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Senate

The Senate met at 10 a.m. and was called to order by the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado.

PRAYER

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

Let us pray.

O God, who turns night shadows into morning, we pause in the freshness of this new day to seek Your guidance and to understand Your will.

Lead our lawmakers as they strive to serve the American people. Mold our Senators to Your purposes, fashion them with Your hands, and shape them into instruments for Your use. May they be sincere and honest in their relationships with one another, modeling integrity in all they do. Lord, empower them to do justly, to love mercy, and to walk humbly with You.

Bring sense and system to our disordered world so that we may find the pathway that leads to peace.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MICHAEL F. BENNET 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, June 9, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MICHAEL F. BENNET, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following any leader remarks, the Senate will resume consideration of the House message to accompany H.R. 4213, which is a bill to extend a number of expiring provisions, some of the tax issues we have to deal with every year, and some other good things to create jobs. There are going to be rollcall votes throughout the day.

We have four amendments that are pending. The chairman and I spoke last night. We believe we need to clear some of these amendments out of the way before we start piling on more amendments. We really need Members to come forward. If they have amendments, talk with the managers of the bill. We need to move forward on this legislation. We cannot sit here, as we did yesterday, and not do a lot.

Tomorrow, as everyone knows, we are going to spend a lot of time on the Murkowski resolution. That could take as many as 7 hours of floor time.

We need to move forward. We are out of session on Friday and Monday, really the only two nonvote days we have this entire work period.

PRIMARY NIGHT

Mr. President, it was primary night last night. I expressed in many different ways—I was up early this morning with my supporters in Nevada, telling them I appreciate their help.

I congratulated my Republican opponent in the general election, Sharron Angle, on the campaign she ran. She actually came from nowhere in a 13-person field in the Republican primary to win this election. I extended my appreciation to her in that regard.

BASEBALL

Mr. President, as a little sidenote, because we have 5 months to campaign all over the country, including Nevada, I want to take a pause and think about some of the things going on in the country.

One of the things going on in the Nation's Capital is tremendously interesting to me, and that is baseball. I watched on television last night much of the performance of this 21-year-old phenom, Stephen Strasburg. I watched not only him pitch but the interview after the game. He is 21 years old. He carried himself so well. In 7 innings, he struck out 14 Major League Baseball players. He did it very well. He is right-handed, but he reminded me so much of Sandy Koufax because he throws more than 100 miles an hour. He throws a curveball about 85 miles an hour. People who follow baseball know that is remarkable. That is great control. The reason I mention that is because he was the No. 1 draft choice for the Washington Nationals.

The No. 1 draft choice for the Washington Nationals a couple of days ago was a 17-year-old boy from Las Vegas, NV, named Bryce Harper. When Bryce Harper was 15 years old, he hit a home run more than 550 feet, which is a Mickey Mantle-type of home run, which Mickey Mantle did not do often. He took the GED when he finished his sophomore year in high school. He went immediately to junior college and played in the Junior College World Series this year. He is a wonderful young man. He has a great family. He is going to be in Washington playing Major League Baseball very soon. I think he will probably start playing in the Major Leagues at about the same age

as Al Kaline did, who was a Major League Baseball player. He throws as well as Al Kaline. He hits probably better than Al Kaline did.

Washington is fortunate to have these two fine young men. Not only are they great baseball players, but from everything we know about the two young men, they are good role models for young men and women around the country.

Mr. MCCONNELL. Mr. President, will the majority leader yield before changing the subject?

Mr. REID. Yes.

Mr. MCCONNELL. Mr. President, I say to my friend from Nevada, I was there. I had a chance to see Strasburg. As remarkable as the 14 strikeouts my friend referred to is the fact he did not walk anybody. What a remarkable athlete. We can only hope and pray that his arm holds up and that he has the kind of career everyone is anticipating. There was literally electricity in the air. It was an exciting event. It was great to be there.

Mr. REID. I so appreciate my counterpart talking about that. I wish I could have been there. But it was, even watching it on TV—gee whiz, there are those of us who love sports, and I know my friend loves basketball, especially that which takes place in Kentucky and the others, of course, in Kentucky. But this was really a remarkable performance. For Washington, which has been so starved for a good athletic team of some kind, it was nice.

I say to my friend through the Chair, when I was going to law school here, I watched two Major League Baseball games in the old Griffith Stadium. Oh, they were so much fun. I don't know who won. I am sure the Washington team lost. I know the two teams they played both times were the Yankees, where I watched Roger Maris, Mickey Mantle, Yogi Berra, and all those great players.

From this work in which we are engaged, which is always so serious, it is nice once in a while to divert our attention to something that is a little more relaxing. That baseball game last night was not relaxing, but it sure was a lot of fun.

Mr. President, my staff just indicated that I said we would not be in on Friday and Monday. We probably will be in; there will just be no votes.

Mr. MCCONNELL. Mr. President, if I may add one point, the majority leader mentioned that Bryce Harper was drafted by the Nationals on Monday. I look forward to him being the next Nevada contribution to the Washington area, right after my friend the majority leader.

Mr. REID. Mr. President, I say to my friend, it is a wonderful story. His brother, who was a great pitcher at California State Fullerton—which won the NCAA National Baseball Championship—his brother thought so much of his little brother, who is 4 years younger than he is, that he transferred from California State Fullerton to a junior college so he could play with his brother. The elder Harper is a pitcher, and the catcher is his little brother. The senior member of the brotherhood of Harper ball players, his record was 12 and 1 this year.

Another word about Bryce Harper. Community college baseball is very competitive. The record for the most home runs for any player in junior college baseball was 12. Bryce Harper hit 30. His batting average as a 17-year-old boy playing with men was .450. In one game, he was six for six. I think he had three or four home runs. It is an interesting story.

Mr. MCCONNELL. Mr. President, I will say that what one can conclude from this is that next year, when the Senate is not in session in the evening, both the Democratic and Republican leaders will be at the Nats games.

Mr. REID. I think that is pretty clear.

RECOGNITION OF THE MINORITY LEADER

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

URGENT CRISES

Mr. MCCONNELL. Mr. President, our Nation faces many urgent crises at the moment. Americans are looking for solutions. They are not getting any from Washington. Whether it is the housing crisis or the financial crisis, the debt crisis or the crisis in the gulf, what they are getting is a White House and a Democratic majority in Congress that seems more intent on pursuing a government-driven political agenda than finding commonsense solutions to the problems about which all of us are concerned.

Americans are exasperated by all this, but they should not be surprised because if there is one motto that defines this administration, it is the one delivered by the White House Chief of Staff in a revealing moment just after the President's election. I am referring, of course, to what Rahm Emanuel famously referred to as ''Rule 1: Never allow a crisis to go to waste.'' It is a fitting slogan for an administration which saw a crisis at some of America's great automaking firms as an opportunity for the government to extend its reach into industrial policy, which saw the panic on Wall Street as an opportunity for government to extend its reach further into Main Street, which saw out-of-control costs in health care as an opportunity to extend government's reach further into health care decisions of every American, and which is now talking about using a nightmarish environmental calamity in the gulf as a prime opportunity to extend government's reach even further into Americans' lives through a new, job-killing national energy tax that would hit every single household and business, small or large, in our country.

Think about it. For more than 50 straight days, an underwater geyser of oil, now roughly the size of Vermont, has been polluting the gulf. This is the kind of crisis that in the past would have united the Nation in a focused effort to solve the problem. Yet day after day, as this toxic oil continues to flow, what we get from the administration is some new twist on the blame game or some ham-handed effort to appear in control of the situation.

Meanwhile, in Congress, we are getting much the same thing. The deficit extenders bill that is now on the floor was supposed to be about giving job creators some assurance that the tax benefits they currently are receiving and on which they depend to retain workers will be there the next time they have to make a major business-related decision. Yet Democrats are using this bill as another opportunity to extend government's reach. Desperate for funds to bail out programs, they are raiding a trust fund—get this—created to pay for just the kind of cleanup we now need in the gulf. They are quintupling the tax that oil companies pay into the Oil Spill Liability Trust Fund that was created in the wake of the Exxon Valdez fix, and instead of using this money to clean up the oil that is spewing in the gulf, they are raiding the trust fund to pay for new unrelated spending.

Dipping into the oilspill trust fund in order to pay for something else—in other words, they are using the crisis in the gulf not only as a cover for even more government spending but as a major source of funding for it. This is really an outrage, and it should give every American a window into the Democratic approach to spending, as well as the lack of seriousness about the debt. Frankly, they just cannot restrain themselves. That is the only possible excuse for raiding this trust fund for unrelated government spending.

At the same time, as Americans wonder when this gusher will ever be plugged, we hear word that the administration and my good friend, the majority leader, want to piggyback their controversial new national energy tax—also known as cap and trade—to an oilspill response bill that could and should be an opportunity for true bipartisan cooperation. So again we see the administration using a crisis—in this case the disaster in the gulf—as an opportunity to muscle through Congress another deeply unpopular bill that has profound implications for small businesses and struggling households.

Look, if the health care debate taught us anything—anything at all—it is that Americans want these kinds of massive bills to be debated out in the open, not rushed past them on a holiday or tucked into a must-pass bill aimed at alleviating the kind of suffering we are seeing in the gulf. The problem for Democrats is that debating the Democratic cap-and-trade bill

might not fit neatly into the White House messaging plan since it has been widely reported that a major part—a major part—of the Kerry-Lieberman bill was essentially written by BP.

Let me say that again: A major part of the Kerry-Lieberman bill was written by BP. This is clearly an inconvenient fact. An administration that seems to spend most of its time coming up with ways to show how angry it is with BP is pushing a proposal that BP actually helped to write. I can't understand, and I don't think the American people will understand, why the majority believes it makes sense to respond to the BP oilspill by imposing a gas tax increase on the American people that was advocated by BP.

I think the American people want us to work together to address the disaster in the gulf, not exploit it—not exploit it—for partisan political purposes. The oilspill trust fund ought to be used to clean up oilspills. The oilspill trust fund ought to be used to clean up oilspills. This is one crisis Americans will not let Democrats exploit for their policy purposes.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

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

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 4213, which the clerk will report.

The legislative clerk read as follows:

Motion to concur in the House amendment to the Senate amendment to H.R. 4213, an act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus motion to concur in the amendment of the House to the amendment of the Senate to the bill, with Baucus amendment No. 4301 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute;

Sessions/McCaskill amendment No. 4303 (to amendment No. 4301), to establish 3-year discretionary spending caps;

Cardin amendment No. 4304 (to amendment No. 4301), to provide for the extension of dependent coverage under the Federal Employees Health Benefits Program;

Franken amendment No. 4311 (to amendment No. 4301), to establish the Office of the Homeowner Advocate for purposes of addressing problems with the Home Affordable Modification Program; and

Cornyn/Kyl amendment No. 4302 (to amendment No. 4301), to increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, in a few moments I will speak on the pending business before the Senate—the American Jobs and Closing Tax Loopholes Act—but before I do, I would like to refer to the comments of the Republican leader, as well as the statement of the Senator from Louisiana that he gave yesterday.

For several months now, Americans have witnessed a massive oilspill in the Gulf of Mexico, Americans have seen the sweeping environmental damage, and Americans have seen the dramatic economic effects. It is something that is overwhelming, it is appalling, and it is incredible how much damage is being created by the BP gulf oilspill. I am sure to the average observer there might seem no better time than now to ask oil companies to contribute more to shoulder the burden of the oilspill. Actually, they have caused the spill—at least one company has—and they should bear the burden.

This, then, would seem to be an appropriate time to raise the oilspill liability tax. The oilspill liability tax is pretty small. It is 8 cents a barrel. That is all it is currently. One would have to come up with a pretty creative argument if one wanted to protect big oil companies from this fee.

Well, the Senator from Louisiana, and just now the Republican leader, have done that. They have come up with a pretty creative argument to protect the oil companies. The Senator from Louisiana, for example, has returned to the last refuge of bean counters, and he has cried double counting. The double counting argument seems to be a favorite among bean counters, Mr. President. It seems to be the argument one falls back on when one cannot argue the substance and one just wants to muddy the waters. In reality, the funds collected by raising the oilspill liability tax will strengthen the Oil Spill Liability Trust Fund. That is simple arithmetic. But opponents of raising the tax on big oil companies want to make it less attractive for doing so. They want to make it so that the funds collected by raising taxes on big oil do not count in the Federal budget. That way it will be less effective and less attractive to raise taxes on big oil.

So don't be misled by the green eyeshades talk. Don't be misled by the bogus charges of double counting. Don't buy into the arguments of those who want to protect big oil. I urge my colleagues that when we get to it later today to vote against the Vitter amendment and to reject the arguments we have been hearing today that raising the per-barrel tax for funds which go into the oilspill liability fund is somehow double counting because, clearly, that money goes into the trust fund, and funds from that trust fund are then used to pay for the cleanup and some damage that has occurred and also counts toward reducing the Federal deficit because it is extra money that goes to government debt and, therefore, is money which is not doubled counted.

I urge my colleagues to reject those arguments.

Mr. DURBIN. Will the Senator from Montana yield for a question?

Mr. BAUCUS. I will yield to the Senator.

Mr. DURBIN. I listened to the statements made today by the Republican leader about the increase in this fee that is to be paid into the Oil Spill Liability Trust Fund. I would like to ask the chairman of the Finance Committee, currently, the fee is 8 cents a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And the price of a barrel of oil, as of this morning's Wall Street Journal, is $71.99 a barrel?

Mr. BAUCUS. That is correct.

Mr. DURBIN. So this is a small, tiny fraction—one-tenth——

Mr. BAUCUS. Of the current fee.

Mr. DURBIN. Of the current fee. One-tenth of 1 percent as best I can calculate it.

Mr. BAUCUS. That is true.

Mr. DURBIN. That is being paid by oil companies into a fund so that if there would be a spill and the oil company responsible couldn't pay for it, they would have at least accumulated enough money to protect the taxpayers——

Mr. BAUCUS. That is correct.

Mr. DURBIN. From this liability.

Mr. BAUCUS. That is correct. I might also say this fund was created in the wake of the Exxon Valdez spill.

Mr. DURBIN. Twenty-one years ago. I might also ask the chairman of the Finance Committee, it is my understanding that the total value of the current Oil Spill Liability Trust Fund is somewhere in the range of $1.5 billion?

Mr. BAUCUS. I think that is the amount. I am not certain, but it is about that.

Mr. DURBIN. So the effort in this bill is to increase that per-barrel tax paid by oil companies for this oilspill liability fund to——

Mr. BAUCUS. Forty-one cents.

Mr. DURBIN. Forty-one cents. So 41 cents would represent, as I calculate it, one-half of 1 percent of the current cost of a barrel of oil.

Mr. BAUCUS. The current oil priced at $71 a barrel.

Mr. DURBIN. Right. So the argument from the other side is that even if we accumulated this money and put it into this fund for cleaning up spills, we shouldn't count it as additional money being held by the Federal Government at the same time; is that correct?

Mr. BAUCUS. That is correct.

Mr. DURBIN. And if we fail to count it as an additional source of revenue being held by the Federal Government, is it not true that it would be subject to a budget point of order, which would then require 60 votes, and that would allow the oil companies to find 41 friends on the Senate floor—and I think I know where they will start looking—to defeat this effort to create this tax?

Mr. BAUCUS. I might say that is my reading of the Budget Act; that is correct.

Mr. DURBIN. Could I also ask the chairman of the Finance Committee, in this situation—where BP is clearly responsible for the mess in the Gulf of Mexico and has at least stated its responsibility; where we have a deep-pocket defendant that declared $5.6 billion in profits the first quarter of this year—if the next spill or the next accident resulting in multibillion-dollar damage to the Gulf of Mexico, or wherever, is caused by a company without deep pockets, is this fund the only place to turn to protect taxpayers?

Mr. BAUCUS. That is exactly correct.

Mr. DURBIN. And if we fail to increase this tax and increase the size of this fund, it means the taxpayers would be called on to bail out other oil companies that may be responsible for similar damage in the future?

Mr. BAUCUS. That is the precise theory of all trust funds in the first place, but now the cap needs to be raised.

Mr. DURBIN. So all the protests from the other side of the aisle about this 40-cent tax on big oil companies is basically not only to protect the big oil companies but to put the taxpayers on the hook for another bailout——

Mr. BAUCUS. That is correct.

Mr. DURBIN. If we run into another oilspill?

Mr. BAUCUS. If the fund is not large enough, that is exactly correct.

Mr. DURBIN. I thank the Senator.

Mr. BAUCUS. Mr. President, I know my friend wants to speak, but let me just set the lay of the land so my friend from Vermont can speak.

The Senate has returned to the American Jobs and Closing Tax Loopholes Act. I want to remind my colleagues this bill is about jobs. It is about helping 15 million Americans who have lost their jobs as well. We are talking about people who have worked, who want to work, and who will work again. These are our neighbors, and they need our help.

The Labor Department just reported that although things are getting better, there are still five unemployed Americans for every job opening available—five. For comparison, throughout 2007 there were fewer than two unemployed workers for every job opening. Again, today there are five. We need to do more to help create jobs. We need to continue to help those who do not have jobs to get by.

Let me also remind my colleagues that hundreds of thousands of unemployed Americans need the assistance in this bill just to get by. The Senate needs to pass this bill, and we need to do it soon. As I have noted, this bill is about jobs. This bill is about helping the 15 million Americans who have lost their jobs. I remind my colleagues about that because, so far, aside from the substitute, none of the amendments offered is about jobs or about helping the 15 million Americans who have lost their jobs.

Many of the pending amendments are worthy efforts, but I encourage my colleagues to stick to the task, to address the subject at hand, and to pass this bill. People need help.

Right now, we have five amendments pending: this Senator's amendment in the nature of a substitute, the Sessions amendment to cap appropriations, the Cardin amendment to provide for dependent coverage under the Federal Employees Health Benefits Plan, the Franken amendment to create the homeowner advocate in the Home Affordable Modification Program, and the Cornyn amendment for more reports on government debt.

The majority leader has requested that the Senate address the backlog of pending amendments before we allow more amendments to become pending. That is why I am serving notice that until we have voted on some of the pending amendments, I will be obliged to object to setting aside any of the pending amendments in order to allow further amendments to become pending. Thus, we would like to line up some of the votes, Mr. President.

If possible, we would like to have votes at least by noon or, at the very latest, 2 p.m. We very much hope we can make some progress today—not just hopefully but make progress. It is our obligation to make progress. That is our job. People elected us to do what is right for America. It is right to help extend these so-called tax extenders, the R&D tax credit, and so on and so forth, but it is also right to make sure unemployment benefits are available for those who are out of work.

I urge us to come together and do our work in these next couple of days. I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Vermont.

Mr. SANDERS. Mr. President, I want to speak briefly about an amendment I have filed and look forward to getting pending in a short while. This is an amendment which addresses many of the issues we have been hearing about this morning about which the American people are concerned.

This amendment helps us lower the record-breaking deficit this country is facing, and this amendment will help us transform our energy system away from fossil fuel—away from the oil disaster that we are seeing in the gulf right now—to energy efficiency and sustainable energy. So for all my colleagues who are concerned about record-breaking deficits, I hope they will support this amendment which I will explain in a moment. And for all of my colleagues who understand that the future of this country is not offshore drilling, I hope they will support this amendment.

Let me explain briefly what this amendment does. At a time when the profits of big oil companies are soaring, at a time when we are in the midst of the largest oilspill in our Nation's history—one of the greatest ecological disasters this country has ever experienced—at a time when we desperately need to end our dependence on oil and gas and seriously transform our energy system by investing in energy efficiency, conservation, and renewable energy, this amendment is simple and it is straightforward and I think it addresses all of those concerns.

This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry. Let me repeat that. This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget. What this amendment is doing is simply bringing to the floor of the Senate the recommendations that were in President Obama's budget.

According to OMB, the repeal of these tax breaks would be equivalent to about 1 percent of domestic oil and gas industry revenues over the next decade. This is not an onerous attack on the oil industry. In other words, the cost to the oil and gas industry of repealing these tax breaks is negligible. And $25 billion of the money saved under this amendment would be used to reduce the deficit and $10 billion would be used to invest in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period.

This amendment does two things. For all of my friends, and every American who is concerned about a $13 trillion national debt and record-breaking deficits, this amendment says let us put $25 billion into deficit reduction. For all of us who are concerned about transforming our energy system away from fossil fuel to energy efficiency and sustainable energy, this amendment says, over the next 5 years let's put $10 billion into the Energy Efficiency and Conservation Block Grant Program, which provides funding to States, cities, and towns all over America to begin transforming energy in their communities.

This amendment is supported by Physicians for Social Responsibility, Friends of the Earth, Public Citizen, moveon.org, Center for Biological Diversity, One Sky, Environment America, the Sierra Club, and Greenpeace.

If there is anything we should be learning from the gulf disaster, the horrendous disaster we are experiencing today on the gulf coast, it is that it is time to move aggressively away from polluting and unsafe fossil fuels which are getting more and more difficult to produce as we move farther and farther offshore to drill for them. With a $13 trillion national debt, the last thing we need to be doing is giving huge tax breaks to big oil and gas companies that have been making record-breaking profits year after year.

As I indicated before, all of the oil and gas tax breaks that my amendment seeks to repeal have been targeted for elimination in President Obama's fiscal year 2011 budget. So

here we are. For all of my deficit hawk friends: $25 billion into deficit reduction by asking the oil industry, which has been hugely profitable in recent years, to start paying their fair share of taxes.

Let me quote from a speech that President Obama gave on this subject.

> Our continued dependence on fossil fuels will jeopardize our national security. It will smother our planet. And it will continue to put our economy and our environment at risk. . . . If we refuse to take into account the full cost of our fossil fuel addiction—if we don't factor in the environmental costs and national security costs and true economic costs—we will have missed our best chance to seize a clean energy future. . . . The time has come once and for all for this Nation to fully embrace a clean energy future. Now, that means . . . rolling back billions of dollars of tax breaks to oil companies so that we can prioritize investments in clean energy research and development.

That is the end of the quote from President Barack Obama. Frankly, that is what this amendment is all about.

Let me give one interesting example of the absurdity of continuing to provide tax breaks to the oil and gas industry. Last year, ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal taxes, it actually received a $46 million refund from the IRS. How is that, folks? So, for all of the taxpayers in this country, people who are making $30,000 or $40,000 a year, who are prepared to pay their fair share of taxes, we have a situation where last year ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal taxes, it actually received a $46 million refund from the IRS.

We have a lot of working people in the State of Vermont who make $50,000 or $60,000 a year, working 6 or 7 days a week in order to take care of their family. They pay taxes. ExxonMobil, the most profitable corporation in America, gets a refund from the IRS. If anyone thinks that makes sense I would like to hear about it.

ExxonMobil is the same huge oil company that had enough money to pay a $398 million retirement package to its outgoing CEO, Lee Raymond, a few years ago, so it is a real struggling company. They make more profits than any company in the history of the world and paid their outgoing CEO $398 million in a retirement package but they cannot afford to pay a nickel in taxes. In fact, they get a tax refund. Do you think we need to change that system? I do.

ExxonMobil is the same company that is making its profits by gouging consumers at the pump by charging higher and higher prices for gasoline even when demand is low and supply is high. In Vermont, gas is now $2.85 a gallon. That has to stop.

This amendment would begin to make sure that ExxonMobil, BP, and other big oil companies pay at least a minimal amount of their record-breaking profits in taxes to the Federal Government so we can begin to deal with our record-breaking deficit; so we can begin the process of transforming our energy system.

