and

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 152), as amended by this section, *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

(1) FEES.—Section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 151) is amended by striking “September 30, 2010” each place it appears and inserting “December 31, 2010”.

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 153) is amended by striking “February 28, 2010” and inserting “December 31, 2010”.

TITLE VIII—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 801. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

“(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

“(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

“(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

“(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the 9-plan-year or 15-plan-year period, whichever is applicable, with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

“(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

“(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

“(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a non-qualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken

into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—Any amount includible in income with respect to the granting on or after February 4, 2010, of an equity interest described in subclause (II) shall not be taken into account under clause (i)(I), but only if all portions of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date which is 5 years after the date on which such interest is granted.

“(II) EQUITY INTERESTS.—An equity interest is described in this subclause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value on the date of the grant.

“(III) SUBSTANTIAL RISK OF FORFEITURE.—The term ‘substantial risk of forfeiture’ has the meaning given such term by section 83(c)(1) of the Internal Revenue Code of 1986.

“(IV) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is repaid. This subclause shall not apply to bonus payments payable under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds \$100,000.

“(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term ‘employee’ includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term ‘compensation’ shall include earned income of such individual with respect to such self-employment.

“(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of \$1,000, such increase shall be rounded to the next lowest multiple of \$1,000.

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the sum of—

“(I) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4043(c)(11), plus

“(II) if the plan sponsor redeems, in any 12-month period ending during the plan year,

an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i)—

“(I) dividends shall be taken into account only if declared after February 4, 2010, and

“(II) if clause (i)(II) otherwise applies for any plan year (determined without regard to this subclause), only the fair market value of redemptions occurring after February 4, 2010, shall be taken into account in determining the amount under such clause for the plan year.

“(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—An extraordinary dividend paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i)(I).

“(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

“(i) BONUS PAYMENT.—The term ‘bonus payment’ means any payment which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly, monthly, or similar periodic rate. Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986), welfare and fringe benefits, overtime pay, or expense reimbursements. The Secretary of the Treasury may recharacterize a payment that is a disguised bonus as a bonus payment for purposes of this paragraph.

“(ii) PLAN SPONSOR.—The term ‘plan sponsor’ includes any member of the plan sponsor’s controlled group (as defined in section 302(d)(3)).

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan’s relative reduction in the plan’s shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

“(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).”.

(3) CONFORMING AMENDMENTS.—Section 303 of such Act (29 U.S.C. 1083) is amended—

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

(B) in subsection (j)(3), by adding at the end the following:

“(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).”.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

“(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

“(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an ‘election year’), then, notwithstanding subparagraphs (A) and (B)—

“(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

“(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

“(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

“(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

“(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

“(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

“(iv) ELECTION.—

“(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

“(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

“(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

“(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

“(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall inform the Pension Benefit Guaranty Cor-

poration of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

“(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).”

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

“(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

“(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the 9-plan-year or 15-plan-year period, whichever is applicable, with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

“(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

“(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

“(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

“(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘installment acceleration amount’ means, with respect to any plan year, the sum of—

“(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

“(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

“(ii) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

“(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

“(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

“(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

“(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause(ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated

as an installment acceleration amount with respect to the succeeding plan year.

“(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

“(III) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

“(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘excess employee compensation’ means, with respect to any employee for any plan year, the excess (if any) of—

“(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

“(II) \$1,000,000.

“(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

“(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 4, 2010.

“(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

“(I) IN GENERAL.—Any amount includible in income with respect to the granting on or after February 4, 2010, of an equity interest described in subclause (II) shall not be taken into account under clause (i)(I), but only if all portions of such interest remain subject to a substantial risk of forfeiture (other than in the case of death or disability) at all times before the date which is 5 years after the date on which such interest is granted.

“(II) EQUITY INTERESTS.—An equity interest is described in this subclause if it is a stock option which is granted at its fair market value on the date of the grant or a stock appreciation right which is granted at its fair market value on the date of the grant.

“(III) SUBSTANTIAL RISK OF FORFEITURE.—The term ‘substantial risk of forfeiture’ has the meaning given such term by section 83(c)(1).

“(IV) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

“(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

“(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

“(II) PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration payable under a written binding contract that was in effect on February 4, 2010, and which was not modified in any material respect before such remuneration is repaid. This subclause shall not apply to bonus payments payable under such a contract during a calendar year to the extent that the aggregate amount of such bonus payments during such calendar year exceeds \$100,000.

“(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term ‘employee’ includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term ‘compensation’ shall include earned income of such individual with respect to such self-employment.

“(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

“(I) such dollar amount, multiplied by

“(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ‘calendar year 2009’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of \$1,000, such increase shall be rounded to the next lowest multiple of \$1,000.

“(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

“(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the sum of—

“(I) the aggregate amount of extraordinary dividends declared during the plan year by the plan sponsor and required to be reported under section 4043(c)(11) of the Employee Retirement Income Security Act of 1974, plus

“(II) if the plan sponsor redeems, in any 12-month period ending during the plan year, an aggregate of 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or an aggregate of 10 percent or more of the total value of shares of all classes of stock, of the plan sponsor, the aggregate fair market value of the stock so redeemed.

“(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i)—

“(I) dividends shall be taken into account only if declared after February 4, 2010, and

“(II) if clause (i)(II) otherwise applies for any plan year (determined without regard to this subclause), only the fair market value of redemptions occurring after February 4, 2010, shall be taken into account in determining the amount under such clause for the plan year.

“(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—An extraordinary dividend paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i)(I).

“(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

“(i) BONUS PAYMENT.—The term ‘bonus payment’ means any payment which is a payment for services rendered and which is in addition to any amount payable to such individual for services performed by such individual at a regular hourly, daily, weekly,

monthly, or similar periodic rate. Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. The Secretary may recharacterize a payment that is a disguised bonus as a bonus payment for purposes of this paragraph.

“(ii) PLAN SPONSOR.—The term ‘plan sponsor’ includes any member of the plan sponsor’s controlled group (as defined in section 412(d)(3)).

“(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan’s relative reduction in the plan’s shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

“(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).”.

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking “the shortfall amortization bases for such plan year and each of the 6 preceding plan years” and inserting “any shortfall amortization base which has not been fully amortized under this subsection”, and

(B) in subsection (j)(3), by adding at the end the following:

“(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).”.

(C) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 802. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) IN GENERAL.—Title I of the Pension Protection Act of 2006 is amended by redesignating section 107 as section 108 and by inserting the following after section 106:

“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

“(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an ‘election year’), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to ‘such Act’ or ‘such Code’ shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

“(b) APPLICATION OF 2 AND 7 RULE.—In the case of an election year to which this subsection applies—

“(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year

preceding the first election year of such plan.

“(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

“(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

“(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

“(c) APPLICATION OF 15-YEAR AMORTIZATION.—In the case of an election year to which this subsection applies, for purposes of applying section 302(d) of such Act and section 412(l) of such Code—

“(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

“(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, to

“(B) the increased unfunded new liability for such plan year, and

“(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

“(d) ELECTION.—

“(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

“(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

“(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

“(e) DEFINITIONS.—For purposes of this section—

“(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term ‘eligible plan year’ means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

“(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term ‘pre-effective date plan year’ means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

“(3) INCREASED UNFUNDED NEW LIABILITY.—The term ‘increased unfunded new liability’ means, with respect to a year, the excess (if any) of the unfunded new liability over the

amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

“(4) OTHER DEFINITIONS.—The terms ‘unfunded new liability’ and ‘current liability’ shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.”

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking “eligible cooperative plan” wherever it appears in subsections (a) and (b) and inserting “eligible cooperative plan or an eligible charity plan”, and

(2) by adding at the end the following new subsection:

“(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.”

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 803. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

“(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

“(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

“(I) such percentage, as determined without regard to this subparagraph, or

“(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

“(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

“(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

“(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

“(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term ‘applicable provision’ means—

“(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option

which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(II) paragraph (4).”

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

“(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

“(i) such percentage, as determined without regard to this paragraph, or

“(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

“(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

“(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

“(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

“(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term ‘applicable provision’ means—

“(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

“(ii) subsection (e).”

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

Subtitle B—Multiemployer Plans

SEC. 811. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test

under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years beginning after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) NO EXTENSION ALLOWED.—If this subparagraph applies for any plan year, no extension of the amortization period under clause (i) shall be allowed under subsection (d).

“(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

“(B) EXPANDED SMOOTHING PERIOD.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years beginning after August 31, 2008, over a period of not more than 10 years,

“(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

“(III) makes both changes described in subclauses (I) and (II) to such method.

“(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

“(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

“(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

“(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan’s funded percentage and projected credit balances for such 2 plan years are reasonably expected to be substantially the same as such percentage and balances would have been if the benefit increase had not been adopted, or

“(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.”.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

“(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

“(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of its experience loss attributable to the net investment losses (if any) incurred in either or both of the first two plan years beginning after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

“(ii) NO EXTENSION ALLOWED.—If this subparagraph applies for any plan year, no extension of the amortization period under clause (i) shall be allowed under subsection (d).

“(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

“(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

“(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

“(B) EXPANDED SMOOTHING PERIOD.—

“(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

“(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years beginning after August 31, 2008, over a period of not more than 10 years,

“(II) provides that for either or both of such 2 plan years the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

“(III) makes both changes described in subclauses (I) and (II) to such method.

“(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

“(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

“(II) such changes shall be deemed approved by the Secretary under section

302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

“(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

“(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

“(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

“(i) the plan actuary certifies that—

“(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

“(II) the plan’s funded percentage and projected credit balances for such 2 plan years are reasonably expected to be substantially the same as such percentage and balances would have been if the benefit increase had not been adopted, or

“(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

“(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year beginning after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan’s funding standard account for the first plan year beginning after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE IX—SATELLITE TELEVISION EXTENSION

SEC. 901. SHORT TITLE.

This title may be cited as the “Satellite Television Extension and Localism Act of 2010”.

Subtitle A—Statutory Licenses

SEC. 901. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 902. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking “superstations and network stations for private home viewing” and inserting “distant television programming by satellite”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

“119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.”.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

“(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household’s local market and affiliated with that network or—

“(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

“(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;”.

(B) in subparagraph (B)—

(i) by striking “subsection (a)(14)” and inserting “subsection (a)(13).”; and

(ii) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”; and

(C) in subparagraph (D), by striking “(a)(12)” and inserting “(a)(11)”.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

“(14) QUALIFYING DATE.—The term ‘qualifying date’, for purposes of paragraph (10)(A), means—

“(A) July 1, 2010, for multicast streams that exist on December 31, 2009; and

“(B) January 1, 2011, for all other multicast streams.”.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking “and” after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).”.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: “(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—”; and

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and”; and

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

“(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.”;

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting “(including the filing fee specified in paragraph (1)(C))” after “shall receive all fees”; and

(B) by striking “paragraph (4)” and inserting “paragraph (5)”;

(6) in paragraph (4), as redesignated—

(A) by striking “paragraph (2)” and inserting “paragraph (3)”;

(B) by striking “paragraph (4)” each place it appears and inserting “paragraph (5)”;

(7) in paragraph (5), as redesignated, by striking “paragraph (2)” and inserting “paragraph (3)”.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking “ANALOG”;

(B) in subparagraph (A)—

(i) by striking “primary analog transmissions” and inserting “primary transmissions”;

(ii) by striking “July 1, 2004” and inserting “July 1, 2009”;

(C) in subparagraph (B)—

(i) by striking “January 2, 2005, the Librarian of Congress” and inserting “March 1, 2010, the Copyright Royalty Judges”;

(ii) by striking “primary analog transmission” and inserting “primary transmissions”;

(D) in subparagraph (C), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking “(i) Voluntary agreements” and inserting the following:

“(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements”;

(II) by striking “that a parties” and inserting “that are parties”;

(iii) in clause (ii)—

(I) by striking “(ii)(I) Within” and inserting the following:

“(ii) PROCEDURE FOR ADOPTION OF FEES.—(I) PUBLICATION OF NOTICE.—Within”;

(II) in subclause (I), by striking “an arbitration proceeding pursuant to subparagraph (E)” and inserting “a proceeding under subparagraph (F)”;

(III) in subclause (II), by striking “(II) Upon receiving a request under subclause (I), the Librarian of Congress” and inserting the following:

“(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges”;

(IV) in subclause (III)—

(aa) by striking “(III) The Librarian” and inserting the following:

“(III) ADOPTION OF FEES.—The Copyright Royalty Judges”;

(bb) by striking “an arbitration proceeding” and inserting “the proceeding under subparagraph (F)”;

(cc) by striking “the arbitration proceeding” and inserting “that proceeding”;

(F) in subparagraph (E)—

(i) by striking “Copyright Office” and inserting “Copyright Royalty Judges”;

(ii) by striking “February 28, 2010” and inserting “December 31, 2014”;

(G) in subparagraph (F)—

(i) in the heading, by striking “COMPULSORY ARBITRATION” and inserting “COPYRIGHT ROYALTY JUDGES PROCEEDING”;

(ii) in clause (i)—

(I) in the heading, by striking “PROCEEDINGS” and inserting “THE PROCEEDING”;

(II) in the matter preceding subclause (I)—

(aa) by striking “May 1, 2005, the Librarian of Congress” and inserting “May 3, 2010, the Copyright Royalty Judges”;

(bb) by striking “arbitration proceedings” and inserting “a proceeding”;

(cc) by striking “fee to be paid” and inserting “fees to be paid”;

(dd) by striking “primary analog transmission” and inserting “the primary transmissions”;

(ee) by striking “distributors” and inserting “distributors—”;

(III) in subclause (II)—

(aa) by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”;

(bb) by striking “arbitration”;

(IV) by amending the last sentence to read as follows: “Such proceeding shall be conducted under chapter 8.”;

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

“(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—”;

(iv) by amending clause (iii) to read as follows:

“(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.”;

(v) in clause (iv)—

(I) in the heading, by striking “FEE” and inserting “FEES”;

(II) by striking “fee referred to in (iii)” and inserting “fees referred to in clause (iii)”.

(2) Paragraph (2) is amended to read as follows:

“(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.”.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

“(8) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

“(11) LOCAL MARKET.—The term ‘local market’ has the meaning given such term under section 122(j).”.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

“(14) MULTICAST STREAM.—The term ‘multicast stream’ means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.”.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

“(15) PRIMARY STREAM.—The term ‘primary stream’ means—

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”;

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”;

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”;

(2) by striking “superstations” each place it appears in a heading and each place it appears in text and inserting “non-network stations”.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “(5), (6), and (8)” and inserting “(4), (5), and (7)”;

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking “subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)” and inserting “subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)”;

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

“(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network

“(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

“(B) if there is no stream described in subparagraph (A), then either—

“(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

“(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.”.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking “which” each place it appears and inserting “that”.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking “superstation” each place it appears in a heading and each place it appears in text and inserting “non-network station”;

station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

“(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.”; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking “under paragraph (3) or”; and

(II) by striking “paragraph (12)” and inserting “paragraph (11)”; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

“(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005).”.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking “analog” each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

“(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2009 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(C) FUTURE APPLICABILITY.—

“(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

“(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the ‘distant signal’) on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber’s household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.”;

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking “(C) or (D)” and inserting “(B) or (C)”; and

(E) in subparagraph (F) (as redesignated), by inserting “9-digit” before “zip code”.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking “\$5” and inserting “\$250”;

(B) in subparagraph (B)—

(i) in clause (i), by striking “\$250,000 for each 6-month period” and inserting “\$2,500,000 for each 3-month period”; and

(ii) in clause (ii), by striking “\$250,000” and inserting “\$2,500,000”; and

(C) by adding at the end the following flush sentences:

“The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.”.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking “and 509”.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking “In this clause” and inserting “In this clause.”.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking “February 28, 2010” and inserting “December 31, 2014”.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking “of the Code of Federal Regulations” each place it appears and inserting “, Code of Federal Regulations”; and

(2) in subsection (d)(6), by striking “or the Direct” and inserting “, or the Direct”.

SEC. 903. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking “by satellite carriers within local markets” and inserting “of local television programming by satellite”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

“122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.”.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

“(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

“(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

“(A) the secondary transmission is made by a satellite carrier to the public;

“(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

“(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

“(i) each subscriber receiving the secondary transmission; or

“(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

“(2) SIGNIFICANTLY VIEWED STATIONS.—

“(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station’s local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

“(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber’s request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber’s

request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

“(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

“(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

“(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

“(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

“(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

“(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

“(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

“(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

“(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

“(ii) had a combined total of 41,340 television households, according to the U.S. Tel-

evision Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

“(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

“(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

“(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

“(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

“(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.”

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking “station a list” and all that follows through the end and inserting the following: “station—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

“(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).”; and

(2) in paragraph (2), by striking “network a list” and all that follows through the end and inserting the following: “network—

“(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

“(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.”

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting “FOR CERTAIN SECONDARY TRANSMISSIONS” after “REQUIRED”; and

(2) by striking “subsection (a)” and inserting “paragraphs (1), (2), and (3) of subsection (a)”;.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking “\$5” and inserting “\$250”; and

(B) in paragraph (2), by striking “\$250,000” each place it appears and inserting “\$2,500,000”.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking “section 119 or” each place it appears and inserting the following: “section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to”; and

(B) in subsection (g), by striking “section 119 or” and inserting the following: “section 119, paragraph (2)(A), (3), or (4) of subsection (a), or”.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking “which contracts” and inserting “that contracts”;.

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting “NON-NETWORK STATION;” after “NETWORK STATION;”; and

(C) by inserting “‘non-network station,’” after “‘network station,’”;

(4) by inserting after paragraph (2) the following:

“(3) LOW POWER TELEVISION STATION.—The term ‘low power television station’ means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term ‘low power television station’ includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.”;

(5) by inserting after paragraph (4) (as redesignated) the following:

“(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term ‘noncommercial educational broadcast station’ means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

“(6) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.”

SEC. 904. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: “of broadcast programming by cable”.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

“111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.”.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking “; or” and inserting “or section 122;”.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “A cable system whose secondary” and inserting the following: “STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary”; and

(ii) by striking “by regulation—” and inserting “by regulation the following;”;

(B) in subparagraph (A)—

(i) by striking “a statement of account” and inserting “A statement of account”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

“(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

“(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

“(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

“(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

“(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

“(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

“(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

“(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

“(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

“(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

“(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

“(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any roy-

alty refund or offset, arising out of its use of such methodology on such statement.

“(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are \$263,800 or less—

“(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which \$263,800 exceeds such actual gross receipts, except that in no case shall a cable system’s gross receipts be reduced to less than \$10,400; and

“(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

“(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than \$263,800 but less than \$527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

“(i) 0.5 percent of any gross receipts up to \$263,800, regardless of the number of distant signal equivalents, if any; and

“(ii) 1 percent of any gross receipts in excess of \$263,800, but less than \$527,600, regardless of the number of distant signal equivalents, if any.

“(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a);”

(2) in paragraph (2), in the first sentence—

(A) by striking “The Register of Copyrights” and inserting the following “HANDLING OF FEES.—The Register of Copyrights”; and

(B) by inserting “(including the filing fee specified in paragraph (1)(G))” after “shall receive all fees”; and

(3) in paragraph (3)—

(A) by striking “The royalty fees” and inserting the following: “DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees”; and

(B) in subparagraph (A)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking “; and” and inserting a period;

(C) in subparagraph (B)—

(i) by striking “any such” and inserting “Any such”; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking “any such” and inserting “Any such”; and

(4) in paragraph (4), by striking “The royalty fees” and inserting the following: “PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees”; and

(5) by adding at the end the following new paragraphs:

“(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37, Code of Federal Regulations (commonly referred to as the ‘3.75 percent rate’ and the ‘syndicated exclusivity surcharge’, respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

“(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose

works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

“(A) establish procedures for the designation of a qualified independent auditor—

“(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

“(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

“(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

“(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

“(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor’s report and to cure any underpayment identified; and

“(iii) provide an opportunity to remedy any disputed facts or conclusions;

“(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

“(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

“(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.”.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

“(1) PRIMARY TRANSMISSION.—A ‘primary transmission’ is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.”;

(2) in the second undesignated paragraph—

(A) by striking “A ‘secondary transmission’” and inserting the following:

“(2) SECONDARY TRANSMISSION.—A ‘secondary transmission’”; and

(B) by striking “‘cable system’” and inserting “‘cable system’”;

(3) in the third undesignated paragraph—

(A) by striking “A ‘cable system’” and inserting the following:

“(3) CABLE SYSTEM.—A ‘cable system’; and

(B) by striking “Territory, Trust Territory, or Possession” and inserting “territory, trust territory, or possession of the United States”;

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking “The ‘local service area of a primary transmitter’, in the case of a television broadcast station, comprises the area in which such station is entitled to insist” and inserting the following:

“(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The ‘local service area of a primary transmitter’, in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted”;

(B) by striking “76.59 of title 47 of the Code of Federal Regulations” and inserting the following: “76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations”;

(C) by striking “as defined by the rules and regulations of the Federal Communications Commission,”;

(5) by amending the fifth undesignated paragraph to read as follows:

“(5) DISTANT SIGNAL EQUIVALENT.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), a ‘distant signal equivalent’—

“(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

“(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

“(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

“(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

“(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the num-

ber of days in the year in which such substitution occurs and as its denominator the number of days in the year.

“(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

“(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.”;

(6) by striking the sixth undesignated paragraph and inserting the following:

“(6) NETWORK STATION.—

“(A) TREATMENT OF PRIMARY STREAM.—The term ‘network station’ shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream’s typical broadcast day.

“(B) TREATMENT OF MULTICAST STREAMS.—The term ‘network station’ shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

“(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

“(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.”;

(7) by striking the seventh undesignated paragraph and inserting the following:

“(7) INDEPENDENT STATION.—The term ‘independent station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.”;

(8) by striking the eighth undesignated paragraph and inserting the following:

“(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term ‘noncommercial educational station’ shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.”; and

(9) by adding at the end the following:

“(9) PRIMARY STREAM.—A ‘primary stream’ is—

“(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

“(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the tele-

vision broadcast station for the longest period of time.

“(10) PRIMARY TRANSMITTER.—A ‘primary transmitter’ is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

“(11) MULTICAST STREAM.—A ‘multicast stream’ is a digital stream of programming that is transmitted by a television broadcast station and is not the station’s primary stream.