Let me be clear. As millions of Americans have lost their jobs, their homes, their life savings, and their ability to send their kids to college because of this horrendous Wall Street recession, we cannot continue to allow big oil companies to make out like bandits. In the first quarter—I refer people to this chart—in the first quarter of 2009, when our gross domestic product shrank by 6.4 percent and overall corporate profits decreased by 5.25 percent—that is what a recession is about; profits are down, overall corporate profits—the five largest oil companies were still able to earn over $13 billion in profits. As this chart shows, during the last 10 years the five largest oil companies—ExxonMobil, Shell, BP, ChevronTexaco, and ConocoPhillips—earned over $750 billion in profits: a 10-year period, $750 billion in profits. That is not chickenfeed.

During the first quarter of this year, big oil's profits increased by 85 percent—not bad, 85 percent. Instead of using these profits to invest in renewable energy and to prevent oilspills, big oil and gas companies are primarily using this money to buy back their own stock and enrich their CEOs. According to the American Petroleum Institute, between 2000 and 2007 the entire oil and gas industry, of all of their profits—remember, $750 billion of profits over the last 10 years—invested only $1.5 billion in North American ''nonhydrocarbon investments'' aimed at reducing the Nation's dependence on oil. That is less than one-quarter of 1 percent of their profits during this time period.

Meanwhile, the CEOs of big oil companies have received hundreds of millions in retirement packages and total compensation. Over the last 5 years, Ray Irani, the CEO of Occidental Petroleum, received over $725 million in total compensation; John Hess, the CEO of the Hess Oil Company, has received over $240 million in total compensation; David Lesar, the CEO of Halliburton, has received over $114 million in total compensation; James Mulva, the CEO of ConocoPhillips, has received over $95 million in total compensation; and Rex Tillerson, the CEO of ExxonMobil, made over $30 million in total compensation over that 5-year period. Further, since 2002, the five largest oil companies have repurchased almost $270 billion of their own stock.

It is important for the American people to understand how excessively we are subsidizing fossil fuels and benefiting big oil. It is not only that they are making record-breaking profits; it is not only that they are not paying their fair share of taxes; it is not only that they are not investing in renewable energy so we can break our dependency on fossil fuel and clean up this planet, but in addition to that, they are receiving huge amounts of taxpayer subsidies. These guys who tell us how terrible the big government is are not hesitant to be running here to Capitol Hill to get their fair share of their welfare payments.

As this chart shows, according to the Environmental Law Institute, from 2002 to 2008, the U.S. Government provided more than $70 billion in fossil fuel subsidies compared to just over $12 billion for wind, solar, geothermal, biomass, and other renewable energies which in fact are the future of this country in terms of energy. This set of priorities is totally absurd. We have to put an end to the outrageous tax breaks and subsidies that have been given to big oil and gas companies.

But that, again, is not all this amendment would do. It is not only $25 billion in deficit reductions. This amendment begins to move us away from fossil fuel to energy efficiency and renewable energy by investing $10 billion into the Energy Efficiency and Conservation Block Grant Program. The stimulus package provided $3.2 billion for this highly successful program, and that money is filtering throughout 50 States in America. Hundreds and hundreds and thousands of communities are now making energy efficiency improvements in their townhalls, in their schools, and they are moving toward sustainable energy as a result of this program. We would put $10 billion more, over a 5-year period, into a program which finally moves us away from fossil fuel to sustainable energy and energy efficiency.

Let me give an example of how this program is working. This program is helping to build wind turbines in Carmel, IN, to power its city sewer treatment plant. It is being used in Salt Lake City, UT, to provide loans to businesses to make energy efficiency upgrades. It is being used in Columbus, OH, to make 29 public buildings more energy efficient.

I think, as everybody knows, the most significant thing we can do today, the best return on our dollar, is energy efficiency. That is what they are doing in Columbus, OH. That is what they are doing in Vermont. That is what they are doing, in fact, all over this country, as a result of programs such as the Energy Efficiency Block Grant Program. It is being used in Portland, ME, to retrofit 55 public buildings. It is being used in Miami, FL, to convert landfill gas into the production of electricity. Methane gas out of rotting organic matter in a landfill provides electricity. What can be smarter than that? It is being used in New York City to help homeowners and businesses with energy efficiency and renewable energy loans, among many other projects we are seeing all over America, 50 States utilizing this program, young people getting involved in thinking about energy, energy efficiency, sustainable energy. We need to keep

these investments in energy efficiency and conservation going and that is what this amendment does.

Finally, this amendment would dedicate $25 billion for deficit reduction. At a time of record-breaking deficits and debt, we simply cannot continue to give oil and gas companies huge tax breaks.

When it comes down to it, this amendment asks a very simple question: Which side are you on? Which side are you on? Are you on the side of big oil and gas companies or are you on the side of reducing the deficit, reducing our dependence on oil, saving consumers and businesses money on their energy bills, and saving the planet we live on? I would hope most of our colleagues here are on the side of doing what is right for the American people. That is what this amendment is about. I understand that anytime you stand up to big oil and to big gas companies, there is going to be a lot of political push back. We know that since 1990 the oil and the gas industry has made over $238 million in campaign contributions, and over the past 2 years alone, they spent over $210 million on lobbying. With the BP disaster in the gulf coast, my guess is these guys are all over the place now lobbying and sending out their campaign contributions. But this amendment is the right thing to do. It should bring together all of us who are concerned about transforming our energy system, all of us who are concerned about lowering our record-breaking deficits.

I intend to be offering this amendment. I look for widespread support on both sides of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

FOREIGN LAW AND THE U.S. CONSTITUTION

Mr. COBURN. Mr. President, I send to the desk to have printed in the RECORD a letter I sent to Justice Sonia Sotomayor dated the day before yesterday. The reason for that concern is our Supreme Court process has broken down.

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

U.S. SENATE,
COMMITTTEE ON THE JUDICIARY,
Washington, DC, June 8, 2010.

Justice SONIA SOTOMAYOR,
Supreme Court of the United States, Washington, DC.

DEAR JUSTICE SOTOMAYOR: I write to inquire about your decision to join Justice Anthony Kennedy's opinion in the case of *Graham* v. *Florida*, No. 08–1224. In that case, a 5–4 majority of the Court ruled that sentencing a juvenile offender to life in prison without parole for a nonhomicide crime is unconstitutional.

In Justice Kennedy's opinion, he employs a methodology similar to that used in *Roper* v. *Simmons*. In *Roper* and *Graham*, the majority relies on what five Justices perceive to be ''evolving standards of decency'' in concluding that the punishment in question violates the Eighth Amendment's ban on cruel and unusual punishment. In arriving at this conclusion, Justice Kennedy looked to both the sentencing practices of the states and the federal government and to the ''judgments of other nations.'' Justice Kennedy's opinion in *Graham*, which you joined, states, ''[the] global consensus against the sentencing practice in question'' provides ''support for our conclusion'' that the punishment is unconstitutional. He further writes, the ''judgments of other nations and the international community'' and the ''climate of international opinion'' are ''not irrelevant'' to determining the ''acceptability of a particular punishment.'' Specifically, the opinion notes, '''the overwhelming weight of international opinion against' life without parole for nonhomicide offenses committed by juveniles 'provide[s] respected and significant confirmation for our own conclusion'' ' that it violates the Eighth Amendment.

Given your testimony at your confirmation hearing, I have serious concerns about your decision to join Justice Kennedy's opinion, which extensively cites foreign law, At your hearing. I asked you the following question: ''[W]ill you affirm to this Committee and the American public that, outside of where you are directed to do so through statute or through treaty, refrain from using foreign law in making the decisions that you make that affect this country and the opinions that you write?'' You responded: ''I will not use foreign law to interpret the Constitution or American statutes. I will use American law, constitutional law to interpret those laws, except in the situations where American law directs a court.'' I sought further clarification and asked: ''So you stand by it? There is no authority for a Supreme Court justice to utilize foreign law in terms of making decisions based on the Constitution or statutes?'' You responded: ''Unless the statute requires you or directs you to look at foreign law . . . the answer is no.''

Your decision to join Justice Kennedy's opinion that uses foreign law to ''support'' its conclusion conflicts with your pledge to the Judiciary Committee and the American public not to ''use foreign law to interpret the Constitution.'' In light of that conflict. I respectfully request that you explain why you chose to join the majority's opinion in *Graham*. I recognize that Justice Kennedy's opinion does not rely on foreign law as precedent for its decision; however, if foreign law is of no value to the reasoning of the opinion and did not influence the final outcome, then please explain why you supported its inclusion in the opinion. These questions are particularly relevant as the Senate is faced with evaluating another Supreme Court nominee in the coming months. Accordingly, I would appreciate a prompt response.

Sincerely,

TOM COBURN, M.D.,
U.S. Senator.

Mr. COBURN. I want to read you some quotes of the Justice, and then I want to read you the answers she gave to my queries during her hearing on the Judiciary Committee. I think it is going to be plain to see that we have to change what we are doing on Supreme Court nominees.

Previous quotes from Judge Sotomayor on foreign law; the use of foreign law to interpret the U.S. Constitution, which is forbidden under the Constitution, except in those international treaties where it is so directed under statute and treaty.

Statement of Judge Sotomayor:

To suggest to anyone that you can outlaw the use of foreign or international law is a sentiment that is based on a fundamental misunderstanding. What you would be asking American judges is to close their minds to good ideas. Nothing in the American legal system prevents us from considering the ideas.

That is true.

The international law and foreign law will be very important in the discussion of how we think about unsettled issues in our own legal system. It is my hope that judges everywhere will continue to do this. Within the American legal system, we are commanded to interpret our law in the best way we can. That means looking to what anyone has said to see if it has pervasive value.

Well, that is wrong. The Constitution defines what judges look at in considering their decisions. So I asked her the following questions during her confirmation hearing before the Judiciary Committee:

[W]ill you affirm to this Committee and the American public that outside of where you are directed to do so through statute or through treaty, refrain from using foreign law in making the decisions that you make that affect this country and the opinions that you write? [or concur with.]

Sotomayor's response:

I will not use foreign law to interpret the Constitution or American statutes. I will use American law, constitutional law to interpret those laws, except in situations where American law directs a court [to do otherwise.]

So you stand by it?

These are my words.

There is no authority for a Supreme Court Justice to utilize foreign law in terms of making decisions based on the Constitution or our statutes?

Here is her response.

Unless the statute requires you or directs you to look at foreign law, the answer is no.

So her statements before she comes before the committee are totally opposite of what she tells the committee, and then what she has done since proves that her testimony before the committee was totally meaningless.

On May 17, Justice Sotomayor joined an opinion citing the ''judgments of other nations'' when interpreting the eighth amendment to prohibit sentencing of a juvenile offender. The opinion states the following:

[The] global consensus against the sentencing practice in question provides support for our conclusion.

Well, either she was dishonest with us in the committee or she does not know what she is signing on to, which tells you that our process for intervening and holding Supreme Court candidates is a failure.

The opinion further states that:

The judgments of other nations and the international community [and the] climate of international opinion are not irrelevant to determining the acceptability of a particular punishment.

That is a total violation of the U.S. Constitution and its statutes. It is a total negation of what she told the committee as she came through the

committee process. That is one of the reasons I did not believe her, because I believed her earlier statements to be her true feeling.

So what we have before the Judiciary Committee—and we have another nominee coming up now—is the ability for Justices to say whatever we want to hear, and then do whatever they want to do and ignore the U.S. Constitution, as she did, and in her testimony before the committee.

As journalist Stuart Taylor recently wrote in The Atlantic—this opinion that she cosigned onto:

> The opinion was based on little more than the personal policy preferences of the five majority justices. And it looked abroad for consensus that so plainly does not exist here and violates our own U.S. Constitution.

So it did not matter what she told the committee. She did exactly the opposite of what she told the committee as she signed onto this opinion. We are going to need more than promises from the next nominee. An acceptable Supreme Court nominee must have a demonstrated record of adhering to the Constitution and their judicial oath by strictly interpreting the Constitution, according to our Founders' intent, not international opinion or consensus. It has no role in the interpretation of our Constitution. Senators cannot simply accept pledges from Supreme Court nominees that they will not use foreign law when interpreting the U.S. Constitution. The nominee to come before us, Solicitor General Kagan, wrote the following:

> There are some circumstances in which it may be proper for judges to consider foreign law sources in ruling on constitutional questions.

Oh, really? Is that what our Constitution says? Is that what this candidate believes? Here is what she said. What is she going to say before us in committee, that she will not? What value is that if, in fact, she knows that to be the law, she admits that is what the U.S. Constitution says, and as soon as she is affirmed, does exactly the opposite? The process has to be changed. We can no longer take it on faith because, in fact, the process under which—since Bork actually spoke what he believed, since him, nobody has said what they believe. They have all chiseled on what they believe. They will not be accountable to what they believe. So we have to change that process.

The other concerning thing about Nominee Kagan is that when she went to Harvard, she made international law mandatory in terms of getting a degree out of law school at Harvard. But do you realize Harvard does not require its lawyers to take constitutional law? You can graduate from Harvard Law School and never have studied U.S. constitutional law. That tells you the trend this country is going in; we are abandoning our Constitution and the very wisdom that gives us the freedom we have today.

I will finish by saying, the consideration of any judge in the future, in terms of this Senator, is going to be borne out by what they have said before they got to the committee, not what they say to the committee, because we can no longer, as a body, trust what the nominees say in committee.

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

The PRESIDING OFFICER (Mr. BURRIS.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

Mr. DURBIN. Mr. President, pending before the Senate is a bill that includes many provisions. It is known in shorthand as the extenders bill because each year there are portions of the Tax Code which expire, and they relate to a lot of different things we kind of take for granted—the biofuels tax credit, for example—and other things. Each year, Congress extends or reauthorizes those portions of the Tax Code, and most of them are noncontroversial.

The obvious question many people ask who are affected by them is, Why do you do this every year and go through this exercise? It is an honest and legitimate question. I just say that the honest answer is, Because the extenders themselves are not controversial; they are popular. They become the spoonful of sugar that helps the medicine go down because they usually accompany other things that have more controversy with them. That is the way politics works. That is the way the Congress works, and that is what we do each year. This year is no exception, and we are considering the extension of portions of the Tax Code and including with it other things that will have an impact on the country and on the economy.

When I look at what is included in this bill, which is going to be important, there are several provisions that I think are critically important for the economy.

Most of us believe we would be better off in America if we stopped exporting good-paying American jobs overseas. So the President has said repeatedly and many of us have said in our speeches on the floor and back home that we want to stop rewarding in the Tax Code companies that decide it is to their economic advantage to locate overseas, closing down a factory in Galesburg, IL, and moving over to Europe or Japan or China or India or wherever it happens to be. So this bill, first and foremost, eliminates major tax cuts and loopholes available to U.S. corporations that want to relocate their business operations overseas. I think that is eminently sensible. Why would we in our Tax Code reward companies that want to leave the country, companies that want to eliminate American jobs? That is the No. 1 thing this extenders package does, in addition to extending some of the tax provisions I mentioned earlier.

It also provides help for small businesses across America. If we are going to get out of this recession sooner rather than later, we really need to depend on small businesses in America that will be able to step up and hire more people. We all think about the big company that is going to locate its new plant in our hometown and create 1,000 or 2,000 jobs. Occasionally, that happens. But more likely than not, the job growth in most communities and most cities will be when smaller businesses can hire 1 or 2 people or maybe 10 or 20 people. Cumulatively, those efforts result in a growth in the American workforce. This bill, as a second part, creates tax incentives and help for small businesses to hire more people in this weak economy.

Those are the two pillars of the bill: stop the export of American jobs by eliminating the tax incentives in our American laws that reward companies for sending jobs overseas and, secondly, create an environment in our Tax Code and programs that help small businesses retain and hire more American workers. I cannot think of two better things to do in a weak economy. Yet it seems there is opposition to this bill from the Republican side of the aisle. There are some who may support it, and I hope they do. I hope it genuinely becomes a bipartisan bill.

But there is a genuine concern about some other provisions that I would like to address.

I don't know that there is an American alive today who is unaware of what is going on in the Gulf of Mexico. I don't know what day we are in—60, 61—of this terrible environmental disaster where the BP rig blew up, killing 11 innocent people, and then the oil started spewing into the Gulf of Mexico. British Petroleum came in and has been trying vainly to stop this oil from flowing into the gulf. They have said repeatedly that they will make this all whole at the end of the day; they will stop the oil from flowing and set about repairing the damage, which is extensive.

Twenty-one years ago, I was on a congressional trip up to Prince William Sound in Alaska. The Exxon Valdez, a large tanker, had run aground because the captain, they think—it was alleged—had been drinking and didn't pay attention. It gashed the hull of the boat and ended up spewing oil in every direction. I will never forget that as long as I live because there was this black, dirty, sludgy oil all over everything. We went out on a Coast Guard ship and looked at it. You would see these horrible situations where, in this pristine Alaskan environment, everything would be covered with this black oil, and you would look down into the rocks and you could see as deep as you could see that there was more and more of that oil.

I asked Senator MURKOWSKI of Alaska what Prince William Sound is like

21 years later, and she said things have gotten back to a more normal state but some things have changed forever. Some species of fish, such as the herring, are just gone from this particular place. Maybe at some distant point in the future, they will return, but for the last 20 years, they have been extinct and gone. I hope Mother Nature takes care of that over time. You can see that it will take a long period of time.

We don't know what is going to happen in the Gulf of Mexico, but we know it will be expensive, first, in terms of human life—losing 11 people—and, second, in terms of the environmental damage, which is incalculable at this moment; that is, the economic cost of the damage.

If there is any encouraging thing—and there isn't much—in this whole conversation, it is the fact that British Petroleum is a very wealthy company. In the first 3 months of this year, they announced $5.6 billion in profits. When they say they can pay for the damage, it is clear that they have deep pockets and they can pay. And they will pay. The taxpayers will not pay.

There is a provision in this bill relating to this issue that has become controversial on the floor. We decided back in the time of the Exxon Valdez spill that we would create an oilspill liability fund. In other words, we would collect money and put it into a ''rainy day fund'' that would be there in case of an environmental disaster to pay for the damage. We collect, under current law, 8 cents for every barrel of oil to put into this fund. This morning's paper tells us that a barrel of oil is selling for $71.99, so 8 cents represents about one-tenth of 1 percent of the cost of a barrel of oil. It is a tiny, small amount.

Over time, with all the oil that has been explored and produced, we have collected over $1 billion into this oilspill liability fund, thinking we were prepared for the worst. We couldn't imagine what happened in the Gulf of Mexico, where $1.5 billion wouldn't even come close to paying for the damage that has been created by this BP disaster. So this bill will increase the amount of tax on a barrel of oil to 41 cents a barrel.

Remember, the price of a barrel of oil is $71.99, and we are going to charge 41 cents to be put into this oilspill liability fund. There is an objection to this from the Republican side of the aisle. Their objection is a little hard to follow because they are kind of tied up in a budgetary argument here. I think it is pretty clear to see what the choices will be. If we don't collect this money for every barrel of oil and put it into an oilspill liability fund, God forbid if there is another environmental disaster; there won't be enough money to pay for it.

Today, British Petroleum has its slimy fingerprints all over this mess. We know they are going to end up holding the bag, as they should. They have the money to pay for the damages associated with it. But what about tomorrow? What if the company involved is not as well off as BP? What if they are bankrupted by an environmental disaster and they go out of business? Who then is going to compensate the shrimpers, the oystermen, the fishermen, the tourist industry, the resorts, and all the others who are affected by all this? At that point in time, you would look to this oilspill liability fund. But the $1.5 billion it currently holds is not enough to do the job. That is why this bill increases the amount per barrel of oil from 8 to 41 cents, so instead of one-tenth of 1 percent, it is about one-half of 1 percent of the current cost of a barrel of oil that will be set aside as an insurance fund.

The Republicans are objecting to this. You have to ask them, what is the alternative? If the oil companies don't pay so that we have an insurance fund for the next environmental disaster, who will pay? I think we know the answer. It will require another taxpayer bailout, which means taxpayers across America will be called on to come up with the emergency disaster funds to pay for the next environmental disaster, God forbid it ever occurs. Isn't it better to have the industry drilling for oil building up the reserves in this oilspill liability fund so that the taxpayers don't end up ultimately paying for the cleanup? It is obvious to me. The alternative is unacceptable, but the alternative is what is being argued for on the Republican side of the aisle. They want to step aside from what is the clear responsibility of the big oil companies and those who would drill.

Yesterday, we had a hearing in the Senate Judiciary Committee, and we talked about the liability of the oil companies in this situation. It turns out that Senator PATRICK LEAHY, of Vermont, and Senator SHELDON WHITEHOUSE, from Rhode Island, did some research on it and found that most of the law that governed this situation was ancient law—150, 160 years old. The law, for example, for the 11 people who died on this oil rig in the explosion limits the recovery of their surviving families to the actual monetary losses—in other words, how much future income will be lost to that family because of the death of that worker. They cannot collect for any loss of companionship due to the death of a father or husband, and they cannot collect punitive damages, except to the amount of the actual compensatory damages—one to one. There is a limit to what they can recover.

Yesterday, Christopher Jones testified about his brother Gordon, who died as a result of the explosion on this rig in the Gulf of Mexico. He showed us photos of the family, the two little boys—one born after the father died and another young boy and his mom. It was so compelling.

The argument was made by a man representing the oil and energy industry that it would be reckless for us to expand the liability of oil companies beyond the current limitations in the law. I think it is reckless for us to consider allowing anybody to drill in the Gulf of Mexico who doesn't have the bonding and wherewithal to stand up for any damages they should incur. Why in the world would we allow anybody to go out in this circumstance, when we can see what happens when it goes wrong, and do it again without having some sort of insurance that protects those involved working there, as well as those who are affected by the environment around the Gulf of Mexico? They have no business drilling, as far as I am concerned, if they are not financially responsible and if they cannot stand behind their operations to make sure the taxpayers don't end up in a situation where they are vulnerable.

The Republican position that says we should not impose a new tax on oil companies to make sure there is enough money in an oilspill fund so that the taxpayers won't have to pay for these disasters in the future is a position that is indefensible. It is a position that makes no sense.

They argue, incidentally, that if we collect this money, we should somehow say it won't be used for any other purpose. Well, the money will be used for the purpose of oilspill cleanup, but because it will be a new asset of the Federal Government, it will be shown on the books on the positive side. We are collecting the tax, gaining the asset, and increasing in a small way our budget picture on the positive side. I think they are lost in a budgetary argument that really is, in effect, trying to protect the oil companies from this new tax.

I hope my colleagues won't be discouraged in this debate but will stand by the efforts of the committee to impose this new tax responsibility. I hope that as Members of the Senate consider this bill—and I see my friend from Ohio here, and I will yield momentarily to him—they will try to understand how difficult it might be to explain why they voted against a bill that eliminates tax breaks for American companies that want to locate their businesses overseas and why they voted against a bill that provides help for small businesses in America to hire more workers in a time of high unemployment. Those are the two most important elements in this so-called extension bill. I hope—wouldn't it be a great day—we could have bipartisan support for those two basic ideas and at the end of the day do something on the floor to create jobs in America and, in the process, do it in a sensible way that builds for our future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. BROWN of Ohio. Mr. President, I stand here a bit incredulous about the comments of Senator DURBIN, the assistant majority leader, about the oil industry and Republican opposition to simply making them pay for potential problems they cause.