“(12) SIMULCAST.—A ‘simulcast’ is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

“(13) SUBSCRIBER; SUBSCRIBE.—

“(A) SUBSCRIBER.—The term ‘subscriber’ means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

“(B) SUBSCRIBE.—The term ‘subscribe’ means to elect to become a subscriber.”.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking “2005” each place it appears and inserting “2015”.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking “clause” each place it appears and inserting “paragraph”;

(B) in subsection (c)(1), by striking “clauses” and inserting “paragraphs”; and

(C) in subsection (e)(1)(F), by striking “subclause” and inserting “subparagraph”.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking “nonnetwork” each place it appears and inserting “non-network”.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking “second paragraph of subsection (f)” and inserting “subsection (f)(2)”.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking “and” at the end;

(B) in paragraph (1)(B), by striking “and” at the end;

(C) in paragraph (1)(C), by striking “and” at the end;

(D) in paragraph (1)(D), by striking “and” at the end; and

(E) in paragraph (2)(A), by striking “and” at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking “, and each of its variant forms,”; and

(B) in subsection (f), by striking “and their variant forms”.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking “three territories” and inserting “five entities”.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2009 ACT.—In any case in which a cable system was making secondary transmissions

of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) **MULTICAST STREAMS SUBJECT TO PRE-EXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.**—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) **NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.**—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) **DEFINITIONS.**—In this subsection, the terms “cable system”, “secondary transmission”, “multicast stream”, and “local service area of a primary transmitter” have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 905. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

“(g) **CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.**—

“(1) **INJUNCTION WAIVER.**—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

“(2) **LIMITED TEMPORARY WAIVER.**—

“(A) **IN GENERAL.**—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

“(B) **EXPIRATION OF TEMPORARY WAIVER.**—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

“(C) **FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.**—

“(1) **FAILURE TO ACT REASONABLY AND IN GOOD FAITH.**—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith

effort to provide local-into-local service to all DMAs, such failure—

“(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(II) shall result in the termination of the waiver issued under subparagraph (A).

“(ii) **FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.**—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

“(I) the degree of control the carrier had over the circumstances that resulted in the failure; and

“(II) the quality of the carrier's efforts to remedy the failure; and

“(III) the severity and duration of any service interruption.

“(D) **SINGLE TEMPORARY WAIVER AVAILABLE.**—An entity may only receive one temporary waiver under this paragraph.

“(E) **SHORT MARKET DEFINED.**—For purposes of this paragraph, the term ‘short market’ means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

“(3) **ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.**—

“(A) **STATEMENT OF ELIGIBILITY.**—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

“(i) an affidavit that the entity is providing local-into-local service to all DMAs;

“(ii) a request for a waiver of the injunction; and

“(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

“(B) **GRANT OF RECOGNITION AS A QUALIFIED CARRIER.**—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

“(C) **VOLUNTARY TERMINATION.**—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

“(D) **LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.**—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

“(4) **QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.**—

“(A) **CONTINUING OBLIGATIONS.**—

“(i) **IN GENERAL.**—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

“(ii) **COOPERATION WITH GAO EXAMINATION.**—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

“(B) **QUALIFIED CARRIER COMPLIANCE EXAMINATION.**—

“(i) **EXAMINATION AND REPORT.**—The Comptroller General shall conduct an examination and publish a report concerning the qualified

carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

“(ii) **RECORDS OF QUALIFIED CARRIER.**—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

“(I) Proper calculation and payment of royalties under the statutory license under this section.

“(II) Provision of service under this license to eligible subscribers only.

“(iii) **SUBMISSION OF REPORT.**—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

“(iv) **EVIDENCE OF INFRINGEMENT.**—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

“(v) **SUBSEQUENT EXAMINATION.**—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

“(vi) **COMPLIANCE.**—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

“(C) **AFFIRMATION.**—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

“(D) **COMPLIANCE DETERMINATION.**—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity

as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

“(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

“(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

“(5) FAILURE TO PROVIDE SERVICE.—

“(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (I), and the court may, in its discretion—

“(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

“(ii) impose a fine of not less than \$250,000 and not more than \$5,000,000.

“(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for non-compliance that reflect—

“(i) the degree of control the entity had over the circumstances that resulted in the failure;

“(ii) the quality of the entity's efforts to remedy the failure and restore service; and

“(iii) the severity and duration of any service interruption.

“(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than \$2,500,000.

“(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

“(A) IN GENERAL.—An entity provides ‘local-into-local service to all DMAs’ if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

“(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

“(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term ‘good quality signal’ has

the meaning given such term under section 342(e)(2) of Communications Act of 1934.”.

SEC. 906. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking “and” after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

“(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

“(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.”; and

(4) by adding at the end the following new sentence: “Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.”.

SEC. 907. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111-118 is amended by striking “February 28, 2010” and inserting “December 31, 2014”.

SEC. 908. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 921. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 922. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking “February 28, 2010” and inserting “December 31, 2014”; and

(2) in paragraph (3)(C), by striking “March 1, 2010” each place it appears in clauses (ii) and (iii) and inserting “January 1, 2015”.

SEC. 923. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

“(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

“(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.”.

(b) RULEMAKING REQUIRED.—Within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 924. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking “(3) EFFECTIVE DATE.—No satellite” and all that follows through “until January 1, 2002.”; and

(2) by amending subsection (g) to read as follows:

“(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

“(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

“(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).”.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking “Such two network stations” and all that follows through “more than two network stations.”; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking “TO ANALOG SIGNALS”; and

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking “ANALOG”; and

(II) in clause (i)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “October 1, 2004” and inserting “October 1, 2009”; and

(III) in the heading for clause (ii), by striking “ANALOG”; and

(IV) in clause (ii)—

(aa) by striking “analog” each place it appears; and

(bb) by striking “2004” and inserting “2009”; and

(iii) by amending subparagraph (B) to read as follows:

“(B) RULES FOR OTHER SUBSCRIBERS.—

“(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a ‘distant signal’), other than subscribers to whom subparagraph (A) applies, the following shall apply:

“(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

“(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

“(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

“(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

“(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.”;

(iv) in subparagraph (C)—

(I) by striking “analog”;

(II) in clause (i), by striking “the Satellite Home Viewer Extension and Reauthorization Act of 2004; and” and inserting the following: “the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or”;

(III) by amending clause (ii) to read as follows:

“(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.”;

(v) in subparagraph (D)—

(I) in the heading, by striking “DIGITAL”;

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

“(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

“(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

“(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

“(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.”;

(V) in clause (ii)—

(aa) by striking “DIGITAL” in the heading;

(bb) by striking “digital” the first two places such term appears;

(cc) by striking “Satellite Home Viewer Extension and Reauthorization Act of 2004” and inserting “Satellite Television Extension and Localism Act of 2010”;

(dd) by striking “, whether or not such subscriber elects to subscribe to local digital signals”;

(VI) by inserting after clause (ii) the following new clause:

“(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.”;

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking “distant analog signal or” and all that follows through “(B), or (D))” and inserting “distant signal”;

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

“(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

“(A) PREDICTIVE MODEL.—Within 180 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98-201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05-182, FCC 05-199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

“(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06-94 within 180 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.”;

(B) by amending paragraph (4)(A) to read as follows:

“(A) IN GENERAL.—If a subscriber’s request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber’s satellite carrier a request for a test verifying the subscriber’s inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the

subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.”;

(C) in paragraph (4)(B), by striking “the signal intensity” and all that follows through “United States Code” and inserting “such requisite signal intensity standard”;

and

(D) in paragraph (4)(E), by striking “Grade B intensity”.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 925. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 923 and section 924 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber’s eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms “local market”, “low power television station”, “satellite carrier”, “subscriber”, and “television broadcast station” have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms “network station” and “television network” have the meanings given such terms in section 339(d) of such Act.

SEC. 926. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

“SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

“(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

“(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

“(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

“(A) the satellite carrier’s satellite beams are designed, and predicted by the satellite manufacturer’s pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

“(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite’s launch that

precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

“(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

“(1) An affidavit stating that, to the best of the affiant’s knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

“(2) For each designated market area not listed in paragraph (1):

“(A) Identification of each such designated market area and the location of its local receive facility.

“(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

“(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer’s pre-launch tests, showing that the contours of the carrier’s satellite beams as designed and the geographic area that the carrier’s satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant’s knowledge, there have been no satellite or sub-system failures subsequent to the satellite’s launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

“(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

“(c) CERTIFICATION ISSUANCE.—

“(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

“(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

“(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant’s knowledge, it is in compliance with the requirements for a qualified carrier.

“(e) DEFINITIONS.—For the purposes of this section:

“(1) DESIGNATED MARKET AREA.—The term ‘designated market area’ has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

“(2) GOOD QUALITY SATELLITE SIGNAL.—

“(A) IN GENERAL.—The term ‘good quality satellite signal’ means—

“(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

“(I) models of satellite antennas normally used by the satellite carrier’s subscribers; and

“(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

“(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

“(I) the satellite carrier treats all television broadcast stations’ signals the same with respect to statistical multiplexer prioritization; and

“(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

“(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier’s application for certification under this section.”.

SEC. 927. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

“(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

“(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

“(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

“(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

“(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.”.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

“(2) ELIGIBLE SATELLITE CARRIER.—The term ‘eligible satellite carrier’ means any satellite carrier that is not a party to a carriage contract that—

“(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

“(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.”;

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

“(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term ‘qualified noncommercial educational television station’ means any full-power television broadcast station that—

“(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

“(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.”.

SEC. 928. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms “program related” and “primary video” under the Communications Act of 1934; or

(2) the meaning of the term “multicast” in any regulations issued by the Federal Communications Commission.

SEC. 929. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting “**STATE PUBLIC AFFAIRS,**” after “**EDUCATIONAL,**” in the heading;

(2) by striking paragraph (1) and inserting the following:

“(1) CHANNEL CAPACITY REQUIRED.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

“(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.”;

(3) in paragraph (5), by striking “For purposes of the subsection—” and inserting “For purposes of this subsection:”; and

(4) by adding at the end of paragraph (5) the following:

“(C) The term ‘qualified satellite provider’ means any provider of direct broadcast satellite service that—

“(i) provides the retransmission of the State public affairs networks of at least 15 different States;

“(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

“(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

“(D) The term ‘State public affairs network’ means a non-commercial non-broadcast network or a noncommercial educational television station—

“(i) whose programming consists of information about State government deliberations and public policy events; and

“(ii) that is operated by—

“(I) a State government or subdivision thereof;

“(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

“(III) a cable system.”

Subtitle C—Reports and Savings Provision

SEC. 931. DEFINITION.

In this subtitle, the term “appropriate Congressional committees” means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 932. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 933. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a

phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 934. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 935. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 926 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms “local market” and “satellite carrier” have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term “television broadcast station” has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 936. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

Subtitle D—Severability

SEC. 941. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE FOR THE LAST 10 MONTHS OF 2010.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111-118), is amended to read as follows:

“(10) UPDATE FOR 2010.—

“(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), and (9)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2010, the update to the single conversion factor shall be 0 percent for 2010.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2011 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2011 and subsequent years as if subparagraph (A) had never applied.”

SEC. 1002. NONAPPLICATION OF CERTAIN LABOR STANDARDS.

Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 shall not apply to any specified tax credit bond described in section 6431(f)(2)(A) of the Internal Revenue Code of 1986 (as added by section 301 of this Act).

SEC. 1003. E-VERIFY PROGRAM PARTICIPATION REQUIREMENT FOR EMPLOYERS RECEIVING PAYROLL TAX FORGIVENESS.

(a) IN GENERAL.—Paragraph (2) of section 3111(d), as added by section 101, is amended by adding at the end the following new subparagraph:

“(C) E-VERIFY PROGRAM REQUIREMENT.—The term ‘qualified employer’ shall not include any employer that does not participate in the E-Verify Program carried out under subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as of the hiring date of any qualified individual.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendments made by section 101 of this Act.

TITLE XI—DETERMINATION OF BUDGETARY EFFECTS

SEC. 1101. DETERMINATION OF BUDGETARY EFFECTS.

(a) IN GENERAL.—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.

(b) EMERGENCY DESIGNATION.—For all of the provisions in titles VI and VII, one-half of the amounts of the budgetary effects are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010, and designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 3321. Mr. BROWN of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 345, deploring the rape and assault of women in Guinea and the killing of political protesters; as follows:

In paragraph (1) of the resolving clause, strike “Guinea, and calls for an immediate cessation of violence, including gender-based violence and targeted killings by security forces” and insert “Guinea”.

Strike paragraphs (2) through (5) of the resolving clause and insert the following:

(2) urges the prosecution, by the appropriate authorities, of those responsible for orchestrating or carrying out the violence in Guinea;

(3) urges the President, in coordination with leaders from the European Union and the African Union, to continue to consider punitive measures that could be taken against senior officials in Guinea found to be complicit in the violence, and in particular, the atrocities perpetrated against women and other gross human rights violations;

(4) encourages the President to remain actively engaged in the political situation in Guinea, and to continue to convey that the blatant abuse of women will not be tolerated;

(5) calls on President Blaise Compaoré of Burkina Faso to ensure that Captain Camara does not return to Guinea in order to allow a peaceful transition to civilian rule;

(6) notes that the first steps set forth in the Joint Declaration of Ouagadougou have been initiated with the naming of a prime minister and urges all parties to continue to adhere to the agreement to see the process through free, fair, and timely elections; and

(7) recognizes the importance of the multi-lateral observer mission to help ensure peace and security in Guinea during the period of transition.

SA 3322. Mr. BROWN of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 345, deploring the rape and assault of women in Guinea and the killing of political protesters; as follows:

Strike the 2nd whereas clause of the preamble and insert the following:

Whereas, on September 28, 2009, authorities of the Government of Guinea opened fire on a crowd of thousands of unarmed opposition protesters who were gathered in and around an outdoor stadium to protest statements

made by Captain Camara that he may run for president, after he said that he would not;

Strike the 3rd whereas clause of the preamble and insert the following:

Whereas, on September 29, 2009, the United States Department of State condemned the brazen and inappropriate use of force by the military against civilians in Guinea, and demanded the immediate release of opposition leaders and a return to civilian rule as soon as possible;

Whereas, according to the United Nations Security Council Report of the International Commission of Inquiry Mandated to Establish the Facts and Circumstances of the Events of 28 September 2009 in Guinea, 156 people were killed or disappeared and at least 109 women and girls “were subjected to rape and other sexual violence, including sexual mutilation and sexual slavery”;

Strike the 5th whereas clause of the preamble.

Strike the 6th whereas clause of the preamble.

Insert between the 7th and 8th whereas clauses of the preamble, the following:

Whereas, according to the humanitarian organization CARE, “What happened in Guinea is an outrage—and a stark reminder of a larger epidemic of violence against women and girls around the world.”;

In the 8th whereas clause of the preamble, strike the “and” at the end.

Strike the 9th whereas clause of the preamble, and insert the following:

Whereas the International Commission of Inquiry of the United Nations concluded that “the crimes perpetrated on 28 September 2009 and in the immediate aftermath can be described as crimes against humanity” and that there is sufficient evidence that Captain Camara “incurred individual criminal liability and command responsibility for the events that occurred during the attack and related events in their immediate aftermath”;

Whereas, on January 15, 2010, General Sékouba Konate and Captain Camara of the Republic of Guinea and President Blaise Compaoré of Burkina Faso signed the Joint Declaration of Ouagadougou pledging to form a transitional government of national unity in Guinea, to hold elections within six months without the participation of candidates from the military junta, and to permit the entry of an international observer mission from the Economic Community of West African States; and

Whereas, in accordance with the Joint Declaration of Ouagadougou, a prime minister from the coalition of opposition forces, Forces Vives, has been named to the transitional government: Now, therefore, be it

SA 3323. Mr. BROWN of Ohio (for Mrs. BOXER (for herself and Mr. FEINGOLD)) proposed an amendment to the resolution S. Res. 345, deploring the rape and assault of women in Guinea and the killing of political protesters; as follows:

Amend the title so as to read: “A resolution deploring the rape and assault of women in Guinea and the killing of political protesters on September 28, 2009.”.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the

Committee on Energy and Natural Resources, previously announced for February 10th, has been rescheduled and will now be held on Wednesday, March 3, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the President's Proposed Budget for Fiscal Year 2011 for the Department of the Interior.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to allison_seyferth@energy.senate.gov.

For further information, please contact David Brooks at (202) 224-9863 or Allison Seyferth at (202) 224-4905.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, February 24, 2010, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

The purpose of this hearing is to consider the President's Proposed Budget for Fiscal Year 2011 for the Forest Service.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, 304 Dirksen Senate Office Building, Washington, DC 20510-6150, or by email to allison_seyferth@energy.senate.gov.

For further information, please contact Scott Miller at (202) 224-5488 or Allison Seyferth at (202) 224-4905.

SUBCOMMITTEE ON WATER AND POWER

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Water and Power of the Committee on Energy and Natural Resources. The hearing will be held on Thursday, February 25, 2010; at 10:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to examine the science and policy behind the Federal framework and non-Federal efforts to prevent introduction of the aquatic invasive Asian carp into the Great Lakes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150, or by email

to
Gina_Weinstock@energy.senate.gov.

For further information, please contact Tanya Trujillo at (202) 224-5479 or Gina Weinstock at (202) 224-5684.

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, February 25, 2010, at 2:15 p.m. in room 628 of the Dirksen Senate Office

Building to conduct an oversight hearing to Examine Tribal Programs and Initiatives Proposed in the President's fiscal year 2011 Budget.

Those wishing additional information may contact the Indian Affairs Committee at 202-224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 22, 2010, at 2:30 p.m.

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

FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Stephanie Mercier: | | | | | | | | | |
| Switzerland | Franc | | 2,691.00 | | | | | | 2,691.00 |
| United States | Dollar | | | | 6,144.90 | | | | 6,144.90 |
| Hayden Milberg: | | | | | | | | | |
| Switzerland | Franc | | 2,097.00 | | | | | | 2,097.00 |
| United States | Dollar | | | | 6,144.90 | | | | 6,144.00 |
| Bartholomew Kempf: | | | | | | | | | |
| Denmark | Kroner | | 9,258.00 | | | | | | 9,258.00 |
| United States | Dollar | | | | 2,046.90 | | | | 2,046.00 |
| Karla Thiemann: | | | | | | | | | |
| Denmark | Kroner | | 9,481.00 | | | | | | 9,481.00 |
| United States | Dollar | | | | 1,289.20 | | | | 1,289.20 |
| Joseph Shultz: | | | | | | | | | |
| Denmark | Kroner | | 4,661.00 | | | | | | 4,661.00 |
| United States | Dollar | | | | 1,143.00 | | | | 1,143.00 |
| Christopher Adamo: | | | | | | | | | |
| Denmark | Kroner | | 5,885.00 | | | | | | 5,885.00 |
| United States | Dollar | | | | 1,130.00 | | | | 1,130.00 |
| Julie Barkemeyer: | | | | | | | | | |
| Denmark | Kroner | | 9,622.00 | | | | | | 9,622.00 |
| United States | Dollar | | | | 1,252.00 | | | | 1,252.00 |
| Sean Babington: | | | | | | | | | |
| Denmark | Kroner | | 10,028.00 | | | | | | 10,028.00 |
| United States | Dollar | | | | 2,938.60 | | | | 2,938.60 |
| Total | | | 53,723.00 | | 22,088.60 | | 0.00 | | 75,811.60 |

SENATOR BLANCHE L. LINCOLN,
Chairman, Committee on Agriculture, Nutrition & Forestry, Jan. 26, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Galen Fountain: | | | | | | | | | |
| Italy | Euro | | 2,167.00 | | | | | | 2,167.00 |
| United States | Dollar | | | | 2,166.00 | | | | 2,166.00 |
| Allen Cutler: | | | | | | | | | |
| Russia | Ruble | | 1,825.00 | | | | | | 1,825.00 |
| United States | Dollar | | | | 7,444.00 | | | | 7,444.00 |
| Senator Daniel Inouye: | | | | | | | | | |
| United Arab Emirates | Dirham | | 146.94 | | | | | | 146.94 |
| Afghanistan | Afghani | | 56.00 | | | | | | 56.00 |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Nicole DiResta: | | | | | | | | | |
| United Arab Emirates | Dirham | | 146.94 | | | | | | 146.94 |
| Afghanistan | Afghani | | 56.00 | | | | | | |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Elizabeth Schmid: | | | | | | | | | |
| United Arab Emirates | Dirham | | 146.94 | | | | | | 146.94 |
| Afghanistan | Afghani | | 56.00 | | | | | | 56.00 |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Christine Crawford: | | | | | | | | | |
| South Africa | Dollar | | 513.00 | | | | | | 513.00 |
| Netherlands | Euro | | 1,279.00 | | | | | | 1,279.00 |
| Botswana | Dollar | | 219.00 | | | | | | 219.00 |
| United States | Dollar | | | | 11,118.00 | | | | 11,118.00 |
| Total | | | 6,611.82 | | 45,280.30 | | | | 51,836.12 |