I say I am incredulous, but as I think a little longer, I realize that is par for the course. I have only been in the Senate 3½ years. I have seen the Republicans side with the insurance companies on health care reform. I have seen them side with the drug companies on Medicare issues. I have seen them side with big Wall Street banks on Wall Street reform. Now they side with the oil industry, with BP, with Exxon and these companies that have had—literally, BP's profits were over $1 billion, several billion, multibillion-dollar profits per quarter. And my friends on the other side of the aisle—I don't know if it is the campaign contributions, social connections, what it is with the oil industry—it is always the oil industry first, taxpayers second, and the consuming public third with them. I don't get that.

COBRA SUBSIDY PAYMENTS

I wish to talk about an amendment Senator CASEY is offering and of which I am a primary cosponsor dealing with COBRA, the health insurance issue. When this recession started and unemployment began to spike, most of us in Congress acted to help those in clear need with the stimulus package and with the extension of unemployment insurance.

Remember, it is insurance; it is not welfare. People pay into the unemployment insurance fund when they are working, and when they lose their jobs, through no fault of their own, they get assistance from the unemployment insurance fund.

Another part of that is, when someone in Joliet or Cleveland or Springfield, IL, or Springfield, OH, loses their job, they all too often lose their insurance. There is a Federal program, a Federal law, that you can continue to draw health insurance when you lose your job if you, the employee, pay for your part of it and you pay the employer contribution for your health insurance, which at least doubles, sometimes triples the amount of money you were paying for health insurance when you were working.

That means simply, when you are working, you are paying X dollars, which is never cheap. When you lose your job, you are paying 2X or 3X, and almost nobody can afford that. If you have lost your job, how can you pay more money for health insurance than before you lost it?

That is why in the Recovery Act a year and a half ago, I wrote legislation, later amended in the bill, to give a significant subsidy to those people who lost their job but are trying and struggling to keep their insurance. It allows newly unemployed workers to stay on their former employer's health plan with that subsidy.

I have received countless letters and e-mails from Ohioans who describe how COBRA is more expensive than rent or food. That is why we stepped in. We did a 65-percent subsidy. In other words, if you lose your job, instead of paying your part of the insurance and your employer's part, instead of paying that combined amount, which was Federal law for years, we are subsidizing 65 percent of that amount.

I cannot count the number of people I have talked with in the last year who have come up to me and said: I still have insurance because I was able—it is still difficult; it is not as though money is growing on trees for these people who lost their jobs. It is still difficult. But so many people have come up to me and said: I still have my insurance because of that subsidy.

In this legislation, the House took away the COBRA subsidy under the view that we simply cannot afford this subsidy anymore. The Casey-Brown amendment says: Yes, we can, and we are going to do it.

A recent report by the U.S. Department of Treasury concludes COBRA ''has been an important source of insurance coverage during the recession, especially for the middle class.''

It said that COBRA has ''significantly slowed the growth of the uninsured population, which had been skyrocketing through February 2009.'' In other words, this government report showed what we are doing is working. A lot more people have insurance as a result of the COBRA subsidy, just as a lot more people have jobs today because of the stimulus package.

Granted, it is not good. There are too many people who have lost their insurance and too many people who have lost their jobs. More people have jobs because of the stimulus package and a whole lot more people have health insurance and are not a burden on the State, their community, or their families because they actually have insurance through COBRA.

The COBRA subsidy expired for newly unemployed Americans on May 31, 9 days ago. The managers' amendment includes an extension of the unemployment insurance program, which is a good thing, but it does not include an extension of COBRA.

This absence is striking, given the fact that a recent survey shows that 15 percent of unemployed insurance recipients rely on COBRA for affordable coverage. Unemployment insurance is an important lifeline. Of course, we need to do that. But it does not give enough money for a family to pay for their insurance.

Again, look at the math. Your unemployment insurance is less than you were making when you were working. Your insurance payment for COBRA, if we do not subsidize it, is a lot more, a factor of two or three times, in most cases, what you were paying for insurance when you were working. You have less income and significantly higher health care costs. That is why that subsidy is so very important. That is why I am joining with Senator CASEY in offering an amendment that will extend the COBRA Premium Assistance Program for another 6 months.

Let me conclude with a couple letters from Ohioans who explain the personal side of this issue. We all come to the floor and talk about policy. We all are a little geeky sometimes. I like to come to the floor and read letters from people I represent in my State.

Robert and Rachel are from Montgomery County. That is Dayton, Kettering, Huber Heights, West Carrollton—those communities:

> One month after I was laid off, my wife, a registered nurse, had a stroke.
>
> Since that time, we have struggled but managed to keep our heads above water because of the COBRA subsidy. We have four children, and simply cannot live without health insurance, because the cost can be devastating.

Understand, too, if you lose your insurance, trying to get insurance again is so difficult and so expensive. We do not want this interrupted.

Robert writes:

> We feel the need to be one more voice encouraging your colleagues to speak out for the families that have been hurt the most by this economic disaster.
>
> Please keep fighting for us.

Montgomery County, Dayton, has been inflicted with a GM plant closing. National Cash Register, NCR, one of the oldest companies people associate with the city of Dayton—the CEO did not talk to anybody. He pulled the company up, left, and moved to Atlanta. DHL, a large cargo carrier, a German company, pulled out of Wilmington nearby. That was several thousand jobs. They have had that kind of economic hardship in Dayton.

We absolutely need to extend the COBRA subsidy for people such as Robert and Rachel.

The last note I wish to read is from Mary from Cuyahoga County, which is the northeastern Ohio area:

> I live in northeast Ohio and have been out of work 13 months. I live alone with no dependents, yet I can barely meet my monthly financial challenges.
>
> I became a cancer victim last year, but when my COBRA subsidy is stopped, it will feel like an additional cancer in my life.
>
> The COBRA subsidy has bought me time to explore what I hope to be an improving job market.

We are seeing good signs in northeast Ohio of increased job numbers and companies hiring people.

> The COBRA subsidy has bought me time to explore what I hope to be an improving job market. And not only would it buy me time, it would renew my faith in government.

I urge my colleagues to support this amendment to continue the COBRA subsidy. It clearly is the right thing to do. It is going to matter to so many families.

I don't understand why so many on the other side would oppose something such as this. It simply makes sense. I urge my colleagues to support the Casey-Brown amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I rise today to speak about an urgent issue that faces the American people, and it is an issue the Senate as well as the House must deal with, in my judgment; that is, the issue of extending COBRA premium assistance, health insurance assistance, to many Americans who, through no fault of their own, are out of work; in many instances, millions of Americans who have been out of work for a long time.

Mr. President, I ask unanimous consent to add the following Senators as cosponsors of an amendment I have that extends COBRA premium assistance. These are Senators who will be added beyond those who were original cosponsors.

They are Senators FRANKEN, STABENOW, REED of Rhode Island, and GILLIBRAND.

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

Mr. CASEY. Mr. President, I rise today to speak about the basic issue to have health insurance coverage for those who have been out of work. I know I join Senator BROWN and the other cosponsors of this amendment to urge support for the extension of the eligibility period of the COBRA Premium Assistance Program, which was authorized under the Recovery and Reinvestment Act of 2009.

I do want to commend and note my appreciation for the support of Senators BEGICH, WHITEHOUSE, LAUTENBERG, KERRY, WYDEN, HARKIN, LEVIN, BURRIS—the Presiding Officer—FRANKEN, REED of Rhode Island, and STABENOW, who have cosponsored the amendment.

We continue to recover from this economic recession, a horrific chapter in American history almost too difficult or too complicated for some of us to fully understand because we haven't lived through it ourselves. We in the Senate haven't lost our jobs or lost our health insurance. But we hear from and know of people who have, and that is one of the main reasons we are here to talk about this issue today.

We are recovering but we haven't recovered fully, and now is not the time to pull up the ladder on people who are still hanging on, in some cases to the last rung of the ladder. These basic, and I would argue, vital safety net programs—whether it is unemployment insurance or COBRA premium assistance for health care—are programs that we can't short-circuit. We can't cut people off at this point.

The American people agree with us, by the way. They understand we have made progress on economic recovery, but the unemployment rate is still far too high. It has just been a little bit less than 10 percent for far too long. In my home State of Pennsylvania, fortunately it is lower than that. It has been lower than 9 percent a long time but has bumped up to around 9. But that doesn't really matter. The percentage doesn't really tell the story. In our State, we have over 580,000 people out of work, and the total number or the percentage number is a lot higher in many other States. So we just can't pull up the ladder and pretend we have fully recovered, that we can begin to transition to a different strategy.

For millions of Americans out of work, through no fault of their own, medical costs continue to rise while their personal savings dwindle or in some cases have been wiped out because of this recession, leaving millions of Americans without adequate health care coverage and leading many to refuse necessary treatment due to the high cost.

Americans who lose their coverage through job loss cannot be expected to purchase expensive health care plans while they are unemployed. It is difficult enough for someone who has a job to pay for health insurance. We know that is difficult. A lot of small businesses were telling us about that throughout the health care debate. But just imagine if you are out of work and you are trying to survive and you are called upon or required to pay for an expensive health care plan. So we should act, and we should act now, to provide an extension for COBRA subsidies to ease the economic strain of expensive health care coverage for the unemployed.

The amendment I have offered, and that today I am just speaking about, will provide much needed relief at a very difficult time for many families as unemployed workers focus on finding new employment rather than having to worry—and worry doesn't even begin to describe the anguish people feel—about receiving adequate health care coverage for themselves and their families. We ought to provide them some peace of mind so they can concentrate on finding a job instead of worrying about whether they, someone in their family, or a loved one is going to get the medical treatment they deserve.

The COBRA Premium Assistance Program has already been successful in ensuring that Americans receive quality health care. Let me give one example from a letter I received from Susan, in LeHigh County, PA. She is a cancer survivor, but due to her treatments she has been diagnosed with congestive heart failure as well. She is on five different medications. Susan has relied upon her husband's health insurance, but in September of 2009 her husband lost his job.

What I am describing has happened to millions of people. This isn't isolated. This isn't anecdotal. This is a situation that millions of Americans, if not tens of thousands, at a minimum, in a State such as Pennsylvania have faced. So what does Susan do at that point? She has to rely upon her husband's health insurance, he loses his job, and now they have nothing. They have no coverage at all.

So Susan and her husband were able to utilize the COBRA Premium Assistance Program as a means to keep their health insurance. Thank goodness the Recovery Act provided that kind of help. When my office followed up with Susan, we were happy to learn her husband had found a new job and they were off of their COBRA Premium Assistance Program and on her husband's new health insurance. Fortunately, that has a good ending, but a lot of stories don't end that way.

Susan's story is a perfect example of the purpose behind the COBRA Premium Assistance Program which helps people transition.

Here is another letter, which I will refer to in pertinent part. This is a letter I received from another constituent in Pennsylvania by the name of Lisa. I will not read her full name because I don't have permission, but this is a letter she sent to us in early March, and here, in pertinent part, is what she wrote about her own health care situation. She said:

> I have been receiving chemotherapy nearly every other week for the past 18 months. The treatments were covered by my COBRA benefits and has kept me alive.

So she is not saying the premium assistance from COBRA was something that just gave her a little help when she needed it. She isn't just saying: Thank goodness the COBRA premium assistance can pay for my treatments—the chemotherapy that she needed. She is saying the COBRA benefits ''kept me alive.'' That is a direct quotation from her letter. Then she says:

> I must continue chemotherapy but ran into a problem when an extension of my COBRA coverage was denied.

In this country, with all the challenges we have, some things aren't difficult to solve. If we pass an extension of COBRA premium assistance, Lisa doesn't have to worry whether she is going to be able to continue her chemotherapy treatments. Why should she have to worry when we can help her here?

I know we will hear from people in Washington—a lot of hot air, a lot of lecturing, a lot of speeches—that it is time to transition; that the economy is getting better and it is time to transition now and let Lisa get her treatments on her own. We hope she lives. But some people in Washington may not want to help her any longer.

We know the American people support this extension. We know they understand what real people are up against because, guess what, they are living with it. People in Washington who come to the Senate every day and are Senators and Congressmen, they do not quite understand this sometimes. We don't have a full appreciation for how difficult it is for Lisa and her chemotherapy treatments. We don't have a full appreciation here for how difficult it has been for Susan. Thank goodness her husband was able to get a job, but it was pretty tough when they didn't have a job and they didn't have health insurance.

So COBRA helps a lot of people, and we should know what the consequences

are of inaction, without the extension of the COBRA Premium Assistance Program. A report from the National Employment Law Projects predicts that as many as 150,000 Americans each month will lose out on the subsidies necessary to afford quality health care. A study by Families USA shows that 4 million Americans, including almost 100,000 in Pennsylvania, lost their employer-based coverage due to job loss in 2009 alone—4 million Americans.

The average cost of COBRA family coverage is three-fourths of the monthly unemployment benefits in Pennsylvania and 40 other States. So the good news is you have unemployment coverage if you lost your job, but the bad news is three-fourths of that goes for your health insurance. We shouldn't force people to be in those situations.

In some States, health premiums actually cost more than the monthly unemployment benefits, slowly driving families further into debt. Providing continued relief for Americans is not just necessary, it is essential to keep some people alive, literally—no exaggeration—as Lisa's letter tells us. Giving people assistance in their greatest time of need will allow them to focus on finding employment, caring for their families rather than avoiding expensive treatments or teetering on the brink of bankruptcy.

In conclusion, besides the amendment that Senator BROWN and I have been working on, along with our cosponsors, we circulated a letter that will be delivered to Senator REID and Senator BAUCUS this afternoon that urges both to support the extension of the program and also the pleas from people in Pennsylvania and a lot of other States who are telling us how important this is—to provide an extension through the end of November for COBRA premium assistance, so people can have health care and in a larger sense, I guess, to have peace of mind to know even though they are out of work we care about them, we are going to fight for them, and we are going to make sure they have health insurance coverage as they try to go from joblessness to transition into having a job.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4303

Mrs. MCCASKILL. Madam President, today, once again, the Senate is going to consider the Sessions-McCaskill discretionary spending cap. I wish to take a couple of minutes and try to, once again, talk some common sense about Congress and our spending habits and about this very modest baby step we must take if we are ever going to do the right thing when it comes to spending in the U.S. Government.

What is this amendment about? Well, at its heart, this amendment is about trying to regain the trust of the American people. We have had to do big, bold things because of an economic crisis. No question this President inherited a mess, and that we had to do some big, bold things to try to get out of the ditch.

But in the process, we have also, I hope, begun to realize that there is a two-step here. One is, big, bold things we had to do to get the economy back on track, and the other is beginning to recognize, maybe for the first time in a long time, that the path we are on is unsustainable.

Chairman Bernanke said it yesterday. It is unsustainable, the path we are on, in terms of spending in Washington, DC. What this amendment does is something that is very responsible and, frankly, modest. It is not a cut in spending. In this economy, I understand many economists would argue it is not the time to cut spending, but is it not time we capped growth?

Think about it for a minute. Everywhere in America, whether it is at a family's kitchen table or whether it is at a school board meeting or whether it is at a city council meeting or a county legislative body meeting or a State legislative budget hearing, everywhere in America they are having to trim their sails, cut their budgets, try to find a meaningful way to do more with less.

And what are we doing here? We cannot agree to cap growth? Are you kidding me? We cannot even say to the American people, we are not going to grow by as much over the next 3 years?

This does not even try to cut spending, it tries to cap growth. There are actually people in this body who think we cannot take this small modest step to say we are not going to grow as quickly or by as much over the next several years?

How on Earth can we do hard stuff? How on Earth can we live up to our responsibility as Members of the Senate, when it comes to fiscal policy? How can we ever in the future do what we are going to have to do to rein in this government if we cannot even cap spending at a time when everybody in America is cutting? Reining in growth should not be a hard vote. It should not be a hard vote.

There are people, and I understand this, I understand there are a lot of people in this body who have made it their work to appropriate, and that has been the committee everybody wants to get on. It has been the powerful committee. Everybody knows around here, if you spend the money, you have power. I understand this is like the Earth shifting a little bit, that all of a sudden people who appropriate around here are going to have to take a different view of what their job is.

It is inevitable that that happens. Whether it happens this year, next year, or the next decade, anybody knows we cannot sustain the course we are on. But what is frustrating to me is that some of the people who are so anxious to defeat this amendment are using such old-fashioned fear tactics it is almost insulting. There are talking points that are being circulated against this amendment that I think you ought to blush if you are responsible for. The notion is that we are going to make these cuts in our most important programs. There is a talking point going around that this would make us have to cut Border Patrol. Come on. That we are going to have to cut the priorities of this government right now. No, we are not. We may have to cut back on some of the earmarking? Yes, probably. And cut that money from the budget.

Would we have to maybe cut out some low-performing government programs? Yes, we would. In fact, the President announced that he wants everyone in the executive branch to identify 5 percent of their low-performing programs. Then the next step would be that he would cut half of that, 2½ percent. He is asking them to find cuts in government.

All this amendment is doing is saying, we are going to curb growth. So this amendment is not going as far as the President has asked his executive branch to do. The other thing about this is I keep getting pushed at, well, these are priorities, our domestic discretionary spending—and this is from a lot of my colleagues on this side of the aisle. But this amendment is not just about domestic discretionary spending. It is about defense discretionary spending. It exempts out $50 billion a year for our overseas contingency operations. It clearly exempts out emergencies, and there have always been more than 67 votes when we have appropriated for emergencies in this country. It is not as though 67 votes are hard to get after a Katrina, after some kind of emergency that demands we respond to it.

The notion that we have now for the first time gotten the kind of support this amendment has received from Republican Senators to freeze the growth on defense spending is huge. It is huge. Anybody who has spent any time looking around at contracting in the Department of Defense, which I have spent a lot of time on, or the way money is spent at the Pentagon, knows there are savings there. To curb the growth in spending, in discretionary spending in the Defense Department is a wonderful step forward. So it is not just domestic that is impacted by this amendment, it is both domestic spending and defense spending, and it is time. It is time.

I hope everyone who has voted against this amendment in the past does a gut check this time and thinks of themselves in front of a bunch of people they work for in their home State, explaining to them why they could not vote to curb growth in the Federal Government's budget. I am telling you what, that is one explanation I would not want to have to give

right now at home. I would not want to tell the people in Missouri that it was impossible for us to even put a lid on the growth of the Federal Government, right now at this time in this Nation's history, with all of the economic issues that are swirling around.

I think it would have a positive impact on our economy, to send this signal. I think it would have a positive effect on our markets. I think it would have a positive global effect as we look at what is going on in Europe, that the Federal Government is finally acknowledging we have got to begin to curb the growth of our expenditures.

These votes have been close. We got 56 the first time. We got 59, and then everybody got nervous because we got 59 votes. Then the next time we got 57. Three more votes. Three more votes, and we will send the right signal to the American people that we get it. I hope today is the day we send the signal to the American people that we know there are hard decisions ahead and we are beginning to take some modest steps to show we have the guts and the fortitude to make those decisions.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I stand to strongly support my amendment No. 4312, which I introduced today, along with Senators GREGG, CORNYN, ENZI, ALEXANDER, and HUTCHISON, and I urge all of my colleagues, both sides of the aisle, to support this commonsense amendment.

This is about something at issue in this present extenders bill on the floor now that is near and dear to my heart, because it is directly related to the ongoing oil disaster, the ongoing crisis in the gulf, and that is an increase in taxes to supposedly fund the Oil Spill Liability Trust Fund but which does not do that at all, which is stolen from that trust fund, used for completely unrelated purposes.

Put another way, it is double counted. It is used as a fraudulent offset to mask other spending, other deficit spending in the bill. We have a real crisis on our hands. Obviously it affects my State more than any other. But it is a national challenge and a national crisis. I have a pretty modest suggestion, in my opinion. Let's focus on the challenge. Let's meet the challenge, not use it and abuse it politically for other unrelated goals up here in Washington.

But I am afraid the Oil Spill Liability Trust Fund is being used and abused in this bill for those other completely unrelated goals. I am afraid it is a perfect example of Rahm Emanuel's now famous phrase from around February 2009, ''We are not going to let a good crisis go to waste.''

Well, this is a crisis. This is a whopper. But I take offense to not letting it go to waste, meaning to using and abusing it for other purposes. This bill proposes increasing the tax which ultimately is a consumer tax on energy products that is supposed to be for the Oil Spill Liability Trust Fund.

It increases that tax from 8 cents a barrel to 41 cents a barrel. That is an over fivefold increase. If that is necessary to clean up oilspills, to have it ready for the future, I am completely open to it. But that is not where the number came from. The number was pulled out of thin air. Because as soon as that money supposedly goes into the trust fund, it is stolen. It pays for completely unrelated spending items in the bill—for example, $15 billion over 10 years, and in this bill that is double-counted because it is used as an offset to mask deficit spending, to mask other spending items. That is wrong.

Amendment No. 4312 is simple and straightforward. It says and does two things. No. 1, it says that the revenue supposedly going into the Oil Spill Liability Trust Fund can only be used to clean up oilspills. It is supposed to be there to clean up oilspills, it is supposed to be a trust fund, so it can only be used for that purpose. Secondly, it says that it cannot be double-counted. It is not be used as an offset under the Congressional Budget Act or pay-as-you-go or anything else, as an offset for unrelated spending, to hide other deficit spending.

That is the amendment—two things, pure and simple. A number of the leadership of the majority have come to the floor concerned about this, as they should be, because it stinks, and the American people know it stinks, and have done gyrations and backflips to try to say they are not stealing the money, they are not double-counting, it will be there. If they really mean that, it is simple: No. 1, they should support my amendment. No. 2, they should publicly admit that the true deficit cost of this bill is not what they say it is. It is $15 billion more. It is not $79 billion; it is $94 billion. If they are sincere, if they mean it, great. Support my amendment and admit that the true deficit cost of the bill before us is $15 billion more. But don't steal from that trust fund. Don't use that money that is supposed to be there to clean up oilspills, such as the one that is hammering my State, for completely unrelated purposes. Don't double-count it. Don't use it as Enron accounting, a fraud to mask other spending, to artificially lower the deficit impact of this bill. That is wrong. That is using a crisis. That is ''not letting a crisis go to waste.''

We have a crisis. It is a heck of a crisis. It is a serious crisis. We should solve it. We should go at it. We should address it together as a national challenge. We should not use it and abuse it politically for an unrelated tax-and-spend agenda in Washington.

I urge all colleagues to come together, support amendment 4312, protect the Oil Spill Liability Trust Fund, prevent it from being used and abused, double-counted—Enron accounting to mask deficit spending. Do the right thing by the people of Louisiana and by the people of this Nation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BURNING OF THE GASPEE

Mr. WHITEHOUSE. Madam President, here in this historic Chamber it is appropriate to recall those who came before us and risked their lives to create the great Republic we serve in this Senate.

Today, I would like to talk about a group of men who, 238 years ago, on this date, engaged in a daring act of defiance against the British Crown—the first bloody act of defiance in the conflict that became the American Revolution.

For many, the Boston Tea Party is considered a first act of defiance. Growing up, we were taught how, on December 16, 1773, Bostonians poured shipments of tea overboard into Boston Harbor to defend the principle, ''no taxation without representation.'' I think almost every schoolchild in America has heard of the Boston Tea Party.

Conspicuously missing from those children's education is the story of the brave Rhode Islanders who dared to challenge the British Crown more than a year before those Bostonians threw tea into the Boston Harbor. Today I would like to take us back to the real beginning of America's fight for independence and share with all of you the story of the British vessel, the HMS Gaspee, and to introduce some little known names, heroes from history, who seem now to be lost in history's footnotes.

In 1772, amidst growing tensions with American Colonies, King George, III, stationed the HMS Gaspee in Rhode Island to prevent smuggling and enforce the payment of taxes to the Crown. But to Rhode Islanders, the Gaspee quickly became a symbol of oppression.

The patronizing presence of the Gaspee was matched by the patronizing and domineering manner of its captain, LT William Dudingston. Lieutenant Dudingston was known for destroying fishing vessels and confiscating their contents and flagging down ships only to harass, humiliate, and interrogate their sailors. But on June 9, 1772, an audacious Rhode Islander named Captain Benjamin Lindsey took a stand.

Aboard his boat, the Hannah, Captain Lindsey set sail from Newport to Providence. When he was hailed by Lieutenant Dudingston to stop for a search by the Gaspee, the defiant Captain Lindsey continued on his course. Gunshots were fired, and the Hannah sped north up Narragansett Bay with the Gaspee in full chase behind.

Outsized and outgunned, Captain Lindsey drew courage and confidence from his and his crew's keen familiarity with Rhode Island waters. He led

the Gaspee into the shallow waters of Pawtuxet Cove, where the smaller Hannah cruised over the sandbars and the heavier Gaspee ran aground. The Gaspee was stranded in a falling tide, and it would be hours before high tide would again set her free.

Captain Lindsey took advantage of this favorable situation. Arriving triumphantly in Providence, Captain Lindsey visited John Brown, whose family helped found Brown University. Knowing the Gaspee's helpless state, the two men rallied a group of patriots at Sabin's Tavern—one daren't speculate on the form of refreshment they took there—in what is now the east side of Providence.

The Gaspee was universally despised by colonists who had been bullied in their own waters, and the vulnerability now of this once powerful vessel presented these patriots an irresistible opportunity. On that dark night, 60 men in longboats with muffled oars, led by Captain Lindsey and Abraham Whipple, moved quietly down the dark waters of Narragansett Bay.

As they encircled the Gaspee, Brown shouted a demand for Lieutenant Dudingston to surrender his ship. Dudingston refused and instead ordered his men to fire upon anyone who tried to board. The fearless Rhode Islanders took this as a cue to force their way onto the Gaspee and forward they charged in a raging uproar of screams, gunshots, powder smoke, and clashing swords. It was amidst this violent struggle that Lieutenant Dudingston was shot by a musket ball. Right there in Rhode Island, right then, the very first blood of the conflict that would lead to the American Revolution was drawn. Victory was soon in the hands of the Rhode Islanders.

Brown and Whipple took the captive Englishmen back to shore and returned to set the abandoned Gaspee afire. She burned prodigiously through the night, until the flames reached her powder magazine. Then, with a convulsive explosion, she was flung in pieces across the bay. The site of this historic victory would later be named Gaspee Point.

Too few people know of this bold undertaking which occurred 16 full months before the heroes of Boston painted their faces and threw tea into the Boston Harbor in the event that became known as the Boston Tea Party. I hope the tale of the Gaspee will work its way into the history books. It preceded the Tea Party. It was more significant than the Tea Party. It was more violent than the Tea Party. And I think it set the stage of conflict that led to our independence and the freedoms we enjoy today.

So I hope Americans will think not just of the date of the Boston Tea Party but will remember June 9, the day the Hannah led the Gaspee across the sandbars of Pawtuxet Cove, stranding her, and those 60 Rhode Islanders came down by oar to attack, burn, and destroy the Gaspee and engage in armed conflict with her crew.

I do know these events are not forgotten in my home State. Over the years, I have often had the chance to march in the annual Gaspee Day's parade through Warwick, RI, as every year we recall the courage and the zeal of these men who risked it all for the freedoms we enjoy today, drawing the first blood of our later Revolutionary conflict.

I hope the young pages I see in the Chamber who, I assume, have all heard of the Boston Tea Party—I see heads nodding, yes, they have—and may not have heard of the Gaspee—I see heads shaking, they have not heard of the Gaspee—at least a small audience of young people today has been educated that it was Rhode Islanders first, Rhode Islanders more energetically, Rhode Islanders more aggressively, and Rhode Islanders more defiantly than anyone else at the early stages of the Revolution.

I thank the Presiding Officer, and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ISLANDS OF SECRECY

Mr. DORGAN. Madam President, this week there was a full-page advertisement in the magazine Politico. It was actually a letter to me, an open letter to Senator BYRON DORGAN, and then it says: ''Setting the Record Straight About the Cayman Islands.'' It is signed by a man named Anthony Travers, chairman of the Cayman Islands Financial Services Association. The letter says:

During the recent debate over financial regulatory reform, you—

Meaning me—

perpetuated the myth that the Cayman Islands is a tax secrecy jurisdiction with unbelievably enormous loopholes. Neither of these claims are true.

And so on. I thought I would respond to Mr. Travers. I don't know Mr. Travers from a cord of wood, but since he bothered to buy a full-page ad in the newspaper Politico setting me straight, I thought perhaps it would be useful for those who might ever have read this to know the facts.

The Cayman Islands is a wonderful place. It has I guess the nicest water I have ever seen; blue-green, beautiful water, beautiful beaches. I don't know much about the Cayman Islands. I have visited there. I know about some of the Cayman Islands from a number of things I have read and seen about their banking system. What I have done on many occasions on the floor of the Senate when I have been talking about those who have been trying to avoid paying taxes to the United States and those who want all that America has to offer them, except they don't want to meet the obligations of citizenship by paying the taxes they owe, is I have held up a picture of a house in the Cayman Islands. So I will do it again today. This is called the Ugland House. A very enterprising reporter named David Evans from Bloomberg News brought this to my attention the first time.

This is a five-story white house. It sits on Church Street in the Cayman Islands. It is a building that has 18,857 corporations that call it home.

The first time I showed this on the floor, this five-story white building on Church Street in the Cayman Islands, it had, I believe, 12,748 corporations that say this is our corporate home. Now it has grown. There are actually 18,857 companies in this five-story building. Oh, they are not there; it is just a fiction. They claim a mailbox in this little white stucco building in order to find a way to avoid responsibilities to others outside of the Cayman Islands. Many of them would be American companies searching for ways to provide secrecy for their financial transactions and presumably searching for ways to avoid paying their tax obligations.

The fellow who wrote to me, whose name is Anthony Travers—and let me describe who he is. Mr. Travers, says the Cayman Islands News Service, is chairman of CSI Stock Exchange and a former partner of Maples and Calder. Anthony Travers apparently chairs the Cayman Islands Financial Services Association. So he is a former partner of Maples and Calder. Who is Maples and Calder? The law firm of Maples and Calder is the only occupant of the Ugland House. Isn't that interesting? They have 18,857 companies that claim to be there—that is pretty crowded, right—18,857 companies claim to be crowded into this five-story white stucco building. But these companies are just there to claim a mailbox—perhaps they all use the same mailbox—to avoid their obligations to other countries, especially our country.

So Mr. Travers has an epileptic seizure because I suggest that the Cayman Islands is a place where there is tax secrecy and he writes a letter to set the record straight. He does no such thing. He doesn't have the foggiest idea what he is talking about. I know what I am talking about. This is a place he used to work. This is where the law firm he worked for existed. They are the ones that accomplished apparently the opportunity to have 18,857 companies claim a mail box as their legal address.

Well, if that is not enough, let me say this: The Wall Street Journal had an opinion piece by Robert Morgenthau in New York, he said:

There is $1.9 trillion—

He is talking about the lack of financial transparency and the activities of principals in the financial markets—

There is $1.9 trillion, almost all of it run out of the New York metropolitan area, that

sits in the Cayman Islands, a secrecy jurisdiction. Let me say that again: ''A secrecy jurisdiction.''

That is from Mr. Robert Morgenthau, who knows what he is talking about.

By the way, let me also say that McClatchy reported this:

Goldman Sachs used offshore tax havens to shuffle its mortgage-backed securities to institutions worldwide, including European and Asian banks, often in secret deals run through the Cayman Islands, a British territory in the Caribbean that companies use to bypass U.S. disclosure requirements.

Well, I guess Mr. Travers sure did set me straight, except he didn't have the facts. He knows what the facts are because he has been in this building with 18,857 corporations. One wonders where he could find a chair or even find lunch—a pretty crowded place.

Let me further then say, the Asset Protection Law Center, reportedly run out of a law firm located in California, describes this as the four main factors for being involved in the Caymans and being involved in what they are doing:

No. 1: There are no income taxes, capital gains taxes, profits tax or estate taxes.

No. 2: The bank secrecy laws are among the strictest in the world with criminal penalties for unauthorized disclosure.

No. 3: The law allows companies to be formed with a minimum of paperwork, and shares can be held anonymously in bearer form or by nominees.

No. 4: The law regarding the formation of trusts is highly developed and allows an excellent level of flexibility—

I will bet it does—

an excellent level of flexibility, asset protection, and privacy.

I guess that describes what we have in the Cayman Islands. Again, the letter from Mr. Travers to myself explains how the claims of tax secrecy jurisdictions are untrue.

Then, if I might, one more time, without being too repetitious, the five-story white building where Mr. Travers—or at least Mr. Travers' old firm—occupies and accommodated 18,857 neighbors to join them for the purpose of getting their mail there in order to claim that is where their business location exists. Is it because they have relatives in this building? No, no relatives. Is it because they visit the building from time to time? No, likely they have never seen the building. Is it because they want to claim an address in the Cayman Islands because they like blue and green water or beaches? No. It is because they need a location in an area where you have unbelievable secrecy so you can claim this is home to avoid taxes and to avoid other disclosures of what you are doing with a substantial amount of money.

Mr. Morgenthau had it correct. Mr. Morgenthau talked about $1.9 trillion that has been run around through these orifices, in this case a five-story building in the Cayman Islands. All I say to Mr. Travers is this: I have certain expectations of those who want everything that America has to offer. If you are an American citizen or an American corporation, which is an artificial person, if in those circumstances you want all that America has to offer, then I believe you have responsibilities to pay your taxes and become productive citizens and meet the responsibilities that citizens have in this country. Most of the people I represent up the street and down the block and out on the farm don't have the ability or the willingness to decide to hide their income from their government. But some of the biggest enterprises in the country do, so they find a willing partner in a little white building on Church Street in the Cayman Islands that allows them to do that. That is very unfortunate.

I would say to Mr. Travers: Next time you try to set somebody straight, use a few facts. Perhaps it will buttress your argument. But don't try to fool me or the Congress or the American people about what is going on inside of this white building. We understand what is going on inside this building, and I think the people who allow that to happen and to decide it is a legitimate way to do business ought to be ashamed of themselves.

GULF OILSPILL

Madam President, if I might—I understand some colleagues are here—I wish to make some very brief comments about a hearing we had this morning in the Energy Committee with Secretary Salazar dealing with the oilspill.

I asked this morning again about the promise and the pledge that BP has made that they will cover all of the ''legitimate'' costs that occur as a result of this oilspill. I have asked this question to the U.S. Justice Department, I talked to the President about it yesterday, and I talked to Secretary Salazar about it. Isn't it time now, on the 51st day of this gusher, for us to say to BP that we expect you to pay and we don't expect the American taxpayer to bear the burden of your mistakes? If, in fact, you have made a pledge—and they have repeatedly—to cover all legitimate costs, let us finally take steps to make that pledge binding. BP is a very large company that has made $150 billion in net profits over the last 10 years, averaging $15 billion a year. This company made $6 billion in net profits in the first quarter of this year. It is time to say to that company: If you are serious and your commitment is real, then let's make a binding commitment.

I believe we ought to ask BP to put $10 billion in a gulf coast recovery fund now, and that fund ought to be the result of a signed agreement between our government and BP. That signed agreement ought to create a special master and a special counselor from BP working together to disperse funds from that $10 billion which will be the first tranche of funds that likely will be necessary to respond to this oilspill.

As I speak, there are people standing on a dock in a small town on the gulf and they have a fishing boat at the end of a pier that is going nowhere because there is no fishing to be done. They have to make a payment on that boat at the end of this month. Also, there is likely a small cafe on that pier and the people who put their life savings into that don't have any customers. Who is going to help them? Who is going to respond to their needs, and when? It is time, in my judgment—past the time—for us to make this commitment that BP has said they will pledge a binding commitment.

The initiation of that, in my judgment—I have written to the Justice Department. I hope very much they will initiate that effort to do this. If BP says, You know what, no, we are just going to give you a pledge, I would say we have seen that pledge and heard that pledge before, and long after people are dead. I am talking about Exxon Valdez. A company that was still objecting to paying, despite the fact they made the same pledge.

I want BP to make that pledge binding, and that can be done I believe contractually through our government and BP by establishing a gulf coast recovery fund. Placing the first $10 billion into that fund and having a special master and counselor be in charge of that fund in order to respond to those people out on the dock who are wondering: How do I make my payment? How do I make my living? What do I do tomorrow, next week, next month?

This is a very important issue, and I hope in the coming days the administration and the Congress will be able to address this.

Let me make one final point. I know there are people trying to create other issues from this disaster in the gulf. This President, President Obama, did not punch that hole in the planet, he didn't drill that well, and he can't cap that well. The fact is he, his administration, and others have done everything possible.

This morning I met with Dr. Tom Hunter. I don't know whether people know Dr. Tom Hunter. He is the head of Sandia National Laboratory. He is one of the extraordinary minds, one of the really interesting people in this country. Dr. Tom Hunter had some health issues some many months ago, but I will tell my colleagues where he has spent his last 51 days. He, as a part of a group with the other best thinkers in this country, has been called by this administration to represent the core of competent people to try to figure out how to address this issue. When I heard Dr. Hunter was working on this with Dr. Steve Chu, the Energy Secretary, Ken Salazar and so many others, I told the Secretary of the Interior this morning: You know what, you look like you need 10, 12 hours of sleep.

I said: That doesn't mean you look awful; I just know how weary it has been working every day for 51 days. This administration has tried very hard, and they are continuing to try. The fact is, there are a lot of people playing politics with this oilspill. We don't need to point fingers. We need to

gather together and join hands and understand this was a national disaster, and the consequences of it will be with us for a long time.

Now our first responsibility is simply to work together to figure out how to shut off this gusher. Second, how do we deal with the problems that exist for so many people as a result? How do we begin the process of trying to clean up the environmental damage it has done? Third, it is quite clear to me things aren't going to change with respect to offshore drilling.

We need oil production. Thirty percent of our domestic production comes from offshore drilling. Perhaps there is a difference between shallow water and deep water production. There will be changes in regulations and in approaches. All of that is necessary. But first and foremost, we need to stop this gusher and then begin work to find a way to address the needs of so many people who have lost hope and their livelihoods. We can do that.

Let me just say again that this administration has done everything it can, and it continues to do that. I am pleased to see Dr. Hunter and so many of the others with the best minds in America brought together, brought to bear on this issue. If this gusher can be stopped—and it will be—it will be because some of the best people in the country have worked 51 days overtime trying to find a way to address this very significant disaster.

I apologize to my colleague for the waiting. I will perhaps come back again if Mr. Traverse from the Cayman Islands wishes to send additional information out about the Ugland House. Maybe I should visit the Ugland House, if it is not too crowded with the 18,857 companies calling it home. But that is perhaps for another speech and another day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Madam President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

Mr. KAUFMAN. Madam President, I enjoy it very much and I learn a lot every time the Senator from North Dakota gets up to speak. There is no one in this body who better states the issues I am concerned about than he does. This house in the Cayman Islands—maybe we should take a codel down there. Also, his comments on the gulf are absolutely right on point. Not only am I not disturbed, I enjoyed the opportunity to hear him speak once again.

IN PRAISE OF JUDGE TIMOTHY RICE

Mr. KAUFMAN. Madam President, I rise today to recognize another of our Nation's great Federal employees.

Since first embarking on this series over a year ago, I have honored so many dedicated public employees from across the executive branch. I have shared the stories of some who work in the legislative branch as well. Today, it is my distinct privilege to highlight an outstanding public servant from the Federal judiciary.

Ever since the First Congress passed the Judiciary Act of 1789, one of the hallmarks of American life has been our fair and independent judicial system. Indeed, our courts have long been the envy of the world and a model for other nations.

It has been an honor to serve on the Judiciary Committee and to participate in the confirmation of Federal judges. Over the past year in office and in my many years of working as chief of staff for the former Judiciary chairman, JOE BIDEN, I have met so many highly qualified judges.

America's Federal judges have, at times, faced great danger. From those who served on the frontier in the 19th century to those who today face ever-increasing threats from angry litigants and others, Federal judges honor us all through selfless devotion to duty.

Although they come from diverse backgrounds, judges must all share a dedication to justice and the law. For so many, these are truly a passion. They don their robes each day inspired by the biblical pronouncement: ''justice, justice, you shall pursue.''

The great Federal employee I am honoring today serves as a magistrate judge for the district court for the Eastern District of Pennsylvania. That court falls under the jurisdiction of the Third Circuit, which also covers Delaware.

Judge Timothy Rice has been a Federal magistrate judge since 2005. Before coming to the bench, Tim spent 17 years working for the Justice Department as an assistant U.S. attorney. He served as chief of the Eastern District's financial crimes section from 1995–1997 and later as chief of the public corruption section from 1997–2002. In his last 3 years as an assistant U.S. attorney, Tim served as chief of the criminal division.

While obtaining his law degree magna cum laude from Temple University, he held the position of editor-in-chief of the Temple Law Review. After graduating he clerked for Judge Anthony Scirica of the Third Circuit Court of Appeals.

Before attending law school, Tim worked for 4 years as a news reporter for the Observer-Dispatch in Utica, NY.

Despite his busy schedule presiding over a wide range of criminal and civil matters, Tim makes time to give back to his community and his country. He has taught courses at the Temple University School of Law since 1990, and he was appointed last year by Chief Justice John Roberts to serve on the Advisory Committee on Federal Rules of Criminal Procedure of the U.S. Judicial Conference.

Tim volunteers his time with a number of charitable Catholic organizations, such as the St. Vincent De Paul Society and ResponseAbility. He also works with Philadelphia Reads, a literacy mentorship program for second grade students.

As a magistrate judge, Tim cofounded the Supervision to Aid Reentry or ''STAR'' program to help reduce recidivism among ex-offenders. Not only has the 3-year-old STAR program helped dozens of ex-offenders make a smoother transition back into society, it has also saved the Federal prison system an estimated $380,000. With volunteers from the court system, the Philadelphia Bar Association, and area law schools, as well as support from local charitable organizations, the STAR program mentors ex-offenders to finish high school or college, find employment, and avoid a return to crime. Thanks in large part to Tim's commitment, energy, and vision, the STAR model is being replicated elsewhere around the country.

Tim and his wife Elaine have passed on a love of public service to their daughters, Meghan and Courtney, who work for the State Department and have been assigned to numerous overseas posts since 2005, including wartime service by both in Iraq. Their youngest daughter, Caitlin, just graduated from the College of Charleston.

Judge Timothy Rice is just one of hundreds of Federal judges across the Nation working day in and day out to fulfill the promise of our Constitution's preamble to ''establish justice'' throughout this land. I hope my colleagues will join me in thanking him and all those serving in the Federal judiciary for their tireless work to protect our lives and our liberties. They are all truly great Federal employees.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). Without objection, it is so ordered.

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

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

RESOLUTION OF DISAPPROVAL

Mr. DURBIN. Mr. President, pending before us on the floor is the bill from the Senate Finance Committee, the extenders bill relating to the Tax Code, but I would like to address an issue which is to come before the Senate tomorrow. It is an issue that rarely comes here under a procedure that was designed to give Congress a voice in the determination of regulations and rules promulgated by a President and the administration.

The Senate has entered into a unanimous consent agreement to consider S.J. Res. 26 tomorrow, which would disapprove of the Environmental Protection Agency's endangerment. As a result of this action by the Senate, if we

vote, we will vote in disapproval of this endangerment. The EPA's action was in response to a Supreme Court order that it make a determination about whether greenhouse gases as pollutants could be reasonably anticipated to endanger public health or welfare.

This is an interesting story because it began with a question that was posed to Carol Browner, then head of the Environmental Protection Agency under President Bill Clinton. As I was told the story, the Republican leader in the House, Tom DeLay, asked Carol Browner of the EPA whether the Clean Air Act covered greenhouse gases, and she said she would have to get back to him because that particular question had never been directly asked or answered. After long study, she replied in the affirmative, which was not the reply the gentleman from Texas was expecting. This led to a flurry of lawsuits and questions because it really raised the question as to whether greenhouse gases, as we know them, going into the atmosphere are dangerous to the health and safety of people living on Earth and particularly here in the United States.

The EPA studied this for a long period of time. The Supreme Court considered this case, as to whether the Clean Air Act applied to greenhouse gases, and ultimately concluded that it did but left it to the EPA to make the final determination as to whether in fact these greenhouse gases were dangerous. The EPA responded to the direction provided by the Supreme Court by proposing to find that the emission of six greenhouse gases—carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluorides—threatened the public health and welfare of current and future generations and the combined emissions of these same gases from new motor vehicles and motor vehicle engines contribute to the atmospheric concentrations of these greenhouse gases and hence the threat of climate change.

So, literally, tomorrow the Senate will be debating and voting on the question of climate change and whether greenhouse gases in fact are dangerous to the environment and the health and safety of people living in the United States. This has been a long, torturous process that led us to this moment. But the resolution being offered by the Senator from Alaska, Ms. MURKOWSKI, would basically ask the Senate to find against the scientific findings linking greenhouse gases and climate change. The judgment of the EPA was based on scientific findings that showed that the concentration of greenhouse gases is at unprecedented levels compared to the recent and distant past; the effects of climate changed observed to date and projected to occur in the future will have impacts on public health and welfare; and the emissions of greenhouse gases from on-road vehicles regulated by the Clean Air Act contribute to climate change.

There are those who deny the connection between greenhouse gases and what is happening to the Earth, the world in which we live. There are some who do not believe in climate change, they do not believe in global warming, and they are very vocal in their positions.

I have had many groups come to see me on the issue from my State of Illinois. Many of them are farmers, agricultural groups, and I have made a point of asking these farmers—as they tell me they oppose any type of efforts to control carbon, to tax it or measure it in the future—a very basic question: Do you believe human activity on Earth is leading to changes in the world we live in—climate changes, the melting of glaciers, different problems with pollution, public health issues, asthma, lung problems? And I have been surprised, at least initially, to find that none of them believed it—not one. Three—after I asked this repeatedly—three said they had some questions about it, but not one said they believed it; that human activity was changing the world in which we live. I said to them: It is very difficult for us to have a conversation let alone a debate about this issue if you don't buy the premise, if you don't buy the starting point that things we are doing—the way we live, the way we produce electricity, the way we move from one place to another—create pollution which changes the Earth.

This resolution by Senator MURKOWSKI basically takes the same position: that the Environmental Protection Agency's finding that these greenhouse gases are a danger to us in the future and now is wrong. The EPA did not reach this conclusion lightly, as to whether there was a connection between greenhouse gases and the safety and health of people living on Earth. They had over 380,000 public comments they elicited for this work.

The EPA endangerment finding has been supported not only by their conclusions but peer-reviewed literature in the work of the Intergovernmental Panel on Climate Change and the Proceedings of the National Academy of Sciences. For the Senate to decide tomorrow that greenhouse gases do not pose a danger to our environment or our own health is comparable to the Senate voting against gravity, saying basically we are going to disagree with the scientific conclusion on gravity.

I could argue without gravity the space program would be a lot cheaper. But the fact is, gravity is a scientific finding backed up by virtually everyone. Here we have a scientific finding backed up by the National Academy of Sciences, and the Senator from Alaska is going to ask us to vote tomorrow to reject it—the Senate to reject it. We will stand in judgment of these scientists and find they are wrong.