SENATOR DANIEL K. INOUE,
Chairman, Committee on Appropriations, Jan. 26, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|------------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Adam J. Barker: | | | | | | | | | |
| United States | Dollar | | | | 9,885.00 | | | | 9,885.00 |
| Jordan | Dollar | | 67.00 | | | | | | 67.00 |
| Kuwait | Dollar | | 80.00 | | | | | | 80.00 |
| Michael V. Kostiw: | | | | | | | | | |
| United States | Dollar | | | | 9,915.90 | | | | 9,915.90 |
| Jordan | Dollar | | 157.00 | | | | | | 157.00 |
| Kuwait | Dollar | | 140.00 | | | | | | 140.00 |
| Michael J. Noblet: | | | | | | | | | |
| United States | Dollar | | | | 10,147.00 | | | | 10,147.00 |
| Jordan | Dollar | | 228.00 | | | | | | 228.00 |
| Kuwait | Dollar | | 361.00 | | | | | | 361.00 |
| Gabriella Eisen: | | | | | | | | | |
| United States | Dollar | | | | 9,633.60 | | | | 9,633.60 |
| United Arab Emirates | Dollar | | 108.00 | | 506.38 | | | | 614.38 |
| Afghanistan | Dollar | | 8.00 | | | | | | 8.00 |
| Israel | Dollar | | 133.00 | | | | | | 133.00 |
| Germany | Dollar | | 540.00 | | | | | | 540.00 |
| Senator George S. LeMieux: | | | | | | | | | |
| United Arab Emirates | Dollar | | 6.00 | | | | | | 6.00 |
| Afghanistan | Dollar | | 13.00 | | | 196.35 | | | 209.35 |
| John W. Heath, Jr.: | | | | | | | | | |
| United States | Dollar | | | | 7,347.90 | | | | 7,347.90 |
| United Kingdom | Pound | | 806.05 | | 79.67 | | | | 885.72 |
| Brooke Buchanan: | | | | | | | | | |
| Canada | Dollar | | 166.00 | | | | | | 166.00 |
| Dana W. White: | | | | | | | | | |
| United States | Dollar | | | | 7,153.00 | | | | 7,153.00 |
| Germany | Dollar | | 153.00 | | | | | | 153.00 |
| Michael J. Kuiken: | | | | | | | | | |
| United States | Dollar | | | | 7,118.00 | | | | 7,118.00 |
| Germany | Dollar | | 163.00 | | | | | | 163.00 |
| Howard H. Hoegge, III: | | | | | | | | | |
| United States | Dollar | | | | 7,306.90 | | | | 7,306.90 |
| United Kingdom | Pound | | 839.49 | | 75.24 | 18.97 | | | 933.70 |
| Senator John McCain: | | | | | | | | | |
| Canada | Dollar | | 20.80 | | | | | | 20.80 |
| Senator Joseph I. Lieberman: | | | | | | | | | |
| Israel | Shekel | | 251.00 | | | | | | 251.00 |
| Christopher J. Griffin: | | | | | | | | | |
| Israel | Shekel | | 219.00 | | | | | | 219.00 |
| Vance F. Serchuk: | | | | | | | | | |
| Israel | Shekel | | 402.00 | | | | | | 402.00 |
| Senator Roland W. Burris: | | | | | | | | | |
| United States | Dollar | | | | 7,620.60 | | | | 7,620.60 |
| Kuwait | Dollar | | 159.00 | | | 306.00 | | | 465.00 |
| Roosevelt Barfield: | | | | | | | | | |
| United States | Dollar | | | | 7,620.60 | | | | 7,620.60 |
| Kuwait | Dollar | | 159.00 | | | 306.00 | | | 465.00 |
| John W. Heath, Jr.: | | | | | | | | | |
| United States | Dollar | | | | 8,252.00 | 2.00 | | | 8,254.00 |
| United Arab Emirates | Dirham | | 1,258.86 | | | | | | 1,258.86 |
| Joseph M. Bryan: | | | | | | | | | |
| United States | Dollar | | | | 7,238.90 | | | | 7,238.90 |
| United Kingdom | Pound | | 915.00 | | 125.21 | | | | 1,040.21 |
| Howard H. Hoegge III: | | | | | | | | | |
| United States | Dollar | | | | 8,269.10 | | | | 8,269.10 |
| United Arab Emirates | Dollar | | 228.65 | | 5.41 | 4.16 | | | 238.22 |
| Daniel A. Lerner: | | | | | | | | | |
| United States | Dollar | | | | 3,928.00 | | | | 3,928.00 |
| United States | Dollar | | | | 6,083.00 | | | | 6,083.00 |
| United Kingdom | Dollar | | 1,887.00 | | | | | | 1,887.00 |
| Germany | Dollar | | 370.00 | | | | | | 370.00 |
| Belgium | Dollar | | 1,359.00 | | | | | | 1,359.00 |
| Poland | Dollar | | 147.00 | | | | | | 147.00 |
| Senator Lindsey Graham: | | | | | | | | | |
| Israel | Dollar | | 415.00 | | | | | | 415.00 |
| Jennifer Olson: | | | | | | | | | |
| Israel | Dollar | | 591.00 | | | | | | 591.00 |
| Ilona R. Cohen: | | | | | | | | | |
| United States | Dollar | | 10.24 | | 7,309.15 | 8.71 | | | 7,328.10 |
| United Kingdom | Pound | | 792.95 | | 72.29 | | | | 865.24 |
| Ilona R. Cohen: | | | | | | | | | |
| United States | Dollar | | | | 8,264.35 | 9.45 | | | 8,273.80 |
| United Arab Emirates | Dollar | | 265.39 | | 5.45 | 7.08 | | | 277.92 |
| David M. Morris: | | | | | | | | | |
| United States | Dollar | | | | 8,885.00 | | | | 8,885.00 |
| United Arab Emirates | Dollar | | 192.00 | | | | | | 192.00 |
| Kuwait | Dollar | | 318.00 | | | | | | 318.00 |
| Afghanistan | Dollar | | 73.00 | | | | | | 73.00 |
| Michael V. Kostiw: | | | | | | | | | |
| United States | Dollar | | | | 8,884.60 | | | | 8,884.60 |
| United Arab Emirates | Dollar | | 197.00 | | | | | | 197.00 |
| Kuwait | Dollar | | 318.00 | | | | | | 318.00 |
| Michael V. Kostiw: | | | | | | | | | |
| United States | Dollar | | | | 6,640.30 | | | | 6,640.30 |
| Israel | Dollar | | 704.00 | | | | | | 704.00 |
| Diana Tabler Forbes: | | | | | | | | | |
| United States | Dollar | | | | 8,606.00 | 10.00 | | | 8,616.00 |
| United Arab Emirates | Dollar | | 1,104.82 | | | | | | 1,104.82 |
| Afghanistan | Dollar | | 78.00 | | | | | | 78.00 |
| Christian D. Brose: | | | | | | | | | |
| Canada | Dollar | | 166.00 | | | | | | 166.00 |
| Senator Mark Udall: | | | | | | | | | |
| Canada | Dollar | | 20.80 | | | | | | 20.80 |
| Jennifer Barrett: | | | | | | | | | |
| Canada | Dollar | | 20.80 | | | | | | 20.80 |
| Senator Saxby Chambliss: | | | | | | | | | |
| United States | Dollar | | | | 9,428.50 | | | | 9,428.50 |
| United Arab Emirates | Dollar | | 476.00 | | | 29.00 | | | 505.00 |
| Afghanistan | Dollar | | 44.00 | | | 12.00 | | | 56.00 |
| Pakistan | Dollar | | 122.00 | | | 30.00 | | | 152.00 |
| Clyde Taylor: | | | | | | | | | |
| United States | Dollar | | | | 9,435.50 | | | | 9,435.50 |
| United Arab Emirates | Dollar | | 476.00 | | | 29.00 | | | 505.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Afghanistan | Dollar | | 44.00 | | | | 12.00 | | 56.00 |
| Pakistan | Dollar | | 122.00 | | | | 30.00 | | 152.00 |
| Joseph Bryan: | | | | | | | | | |
| United States | Dollar | | | | 8,269.10 | | | | 8,269.10 |
| United Arab Emirates | Dollar | | 222.80 | | | | 5.35 | | 228.15 |
| Madelyn R. Crendon: | | | | | | | | | |
| United States | Dollar | | | | 9,261.00 | | | | 9,261.00 |
| England | Pound | | 906.00 | | 20.00 | | | | 926.00 |
| Scotland | Pound | | 513.00 | | | | | | 513.00 |
| Germany | Euro | | 157.00 | | | | | | 157.00 |
| Belgium | Euro | | 1,212.00 | | | | | | 1,212.00 |
| Richard W. Fieldhouse: | | | | | | | | | |
| United States | Dollar | | | | 9,754.00 | | | | 9,754.00 |
| Belgium | Euro | | 852.00 | | | | | | 852.00 |
| Germany | Euro | | 113.00 | | 136.00 | | | | 249.00 |
| Poland | Zloty | | 147.00 | | | | | | 147.00 |
| Michael J. Kuiken: | | | | | | | | | |
| United States | Dollar | | | | 3,984.00 | | | | 3,984.00 |
| Israel | Shekel | | 703.00 | | | | | | 703.00 |
| Paul C. Hutton IV: | | | | | | | | | |
| United States | Dollar | | | | 4,033.50 | | | | 4,033.50 |
| Israel | Shekel | | 241.78 | | | | | | 241.78 |
| Total | | | 22,963.43 | | 221,300.15 | | 1,016.07 | | 245,279.65 |

SENATOR CARL LEVIN,
Chairman, Committee on Armed Services, Jan. 7, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON THE BUDGET FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|--------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Jeff Merkley: | | | | | | | | | |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Kuwait | Dinar | | 369.42 | | | | | | 369.42 |
| Mr. William White: | | | | | | | | | |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Kuwait | Dinar | | 371.42 | | | | | | 371.42 |
| Misc. expenses of Codel: | | | | | 194.94 | | 3,934.88 | | 4,129.82 |
| Total | | | 740.84 | | 14,472.14 | | 3,934.88 | | 19,147.86 |

SENATOR KENT CONRAD,
Chairman, Committee on Budget, Jan. 29, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Julie Chon: | | | | | | | | | |
| Turkey | Lira | | 2,667.93 | | | | | | 2,667.93 |
| United States | Dollar | | | | 8,258.50 | | | | 8,258.50 |
| Daniel O'Brien: | | | | | | | | | |
| Spain | Euro | | 1,168.00 | | | | | | 1,168.00 |
| United States | Dollar | | | | 7,645.80 | | | | 7,645.80 |
| Total | | | 3,835.93 | | 15,904.30 | | | | 19,740.23 |

SENATOR CHRISTOPHER DODD,
Chairman, Committee on Banking, Housing, and Urban Affairs, Jan. 15, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Thomas Dower: | | | | | | | | | |
| United States | Dollar | | | | 8,337.00 | | | | 8,337.00 |
| Denmark | Kroner | | 5,265.12 | | | | | | 5,265.12 |
| Patrick Woodcock: | | | | | | | | | |
| United States | Dollar | | | | 6,889.30 | | | | 6,889.30 |
| Denmark | Kroner | | 5,098.00 | | | | | | 5,098.00 |
| Michael Johnson: | | | | | | | | | |
| United States | Dollar | | | | 6,794.20 | | | | 6,794.20 |
| Denmark | Kroner | | 8,147.00 | | | | | | 8,147.00 |
| Michael Conathan: | | | | | | | | | |
| United States | Dollar | | | | 7,658.70 | | | | 7,658.70 |
| Brazil | Real | | 3,239.00 | | | | | | 3,239.00 |

| | | | |
|-------------|-----------------|-----------------|-----------------|
| Total | 21,749.12 | 29,679.20 | 51,428.32 |
|-------------|-----------------|-----------------|-----------------|

SENATOR JOHN ROCKEFELLER,
Chairman, Committee on Commerce, Science, and Transportation, Feb. 1,
2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Jonathan Black: | | | | | | | | | |
| United States | Dollar | | | | 4,011.00 | | | | 4,011.00 |
| Denmark | Krone | | 9,341.00 | | | | | | 9,341.00 |
| Kevin Rennert: | | | | | | | | | |
| United States | Dollar | | | | 6,802.60 | | | | 6,802.60 |
| Denmark | Krone | | 8,729.00 | | | | | | 8,729.00 |
| Colin Hayes: | | | | | | | | | |
| United States | Dollar | | | | 8,987.00 | | | | 8,987.00 |
| Denmark | Krone | | 5,885.00 | | | | | | 5,885.00 |
| Brian Hughes: | | | | | | | | | |
| United States | Dollar | | | | 8,987.00 | | | | 8,987.00 |
| Denmark | Krone | | 5,328.52 | | | | | | 5,328.52 |
| Total | | | 29,283.52 | | 28,787.60 | | | | 58,071.12 |

SENATOR JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources, Jan. 26, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|------------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator George Voinovich: | | | | | | | | | |
| Greece | Euro | | 247.00 | | | | | | 247.00 |
| Allyne Todd Johnston: | | | | | | | | | |
| Greece | Euro | | 606.00 | | | | | | 606.00 |
| United States | Dollar | | | | 7,290.90 | | | | 7,290.00 |
| Denmark | Kroner | | 5,662.00 | | | | | | 5,662.00 |
| Netherlands | Euro | | 560.00 | | | | | | 560.00 |
| Katherine Konschnik: | | | | | | | | | |
| United States | Dollar | | | | 7,771.60 | | | | 7,771.60 |
| Denmark | Kroner | | 5,132.00 | | | | | | 5,132.00 |
| Sarah Greenberger: | | | | | | | | | |
| United States | Dollar | | | | 6,734.10 | | | | 6,734.10 |
| Denmark | Kroner | | 5,052.00 | | | | | | 5,052.00 |
| Benjamin Dunham: | | | | | | | | | |
| United States | Dollar | | | | 4,682.60 | | | | 4,682.60 |
| Denmark | Kroner | | 9,755.00 | | | | | | 9,755.00 |
| George Sugiyama: | | | | | | | | | |
| United States | Dollar | | | | 6,729.30 | | | | 6,729.30 |
| Denmark | Kroner | | 5,534.00 | | | | | | 5,534.00 |
| James Warner: | | | | | | | | | |
| United States | Dollar | | | | 1,980.00 | | | | 1,980.00 |
| Denmark | Kroner | | 5,613.35 | | | | | | 5,613.35 |
| Laura Haynes: | | | | | | | | | |
| United States | Dollar | | | | 6,137.00 | | | | 6,137.00 |
| Denmark | Kroner | | 9,845.00 | | | | | | 9,845.00 |
| Andrew Wallace: | | | | | | | | | |
| United States | Dollar | | | | 8,361.30 | | | | 8,361.30 |
| Denmark | Kroner | | 5,298.00 | | | | | | 5,298.00 |
| Senator James M. Inhofe: | | | | | | | | | |
| United States | Dollar | | | | 8,849.20 | | | | 8,849.20 |
| Tristan Brown: | | | | | | | | | |
| United States | Dollar | | | | 8,337.00 | | | | 8,337.00 |
| Denmark | Kroner | | 5,439.00 | | | | | | 5,439.00 |
| Matthew Dempsey: | | | | | | | | | |
| United States | Dollar | | | | 8,315.20 | | | | 8,315.20 |
| Denmark | Kroner | | 5,075.00 | | | | | | 5,075.00 |
| Christopher Jason Albritton: | | | | | | | | | |
| United States | Dollar | | | | 6,940.60 | | | | 6,940.60 |
| Denmark | Kroner | | 5,216.00 | | | | | | 5,216.00 |
| Brian Clifford: | | | | | | | | | |
| United States | Dollar | | | | 6,720.00 | | | | 6,720.00 |
| Denmark | Kroner | | 5,662.00 | | | | | | 5,662.00 |
| Peter Raffle: | | | | | | | | | |
| United States | Dollar | | | | 7,854.70 | | | | 7,854.70 |
| Denmark | Kroner | | 4,993.00 | | | | | | 4,993.00 |
| Brad Crowell: | | | | | | | | | |
| United States | Dollar | | | | 6,755.00 | | | | 6,755.00 |
| Denmark | Kroner | | 10,112.00 | | | | | | 10,112.00 |
| Jeremiah Baumann: | | | | | | | | | |
| United States | Dollar | | | | 4,009.90 | | | | 4,009.90 |
| Denmark | Kroner | | 9,845.00 | | | | | | 9,845.00 |
| John Stody: | | | | | | | | | |
| United States | Dollar | | | | 6,720.00 | | | | 6,720.00 |
| Denmark | Kroner | | 5,662.00 | | | | | | 5,662.00 |
| Thomas Hassenboehler: | | | | | | | | | |
| United States | Dollar | | | | 8,301.50 | | | | 8,301.50 |
| Denmark | Kroner | | 5,893.00 | | | | | | 5,893.00 |
| Total | | | 111,201.35 | | 122,489.90 | 0.00 | | | 233,691.25 |

SENATOR BARBARA BOXER,
Chairman, Committee on Environment and Public Works, Jan. 27, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|-------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| James A. Person: | | | | | | | | | |
| Kuwait | Dollar | | 84.00 | | | | | | 84.00 |
| United States | Dollar | | | | 7,103.60 | | | | 7,103.60 |
| Michael Smart: | | | | | | | | | |
| Switzerland | Swiss Franc | | 1,923.26 | | | | | | 1,923.26 |
| United States | Dollar | | | | 6,144.90 | | | | 6,144.90 |
| Darci Vetter: | | | | | | | | | |
| Switzerland | Dollar | | 1,709.66 | | | | | | 1,709.66 |
| United States | Dollar | | | | 7,788.90 | | | | 7,788.90 |
| Chelsea Thomas: | | | | | | | | | |
| Cuba | Peso | | 550.00 | | | | | | 550.00 |
| United States | Dollar | | | | 1,233.20 | | | | 1,233.20 |
| Michael Smart: | | | | | | | | | |
| Denmark | Krone | | 4,852.00 | | | | | | 4,852.00 |
| United States | Dollar | | | | 6,679.30 | | | | 6,679.30 |
| Pat Bousliman: | | | | | | | | | |
| Denmark | Krone | | 5,091.00 | | | | | | 5,091.00 |
| United States | Dollar | | | | 6,755.00 | | | | 6,755.00 |
| Darci Vetter: | | | | | | | | | |
| Denmark | Krone | | 5,216.00 | | | | | | 5,216.00 |
| United States | Dollar | | | | 6,679.30 | | | | 6,679.30 |
| Catharine Ransom: | | | | | | | | | |
| Denmark | Krone | | 5,175.00 | | | | | | 5,175.00 |
| United States | Dollar | | | | 6,755.00 | | | | 6,755.00 |
| Total | | | 24,600.92 | | 49,139.20 | | | | 73,740.12 |

SENATOR MAX BAUCUS,
Chairman, Committee on Finance, Jan. 29, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator John Barrasso: | | | | | | | | | |
| United States | Dollar | | | | 8,906.60 | | | | 8,906.60 |
| Senator Ted Kaufman: | | | | | | | | | |
| Israel | Shekel | | 20.00 | | | | | | 20.00 |
| Senator John Kerry: | | | | | | | | | |
| Afghanistan | Dollar | | 89.65 | | | | | | 89.65 |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Senator Robert Menendez: | | | | | | | | | |
| Spain | Dollar | | 382.00 | | | | | | 382.00 |
| United States | Dollar | | | | 6,007.90 | | | | 6,007.90 |
| Senator Jeanne Shaheen: | | | | | | | | | |
| Canada | Dollar | | 20.80 | | | | | | 20.80 |
| Trent Bauserman: | | | | | | | | | |
| Denmark | Krone | | 887.46 | | | | | | 887.46 |
| United States | Dollar | | | | 3,058.60 | | | | 3,058.60 |
| Daniel Benaim: | | | | | | | | | |
| Kuwait | Dinar | | 144.00 | | | | | | 144.00 |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Jonah Blank: | | | | | | | | | |
| Afghanistan | Dollar | | 150.15 | | | | | | 150.15 |
| Pakistan | Dollar | | 30.00 | | | | | | 30.00 |
| United States | Dollar | | | | 8,149.10 | | | | 8,149.10 |
| Shellie Bressler: | | | | | | | | | |
| India | Rupee | | 1,902.00 | | | | | | 1,902.00 |
| United States | Dollar | | | | 7,921.60 | | | | 7,921.60 |
| Jason Bruder: | | | | | | | | | |
| Belgium | Euro | | 790.00 | | | | | | 790.00 |
| United States | Dollar | | | | 6,705.00 | | | | 6,705.00 |
| Perry Cammack: | | | | | | | | | |
| Israel | Shekel | | 880.00 | | | | | | 880.00 |
| United States | Dollar | | | | 4,966.40 | | | | 4,966.40 |
| Perry Cammack: | | | | | | | | | |
| Kuwait | Dinar | | 144.00 | | | | | | 144.00 |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Hal Connolly: | | | | | | | | | |
| Denmark | Kroner | | 1,338.00 | | | | | | 1,338.00 |
| United States | Dollar | | | | 7,610.90 | | | | 7,610.90 |
| Heidi Crebo-Rediker: | | | | | | | | | |
| Turkey | Lira | | 815.42 | | | | | | 815.42 |
| United Kingdom | Pound | | 1,148.80 | | | | | | 1,148.80 |
| United States | Dollar | | | | 7,676.70 | | | | 7,676.70 |
| Steve Feldstein: | | | | | | | | | |
| Kuwait | Dinar | | 144.00 | | | | | | 144.00 |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Kathleen Frangione: | | | | | | | | | |
| Denmark | Kroner | | 761.00 | | | | | | 761.00 |
| United States | Dollar | | | | 6,755.00 | | | | 6,755.00 |
| Mark Helmke: | | | | | | | | | |
| Denmark | Kroner | | 1,584.00 | | | | | | 1,584.00 |
| United States | Dollar | | | | 6,719.00 | | | | 6,719.00 |
| Frank Jannuzi: | | | | | | | | | |
| China | Renminbi | | 3,448.00 | | | | | | 3,448.00 |
| United States | Dollar | | | | 11,887.90 | | | | 11,887.90 |
| Andrew Keller: | | | | | | | | | |
| Denmark | Krone | | 841.00 | | | | | | 841.00 |
| United States | Dollar | | | | 1,238.90 | | | | 1,238.90 |
| John Kiriakou: | | | | | | | | | |
| United Arab Emirates | Dirham | | 203.66 | | | | | | 203.66 |
| Djibouti | Franc | | 443.41 | | | | | | 443.41 |
| Ethiopia | Birr | | 306.63 | | | | | | 306.63 |
| Yemen | Riyal | | 409.52 | | | | | | 409.52 |
| United States | Dollar | | | | 9,518.90 | | | | 9,518.90 |
| Chad Kriekemeier: | | | | | | | | | |
| Canada | Dollar | | 52.00 | | | | | | 52.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Mark Lopes: | | | | | | | | | |
| Spain | Dollar | | 382.00 | | | | | | 382.00 |
| United States | Dollar | | | | 6,531.90 | | | | 6,531.90 |
| Frank Lowenstein | | | | | | | | | |
| Afghanistan | Dollar | | 266.65 | | | | | | 266.65 |
| Pakistan | Dollar | | 115.00 | | | | | | 115.00 |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Nicholas Ma: | | | | | | | | | |
| Denmark | Kroner | | 1,259.00 | | | | | | 1,259.00 |
| United States | Dollar | | | | 6,685.50 | | | | 6,685.50 |
| Carl Meacham: | | | | | | | | | |
| Brazil | Real | | 436.00 | | | | | | 436.00 |
| Chile | Peso | | 1,595.00 | | | | | | 1,595.00 |
| Argentina | Peso | | 290.00 | | | | | | 290.00 |
| United States | Dollar | | | | 7,041.20 | | | | 7,041.20 |
| Mike Mattler: | | | | | | | | | |
| Denmark | Kroner | | 976.00 | | | | | | 976.00 |
| United States | Dollar | | | | 6,755.00 | | | | 6,755.00 |
| Melanie Nakagawa: | | | | | | | | | |
| Denmark | Kroner | | 1,784.00 | | | | | | 1,784.00 |
| United Kingdom | Pound | | 260.00 | | | | | | 260.00 |
| United States | Dollar | | | | 6,789.90 | | | | 6,789.90 |
| William Niebling: | | | | | | | | | |
| Spain | Euro | | 1,042.08 | | | | | | 1,042.08 |
| United States | Dollar | | | | 6,044.30 | | | | 6,044.30 |
| William Niebling: | | | | | | | | | |
| Denmark | Kroner | | 1,169.75 | | | | | | 1,169.75 |
| United States | Dollar | | | | 8,371.60 | | | | 8,371.60 |
| Ashley Palmer: | | | | | | | | | |
| Denmark | Kroner | | 446.00 | | | | | | 446.00 |
| United States | Dollar | | | | 6,754.60 | | | | 6,754.60 |
| Nilmini Rubin: | | | | | | | | | |
| Sri Lanka | Ruppee | | 654.00 | | | | | | 654.00 |
| United States | Dollar | | | | 9,808.80 | | | | 9,808.80 |
| Michael Phelan: | | | | | | | | | |
| Afghanistan | Afghani | | 286.00 | | | | | | 286.00 |
| United States | Dollar | | | | 10,918.70 | | | | 10,918.70 |
| Jodi Seth: | | | | | | | | | |
| Denmark | Kroner | | 266.00 | | | | | | 266.00 |
| United States | Dollar | | | | 3,374.10 | | | | 3,374.10 |
| Dorothy Shea: | | | | | | | | | |
| Egypt | Dollar | | 102.67 | | | | | | 102.67 |
| Yemen | Riyal | | 57.69 | | | | | | 57.69 |
| Lebanon | Dollar | | 774.00 | | | | | | 774.00 |
| United States | Dollar | | | | 9,906.90 | | | | 9,906.90 |
| Hailie Soifer: | | | | | | | | | |
| Israel | Shekel | | 102.00 | | | | | | 102.00 |
| Shannon Smith: | | | | | | | | | |
| India | Ruppee | | 1,902.00 | | | | | | 1,902.00 |
| United States | Dollar | | | | 7,921.60 | | | | 7,921.60 |
| Marik String: | | | | | | | | | |
| Georgia | Lari | | 2,028.00 | | | | | | 2,028.00 |
| United States | Dollar | | | | 8,968.90 | | | | 8,968.90 |
| Fatema Sumar: | | | | | | | | | |
| Sri Lanka | Ruppee | | 440.00 | | | | | | 440.00 |
| United States | Dollar | | | | 9,843.80 | | | | 9,843.80 |
| Fatema Sumar: | | | | | | | | | |
| Afghanistan | Dollar | | 276.00 | | | | | | 276.00 |
| Pakistan | Dollar | | 87.00 | | | | | | 87.00 |
| United States | Dollar | | | | 8,184.10 | | | | 8,184.10 |
| Laura Winthrop: | | | | | | | | | |
| Switzerland | Franc | | 992.00 | | | | | | 992.00 |
| United States | Dollar | | | | 6,143.70 | | | | 6,143.70 |
| Debbie Yamada: | | | | | | | | | |
| Greece | Euro | | 606.00 | | | | | | 606.00 |
| Charles Ziegler: | | | | | | | | | |
| United States | Dollar | | | | 7,138.60 | | | | 7,138.60 |
| Total | | | 35,530.34 | | 272,089.70 | | | | 307,620.04 |