By what authority could we reach that conclusion? They have gone through this long process of concluding that greenhouse gas emissions endanger the planet we live on and our lives in the future. They have suggested we need to take that into consideration when we talk about the fuels we burn in the future, the way we generate electricity in the future, and start making plans to improve fuel efficiency, energy efficiency, to reduce the dangers associated with this.

I think this is an important vote, maybe a historic vote. It is also interesting who supports the position of Senator MURKOWSKI that we basically reject the sound science behind the EPA position. It is a position backed by many groups but particularly supported by big oil. The big oil companies are concerned about the impact of measuring greenhouse gas emissions and carbon emissions on the environment because it directly impacts the product they create and produce and sell.

Here we are in the midst of an environmental disaster in the Gulf of Mexico brought on by one of the biggest oil companies on Earth, and we are now going to consider in the Senate a Murkowski resolution that is supported by the same big oil interests asking us to reject the finding by the EPA that greenhouse gas emissions do pose a danger to our environment and the people living in the United States.

I say to my colleagues, tomorrow I hope they will think long and hard about this vote. This is not just another vote about another political issue. The credibility of the Senate is at issue. If we are going to stand in judgment of these scientific findings and reject them, then I think we will at least subject ourselves to a level of criticism that we have not accepted basic and sound science as it has been developed.

There are many groups supporting the Murkowski resolution. I mentioned big oil. But there are many groups that oppose the Murkowski resolution. Among them are the American Academy of Pediatrics, the Children's Environmental Health Network, the American Nurses Association, the American Lung Association, Public Health Association, Physicians for Social Responsibility, the Association of Schools of Public Health, Union of Concerned Scientists—the list goes on and on.

It is interesting, too, that automobile manufacturers oppose the Murkowski effort to reject the science behind greenhouse gas emissions. An alliance of automobile manufacturers and 11 member companies have written to us expressing concern over the Murkowski resolution that would overturn the EPA's endangerment finding on greenhouse gas emissions.

> . . . if these resolutions are enacted into law, the historic agreement creating the One National Program for regulating vehicle fuel economy and greenhouse gas emissions would collapse.

They are, of course, referring to an agreement which is trying to move toward more fuel-efficient vehicles and vehicles that pollute less. An agreement is being reached. Most Americans

would agree that is a good thing. But the basis for agreeing it is a good thing is the belief that what is coming out of your tailpipe is not necessarily good for the world we live in, and if we can reduce the greenhouse gas emissions by moving toward hybrid engines, electric cars, getting better mileage in cars we do use, it is a good thing for the American owning the car—they buy less fuel oil—and it is a good thing for the environment because there are fewer emissions.

If the Murkowski resolution prevails, we are rejecting the scientific basis for believing that what comes out of your tailpipe can be harmful to the world in which we live. That is a position which is hard to understand and difficult to explain.

The auto workers have written to us asking us to vote against the Murkowski resolution, saying they are very concerned that such a vote ''would unravel the historic agreement on one national standard for fuel economy and greenhouse gas emissions.''

We have had EPA Administrators from Presidents, both Democratic and Republican—under Nixon, Ford, and Reagan—who oppose the Murkowski resolution: Russell Train, William Ruckelshaus, many faith groups, a long list of environmental groups, and key stakeholders who oppose this Murkowski resolution. The list goes on and on.

It will be an interesting vote tomorrow to see if this Senate, this historic and traditional body, will be looking forward to the future and realizing if we do not take better care of the world we live in, we will not be leaving as clean a world, as safe a world to our children in the future.

The Murkowski resolution says ignore the science, ignore the findings, and ignore the responsibility we face to do something about this problem. I think that is clearly a move in the wrong direction, and I hope my colleagues will reject this resolution when it comes before us tomorrow.

There are some who have argued if we do not pass the Murkowski resolution the EPA will start regulating just about everything in sight. When my farmers come here and start worrying about the tractors they drive in the fields, I wonder if they have taken a close look at what the EPA rule has suggested.

There are approximately 900 currently regulated facilities, and the EPA estimates there will be about 550 more that would be affected by this rule. No small farms, restaurants, or midsize commercial facilities emit enough carbon to be regulated by the EPA. Many of these entities have been frightened by people who have been exaggerating the reach of the EPA or their interest in this particular issue.

When you look at the phase-in called for by the EPA, they are dealing with the largest emitters of pollution in our country. What I think it does is, unfortunately, make the debate somewhat distorted to suggest it is going to apply to a farmer or small businessperson because the EPA's schedule and rules do not.

The alternative of doing nothing is unacceptable from my point of view. I do believe, sadly, things are changing for the worse in many respects when it comes to the environment of the world in which we live. I do believe there has been, as the EPA has found, an increase in greenhouse gas emissions and accumulation of those emissions in the environment which have had a negative impact on the world.

I have seen the photos—most everyone has—about the warming of this Earth. Although there are clearly days and weeks when we have a lot of cold weather—we had it in Washington—we know on average the temperature of the world we live in is going up. As it does, things change: glaciers melt, there is more water in the oceans, currents change, the temperature of the water that moves around the world changes, and climate patterns start to change as well.

We need to do something about it. Voting for the Murkowski resolution is a step in the wrong direction. It basically says we are walking away from our responsibility, a responsibility which, though it is politically difficult, I think is a responsibility we must face because the science and our human experience lead us to that conclusion.

I know it is going to mean some changes in the world. I come from a State where there is a lot of coal. That coal is a source of a lot of energy. But it also could be the source of a lot of pollution. There are ways to deal with it.

I see the Senator from Missouri on the Senate floor. He and I have come together, not on every issue but at least on the notion of carbon sequestration. The idea is to take the emissions from an electric powerplant using coal, for example, and pipe them deep into the earth well below any surface where they could escape. I think this is one of the technologies, one of the scientific processes that should be researched as a possibility.

Let me conclude, because I see my colleague on the floor, by urging my colleagues to oppose the Murkowski resolution tomorrow. This resolution wants to basically reject scientific findings that have been backed up across the world. It would subject this body to not only criticism but maybe even ridicule for us to step away from basic scientific findings which have linked the activities of humans on Earth and a change in the Earth in which we live. We need to accept that basic premise and accept that basic responsibility.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I wish to make some remarks on this extenders bill now before us. It would seem to me, from what I have heard as I traveled this past week, that Americans want to send a very clear message to Washington. They have had enough of runaway spending, exploding debt, the bailouts, and the job-killing policies coming out of this Congress and this administration.

Unfortunately, with the bill on the floor now, it is clear that Washington, or most of it, has stopped listening to the American people. This bill is supposed to be about getting job creators some certainty that temporary tax benefits they rely on to retain workers will continue to be there. Instead, it seems Democrats cannot resist the opportunity to use this bill to expand the debt and extend the government reach because this $126 billion baby does all of the above. It is loaded up with unrelated spending that has nothing to do with extending necessary benefits and creating jobs. It is not fully paid for and would add another $78.7 billion to the debt.

With the national debt at now a whopping $13 trillion, the American people have said enough. Our children and grandchildren, if they were here, would say: Don't put any more on our credit cards. Our debt is now at an unprecedented $13 trillion for the first time in history. This is no small milestone.

Make no mistake, the next crisis our Nation must deal with is the exploding debt crisis that is upon us. I believe Chairman Bernanke referred to that today.

I support the provisions in this bill that would give our small businesses, our job creators, the security that longstanding tax benefits they are counting on will continue. I also support extending necessary benefits such as the Medicare reimbursements to keep doctors supplying Medicare patients with health care. This was left out of the ObamaCare bill to make it look not as expensive as it really was. But we need to pay for that.

The difference between our view on this side of the aisle and that of those on the other side of the aisle is that we should pay for temporary tax extensions with reductions and cuts in spending, not with permanent tax increases. We want to pay for necessary benefits with cuts now, not saddle our children and grandchildren with even more debt down the road.

I believe most of my colleagues on this side of the aisle agree. Like me, many Republicans support some of the provisions buried in this boondoggle of a bill. In fact, many of these provisions would easily sail through the Senate, but Democrats continue to bury these provisions in massive spending bills such as the ones before us, compelling anyone who cares about our Nation's fiscal health to vote no. Americans are demanding that we say no, that we put an end to the Washington-gone-wild policies.

They have had enough spending, tax increases, debt, bailout, government overreaching, and job-killing policies.

Right now it appears that the majority is not listening. This bill contains provisions that will severely curtail the ability of U.S. businesses that operate internationally, and will drive countless more jobs and corporate headquarters overseas at a time when we should be focusing on job creation and improving the competitiveness of the United States.

These tax increases are a step in the wrong direction. The President has even said we are going to have an economic recovery driven by exports. Well, he has not stepped up and said we need to do free trade agreements which would do that; free trade with Colombia, South Korea, Panama.

This bill, by taxing the people who go overseas to create the opportunity for more exports of American goods, will obviously destroy our ability and lessen our ability to export more. As a technical matter, six of the eight international tax increases in the extenders bill have not even been considered in the committee. Two of the eight were in the President's Greenbook. The other six were only publicly bounced out for the first time May 20. This is $14.5 billion of tax increases over the next 10 years.

Let me point out, as I have traveled overseas and looked at job creation, I have been stunned to see that America is one of only two countries that taxes businesses overseas and taxes them at home. Most other countries which are growing in their export and their influence overseas do not tax double.

Well, we are taxing double and we are increasing those taxes now. Several of the international tax increases are retroactive tax increases. Many companies, in their reports with the SEC for the benefit of the investing public, have already claimed financial statement benefit for certain foreign tax credits they have already earned but for which they have not yet claimed credit.

The retroactive tax increases affect companies that have already claimed credit for the tax credits to which they were entitled. They have been treated properly as money in the bank. This extenders bill would cause such companies to lose the credits, issue earnings restatements and perhaps even lay off U.S. employees.

These international tax increases are permanent changes to the Internal Revenue Code, meant to pay for 1 year of temporary provisions in the Internal Revenue Code, a real mismatch. And how will the extenders be paid for next year?

Some on the other side may say these tax increases are necessary to preserve American jobs or keep business in America. Well, I can tell you firsthand that is not the way it works. If you say that, you do not understand economics and international business.

I have made many statements on this floor and written a book about how the best foreign policy we can have is export and foreign investment from this country. It is vitally important as a foreign policy imperative, but also, I have seen firsthand that investment overseas not only creates wealth overseas, but it brings more exports from the United States, creating more jobs here. So it is a win-win for both countries.

Foreign countries where we want to strengthen their economy are crying for investments and for more of our exports because that is how we can help them grow. But these tax increases make it less likely that American businesses will hire, that American businesses will grow. Instead, Germany, India, and Chinese companies, Australia, and the British will outcompete us. They will be hiring more as they grow overseas and as we shrink. This is not the way we should move forward in job creation.

You may say there are reforms needed in the international tax arena, but I think the biggest reform is to put us back on the same footing as most other countries in the world that do not tax overseas. Why are we the only ones? We are one of only two that do it. Does it make good economic sense to penalize productive investment abroad which brings back profits, capital, and export opportunities here at home? That is just one. That is a $14½ billion job killer.

Another $14 billion job killer is on entrepreneurs, the people who are creating jobs and need to have venture capital. This is designed to cut the ability of venture capital groups to put together the money you need for researchers or inventors who are creating jobs. I happen to be very interested in this, because my State of Missouri has tremendous research in universities and in organizations such as the Danforth Plant Science Center coming up with innovation in agricultural biotechnology that can provide better food, better products, pharmaceuticals, improve the environment, and improve the well being of people around the world. But there is a big jump between having something in the lab that may work and getting it out in sufficient quantity to supply the Nation and the world. Under the current law, entrepreneurs have a clear signal to take risks on investments in partnerships. The signal is this: They pay a 15-percent tax if they put their time and effort to bring money and ideas together and make it workable. They have to pay a 15-percent tax when it becomes valuable enough to sell.

That clear signal incentivizes the flow of capital into startup and other ventures. You cut that off and we are going to see venture capital-driven new business opportunities disappear. What are we thinking about? Let's go back.

The No. 1 concern of Missourians, of Americans, is creating jobs. These are the jobs of the 21st century. We are losing lots of jobs of the 20th century. We have to replace them with the jobs of the 21st century. That is where venture capital comes in working with entrepreneurs, working with researchers, bringing together the business acumen, the business skill to get these good ideas into provable products in the marketplace and supply the needs of the people in the world.

Unfortunately, the majority and the Obama administration want to raise that rate to 33 percent in a little over 6 months. This 33-percent hit is set to be augmented by an additional tax hike on the part of the partnership gain attributable to carried interest. It means there is a double whammy coming at startups and other business entities seeking capital to grow and, by the way, not incidentally, primarily create jobs.

We want jobs. Stop the idea of taxing people who are going to create jobs. Rule 1, if you want more of something, tax it less. If you want less of something, tax it more. We want less jobs. That is the message this substitute sends. The double whammy on startups and other businesses would mean that almost half that carried interest, that is now capital gain, would be treated as ordinary income. So with ordinary rates set to rise to almost 40 percent, which will help kill small businesses, it means two-thirds of that carried interest would be almost 40 percent. That is a lot worse deal. That is the kind of thing this country cannot afford when we need jobs. Even though many in the business sector said they want some of the extenders, the temporary extenders the bill includes, research and development and other things, they do not want them if the price of getting them is these international tax increases.

Those opposing the bill include the Chamber of Commerce, the Business Roundtable, the National Foreign Trade Council, the National Association of Manufacturers, the Information Technology Council, IBM, and Microsoft. You can see that the innovative companies in our country know this is going to shrink their business if these tax increases go forward and it is going to cut both in international exports and to startup venture capital.

This goes back to what the Gallup poll has shown, that only 16 percent of Americans approve of the job Congress is doing, and 80 percent disapprove. If you poll those who will lose their jobs, the disapproval rate would be even higher.

I believe the only way to restore America's confidence in elected officials, particularly in this body, is to prove we are listening. The folks in my home State of Missouri, like most Americans, want Congress and the President to quit treating their hard-earned tax dollars like Monopoly money. The folks in Missouri want me to vote no and oppose any effort to pile more debt on our children and grandchildren, and to oppose efforts that would tax exports and job-creating investments in small and growing businesses.

I have heard. I am listening. I want to act on it. I hope my colleagues will join me.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

HEALTH CARE CAMPAIGN

Mr. MCCAIN. Mr. President, here we are the day after some elections in various States around the country. I think everybody will draw their own conclusion as a result of those elections, but it is hard to dispute the assertion that the so-called tea party candidates did rather well in the elections around the country.

Those people who believe the disconnect between themselves and their neighbors and their fellow citizens and what we do here in our Nation's capital is clearly disconnected. The anger and dissatisfaction continues to be displayed in poll after poll and election after election. And why are they so upset?

Well, our national debt has just surpassed $13 trillion for the first time. We now, this morning, in a prediction, have predictions that it will surpass $19 trillion in 5 years.

In the first 206 years of this Nation's existence, we were able to accumulate a national debt of $1 trillion. Now it is going to take us 5 years to add $4 more trillion, up to $19 trillion. So what is the response now by the administration and my colleagues across the aisle? Another bill that addresses $10, $20, $30, $40, $50, $100 billion additional to the debt and, of course, not paid for. And here we are, after spending a good part of a $787 billion stimulus package, where we were promised and assured that if we passed that the maximum unemployment in the United States would be 8 percent. As we all know, it is now at 9.7 percent, with the latest job information with a paltry 41,000 new jobs, and 400,000 temporary government Census jobs.

So is it surprising to anyone that there is great anger and dissatisfaction throughout the country? We seem to be not just tone deaf but deaf, which brings me to the issue of the so-called health care reform.

CBO recently came forward and said, the real cost of the reform in its new authorization is over $1 trillion, something we were assured at the time, in the year-long debate, that it would not be over $1 trillion. It will cost over $2.6 trillion over its first 10 years of full implementation.

I guess there was the assumption that either the American people would forget the debate that was held here in the Congress or would forget these promises were made about the benefits of health care reform, but they were wrong. Recent polls show that about 60 percent of the American people still oppose the legislation that was passed through the Congress and signed by the President, to great fanfare.

In the immortal words of the Speaker of the House, who said, ''We have to pass the bill so that you can find out what is in it,'' the American people are finding out what is in it, including medical device makers who assert that the new tax on them will cost jobs because of a 2.3-percent excise tax on companies that supply medical devices such as heart defibrillators and surgical tools to hospitals. It will cost an estimated $20 billion. The list of taxes goes on and on.

The response of those on the other side of the aisle is to launch a $125 million health campaign. They will spend an estimated $25 million a year over 5 years so that, quoting from a Politico story:

> The extraordinary campaign, which could provide an unprecedented amount of cover for a White House in a policy debate, reflects urgency among Democrats to explain, defend and depoliticize health care reform now that people are beginning to feel the new law's effects.

Interesting—$125 million.

To do its bit, the Medicare people have decided to spend—because we have lots of money; there are no worries—$18 million—chicken feed—in Medicare funds to send a mailer to Medicare beneficiaries. The flier is entitled ''Medicare and the New Health Care Law, What it Means for You.'' It was sent to 43 million Medicare beneficiaries under the guise of explaining how the new law will impact them. However, the brochure goes into great detail about provisions of the law that do not even apply to seniors and leaves out any mention of the cuts they will face. For example, 330,000 of my fellow citizens in Arizona are enjoying a program called Medicare Advantage. Medicare Advantage does what the government doesn't want our Medicare recipients to do, and that is to give people choices on dental care, eyeglasses, other decisions they would make. Of course, those people will see the Medicare Advantage program, which is very popular, dismantled under this law.

The flier and the President point out that over $500 billion in Medicare cuts could jeopardize seniors' health care, forcing millions to pay more. The cuts, according to the Obama administration's own Medicare actuaries, will lead to 7.4 million Medicare beneficiaries losing their health plan because of the $206 billion in cuts to Medicare Advantage. The CBO estimates that Medicare prescription drug coverage premiums will increase by 9 percent as a result of that law.

I look forward to continuing this debate with the President and my friends. He took time out from his musical evenings to have a health care townhall yesterday to talk about this great benefit to the American people that his legislation has brought. Unfortunately, seniors and the American people are not fooled.

I quote from a Wall Street Journal article of May 28, 2010:

In the full-circle department, recall the moment last September when Senator Max Baucus and Medicare went after the insurer Humana for having the nerve to criticize one part of ObamaCare. It turns out those same regulators have different standards for their own political advocacy.

This week Medicare sent a flyer to seniors, ostensibly to inform them of what ObamaCare ''means for you.'' Many elderly Americans are worried—and rightly so—about where they'll rank in national health care, given that the new entitlement is funded by nearly a half-trillion dollars in Medicare cuts. They must have been relieved to hear that ''The Affordable Care Act passed by Congress and signed by President Obama this year will provide you and your family greater savings and increased quality health care.''

That's the first sentence of the four-page mailer, and it gives a flavor of the Administration's respect for the public's intelligence. It goes on to mention ''improvements to Medicare Advantage,'' the program that Democrats hate because it gives nearly one out of four seniors private health insurance options. ''If you are in a Medicare Advantage plan, you will still receive guaranteed Medicare benefits.''

But that's not what Medicare's own actuary thinks. In an April memo, Richard Foster estimated that the $206 billion hole in Advantage will reduce benefits, cause insurers to withdraw from the program and reduce overall enrollment by half. Doug Elmendorf and his team at the Congressional Budget Office came to the same conclusion, as did every other honest expert.

I don't know if my colleagues will recall, but the first amendment we had proposed from this side when the bill came to the floor was to prohibit cuts in Medicare. Now we are seeing that there will be a $206 billion hole in Medicare Advantage that will reduce benefits and cause insurers to withdraw from the program and reduce overall enrollment by half, just as we predicted on the floor of the Senate.

I look forward to coming back to the floor with my friend from Tennessee and others as we continue this debate. Perhaps we should have been discussing it more all along. I can assure my colleagues, from the many townhall meetings I am having all over the State of Arizona, the people of Arizona, especially those in programs such as Medicare Advantage and others, are deeply concerned and deeply skeptical.

Our proposal still remains valid. Starting next January, we will make every effort to repeal and replace because we cannot lay this burden on future generations of Americans.

I yield the floor.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from Arizona for his leadership and for his thoughtful comments on the health care law. We fought those battles last year. We won the argument but lost the vote. That is not so good for the country, as our country is now finding out.

I am one of those 40 million Americans who are eligible for Medicare, who received that brochure in the mail last week. I spoke about it yesterday. I

found it very disingenuous and misleading and unfortunate.

(The remarks of Mr. ALEXANDER pertaining to the introduction of S. 3470 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 4325 TO AMENDMENT NO. 4301

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up amendment No. 4325.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 4325 to amendment No. 4301.

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

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

The amendment is as follows:

(Purpose: To exempt pediatric medical devices from the medical device tax, and for other purposes)

At the end of title VI, add the following:

SEC. _____. EXEMPTION FOR PEDIATRIC MEDICAL DEVICES.

(a) IN GENERAL.—Paragraph (2) of section 4191(b) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) medical devices primarily designed to be used by or for pediatric patients, and''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''8 percent'' and inserting ''5 percent''.

Mr. ROBERTS. Mr. President, it is my understanding that we have reached an understanding that this amendment will be a side-by-side amendment to the amendment offered by Senator CARDIN. So at the time it would be considered we would have the vote.

Mr. President, included in the $½ trillion of new taxes in the health care reform law is a tax hike of $20 billion on medical devices. That is right. This new law imposes a $20 billion excise tax, a tax of 2.3 percent, on lifesaving medical devices.

The nonpartisan Congressional Budget Office and the Joint Committee on Taxation both confirmed that these excise taxes will not be borne by the medical device industry—will not be borne by the medical device industry. Instead, the tax will be passed on to patients in the form of higher prices and higher insurance premiums.

Recognizing that this tax, as initially proposed, was unpopular—because as written it would have increased taxes on medical devices such as eyeglasses and hearing aids—the bill was modified to exclude these and other items that are generally purchased by the general public at retail for individual use.

Yet even with these exemptions, patients still bear the burden of this new tax. Here are just a few examples of the people who will be hit by this new tax and the types of devices that will be taxed. People with disabilities, diabetics, amputees, people with cancer, and those with heart problems are just some of the people who will see their health care costs go up because of this tax.

During debate on the health care bill, I offered amendments to simply strike this unfair tax. Unfortunately, the majority did not approve these amendments. My amendment today prevents this new tax from raising the costs for pediatric medical devices—those devices that treat the youngest in our population: children who have serious or life-threatening illnesses such as cancer or a heart problem. The amendment exempts from the excise tax medical devices primarily designed to be used by or for pediatric patients.

This tax on medical devices is a tax on innovation as well. It harms research and development that leads to medical advancement. It creates an additional burden for medical device manufacturers to develop new products or to redesign them to meet the specific needs of pediatric patients.

As the FDA notes on its Web site:

Designing pediatric medical devices can be challenging: [Obviously] children are often smaller and more active than adults, body structures and functions change throughout childhood, and children may be long-term device users.

With these challenges and other barriers that exist to the development, approval, and availability of pediatric devices, it seems to me—and I think it should be clear to everyone, all of my colleagues—we should not add another barrier by taxing medical device manufacturers who develop and manufacture pediatric devices. Imposing the excise tax on pediatric medical devices will do nothing but slow innovation for these necessary and lifesaving devices.

So when innovative and lifesaving technologies are taxed, when the cost of many tests increases because the devices used in the tests are taxed, when new devices are not developed, and when fewer manufacturers are able to survive in the anticompetitive environment this tax will create, the consumers of health care will suffer for it.