SENATOR JOHN KERRY,
Chairman, Committee on Foreign Relations, Jan. 25, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS—AMENDED REPORT—THIRD QUARTER FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Keith Luse: | | | | | | | | | |
| Indonesia | Dollar | | 1,563.98 | | | | | | 1,563.98 |
| Singapore | Dollar | | 360.89 | | | | | | 360.89 |
| United States | Dollar | | | | 3,246.59 | | | | 3,246.59 |
| Total | | | 1,924.87 | | 3,246.59 | | | | 5,171.46 |

SENATOR JOHN KERRY,
Chairman, Committee on Foreign Relations, Oct. 30, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|-----------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Danielle Rosengarten: | | | | | | | | | |
| United States | Dollar | | | | 2,587.80 | | | | 2,587.80 |
| Denmark | Kroner | | 5,521.00 | | | | | | 5,521.00 |
| Matthew Rinkunas: | | | | | | | | | |
| United States | Dollar | | | | 1,215.40 | | | | 1,215.40 |
| Denmark | Kroner | | 4,799.00 | | | | | | 4,799.00 |
| Total | | | 10,320.00 | | 3,803.20 | | | | 14,123.20 |

SENATOR JOSEPH LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, Jan. 29, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE (ADDENDUM TO 2009 THIRD QUARTER REPORT) TRAVEL FROM JULY 1 TO SEPT. 30, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Bill Nelson | Dollar | | | | 278.97 | | 527.36 | | 806.33 |
| Andrew Kerr | Dollar | | | | | | 2,071.74 | | 2,071.74 |
| Total | | | | | 278.97 | | 2,599.10 | | 2,878.07 |

SENATOR DIANNE FEINSTEIN,
Chairman, Committee on Intelligence, Dec. 22, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Jennifer Wagner | | | 430.00 | | | | | | 430.00 |
| Senator Richard Burr | Dollar | | | | 9,435.50 | | | | 9,435.50 |
| Senator Sheldon Whitehouse | Dollar | | 13.00 | | | | | | 13.00 |
| James Smythers | Dollar | | 13.00 | | 8,184.10 | | | | 8,184.10 |
| Andrew Grotto | Dollar | | 256.00 | | 8,184.10 | | | | 8,184.10 |
| Senator Ron Wyden | Dollar | | 249.00 | | 8,184.10 | | | | 8,184.10 |
| Isaiah Akin | Dollar | | 115.00 | | 7,103.60 | | | | 7,103.60 |
| Isaiah Akin | Dollar | | 159.00 | | 7,103.60 | | | | 7,103.60 |
| Total | | | 1,235.00 | | 56,379.10 | | | | 57,614.10 |

SENATOR DIANNE FEINSTEIN,
Chairman, Committee on Intelligence, Dec. 22, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22
U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|-----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Benjamin Cardin: | | | | | | | | | |
| Greece | Euro | | 1,035.66 | | | | | | 1,035.66 |
| Congressman Alcee Hastings: | | | | | | | | | |
| Greece | Euro | | 994.74 | | | | | | 994.74 |
| United States | Dollar | | | | 5,486.70 | | | | 5,486.70 |
| Congressman Mike McIntyre: | | | | | | | | | |
| Greece | Euro | | 1,035.66 | | | | | | 1,035.66 |
| Fred Turner: | | | | | | | | | |
| Greece | Euro | | 994.74 | | | | | | 994.74 |
| Shelly Han: | | | | | | | | | |
| Greece | Euro | | 994.74 | | | | | | 994.74 |
| Neil Simon: | | | | | | | | | |
| Greece | Euro | | 994.74 | | | | | | 994.74 |
| Alex Johnson: | | | | | | | | | |
| Greece | Euro | | 1,326.32 | | | | | | 1,326.32 |
| Winsome Packer: | | | | | | | | | |
| Greece | Euro | | 1,326.32 | | | | | | 1,326.32 |
| Austria | Euro | | | | 1,341.71 | | | | 1,341.71 |
| Douglas Davidson: | | | | | | | | | |
| Netherlands | Euro | | 336.00 | | | | | | 336.00 |
| Bosnia Herzegovina | Mark | | 198.00 | | | | | | 198.00 |
| Poland | Zloty | | 887.13 | | | | | | 887.13 |
| United States | Dollar | | | | 8,932.10 | | | | 8,932.10 |
| Shelly Han: | | | | | | | | | |
| Azerbaijan | Manat | | 368.00 | | | | | | 368.00 |
| United States | Dollar | | | | 8,893.10 | | | | 8,893.10 |
| Douglas Davidson: | | | | | | | | | |
| Serbia | Danir | | 822.67 | | | | | | 822.67 |
| Austria | Euro | | 1,057.22 | | | | | | 1,057.22 |
| United States | Dollar | | | | 9,868.40 | | | | 9,868.40 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Winsome Packer: | | | | | | | | | |
| Austria | Euro | | 34,408.01 | | | | | | 34,408.01 |
| United States | Dollar | | | | 2,734.90 | | | | 2,734.90 |
| Marlene Kaufmann: | | | | | | | | | |
| Egypt | Pound | | 1,068.00 | | | | | | 1,068.00 |
| United States | Dollar | | | | 9,119.80 | | | | 9,119.80 |
| Alex Johnson: | | | | | | | | | |
| Egypt | Pound | | 1,068.00 | | | | | | 1,068.00 |
| United States | Dollar | | | | 9,119.80 | | | | 9,119.80 |
| Fred Turner: | | | | | | | | | |
| Poland | Zloty | | 691.42 | | | | | | 691.42 |
| United States | Dollar | | | | 7,916.30 | | | | 7,916.30 |
| Erika Schlager: | | | | | | | | | |
| Poland | Zloty | | 4,092.94 | | | | | | 4,092.94 |
| United States | Dollar | | | | 7,047.90 | | | | 7,047.90 |
| Janice Helwig: | | | | | | | | | |
| Poland | Zloty | | 4,042.94 | | | | | | 4,042.94 |
| United States | Dollar | | | | 8,137.50 | | | | 8,137.50 |
| Ronald McNamara: | | | | | | | | | |
| Poland | Zloty | | 1,677.26 | | | | | | 1,677.26 |
| United States | Dollar | | | | 7,938.90 | | | | 7,938.90 |
| Alex Johnson: | | | | | | | | | |
| Poland | Zloty | | 979.39 | | | | | | 979.39 |
| United States | Dollar | | | | 2,475.30 | | | | 2,475.30 |
| Douglas Davidson: | | | | | | | | | |
| Greece | Euro | | 1,847.00 | | | | | | 1,847.00 |
| United States | Dollar | | | | 8,398.20 | | | | 8,398.20 |
| Winsome Packer: | | | | | | | | | |
| Greece | Euro | | 2,800.00 | | | | | | 2,800.00 |
| Austria | Euro | | | | 1,222.00 | | | | 1,222.00 |
| Total | | | 65,046.90 | | 98,632.61 | | | | 163,679.51 |

SENATOR BENJAMIN CARDIN,
Chairman, Commission on Security and Cooperation in Europe, Jan. 26,
2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS AMENDED FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JULY 1 TO SEPT. 30, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Benjamin Cardin: | | | | | | | | | |
| Lithuania | Lita | | 1,364.00 | | | | | | 1,364.00 |
| Bosnia & Herzegovina | Marka | | 313.99 | | | | | | 313.99 |
| Senator Roger Wicker: | | | | | | | | | |
| Lithuania | Lita | | 1,450.00 | | | | | | 1,450.00 |
| Bosnia & Herzegovina | Marka | | 313.99 | | | | | | 313.99 |
| Erika Schlager: | | | | | | | | | |
| Slovakia | Euro | | 424.50 | | | | | | 424.50 |
| Austria | Euro | | 996.21 | | | | | | 996.21 |
| United States | Dollar | | | | 6,166.81 | | | | 6,166.81 |
| Janice Helwig: | | | | | | | | | |
| Kyrgyzstan | Som | | 1,476.50 | | | | | | 1,476.50 |
| United States | Dollar | | | | 7,216.52 | | | | 7,216.52 |
| Orest Deychakiwsky: | | | | | | | | | |
| Kyrgyzstan | Som | | 1,476.50 | | | | | | 1,476.50 |
| United States | Dollar | | | | 7,216.52 | | | | 7,216.52 |
| Shelly Han: | | | | | | | | | |
| Ghana | Cedi | | 505.00 | | | | | | 505.00 |
| Liberia | Dollar | | 500.00 | | | | | | 500.00 |
| United States | Dollar | | | | 7,593.20 | | | | 7,593.20 |
| Alex Johnson: | | | | | | | | | |
| Austria | Euro | | 1,122.00 | | | | | | 1,122.00 |
| United States | Dollar | | | | 7,239.80 | | | | 7,239.80 |
| Winsome Packer: | | | | | | | | | |
| Austria | Euro | | 32,416.02 | | | | | | 32,416.02 |
| United States | Dollar | | | | 6,106.60 | | | | 6,106.60 |
| Total | | | 42,358.71 | | 41,539.45 | | | | 83,898.16 |

SENATOR BENJAMIN CARDIN,
Chairman, Commission on Security and Cooperation in Europe, Oct. 21,
2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), REPUBLICAN LEADER FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Jim DeMint: | | | | | | | | | |
| Honduras | Dollar | | | | | | 69.00 | | 69.00 |
| Chris Socha: | | | | | | | | | |
| Honduras | Dollar | | | | | | 69.00 | | 69.00 |
| Total | | | | | | | 138.00 | | 138.00 |

SENATOR MITCH MCCONNELL,
Republican Leader, Dec. 18, 2009.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), U.S. SENATE NATIONAL SECURITY WORKING GROUP FOR TRAVEL FROM NOV. 10 TO NOV. 13, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Dianne Feinstein: | | | | | | | | | |
| Switzerland | Franc | | 1,303.00 | | | | | | 1,303.00 |
| Senator Jon Kyl: | | | | | | | | | |
| United States | Dollar | | | | 4,059.40 | | | | 4,059.40 |
| Switzerland | Franc | | 714.00 | | | | | | 714.00 |
| David Grannis: | | | | | | | | | |
| United States | Dollar | | | | 6,144.60 | | | | 6,144.60 |
| Switzerland | Franc | | 1,051.00 | | | | | | 1,051.00 |
| Timothy Morrison: | | | | | | | | | |
| United States | Dollar | | | | 6,144.60 | | | | 6,144.60 |
| Switzerland | Franc | | 1,173.00 | | | | | | 1,173.00 |
| Delegation Expenses*: | | | | | | | | | |
| Switzerland | Franc | | | | | | 1,905.00 | | 1,905.00 |
| Total | | | 4,241.00 | | 16,348.40 | | 1,905.00 | | 22,494.40 |

* Delegation expenses include payments and reimbursements to the Department of State, under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and S. Res. 179 agreed to May 25, 1977.