I urge my colleagues to support this amendment to exempt pediatric medical devices from the excise tax to ensure that the youngest patients who need the lifesaving treatment these devices can offer do not have to pay more for that treatment. This is a step in the right direction to correcting the serious flaws in the health care law.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Montana.

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

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

Mr. BAUCUS. Mr. President, we are hoping to reach an agreement soon on a procedure during which we can cast votes on various amendments. The first would be an amendment by Mr. CARDIN; the next, Mr. ROBERTS; and then the Sessions amendment. At the conclusion of the Sessions amendment, I think we will then have 40 minutes of debate, and then the Baucus amendment and then the Cornyn amendment, but that will be outlined much more specifically in a unanimous consent request which I think should be coming fairly quickly.

I wish to say a word or two about the Roberts side-by-side amendment with respect to medical devices. I think it is important to remind ourselves that we are a democracy. Sometimes I think that is forgotten. That is, we are a country of laws. This is a country where we live by the will of the majority, as enacted into law.

It used to be that we here in the Senate would air our differences, vote, and then move on. I must say that lately, and especially with regard to health care reform, many on the other side of the aisle appear to be unable to move on. Many on the other side of the aisle appear unwilling to accept the results of our legislative process as enacted into law and signed by the President. Many on the other side of the aisle appear simply unwilling to accept the new health care law. Some come to the floor daily to complain about it and, in a sense, relitigate it. It is already passed. It is the law. For the life of me, I don't understand why Senators don't realize that now is the time, since the law has been enacted, to offer constructive remarks to help make sure it works even better. We are here to serve the American people. We are not here to score partisan political points. I think most people at home want the Senate to work to offer ideas to help make the recently enacted health care reform law work even better.

So today, unfortunately, we have again an amendment to carve out an exception to the medical device fee that helps pay for health care reform. This amendment would pay for the loss of revenue by leaving more Americans without health insurance. We are in a situation where if we cut out this medical device provision, then we have to make it up in some way, so this amendment would pay for the lost revenue by leaving more Americans without health insurance.

Senator ROBERTS offered this amendment a few minutes ago, and it would again seek to make changes to the medical device excise tax that is set to go into effect in the year 2013. The Senate rejected an amendment earlier in the year very much like this one. It rejected it during consideration of the

Health Reconciliation Act on March 24. We have already been there. We voted on this, not only in the health care reform bill that passed, but we also already voted on this amendment, and the Senate rejected an amendment very similar to this and rejected it soundly by a vote of 57 to 40. Here we are again.

But, still, some on the other side of the aisle appear unwilling to move on. So for the same reasons we rejected this amendment in March, we should reject it again today. We should not exempt one set of medical device manufacturers from contributing their fair share toward health care reform. We should not decrease the number of Americans with health insurance, which this amendment would do—decrease the number of Americans with health insurance. We should, therefore, reject the Roberts amendment.

Let me describe the amendment in a little bit more detail. First, the amendment tries to exclude certain medical device sales from assessment. As my colleagues will recall, a fee was placed on various providers to help pay for health care reform, and in virtually every case, the providers agreed to the fee. They would rather not have to pay a fee, but they agreed to it. They didn't cause a big fuss. Why? Because, as a result, more people would have health insurance, and with more health insurance, providers generally make a little more money. What they may lose on markup they could make up in volume as more people would have health insurance.

Products that consumers will buy at retail are already excluded. Further attempts to exclude devices are attempts to undermine the entire medical device policy.

The health care reform bill included shared responsibility for all health care industries. I would remind my colleagues, that was the basic premise of health care reform. We are all in this together. Shared responsibility. All Americans help share responsibility—individuals, companies, insurance companies, manufacturers, doctors, hospitals. It is shared. All Americans share. It is about the only way we could make health care reform work in this country, and reform we must because of all the waste that otherwise occurs in our system. There are some estimates that there is up to 29 percent waste in the American health care system. That is a lot of money. We spend about $2.5 trillion a year on health care reform and waste in the American health care system. That is a lot of money. We spend about $2.5 trillion a year on health care reform, and 29 percent comes out to around over $800 billion of waste. I am not saying we can get all of that waste out of the system, but I am saying the passage of this legislation will go a long way, in many respects because of its very strong provisions to attack fraud and abuse in Medicaid and Medicare.

The health care reform bill included shared responsibility for all health care industries. Medical device companies pledged to do their part. They pledged to do their part, and they must do their part. This is particularly true since that industry will see at least 32 million more customers as a result of reform, leading to substantial new profits. The device industry and many other industries in health care will see 32 million more customers as a result of this health care reform law we passed, leading to substantial new profits for them.

This amendment offered by the Senator from Kansas also seeks to weaken the individual responsibility requirement in health reform—weaken it. Remember, this is a shared responsibility. He wants us to weaken a large part. The Congressional Budget Office has indicated that the requirement is one of the most critical pieces of reform; that is, that requirement that the Senator wishes to weaken. CBO, again, states this requirement is one of the most critical pieces of reform. Without it, we lose coverage for millions of Americans. Without it—without that reform—premiums could spike by up to 15 to 20 percent in the nongroup market. Premiums were likely to go up 15 to 20 percent in the nongroup market if this health care reform bill had not passed. That is the analysis of the nonpartisan Congressional Budget Office.

So, clearly, we must resist efforts to weaken the individual responsibility policy in the health care reform bill. I, therefore, do not support this amendment.

I have a couple of other matters. I have not had much opportunity to speak today, so I wish to speak on those matters. I see my good friend from Utah wishes to speak and I will try to speak quickly so he can make his remarks.

The Senator from Arizona came to the floor a few moments ago to attack a number of laws we have enacted this Congress. First, he attacked the Recovery Act. The Senator from Arizona ridiculed the Recovery Act's effects. But we here turn to the nonpartisan Congressional Budget Office for the straight facts. What are the facts? I think it was the late Senator Moynihan from New York who once said, you know, you can argue the policy, but you can't argue facts. Facts are facts. Facts are very tenacious things that are there that you can't wish away. So what are the facts, according to the Congressional Budget Office? The nonpartisan Congressional Budget Office says that in the first quarter of calendar year 2010, the Recovery Act's policies raised the level of real gross domestic product—that is adjusted for inflation—raised the level of gross domestic product by between 1.7 percent and 4.2 percent—not zero, not decreased but raised—raised the gross domestic product in the United States between 1.7 percent and 2.4 percent. Also, CBO says the Recovery Act lowered the unemployment rate by between .7 percentage point and 1.5 percentage points. That is the conclusion of the Congressional Budget Office.

What else did the Congressional Budget Office say? That the Recovery Act increased the number of people employed by between 1.2 million and 2.8 million—increased the number of people employed. That is the consequence of the act. The Congressional Budget Office further states that it increased the number of full-time equivalent jobs by 1.8 million to 4.1 million compared with what those amounts would have been otherwise. I think that is pretty clear.

I respect the ability of the Senator from Arizona to state his own thoughts. That is why we are here in the Senate, in many respects. But we can't dispute the facts as stated by the nonpartisan Congressional Budget Office, the facts which I just recited.

Mr. President, I ask unanimous consent that at 4 p.m. today, the Senate proceed to vote in relation to the following amendments in the order listed and that no intervening amendment be in order prior to the votes, with 2 minutes of debate prior to each vote, with the time equally divided and controlled in the usual form; that after the first vote in the sequence, the succeeding votes be limited to 10 minutes each: Cardin amendment No. 4304; Roberts amendment No. 4325; Sessions amendment No. 4303, with a modification which is at the desk, and that the amendment be modified.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah.

Mr. HATCH. Mr. President, reserving the right to object, and I won't object, but I want to make sure I have enough time to give the remarks I was supposed to give.

Mr. BAUCUS. That depends on how long the remarks are going to be.

Mr. HATCH. They will be wonderful remarks.

Mr. BAUCUS. I am sure they are going to be wonderful. That wasn't the question.

Mr. HATCH. I am hopeful that I can be finished by 4 o'clock.

Mr. BAUCUS. We will work it out. We can always delay the first vote until, say, 5 minutes after 4 to accommodate the Senator from Utah.

Mr. HATCH. I have no objection.

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

Amendment No. 4303, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. _____. DISCRETIONARY SPENDING LIMITS.

(a) POINT OF ORDER.—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, $540,116,000,000 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, $543,790,000,000 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, $551,498,000,000 in budget authority.

(4) With respect to fiscal years following 2013, 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, or 2013, 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; and

(iii) with respect to fiscal year 2013, $50,000,000,000 in new budget authority.

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, 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, and for fiscal year 2013, $7,315,000,000.

(II) For fiscal year 2011, $899,000,000, for fiscal year 2012, and $908,000,000, for fiscal year 2013, $917,000,000.

(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 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, and for fiscal year 2013, $281,000,000.

(II) For fiscal year 2011, $490,000,000; for fiscal year 2012, and $495,000,000; for fiscal year 2013, $500,000,000.

(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, and for fiscal year 2013, $35,030,000.

(D) HEALTH CARE FRAUD AND ABUSE.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 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, and for fiscal year 2013, $320,000,000.

(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 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;

(ii) with respect to fiscal year 2012, $51,000,000 in new budget authority; and

(iii) with respect to fiscal year 2013, $52,000,000 in new budget authority.

(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 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.—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 this section, sections 302 and 311 of this Act, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress).

(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 subsections (a) and (e) 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.

(g) LIMITATIONS ON CHANGES TO THIS SECTION.—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 section.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague's remarks and I appreciate his leadership on the Finance Committee. He is a fine man. We have been friends for a long time. He has had a very tough job on health care.

But I was a little amazed that he would suggest the Republicans are opening up the health care bill after the distinguished Senator from Maryland actually opened it up with his amendment. I suspect there is going to be a lot of opening by Democrats, as well as Republicans, of the health care bill because it is a colossally bad bill. There is no sin in doing that. Plus I have to say, coming from one of the States that is one of the major producers of medical devices, most of those device companies hardly agreed to what has happened to them. They are going to have to pass those additional taxes on to consumers.

I make those remarks to correct the record a little bit. I realize what my friend is saying. I suspect there will be a lot of amendments to what I consider to be a bill that I think will be a problem for the rest of our lives if we don't reform it.

I rise today to express my deep concern about the so-called American Jobs and Closing Tax Loopholes Act. I also wish to relay my growing frustration with the partisan gamesmanship and lack of leadership by the majority of this body that has brought us to the deplorable state in which we find ourselves in connection with the expired tax provisions.

As a long-time member of the Committee on Finance, it has been my privilege to work with my colleagues on both sides of the aisle to try to improve the tax laws of this country. While we have had our share of partisan fights over the nearly 20 years I have served on the committee, there has been an overall spirit of cooperation and bipartisanship that has set this panel apart from all the others on which I have served. Unfortunately, this positive spirit, which is so badly needed in the Congress today, has been unraveling for some time now.

Nowhere is this degradation of bipartisan cooperation more evident than in taking care of what used to be the routine business of extending expiring tax provisions. This, of course, is a major objective of the bill before us.

Let us move back a few steps and take an objective look at what we are attempting to do here with this bill. This legislation started out with the purpose of reinstating a growing number of important tax provisions that expired at the end of last year. I recall a time not so long ago when the Senate took care of expiring provisions before they lapsed, not 6 months or even more, after their sunset.

The problem is not with the provisions themselves—they almost universally enjoy wide and deep support on both sides of the aisle. Nor is it a problem that these provisions are not important to the American economy. Admittedly, some of them are more significant than others. The research credit, for example, is vital to our battle to keep R&D activities here in the U.S.—which, by the way, is a battle we are in danger of losing to many of our trading partners, who are working hard to attract these activities away from our shores.

Rather, the problem is twofold—a lack of taking care of needed business on the part of the Senate leadership and the tendency of the majority to use the expired tax provisions as a pawn in the games of politics they are playing.

Let me offer several examples of this. First, it has sadly become commonplace for the leadership of the Senate to not even begin to take the extension of expiring tax provisions seriously until after they have expired. We have, so many times now, routinely extended these provisions after the fact on a retroactive basis, that we have created a sort of expectation that this is a normal and fine way of doing things. This is true despite the fact that we know and admit that this sloppy way of managing public policy will create additional complexity and burdens to the taxpayers that are dependent on these provisions.

Second, the majority had ample opportunity before now to take up and pass the tax extenders, but political games got in the way. For example, early this year in a demonstration of bipartisanship worthy of the reputation of the Finance Committee, Chairman BAUCUS reached out to Senator GRASSLEY and other committee members on both sides of the aisle in an attempt to put together a job creation bill. This bill, which was eventually enacted as the HIRE Act, was to have included the expired tax provisions. Practically everyone agrees that these provisions are job creators, and both sides wanted to put them in the bill.

Instead, however, the majority leader essentially hijacked this cooperation and turned it into a partisan game where it was impossible for our side to participate. In the process of doing so, he inexplicably removed from the bill the expired tax provisions and trashed them as Republican-only initiatives. Thus, these tax extenders could have been enacted in March but the Democratic leadership demonstrated that it would rather play political games than get these important provisions taken care of, which we all pretty much supported.

Third, when the majority finally did turn its attention to extending these expired tax provisions, it decided to attach unrelated provisions that it felt it could push through the Congress because extender bills eventually become ''must pass'' legislative vehicles. These unrelated provisions include an expansion of the controversial Build America Bonds program and a Medicare ''doc fix'' provision that had been promised in the so-called health care reform bill. Adding these provisions effectively turned the extenders into a pawn in this game of politics.

Finally, the majority has engaged in a strange game of insisting that the expired tax provisions be offset with tax increases on other taxpayers, while allowing far larger portions of the bill, such as the extension of unemployment benefits, to remain un-offset under the guise that we are in an emergency.

Mr. President, we are indeed in an emergency, but it is an emergency caused by too-high taxes and by lack of spending restraint. And by national debt that is compounding itself day after day, year after year, until we double our deficit in the next 5 years and triple it in 10, if we are lucky.

The solution is certainly not to raise taxes and increase spending, yet this is exactly what this bill does. It is to these tax increases included in the bill that I wish to address the remainder of my remarks.

Most of my colleagues know that I have been a strong and long-time supporter of many of the expired tax provisions. Let me again mention the importance of the research tax credit. I, along with Senator BAUCUS, have long

championed this provision, and I have worked to make it a permanent credit so we do not have to see these repetitive lapses in its coverage, which only make it less effective as an incentive.

I wish this bill included a permanent research tax credit, which many of my colleagues on the other side of the aisle and the Obama administration insist they are in favor of enacting. Knowing that a permanent extension was out of the question, I attempted to strengthen the credit on a temporary basis, along the lines of the bill that Senator BAUCUS and I introduced last year, but the other side was not even willing to do this. Nevertheless, a straight extension of the current law research tax credit is significant and is of dire necessity.

I hasten to point out it would not have been as effective as the strengthening provision that we both had agreed should be in the bill.

Why, then, am I planning to vote against this bill? Along with the huge increase in un-offset spending, it is for the same reason that much of the business community is opposed to this legislation—the tax increases added to the bill will damage the economy and job creation and outweigh the benefits of extending the expired tax provisions.

That is at a time when we know that unemployment is not coming down, nor is the economy getting that much better.

Let us take a look at some of these so-called tax loopholes that this legislation is attempting to close.

The largest revenue raiser in the bill is the so-called carried interest provision. For several years now, we have heard it stated with outrage that hedge fund managers get by with paying a lower tax rate on their billion dollar compensation packages than the tax rate their secretaries pay on their relatively meager salaries. Well, if it were this simple, maybe this is a legitimate loophole that we should have closed a long time ago. Unfortunately, it is not this simple.

Rather, the carried interest issue is a complex one that permeates through many structures throughout our economy in ways that are difficult to understand. For example, the same partnership structure that is often utilized by a hedge fund is also used by venture capitalists and real estate developers. These structures have long been part of our tax law and many multi-billion dollar deals that have created millions of jobs have been built upon them.

I am not here to say that from a tax policy point of view, the way we tax carried interest should not be examined and possibly changed. What I am here to say is that we need to use extreme caution in making any changes to the taxation of these structures. Why? Because the simple fact is that if we increase the tax rates and change the nature of income from these partnerships, the economic hurdle rates will rise, and fewer deals will get done. And if fewer deals are done, less economic activity will be generated and fewer jobs will be created. At this time of economic strife in this country, this is not a chance we should take.

The problem Mr. President, is that these offsets are being considered for one reason and one reason only—for the tax revenue they are projected to provide. We are trying to fill a hole and we need a certain amount of new taxes to do it. We are not looking to improve tax policy here. If we were, we would approach this matter with the caution it warrants.

Another big tax change in this bill before us also needs to be reconsidered. I refer to the provision to change the way certain owners of S corporations are subject to self-employment tax. This $11 billion plus revenue raiser will create all kinds of headaches for legitimate small businesses that are currently playing by the rules.

The proponents of this change say that it is needed to close a loophole made famous by a former colleague of ours who will remain unnamed. However, the Internal Revenue Service already has all the tools it needs, in the form of existing tax rules, to enforce the kind of abuses that have occurred in this area.

The provision in this bill to correct this problem would arbitrarily afflict certain small businesses whose only sin is that they might have three skilled professionals rather than four. Essentially, the provision creates a raft of unanswered and complex questions that will likely bedevil hundreds of thousands of small business owners who would much rather be concentrating on surviving the tough economic climate and possibly creating some new jobs.

Finally, I must say a few words about another category of offsets in this bill that are entirely unjustified and were not well considered. These are the set of changes to the foreign tax credit rules that suddenly appeared on the scene just a few days ago. Unlike most other tax offsets that we discuss in the Finance Committee, which have been around for a long time and have had the benefit of examination by the professional tax community, these were sprung on us just a few days ago. They were not part of the administration's budget proposal and have not been subject to any kind of hearing in either House.

Rather, they were apparently concocted by some backroom bureaucrats in the bowels of the executive branch and brought forth in the guise that these are glaring loopholes that must be closed for the sake of the future of the federal fisc. However, what I have been told by seasoned tax professionals in the business community is that these are, in large part, not loopholes at all but legitimate tax planning techniques that the Treasury and Internal Revenue Service have known about for years.

What is worse is that the effective date of these provisions in this bill would have a retroactive effect. We all know that retroactive tax increases belie good public policy. Moreover, many on the majority side, including the chairmen of both of the tax-writing committees, earlier agreed that international tax reform provisions should be discussed in connection with international tax reform, not as a knee-jerk reaction to a perceived need for revenues on an unrelated bill. This is not good lawmaking and we should abandon consideration of these revenue raisers until we can examine them from a tax policy point of view.

In conclusion, we are on the low road with this bill. I am frankly ashamed to tell Utahns who ask me about the expired provisions that Congress has not dealt with them yet, and that the reason why is that we are too busy playing partisan games to manage the affairs of the nation in a responsible way.

It is not too late. Let us walk away from this mess and start again. Let us take up a clean bill to extend the expired provisions, which we all agree should be enacted, and then deal with these other issues separately. Most importantly, let us not increase taxes on anyone when the economy is in such a precarious position.

As our side has stated many times before, these tax provisions have been paid for many times over in previous years, by enacting permanent offsets to go along with their temporary extension. Let us not hurt our constituents in the name of false fiscal responsibility. Let us instead employ real fiscal responsibility and start finding ways to address our runaway spending addiction.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4304

Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4304, offered by the Senator from Maryland, Mr. CARDIN.

The Senator from Maryland.

Mr. CARDIN. Mr. President, the amendment we will be voting on is an amendment that allows the Federal Employees Health Benefits Plan enrollees to enroll their children up to age 26 immediately rather than waiting until January 1, which is what the new law provides. Private insurance companies are providing this opportunity now for their individuals.

Let me point out that I understand a point of order might be raised under the Budget Act. This has negligible costs. In fact, it will save some money in that children who reach the age of 22 between now and the end of the year

will be required to disenroll and then reenroll again after January 1, which makes no sense whatsoever.

The Office of Personnel Management wants to implement this plan now. They have the capacity to do it, but they need the legal authority to do it.

For the sake of our 8 million active Federal workers, retirees, and their families, it makes sense for us in an orderly way to allow their children up to age 26 to be part of the Federal Employees Health Benefits Plan now rather than have to wait until January 1.

I urge my colleagues to support the amendment and to support the waiver of the budget point of order.

Mr. BAUCUS. Mr. President, prior to enactment of health care reform, there was no law that required insurers to extend coverage for young adults to remain on their parents' plans.

For years, getting a diploma also meant losing your health insurance. And whether you went on to college or not, it was often hard as a young person to find affordable coverage.

Overall, Americans in their twenties were twice as likely to go without health insurance as older Americans.

For too many young Americans over the years, the answer to these questions was simply to go without health insurance and hope that you stayed healthy.

Under the new health reform law, insurers will be required to allow all Americans under the age of 26 who do not get health insurance through their job to stay on their parents' plan.

And beginning in 2014, children up to age 26 can stay on their parent's employer plan even if they have another offer of coverage through an employer.

This provision is scheduled to go into effect in September. But every major insurance company—more than 65 in total—and several major self-insured organizations have said they will provide continuous coverage for young adults this summer.

The amendment by the Senator from Maryland would make it possible for the Federal Employee Health Benefit Program to follow the lead of private insurance companies and make this coverage available sooner, as well.

This is a worthy goal. And the amendment would have negligible effects on the budget. And so I support the motion by the Senator from Maryland and urge my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Utah.

Mr. HATCH. Mr. President, I have been asked to raise a point of order that the Cardin amendment violates section 311 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I ask that there be a waiver of all points of order.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—57

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

NAYS—42

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

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote the yeas are 57 and the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment fails.

Mr. BAUCUS. Mr. President, the Senate is not in order.

AMENDMENT NO. 4325

The PRESIDING OFFICER. The Senate will be in order.

Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4325, offered by the Senator from Kansas, Mr. ROBERTS.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, much like Senator CARDIN's amendment, my amendment also recognizes the need to ensure that the youngest in our population have access to health care. My amendment does this by exempting medical devices primarily to be used by or for pediatric patients. The CBO and the Joint Committee on Taxation both confirmed that these excise taxes will not be borne by the medical device industry. The tax will be passed on to patients in the form of higher prices and higher insurance premiums.

My amendment prevents this new tax from raising the cost for pediatric medical devices—those devices that treat the youngest in our population, children who have serious or life-threatening illnesses, such as a heart patient or a cancer patient.

I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, the Roberts amendment would address almost exactly the same matter the Senate voted on March 24. We rejected it then and we should reject it now.

The amendment would carve out an exemption for certain medical device manufacturers from paying their fair share of costs for health care reform and it will be paid for by reducing the number of people to be covered by health insurance. The last thing we should do is cut back on health insurance coverage, and I urge my colleagues to oppose the amendment.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—55

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

NAYS—44

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

NOT VOTING—1

Byrd

The motion was agreed to.

AMENDMENT NO. 4303, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 4303, as modified, offered by the Senator from Alabama, Mr. SESSIONS.

The Senator from Missouri.

Mrs. MCCASKILL. Mr. President, I rise to spend a few moments to talk about this amendment. We have voted on this amendment before, although we have made a couple of changes: exempting moneys that are being spent on contingency operations for our military overseas and lowering the vote threshold for emergencies where we need to go beyond the spending cap.

But this is the bottom line: On kitchen tables all across this country families are cutting their budgets. In county courthouses all over this country people are cutting budgets. In State legislatures all over this country people are cutting budgets. In city council chambers all over this country people are cutting budgets.

Then we get to Washington, and what we are trying to do here is not cut a budget. That is the amazing part about this. This does not cut a penny. All it does is curb the growth. Are we going to say to this country that we are unable to cap the growth of this government over the next 3 years?

This is a baby step. This is not a major assault on the spending of the Federal Government. This is a baby step.

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

Mrs. MCCASKILL. I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, this will be the fourth time this year the Senate will be voting on an amendment offered by the Senator from Alabama which seeks to constrain discretionary spending. Each one of the amendments has been similar.

This is the fifth time I have risen to speak in opposition to this amendment, and I must admit I find myself somewhat at a loss for words. There are only so many ways to highlight the negative impact of this amendment on current services and the President's initiatives, while explaining how it does not address real deficit reduction.

Fortunately, the Senate has voted this amendment down three times already. I thank my colleagues for rejecting this amendment in the past, and I certainly hope we will do so again.

There are a number of reasons why this amendment is a bad idea. Let me remind my colleagues, again, of several of those reasons:

The Senator from Alabama uses last year's budget resolution as his starting point. He believes that since Congress passed a budget resolution last year with a nonbinding target for this year, that we should now make that target binding.

But, since this amendment was originally proposed, the Budget Committee has reviewed the President's budget request for fiscal year 2011 and has marked up a new budget resolution. In doing so, the committee has changed their recommendation.

Since the committee with jurisdiction has determined the levels that it believes the Congress should keep to, I am not sure what advantage the Senate would have in agreeing to the notional targets in last year's resolution.

I have stated this before, but it is important to note again for my colleagues. The President's budget proposal for fiscal year 2011 allows growth in Homeland Security; this amendment does not assume growth. This could result in fewer border patrol agents and firefighting grants and would weaken TSA's ability to respond to threats to aviation security.

The President has requested more than $732 billion in his budget for national defense for fiscal year 2011, including the cost of war. This amendment only allocates $614 billion.

As I stated several weeks ago, over the 3 years covered in this amendment, the caps that would be put into place are $141 billion below President Obama's 3-year plan, including $50 billion below defense and $91 billion below nondefense spending.

The Sessions amendment is $82 billion below the budget resolution which the committee adopted, and includes a cut of $50 billion from Defense, over 3 years. In the near term, for fiscal year 2011, the Sessions amendment will require the Appropriations Committee to cut defense spending by $9.5 billion and nondefense spending by about $11 billion.

Such across-the-board cuts make for a great photo opportunity for appearing to reduce the deficit, but the consequences could be severe. The lack of direction is reckless. Important needs would go unmet. This amendment could result in cutting research funds for traumatic brain injury, worsening the shortage of air traffic controllers, cutting afterschool centers and veterans employment programs, to name just a few.

This week, the President has asked Federal agencies to identify 5 percent in spending cuts for fiscal year 2012 to areas that are not critical to their overall mission. A more thorough, deliberative approach such as this is clearly more sensible than slashing budgets across-the-board with little or no consideration of the consequences.

As I have said now several times before, a critical flaw in this amendment is it does nothing to seriously reduce the deficit. It fails to address the two principal reasons for the government's current financial distress.

The two drivers behind the growth in the debt are unchecked mandatory spending and the huge tax cuts for the wealthy passed, with no offsets, by the previous administration. This amendment fails to address either of those two problems. It simply does not get the job done. Further, it hinders the efforts of those who do seek to address the deficit in a comprehensive manner.

The fact of the matter is that many of our Republican colleagues are more than willing to put a cap on discretionary spending. At the same time, they refuse to support policies that would ensure the Nation has sufficient incoming revenue to make a real impact on the deficit, even though mandatory spending has increased significantly for the last few years.

We all know that it is impossible to achieve a balanced budget simply by freezing discretionary spending. In fact, we could eliminate all discretionary spending increases for defense and nondefense spending and still not even come close to balancing the budget.

And again, I remind my Democratic colleagues that if we cut discretionary spending without also reaching an agreement on mandatory spending and taxes, we will find it impossible to get those who do not want to address revenues to come to a meaningful compromise.

I would also remind my colleagues that the deficit reduction commission is working, as we speak, to come up with a comprehensive solution to the current systemic imbalances we face.

And in the fall, they will make their recommendations to the Congress, and we have a firm commitment to bring those recommendations up for a vote.

The Senate has already rejected this flawed plan three times this year. The flaws remain, and the Senate should reject it a fourth time.

This amendment fails to address the real causes of our deficits and the national debt in a fair and comprehensive manner. It would provide far less funding than either the President or the Senate Budget Committee recommend.

For all of these reasons, I urge my colleagues once again to vote no.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is the Sessions-McCaskill amendment. We have voted at least four times on this amendment. The Senator from Alabama has offered pretty much the same amendment.

For now, four times the Senator from Alabama has sought to fix caps on the work of the appropriations process. Three times the Senate has rejected this amendment. I think we should do so today. The amendment by the Senators from Alabama and Missouri robs the Appropriations Committee and the Congress of flexibility to respond to changed circumstances in years to come. It would set budget caps, binding years into the future, no matter what happens between now and then.

So for all of the reasons the Senate rejected this amendment three times before, I believe we should reject it again today. The Sessions amendment seeks to change the budget process; therefore, it violates the Congressional Budget Act. I thus raise a point of order that the Sessions amendment

violates section 306 of the Congressional Budget Act.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I move to waive the applicable section of the budget resolution with respect to my amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second. The question is on agreeing to the motion.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Kansas (Mr. ROBERTS).

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

The yeas and nays resulted—yeas 57, nays 41, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—57

Alexander	Cornyn	Lugar
Barrasso	Crapo	McCain
Bayh	DeMint	McCaskill
Begich	Ensign	McConnell
Bennet	Enzi	Murkowski
Bennett	Graham	Nelson (NE)
Bond	Grassley	Nelson (FL)
Brown (MA)	Gregg	Risch
Brownback	Hagan	Sessions
Bunning	Hatch	Shaheen
Burr	Hutchison	Shelby
Cantwell	Inhofe	Snowe
Carper	Isakson	Thune
Casey	Johanns	Udall (CO)
Chambliss	Klobuchar	Vitter
Coburn	Kyl	Voinovich
Cochran	LeMieux	Warner
Collins	Lieberman	Webb
Corker	Lincoln	Wicker

NAYS—41

Akaka	Gillibrand	Murray
Baucus	Harkin	Pryor
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Brown (OH)	Kaufman	Rockefeller
Burris	Kerry	Sanders
Cardin	Kohl	Schumer
Conrad	Landrieu	Specter
Dodd	Lautenberg	Stabenow
Dorgan	Leahy	Tester
Durbin	Levin	Udall (NM)
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden
Franken	Mikulski	

NOT VOTING—2

Byrd	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained, and the amendment falls.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be 20 minutes of debate, with the time equally divided, with respect to the Cornyn amendment No. 4302, and that the amendment be modified with the changes at the desk; that Senator BAUCUS then be recognized to offer an amendment on the same subject as the Cornyn amendment; that the two amendments be debated concurrently for the total time as specified above, with no intervening amendment in order to either amendment; that upon the use or yielding back of time, the Senate proceed to vote with respect to the Baucus amendment, to be followed by a vote in relation to the Cornyn amendment, as modified; that prior to any succeeding votes in this sequence, there be 2 minutes of debate, equally divided and controlled in the usual form, and that any succeeding votes be limited to 10 minutes; that the next amendment to be offered be from the majority and then an amendment from the Republican side.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Under the previous order, the Cornyn amendment No. 4302 is modified with the changes at the desk.

The amendment, as modified, is as follows:

At the appropriate place, add the following:

TITLE ----TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. _01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. _02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds issued or guaranteed by the United States or by an entity of the United States Government, including any Government-sponsored enterprise.

SEC. _03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) the increasing dependence of the United States on foreign creditors has the potential to make the United States vulnerable to undue influence by certain foreign creditors in national security and economic policymaking;

(3) the People's Republic of China is the largest foreign creditor of the United States, in terms of its overall holdings of debt instruments of the United States;

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved, particularly regarding the holdings of the People's Republic of China;

(5) through the People's Republic of China's large holdings of debt instruments of the United States, China has become a super creditor of the United States;

(6) under certain circumstances, the holdings of the People's Republic of China could give China a tool with which China can try to manipulate the domestic and foreign policymaking of the United States, including the United States relationship with Taiwan;

(7) under certain circumstances, if the People's Republic of China were to be displeased with a given United States policy or action, China could attempt to destabilize the United States economy by rapidly divesting large portions of China's holdings of debt instruments of the United States; and

(8) the People's Republic of China's expansive holdings of such debt instruments of the United States could potentially pose a direct threat to the United States economy and to United States national security. This potential threat is a significant issue that warrants further analysis and evaluation.

SEC. _04. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) QUARTERLY REPORT.—Not later than March 31, June 30, September 30, and December 31 of each year, the President shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 7 months preceding the date of the report.

(2) The country of domicile of all foreign creditors who hold debt instruments of the United States.

(3) The total amount of debt instruments of the United States that are held by the foreign creditors, broken out by the creditors' country of domicile and by public, quasi-public, and private creditors.

(4) For each foreign country listed in paragraph (3)—

(A) an analysis of the country's purpose in holding debt instruments of the United States and long-term intentions with regard to such debt instruments;

(B) an analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by each country's holdings of debt instruments of the United States; and

(C) a specific determination of whether the level of risk identified under subparagraph (B) is acceptable or unacceptable.

(c) PUBLIC AVAILABILITY.—The President shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on the Internet in a conspicuous manner and location.

SEC. _05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than December 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) A specific determination of whether the levels of risk identified under paragraph (1) are sustainable.

(3) If the determination under paragraph (2) is that the levels of risk are unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section _____04(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce the risk level to an acceptable and sustainable level, in a manner that results in a reduction in Federal spending;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 4302, AS MODIFIED

Mr. CORNYN. Mr. President, according to the nonpartisan Congressional Budget Office, the pending legislation before the Senate will add $80 billion to the Federal deficit. The Treasury Department, in a report to Congress last week, projects that by 2015 the national debt will reach $19.6 trillion.

My amendment represents a modest attempt to ensure that Congress is kept informed on the economic and national security implications of two important matters: first, the ballooning national debt; and, secondly, the foreign financing of our deficit spending.

I believe it is only prudent for Congress to get regular analyses on these issues, ones as critical as these.

My amendment has two components. First, it requires the General Accounting Office to provide Congress with an annual risk assessment on the national security and economic hazards posed by the national debt. Secondly, it would require the President to provide Congress with quarterly risk assessments on the national security and economic hazards posed by current levels of foreign holdings of our debt. In the event the risk level is found to be too high, the President would have to put together and then execute a plan to mitigate that risk in a way that reduces Federal spending.

It is the worst kept secret in the world that our deficit spending is being financed by foreign investors who may not always have our Nation's best interests at heart. We need to be thinking openly and clearly about the potential consequences of this, as well as the consequences of allowing our national debt to reach such massive proportions.

The chairman of the Finance Committee apparently opposes my amendment and will offer an alternate based closely on mine. I regret to say, though, his amendment makes changes to the legislative language that could potentially result in tax increases on American taxpayers, which could not come at a worse time.

Under my amendment, the Government Accountability Office would be required to recommend to Congress ways to bring down the security and economic risks posed by the huge national debt. These recommendations would be required to focus on spending reductions, not tax increases. By contrast, under the Baucus amendment, this limitation is deleted, effectively paving the way for the GAO to recommend that Congress raise taxes rather than cut spending.

Similarly, in cases where foreign holdings of our debt pose unacceptable risks to our security and economy, my amendment would require the President of the United States to formulate and execute a plan to mitigate those risks. His plan would have to reduce Federal spending. The Baucus amendment deletes that limitation, opening the door for the President's plan to include tax hikes on the American taxpayer.

The Baucus amendment also substantially weakens the requirements for the two types of debt risk assessments. First, it cuts the frequency of the President's reporting requirements on the risks posed by foreign debt holdings, making them annual rather than quarterly, and it also shifts the requirement over to the Secretary of the Treasury. It makes the reports more vague and, as a result, less useful to Members of Congress who need this information.

Perhaps most puzzling, the Baucus amendment eliminates the requirement for the GAO to determine whether our country can sustain the security and economic risks posed by growing national debt. I recognize it may be unpleasant—or even inconvenient—to think about this, but it is a risk to our country, and it is an important question that needs transparency and our best thinking.

We have an obligation to think openly and honestly about what effect Congress's runaway spending may have on our Nation's future which, of course, is the purpose of my amendment.

Mr. President, I ask my colleagues to oppose the Baucus amendment and to support mine.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 4326 TO AMENDMENT NO. 4301

Mr. BAUCUS. Mr. President, pursuant to the previous order, I call up my amendment No. 4326 and ask unanimous consent that reading of the amendment be dispensed with once it is reported.

The PRESIDING OFFICER. The clerk will report the amendment by number.

The assistant editor of the Daily Digest read as follows:

The Senator from Montana [Mr. BAUCUS], for himself, Mr. KERRY, and Mr. DODD, proposes an amendment numbered 4326 to amendment No. 4301.

The amendment is as follows:

(Purpose: To increase transparency regarding debt instruments of the United States held by foreign governments, to assess the risks to the United States of such holdings, and for other purposes)

At the appropriate place, insert the following:

TITLE ____—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. __02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Financial Services, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds held by the public and issued or guaranteed by the United States or by an entity of the United States Government.

SEC. __03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) large foreign holdings of debt instruments of the United States have the potential to make the United States vulnerable to undue influence by foreign creditors in national security and economic policymaking;

(3) the People's Republic of China, Japan, and the United Kingdom are the 3 largest foreign holders of debt instruments of the United States; and

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved.

SEC. __04. ANNUAL REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) ANNUAL REPORT.—Not later than March 31 of each year, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 9 months preceding the date of the report.

(2) The total amount of debt instruments of the United States that are held by foreign residents, broken out by the residents' country of domicile and by public and private residents.

(3) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by foreign holdings of debt instruments of the United States.

(c) PUBLIC AVAILABILITY.—The Secretary of the Treasury shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on

the Internet in a conspicuous manner and location.

SEC. __05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than March 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) Specific recommendations for reducing the levels of risk resulting from the Federal debt.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

If the President determines that foreign holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce such risk;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

Mr. BAUCUS. Mr. President, I support transparency. I think most of us do, certainly in concept. I support the transparency and deficit reduction goals of the Cornyn-Kyl amendment. But that amendment is unworkable. Why? Because it requires Treasury to speculate about the intent behind foreign purchases of U.S. Treasuries. How in the world is Treasury going to be able to know the intent behind foreign purchases of U.S. treasuries?

The Cornyn-Kyl amendment also sends the wrong message that the United States is deeply suspicious of foreign holders of U.S. debt, and it potentially could chill foreign purchases of U.S. Treasury bonds. I do not think we want to do that now.

Purchases of U.S. Treasury bonds have held interest rates very low. We are very lucky. We are very lucky. I do not think many appreciate this: With the budget deficits we have, and even with unemployment way too high, things could be much worse; that is, if interest rates were much higher. But investors like the safe haven of U.S. Treasuries—and that is domestic and foreign purchases of U.S. Treasuries—and that is helping to keep interest rates down at very low rates, and that is keeping inflation down at very low rates. We are lucky that is a condition we are experiencing in the United States today.

With America just beginning to recover from the financial crisis, we cannot risk our ability to finance the debt. We cannot risk it. For those reasons, I must oppose the Cornyn amendment.

However, I urge Senators to support my side-by-side amendment, which meets the transparency objectives of the Cornyn-Kyl amendment, but could actually be implemented and will avoid roiling financial markets in this time of uncertainty.

Think a bit about what is happening in Europe. This is an uncertain time. This is not a time to be taking big risks. Rather, it is a time to be steady as she goes and be smart and be steady.

My amendment would require the President to submit an assessment to Congress on the risks posed by foreign holdings of U.S. debt, but without unnecessarily singling out individual countries. I do not think we want to single out individual countries because that has too great a risk of unintended consequences.

My amendment would require the GAO to assess the risk associated with Federal debt, but it would not impose an unconstitutional requirement on the President.

I am joined in this amendment by the chairman of the Foreign Relations Committee, Senator KERRY, and the chairman of the Banking Committee, Senator DODD. I urge Senators to support the Baucus-Kerry side-by-side amendment and oppose the Cornyn-Kyl amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes twenty seconds.

Mr. CORNYN. Mr. President, I will respond briefly.

The reason why we require, in my amendment, the President of the United States to make the report on the risks to our national security and our financial system is because only the President can command all of the resources of the U.S. Government, including that of our intelligence services, which may have something to say about the national security risks associated with countries such as China owning so much of our debt. We know that, for example, leaders in the Chinese military have threatened retaliation in exchange for the United States selling defensive weapons to the country of Taiwan. I would think the Treasury Department, which in the Baucus amendment would be required to make that report, would not have access to the intelligence and the other information necessary—or from the Department of Defense—in dealing with China.

The Senator from Montana also says we should not rock the boat. We ought to go steady as she goes. The problem is our boat is going to sink and go to the bottom of an ocean of debt if we do not change our ways. This is a first step to try to provide additional transparency to let the American people assess for themselves whether they think this is a good idea or whether their elected representatives in Congress should do something about rising debt and runaway spending. I understand the Senator from Montana saying we don't want to single out special countries. It is true that some of our closest allies such as Japan and the United Kingdom also purchased large amounts of our debt, but, frankly, I am not as worried about those allies of the United States as I am the intention of China, which is not an ally, which is a rival, to say the least, and one whose actions we need to be appropriately skeptical about and discerning.

So unfortunately, I think the alternative amendment offered by the Senator from Montana waters down this important amendment, and I think it would obscure the facts from the American people and policymakers here in Congress. So I ask my colleagues to vote against the Baucus alternative and vote for the Cornyn amendment.

Mr. President, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am prepared to yield back the rest of my time, and I wonder if the Senator from Texas is prepared to yield back his.

Mr. CORNYN. I yield back the remaining time.

Mr. BAUCUS. I yield back our time as well, and I move to table the Cornyn amendment. Wait. Which amendment is up first?

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

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

Mr. BAUCUS. Mr. President, as I understand it, although the Senator from Texas personally is, the other side is not prepared to yield back the rest of their time. Therefore, I ask unanimous consent to reclaim my time and Senator CORNYN's time as well.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, parliamentary inquiry: My understanding is that the Senator from Montana was yielding back. I was willing to yield back my time and ask for a vote as soon as it can be conveniently arranged.

Mr. BAUCUS. That is correct. I understand you are OK, but your side is—now they are OK. So now that we have that settled, all time is yielded back.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to amendment No. 4326 of the Senator from Montana.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—58

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

NAYS—41

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

NOT VOTING—1

Byrd

The amendment (No. 4326) was agreed to.

Mr. FEINGOLD. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4302, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate, to be equally divided, on the amendment offered by the Senator from Texas, as modified.

Who yields time?

Mr. CORNYN. Mr. President, I urge my colleagues to support the Cornyn amendment. This is a transparency amendment. It just gives the American people and Congress the information we need in order to make a determination of whether Third World countries owning our debt poses a national security or a financial risk to the United States. I ask for your support.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Cornyn amendment is a dangerous one. It would send the wrong message to people who are buying America's debt. It would send a message that we are suspicious of people who buy our debt and would require the Treasury to opine the intent of purchasers of U.S. debt. It would thus discourage people from buying American debt. This would cause us to have to pay higher interest rates on our debt, and that would mean higher rates of inflation. It would roil the bond markets at a sensitive time. Look at what has happened in Europe and the softness there.

For lots of reasons I think it is unwise to undertake this risky adventure.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, will the Senator withhold for a brief minute.

Mr. BAUCUS. Yes.

Mr. REID. As soon as this vote is complete, that will be the last vote for this evening. We are going to come in tomorrow morning at 9:45 and immediately go to the Murkowski resolution. There are 6 hours set aside for that, and then a motion to proceed, and then an hour if the motion to proceed succeeds. So everyone should be prepared tomorrow for a long day. We will be in session on Friday more than likely. There will be no votes on Friday or Monday. I remind everyone these are the only days during the entire work period that there will be no votes.

Mr. BAUCUS. Mr. President, I move to table the Cornyn amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

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

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—38

Akaka	Hagan	Mikulski
Baucus	Harkin	Pryor
Bayh	Inouye	Reed
Bingaman	Johnson	Rockefeller
Burris	Kaufman	Sanders
Cardin	Kerry	Schumer
Carper	Kohl	Stabenow
Casey	Landrieu	Tester
Dodd	Lautenberg	Udall (CO)
Durbin	Leahy	Udall (NM)
Feinstein	Levin	Warner
Franken	McCaskill	Whitehouse
Gillibrand	Menendez	

NAYS—61

Alexander	Conrad	Klobuchar
Barrasso	Corker	Kyl
Begich	Cornyn	LeMieux
Bennet	Crapo	Lieberman
Bennett	DeMint	Lincoln
Bond	Dorgan	Lugar
Boxer	Ensign	McCain
Brown (MA)	Enzi	McConnell
Brown (OH)	Feingold	Merkley
Brownback	Graham	Murkowski
Bunning	Grassley	Murray
Burr	Gregg	Nelson (NE)
Cantwell	Hatch	Nelson (FL)
Chambliss	Hutchison	Reid
Coburn	Inhofe	Risch
Cochran	Isakson	Roberts
Collins	Johanns	Sessions
Shaheen	Thune	Wicker
Shelby	Vitter	Wyden
Snowe	Voinovich	
Specter	Webb	

NOT VOTING—1

Byrd

The motion to table was rejected.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 4302), as modified, is agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4318 TO AMENDMENT NO. 4301

Mr. SANDERS. Mr. President, I move to set aside the pending amendment to call up amendment No. 4318 and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The assistant bill clerk read as follows:

The Senator from Vermont [Mr. SANDERS] proposes an amendment numbered 4318 to amendment No. 4301.

Mr. SANDERS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows.

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate big oil and gas company tax loopholes, and to use the resulting increase in revenues to reduce the deficit and to invest in energy efficiency and conservation)

At the end of subtitle D of title IV, insert the following:

SEC. —. REPEAL OF EXPENSING AND 60-MONTH AMORTIZATION OF INTANGIBLE DRILLING COSTS.

Subsection (c) of section 263 is amended by striking the period at the end of the third sentence and inserting '', or to any costs paid or incurred after December 31, 2010.''.

SEC. —. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Section 613 is amended by adding at the end the following new subsection:

''(f) TERMINATION OF PERCENTAGE DEPLETION FOR OIL AND GAS PROPERTIES.—In the case of oil and gas properties, this section shall not apply to any taxable year beginning after December 31, 2010.''.

(b) LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.—Section 613A is amended by adding at the end the following new subsection:

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2010.''.

SEC. —. DENIAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product thereof.''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as

when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 199(c)(4) is amended—

(A) in subparagraph (A)(i)(III) by striking ''electricity, natural gas,'' and inserting ''electricity'', and

(B) in subparagraph (B)(ii) by striking ''electricity, natural gas,'' and inserting ''electricity''.

(2) Section 199(d) is amended by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. —. APPROPRIATION OF FUNDS.

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Energy Efficiency and Conservation Block Grant Program, under subtitle E of the Energy Independence and Security Act of 2007, $2,000,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015.

AMENDMENT NO. 4312 TO AMENDMENT NO. 4301

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. I ask unanimous consent to set aside the pending amendment to call up amendment No. 4312 to amendment No. 4301.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The assistant bill clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. GREGG, and Mr. CORNYN, proposes an amendment numbered 4312 to amendment No. 4301.