SENATOR HARRY REID,
Jan. 26, 2010.
SENATOR MITCH McCONNELL,
Jan. 26, 2010.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22
U.S.C. 1754(b), OFFICE OF THE PRESIDENT PRO TEMPORE FOR TRAVEL FROM OCT. 1 TO DEC. 31, 2009

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|----------------------------|------------------|------------------|---|------------------|---|------------------|---|------------------|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| James J. Tuite III: | | | | | | | | | |
| United Arab Emirates | Dirham | | 1,047.78 | | | | | | 1,047.78 |
| Afghanistan | Dollar | | 20.00 | | | | | | 20.00 |
| United States | Dollar | | | | 8,571.00 | | | | 8,571.00 |
| Total | | | 1,067.78 | | 8,571.00 | | | | 9,638.78 |

SENATOR ROBERT BYRD,
President pro tempore, Feb. 1, 2010.

SOCIAL SECURITY DISABILITY APPLICANTS' ACCESS TO PROFESSIONAL REPRESENTATION ACT OF 2010

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4532, received from the House and at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 4532) to provide for permanent extension of the attorney fee withholding procedures under title II of the Social Security Act to title XVI of such Act, and to provide for permanent extension of such procedures under titles II and XVI of such Act to qualified non-attorney representatives.

There being no objection, the Senate proceeded to consider the bill.

Mr. BAUCUS. Madam President, I urge the Senate to pass by unanimous consent H.R. 4532, the Social Security Disability Applicants' Access to Professional Representation Act of 2010, which was recently passed by the House of Representatives by a vote of 412 to 6.

Claimants of Social Security disability benefits who want to appeal decisions on their cases face many complexities. Therefore, many wish to hire professionals to represent them in these appeals. These representatives can request to have their fees withheld by SSA from the retroactive benefits owed to the claimant. The withheld

fees are forwarded directly to the representatives by SSA. This fee arrangement makes it much more attractive for these representatives to take on these cases, which will provide claimants with easier access to professionals willing to represent them before SSA. Prior to enactment of the Social Security Protection Act of 2004, this direct payment of fees was only available to attorneys, not to nonattorneys, and only applied to Social Security claims, not to supplemental security income, SSI, claims.

The Social Security Protection Act authorized two nationwide demonstration projects for a period of 5 years each. One project extended the attorney fee withholding and payment procedures that existed for Social Security claims to supplemental security income claims. A second project allowed nonattorney representatives the option of fee withholding for both Social Security and supplemental security income claims. This second project also required that nonattorney representatives who wish to apply for the direct fee payment program must have passed an examination written and administered by the Commissioner of Social Security, have met certain educational and professional liability insurance requirements, and have passed a criminal background check.

The demonstration projects have been successful, but both sunset on March 1, 2010. H.R. 4532 eliminates the

sunsets of both of the demonstration projects. This bill unifies the attorney and nonattorney fee withholding process for both Social Security and supplemental security income. The bill is a commonsense reform to the Social Security Act and should be enacted.

I would like to thank my colleagues in the House of Representatives for the work they put into this bill. I urge my colleagues in the Senate to support H.R. 4532.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and any statements relating to the measure be printed in the RECORD.

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

The bill (H.R. 4532) was ordered to a third reading, was read the third time, and passed.

DEPLORING THE RAPE AND ASSAULT OF WOMEN IN GUINEA AND THE KILLING OF POLITICAL PROTESTERS

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 213, S. Res. 345.

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

The legislative clerk read as follows:

A resolution (S. Res. 345) deploring the rape and assault of women in Guinea and the killing of political protesters.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that the Boxer amendment to the resolution be agreed to; the resolution, as amended, be agreed to; the Boxer amendment to the preamble be agreed to; the preamble be agreed to; a title amendment which is at the desk be agreed to; and the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The amendment (No. 3321) was agreed to, as follows:

(Purpose: To amend the resolving clause)

In paragraph (1) of the resolving clause, strike "Guinea, and calls for an immediate cessation of violence, including gender-based violence and targeted killings by security forces" and insert "Guinea".

Strike paragraphs (2) through (5) of the resolving clause and insert the following:

(2) urges the prosecution, by the appropriate authorities, of those responsible for orchestrating or carrying out the violence in Guinea;

(3) urges the President, in coordination with leaders from the European Union and the African Union, to continue to consider punitive measures that could be taken against senior officials in Guinea found to be complicit in the violence, and in particular, the atrocities perpetrated against women and other gross human rights violations;

(4) encourages the President to remain actively engaged in the political situation in Guinea, and to continue to convey that the blatant abuse of women will not be tolerated;

(5) calls on President Blaise Compaoré of Burkina Faso to ensure that Captain Camara does not return to Guinea in order to allow a peaceful transition to civilian rule;

(6) notes that the first steps set forth in the Joint Declaration of Ouagadougou have been initiated with the naming of a prime minister and urges all parties to continue to adhere to the agreement to see the process through free, fair, and timely elections; and

(7) recognizes the importance of the multilateral observer mission to help ensure peace and security in Guinea during the period of transition.

The resolution (S. Res. 345), as amended, was agreed to.

The amendment (No. 3322) was agreed to, as follows:

(Purpose: To amend the preamble)

Strike the 2nd whereas clause of the preamble and insert the following:

Whereas, on September 28, 2009, authorities of the Government of Guinea opened fire on a crowd of thousands of unarmed opposition protesters who were gathered in and around an outdoor stadium to protest statements made by Captain Camara that he may run for president, after he said that he would not;

Strike the 3rd whereas clause of the preamble and insert the following:

Whereas, on September 29, 2009, the United States Department of State condemned the brazen and inappropriate use of force by the military against civilians in Guinea, and de-

manded the immediate release of opposition leaders and a return to civilian rule as soon as possible;

Whereas, according to the United Nations Security Council Report of the International Commission of Inquiry Mandated to Establish the Facts and Circumstances of the Events of 28 September 2009 in Guinea, 156 people were killed or disappeared and at least 109 women and girls "were subjected to rape and other sexual violence, including sexual mutilation and sexual slavery";

Strike the 5th whereas clause of the preamble.

Strike the 6th whereas clause of the preamble.

Insert between the 7th and 8th whereas clauses of the preamble, the following:

Whereas, according to the humanitarian organization CARE, "What happened in Guinea is an outrage—and a stark reminder of a larger epidemic of violence against women and girls around the world.";

In the 8th whereas clause of the preamble, strike the "and" at the end.

Strike the 9th whereas clause of the preamble, and insert the following:

Whereas the International Commission of Inquiry of the United Nations concluded that "the crimes perpetrated on 28 September 2009 and in the immediate aftermath can be described as crimes against humanity" and that there is sufficient evidence that Captain Camara "incurred individual criminal liability and command responsibility for the events that occurred during the attack and related events in their immediate aftermath";

Whereas, on January 15, 2010, General Sékouba Konate and Captain Camara of the Republic of Guinea and President Blaise Compaoré of Burkina Faso signed the Joint Declaration of Ouagadougou pledging to form a transitional government of national unity in Guinea, to hold elections within six months without the participation of candidates from the military junta, and to permit the entry of an international observer mission from the Economic Community of West African States; and

Whereas, in accordance with the Joint Declaration of Ouagadougou, a prime minister from the coalition of opposition forces, Forces Vives, has been named to the transitional government: Now, therefore, be it

The preamble, as amended, was agreed to.

The amendment (No. 3323) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: "A resolution deploring the rape and assault of women in Guinea and the killing of political protesters on September 28, 2009."

The resolution, as amended, with its preamble, as amended, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

ORDERS

Mr. BROWN of Ohio. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, February 23; that following the prayer and the 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 proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10

minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; that following morning business the Senate resume consideration of the House message with respect to H.R. 2847, the legislative vehicle for the jobs bill; that time during any period of morning business, recess, or adjournment count posteloture; finally, I ask unanimous consent that the Senate recess from 12:30 until 2:15 to allow for the weekly caucus luncheons.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BROWN of Ohio. Madam 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 6:48 p.m., adjourned until Tuesday, February 23, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF COMMERCE

LARRY ROBINSON, OF FLORIDA, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE WILLIAM J. BRENNAN, RESIGNED.

DEPARTMENT OF STATE

ROBERT STEPHEN FORD, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER—COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

JONATHAN ANDREW HATFIELD, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE GERALD WALPIN, RESIGNED.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant commander

SCOTT J. PRICE
AMELIA A. EBHARDT
RYAN C. KIDDER
MARK VAN WAES
RICHARD E. HESTER, JR.
JENNIFER E. PRALGO
SEAN D. CIMILLUCA
CHARLES J. YOOS III
KEITH A. GOLDEN
DOUGLAS E. MACINTYRE
SARAH L. DUNSFORD
SARAH K. MROZEK

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant (junior grade)

HEATHER L. MOE
RUSSELL D. PATE
KYLE A. SANDERS
LINDSAY H. CLOVIS
JON D. ANDVICK
CHRISTOPHER J. BRIAND
MICHAEL D. ROBBIE
ERIK S. NORRIS
KURT S. KARPOV

IN THE MARINE CORPS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

HENRY C. BODDEN

DAVID M. SOUSA

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JAMES R. REUSSE
JEFFREY P. WOOLDRIDGE

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ANTHONY REDMAN
GARY J. SPINELLI

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MARK E. DUMAS
WALTER A. HARRIS, JR.
JAMES SMILEY

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

STEVEN S. DEVOST
TRAVIS M. FULTON
WILLIAM E. LANHAM

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

TONY C. ARMSTRONG
CHRISTOPHER W. BENSON
ANTHONY P. GREEN
THOMAS J. LIPPERT
SHELTON WILLIAMS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

CHARLES R. BAUGHN
KYLE B. HANNER
MICHAEL T. KUZNIAR
JOHN P. MULLERY

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RANDALL E. DAVIS
JAMES E. GRIFFITH
WILLIAM C. TRAQUAIR
WADE E. WALLACE
BRIAN L. WHITE

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

BRENT L. ENGLISH
WARREN A. GRAHAM, JR.
STEVEN P. HULSE
JAMES R. KELLER
ANTHONY C. LYONS

THE FOLLOWING NAMED LIMITED DUTY OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE

UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ROBERT BOYERO
MORRIS A. DESIMONE III
JOHN DIGIOVANNI
JAMES S. DUCKER
KEITH E. GELSINGER
RONALD J. ROSTEK, JR.
ANDREW R. STRAUSS

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be captain

CRAIG E. BUNDY

To be lieutenant commander

MICHAEL B. DENT
BRAD S. FEFFARI
HOWARD M. GUTHMANN II
RONAN J. LASSO II
YARON RABINOWITZ

WITHDRAWAL

Executive Message transmitted by the President to the Senate on February 22, 2010 withdrawing from further Senate consideration the following nomination:

LARRY ROBINSON, OF HAWAII, TO BE ASSISTANT SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE, VICE WILLIAM J. BRENNAN, RESIGNED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 4, 2010.