Mr. VITTER. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that any new revenues to the Oil Spill Liability Trust Fund will be used for the purposes of the fund and not used as a budget gimmick to offset deficit spending)

At the end of the subtitle D of title IV, add the following:

SEC. _____. NEW REVENUES TO THE OIL SPILL LIABILITY TRUST FUND.

The revenue resulting from any increase in the Oil Spill Liability Trust Fund financing rate under section 4611 of the Internal Revenue Code of 1986 shall—

(1) not be counted for purposes of offsetting revenues, receipts, or discretionary spending under the Congressional Budget Act of 1974 or the Statutory Pay-As-You-Go Act of 2010; and

(2) shall only be used for the purposes of the Oil Spill Liability Trust Fund.

Mr. VITTER. With that, I relinquish the floor and thank my colleague for the courtesy of letting me call it up.

The PRESIDING OFFICER. The Senator from Vermont.

AMENDMENT NO. 4318

Mr. SANDERS. Mr. President, at a time when the profits of big oil companies are soaring, at a time when we are in the midst of a horrendous and huge oilspill on the gulf coast, at a time when we desperately need to end our dependence on oil and gas and significantly increase our investment in energy efficiency and renewable energy, the amendment I am offering is simple and it is straightforward. This amendment simply repeals over $35 billion in tax breaks to the oil and gas industry, all of which were recommended for elimination in President Obama's fiscal year 2011 budget.

Specifically, according to the Joint Committee on Taxation, the repeal of expensing of intangible drilling costs, repeal of percentage depletion for oil and gas wells, and repeal of the domestic manufacturing deduction for oil and gas production would save $35.3 billion over a 10-year period. According to OMB, the repeal of these tax breaks would be equivalent to about 1 percent of domestic oil and gas industry revenues over the next decade—1 percent. In other words, the costs to the oil and gas industry of repealing these tax breaks is negligible.

More than $25 billion of the money saved under this amendment would be used to reduce the deficit, and $10 billion would be used to invest in the highly successful Energy Efficiency and Conservation Block Grant Program over a 5-year period.

So we are accomplishing two very important goals. Every day, Members of the Senate come down here and they say we have to deal with the deficit. Under this amendment, we would save $25 billion for deficit reduction. That is pretty significant. Second, Members come down here every day and talk about the need to transform our energy system, to move to energy efficiency and sustainable energy—wind, solar, biomass, geothermal, other technologies. This amendment puts $10 billion in moving us away from fossil fuel. So it accomplishes two very important purposes.

This amendment is cosponsored by Senator WHITEHOUSE and Senator WYDEN. We have support for funding for the Energy Efficiency and Conservation Block Grant Program from the U.S. Conference of Mayors, from the National Association of State Energy Officials, and the National League of Cities. Taxpayers for Common Sense strongly supports our efforts to repeal the oil and gas tax breaks and pay down the deficit. Also supporting our amendment are the Sierra Club, Greenpeace, the American Council for an Energy Efficient Economy, Conservation Law Foundation, Physicians for Social Responsibility, Friends of the Earth, Public Citizen, moveon.org, Center for Biological Diversity, One Sky, Environment America, and Oceana.

If there is anything we should be learning from the gulf disaster, it is that it is time to move aggressively away from polluting and unsafe fossil fuels which are getting more difficult to produce and more expensive to produce and that we must move toward safe, clean energy.

With a $13 trillion national debt, the last thing we need to be doing is giving tax breaks to big oil and gas companies that have been making recordbreaking profits, year after year.

I know there are some people who come down here and say that one way to deal with the deficit problem is to privatize Social Security, to privatize Medicare, to place at risk the retirement benefits of millions of senior citizens. I think that is a very bad idea. There are other people who come down to the floor and talk about cuts in education, cuts to health care that the middle-class and working families of this country desperately need. I think cutting those programs is a bad idea. But I think going after some of the largest and most profitable corporations in this country, which have not paid their fair share of taxes, is a positive and intelligent way to deal with deficit reduction.

Let me quote from the President of the United States, Barack Obama, in his statements on this subject. Again, what we are proposing is what President Obama has recommended in his 2011 budget. This is what President Obama said:

> Our continued dependence on fossil fuels will jeopardize our national security. It will smother our planet. And it will continue to put our economy and our environment at risk. . . . If we refuse to take into account the full cost of our fossil fuel addiction—if we don't factor in the environmental costs and national security costs and true economic costs—we will have missed our best chance to seize a clean energy future. . . . The time has come, once and for all, for this nation to fully embrace a clean energy future. Now that means . . . rolling back billions of dollars of tax breaks to oil companies so we can prioritize investments in clean energy research and development.

That is exactly what this amendment is all about. Let me give just one example. I hope people are listening to this one. Let me give one example of the absurdity of continuing to provide tax breaks to the oil and gas industry.

Last year, ExxonMobil, the most profitable corporation in the history of the world, reported to the SEC that not only did it avoid paying any Federal income taxes, it actually received a $156 million refund from the IRS. So middle-class Americans, people in Vermont and all over this country who are working 50 and 60 hours in order to provide the necessary income they need to pay the bills for their families, those folks go out and they pay their income tax. They may not be too happy about it, but they understand that in a civilized society you have to pay taxes to pay the bills of government. Not ExxonMobil. The most profitable corporation in the history of the world last year not only avoided paying any Federal income taxes, it actually received a $156 million refund from the IRS. If that makes sense to anybody—maybe it does—it surely does not make sense to me.

I ask unanimous consent to have printed in the RECORD the page of ExxonMobil's 10–K report to the SEC that discloses this information.

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

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
FORM 10–K—ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS—18. INCOME, SALES-BASED AND OTHER TAXES

[Millions of dollars]

	2009			2008			2007		
	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total	U.S.	Non-U.S.	Total
Income taxes:									
Federal and non-U.S.:									
Current	$ (838)	$15,830	$14,992	$3,005	$31,377	$34,382	$4,666	$24,329	$28,955
Deferred—net	650	(665)	(15)	168	1,289	1,457	(439)	415	(24)
U.S. tax on non-U.S. operations	32	.....	32	230	.....	230	263	.....	263
Total federal and non-U.S.	(156)	15,165	15,009	3,403	32,666	36,069	4,490	24,744	29,234
State	110	.....	110	461	.....	461	630	.....	630
Total income taxes	(46)	15,165	15,119	3,864	32,666	36,530	5,120	24,744	29,864
Sales-based taxes	6,271	19,665	25,936	6,646	27,862	34,508	7,154	24,574	31,728
All other taxes and duties:									
Other taxes and duties	581	34,238	34,819	1,663	40,056	41,719	1,008	39,945	40,953
Included in production and manufacturing expenses	699	1,318	2,017	915	1,720	2,635	825	1,445	2,270
Included in SG&A expenses	197	538	735	209	660	869	215	653	868
Total other taxes and duties	1,477	36,094	37,571	2,787	42,436	45,223	2,048	42,043	44,091
Total	$7,702	$70,924	$78,626	$13,297	$102,964	$116,261	$14,322	$91,361	$105,683

All other taxes and duties include taxes reported in production and manufactunng and selling, general and administrative (SG&A) expenses. The above provisions for deferred income taxes include net credits for the effect of changes in tax laws and rates of $9 million in 2009, $300 million in 2008 and $258 million in 2007.

Mr. SANDERS. ExxonMobil is the same huge oil company that has had enough money to provide a $398 million retirement package to its outgoing CEO, Lee Raymond, just a few years ago. They made more money than any corporation in the history of the world last year. They did not pay any Federal taxes. In fact, they got a huge refund from the Federal Government. And some years ago this particular corporation paid out $398 million in retirement package for its CEO. I do not think that makes a whole lot of sense. I think we ought to end that nonsense and end it now. This country is at record-breaking deficits. We cannot allow large corporations such as ExxonMobil not to pay taxes.

ExxonMobil is the same oil company that is making its profits by gouging consumers at the pump by charging higher and higher prices for gasoline even when demand is low and supply is high. In Vermont, it is $2.85 a gallon. Working people are having a hard time paying high prices for gas. It does not matter whether demand is high or low, it appears that gas prices go up. This amendment would begin to make sure that ExxonMobil, BP, and the other big oil companies pay at least a minimal amount of their huge profits in taxes to the Federal Government. That, it seems to me, is the very least we can do.

Let's be clear. As millions of Americans have lost their jobs, their homes, their life savings, and their ability to send their kids to college as a result of this Wall Street-induced recession, we cannot continue to allow big oil companies to make out like bandits. Enough is enough. In the first quarter of 2009, when our gross domestic product shrank by 6.4 percent, and overall corporate profits decreased by 5.25 percent, the five largest oil companies were still able to earn over $13 billion in profits. That is in the middle of a severe recession.

As this chart shows, the combined annual profits of the five largest oil companies during the last 10 years—these five companies, ExxonMobil, Shell, BP, ChevronTexaco, and ConocoPhillips—earned over $750 billion in profits. Not bad. Not bad.

During the first quarter of this year, big oils' profits increased by 85 percent. Instead of using these profits to invest in renewable energy and to prevent oilspills, big oil and gas companies are primarily using this money to buy back their own stock and enrich their CEOs.

According to the American Petroleum Institute, between 2000 and 2007, the entire oil and gas industry invested only $1.5 billion in North American nonhydrocarbon investments aimed at reducing the Nation's dependance on oil. That is less than one-quarter of 1 percent of their total profits during this time period. So here you have these companies making huge profits. They are not reinvesting that money in making our country cleaner and in moving us away from fossil fuels.

Meanwhile, the CEOs of the big oil companies have received hundreds of millions of dollars in retirement packages and total compensation. Over the past 5 years Ray Irani, the CEO of Occidental Petroleum, received over $725 million in total compensation—$725 million, in a 5-year period, is not too sloppy.

John Hess, the CEO of the Hess Oil Company, has received over $240 million in total compensation; David Lesar, the CEO of Halliburton, has received over $114 million; James Mulva, the CEO of ConocoPhillips, has received over $95 million; and Rex Tillerson, the CEO of ExxonMobil, made over $30 million in total compensation over the past 5 years.

Further, since 2002, the five largest oil companies have repurchased almost $270 billion of their own stock. When we talk about asking the oil companies to start paying their fair share of taxes, we should also remember that the Federal Government has provided very generous subsidies above and beyond tax breaks for the oil companies. As this chart shows, according to the Environmental Law Institute, from 2002 to 2008, the United States provided more than $70 billion for fossil fuel subsidies, compared to just $12 billion for wind, solar, geothermal, biomass, and other renewable energy. This makes no sense at all. We have got to put an end to the outrageous tax breaks and subsidies we have been giving to oil and gas companies.

But that is not all this amendment would do. This amendment would also invest $10 billion into the Energy Efficiency and Conservation Block Grant Program. The American Recovery and Reinvestment Act provided $3.2 billion for this highly successful program. It is already having a very positive impact in creating jobs, in saving energy in all 50 States of our country.

I am now quoting from a letter sent, in support of the $10 billion block grant funding that this amendment provides, from Tom Cochran, the executive director of the U.S. Conference of Mayors. This is what Mr. Cochran says:

> Throughout the United States more than 1,200 cities are now receiving direct funding under the EECBG program. We strongly support your efforts to secure predictable and ongoing funding for the EECBG program allowing the nation to continue to invest in these successful local energy and climate initiatives which have been shown to reduce energy use, harmful greenhouse gas emissions and environmental degradation.

Let me give you some examples of how this program, of which this amendment would provide $10 billion over a 5-year period, is working. This program is helping to build wind turbines in Carmel, IN, to power a city sewer treatment plant. It is being used in Salt Like City, UT, to provide loans to businesses to make energy efficiency upgrades. It is being used in Columbus, OH, to make 29 public buildings more energy efficient. It is being used in Portland, ME, to retrofit 55 public buildings. It is being used in Miami to convert landfill gas into the production of electricity. It is being used in New York City to help homeowners and businesses with energy efficiency and renewable energy loans, among many other areas.

I know in my State of Vermont, dozens and dozens of communities and

schools are using this money to make their buildings more energy efficient and, in some cases, move to sustainable energy. We need to keep these investments in energy efficiency and conservation going. That is exactly what this amendment would do to the tune of $10 billion.

Finally, this amendment would dedicate $25 billion for deficit reduction, $10 billion for the block grant program to make our country more energy efficient. And the $25 billion for deficit reduction at a time of record-breaking deficits and debt, we simply cannot continue to give oil and gas companies huge tax breaks.

I know it is easy for some of my colleagues to come to the floor and talk about the deficit, talk about the debt we are leaving our kids and grandkids. It makes for great rhetoric. But, occasionally, you are going to have to stand up if you are serious about the debt and deficit and take on some of those very powerful special interests who are getting huge tax breaks, do not need those tax breaks and do not deserve those tax breaks. It is more important to protect our kids and grandchildren here and the deficit than it is to give tax breaks to ExxonMobil. When it comes down to it, this amendment asks a very simple question: Which side are you on? Are you on the side of big oil and gas companies, companies that year after year after year are making huge profits or are you on the side of reducing the deficit, reducing our dependence on oil, saving consumers and businesses money on their energy bills, and saving the planet we live on? That is what this amendment is about.

I understand that there will be opposition to this amendment. I have seen it surface already. After all, since 1990, the oil and gas industry has made over $238 million in campaign contributions. And over the past 2 years alone, this industry has spent $210 million on lobbying, probably half a billion dollars since 1990 on campaign contributions and lobbying. They have gotten a lot for that, I must confess. For that investment, they have gotten a lot in tax breaks and subsidies. But I think now is the time, given the oilspill in the gulf, because of the threat of global warming, in order to clean up our country, in order to create jobs and energy efficiency and sustainable energy, we have got to say to big oil: Sorry. No more. No more. You are going to have to start paying your fair share of taxes so we can transform our energy system and so we can begin to deal with this very serious deficit problem.

This amendment is the right thing to do for deficit reduction. It is the right thing to do to transform our energy system. It is the right thing to do for consumers. I ask my colleagues to vote for the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. SANDERS. 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. SANDERS. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

NORTH FORK WATERSHED PROTECTION

Mr. BAUCUS. Mr. President, I rise today to speak about one of the things that I love most about Montana—the North Fork of the Flathead River. Everyone who experiences the Flathead Valley in northwestern Montana is awed by its pristine waters, larger than life landscapes, and breathtaking views. With its headwaters in British Columbia, the North Fork of the Flathead River forms the western boundary of Glacier National Park—it is one of the last untouched places on our continent.

For decades, the North Fork has been threatened by oil and gas and mining proposals in British Columbia. For the last 35 years, I have battled these proposals, one by one. After 35 years of work, we are beginning a new chapter of international cooperation in our efforts to protect the North Fork. I am very pleased that Conoco Phillips is a part of this.

In February of this year, British Columbia and Montana announced their intent to prevent mining, oil and gas, and coalbed methane development in the North Fork on the lands they control. Senator TESTER and I pledged to do our part to establish extra protections south of the border, where 90 percent of the North Fork watershed is already federally owned.

So, on March 4, we introduced the North Fork Watershed Protection Act, S. 3075, which bans future mining, oil and gas, and coalbed methane development on Federal lands in the watershed. The bill enjoys support from business and conservation interests alike from all over the State, including the Kalispell Chamber, Whitefish Mountain Resort, the Billings Rod and Gun Club, and a long list of others. This breadth of support shows the importance of the North Fork for Montana's economy as well as our State's outdoor heritage.

There are some current leases in the area that have been dormant since the late 1980s, when a court decision found that they were improperly issued. Senator TESTER and I have been engaged in active discussions with the current owners to retire these old leases. On April 28, I was proud to announce that ConocoPhillips, the primary leaseholder in the North Fork watershed, elected to voluntarily relinquish its interest in 108 Federal oil and gas leases covering approximately 169,000 acres, representing 71 percent of the leased area in the North Fork watershed.

ConocoPhillips should be commended for this decision and their stewardship of this very unique, special place. Their action is further evidence of the consensus that exists between the United States and Canada and among businesses and conservationists, that the withdrawal of these Federal lands from leasing is the only path forward.

In 1975, during my first term in the House of Representatives, I introduced a bill to designate the Flathead River as a Wild and Scenic River. It was designated in 1976. For me, that began a lifelong effort to protect the North Fork. At that time I said:

> A hundred years from now, and perhaps much sooner, those who follow us will survey what we have left behind.

This action brings us one step closer to ensuring that that every Montanan, every American, and every Canadian who follows us will have the opportunity to share our feeling of awe-struck wonder that such a place still exists, almost untouched by the modern world.

TRIBUTE TO DONALD C. STONE

Mrs. FEINSTEIN. Mr. President, today I wish to recognize Donald C. Stone, who is one of the most experienced members on the staff of the Senate Select Committee on Intelligence who has brought unique skills to the committee during his tenure. Friday, June 11 will mark Don's last day in government.

After 27 years, Don will be leaving the public sector and taking on new challenges. He has had an extraordinary career, mostly in the secret world of secured offices while he served his country well overseeing our Nation's intelligence agencies.

Don comes from this area. He grew up in Maryland and received a bachelor of arts in business administration and a master's in business administration from Loyola College in Baltimore. He now lives in Falls Church, VA, with his wife Dana and their two sons Robert and Andrew.

Don did not waste any time getting into the national security world. Right out of graduate school he went to work at the Central Intelligence Agency with the inspector general's audit staff. He worked there for 11 years on very sensitive classified projects both here and abroad, sometimes under very trying circumstances. While working with the CIA inspector general, Don had a rotational assignment with the National Reconnaissance Office's inspector general audit staff from 1993 to 1995, where he worked to make sure our Nation's spy satellite programs were run well and that the tax dollars spent in the secret world of spy agencies would pass muster if exposed to the light of review.

Don first came to the Senate Select Committee on Intelligence in June 1995 to serve as an auditor on the committee's audit team. The committee had created the audit staff in 1988 to provide '' a credible independent arm for Committee review of covert action programs and other specific Intelligence Community functions and issues.'' Don's aptitude for this work quickly led to his being named the committee's chief of the audit staff in September 1998. Mr. Stone then crossed the Capitol to work on the House Permanent Select Committee on Intelligence in March 2005 as the deputy staff director of the Subcommittee on Oversight. We were fortunate enough to bring Don back to the SSCI in January 2007 as our director of Audit and Evaluations.

During his time on the committee, Don has completed many reviews and audits to assure us that our intelligence agencies spent our tax money appropriately and legally, and that they managed their programs effectively within the law.

Over the years, Don has conducted audits of major acquisition systems, major espionage cases and their related damage assessments, the Foreign Intelligence Surveillance Act, budget and personnel growth, and information sharing. He has led the committee's review of financial statements of nominees for key intelligence positions, for keeping up with what the inspectors general of the intelligence community agencies were investigating, and for reviewing dozens of whistleblower and other complaint cases. Don has been properly persistent in reminding intelligence agencies of their need to do better.

He is also largely responsible for the effort, underway for the past several years, to push intelligence agencies to improve their financial auditability. A notable example of this was last year when the committee expressed concern and displeasure over the lack of progress that one intelligence agency was making toward being able to produce an auditable financial statement. I received a call from the agency's director, who was not very pleased about the committee's critical view. The committee staff and the agency staff met, and due in large part to Don's thorough research, the agency came away with a clearer picture of what steps it needed to take and, I hope, appreciative of the constructive role the committee was playing.

As this body of work reflects, Don has the talents required to conduct congressional oversight. He is able to see both the forest and the trees, and when necessary he can examine the individual leaves and roots. He has an extraordinary ability to focus on the details without losing knowledge of how they fit within a larger context. We have benefitted as a nation when he has cast his gaze on the workings of our national security apparatus.

At home he practices his attention to detail on his model car collection and taking up the hammer and paint brush to do the home improvement work he truly enjoys.

I would be remiss without noting Don's passion for the local sports teams. Don lives and breathes the burgundy and gold of his hometown Washington Redskins and his residence is covered in red, white and blue not just because he's a true patriot, but also because he's an avid fan of the Washington Capitals hockey team.

Don's love of hockey has rubbed off on his two sons who now play on the ice and led him to take active roles in organizing and managing a local hockey league. This year, he is serving as the president of that league and we can be certain the games are starting on time, the kids are playing hard and having fun, and the league's finances are in order.

Even with his retirement from government service, Don will be putting his skills and expertise to use in the private sector, but still working in the intelligence arena.

Donald Stone has worked in the shadows both in the clandestine world of our Nation's spy agencies and out of the public limelight. It is my pleasure that now, as he leaves public service, we can openly acknowledge and praise the admirable work he has done to keep our Nation safe.

Mr. Stone, on behalf of myself and all the members of the Senate Select Committee on Intelligence during your years of service, I am pleased to say on the Senate floor how greatly we appreciate your fine work and your exemplary career. We will miss your insights and your professionalism. And I wish you all the best as you move on to the next stage of your life.

ADDITIONAL STATEMENTS

TRIBUTE TO GRACE AND CHARLES MAHONY

● Mr. ISAKSON. Mr. President, today I wish to honor two of my constituents on a very special and rare milestone. Later this month, Grace and Charles Mahony of Atlanta will celebrate their 50th wedding anniversary.

Avid skiers, Grace and Charles met at a ski club, and Charles proposed in Aspen, CO. They were married on June 18, 1960, at Saint Clement Roman Catholic Church in Dearborn, MI. As a result of their union, Grace and Charles have been blessed with three children, Patricia, Maureen, and Kevin as well as one grandchild, Olivia Grace Mahony.

It is a privilege to honor this tremendous milestone that embodies the profound love and commitment Grace and Charles have for one another. Their marriage is an inspiration to us all.●

125TH ANNIVERSARY OF OLIVE GROVE BAPTIST CHURCH

● Ms. LANDRIEU. Mr. President, today I ask my colleagues to join me in recognizing the 125th anniversary of Olive Grove Baptist Church in Choudrant, LA.

In 1885, a small group of determined men and women founded what would become Olive Grove Baptist Church under the guidance of Rev. Andrew Moaten. Worshipping alongside Reverend Moaten were Deacon Henry Waters, Taylor and Martha Waters, Sister Mattie Hamilton, Deacon Mike Taylor, and Deacon State Wright.

These early members held services in a brush arbor for about 1 year before the first small structure, originally lit by kerosene lamps, was built. As the needs of its parishioners grew, so did Olive Grove Baptist Church. A new church was completed in 1926 under the guidance of Rev. H.J. Jordan, and in 1944 members began to raise money for yet another church. A storm destroyed the church in 1986, and current members now worship in the fifth Olive Grove Church to stand in Choudrant.

The church is currently led by the Rev. Derric Chatman, a dynamic young pastor. Current members, children of deceased members, individuals with community ties, and the general public continue to support the church with generous financial backing, allowing the church to remain active in its various ministries and demonstrating the important role that Olive Grove Baptist plays in the local community.

I ask that my colleagues join me in congratulating Olive Grove Baptist Church on their 125th anniversary and in wishing them the best for years to come.●

TRIBUTE TO CHARLES A. HURLEY

● Mr. LAUTENBERG. Mr. President, today I pay tribute to Charles A. ''Chuck'' Hurley upon his retirement as chief executive officer of Mothers Against Drunk Driving. Chuck is a true safety advocate, and his longstanding commitment to that cause is more than worthy of recognition.

Throughout my time in the Senate, Chuck and I have worked together on numerous highway safety initiatives, including the national age 21 drinking law, the national .08 BAC standard, primary seat belt laws, and teen driver graduated licensing programs. Chuck was instrumental in creating the ''Click it or Ticket'' Campaign in North Carolina, establishing the Nation's first pilot program to ensure drivers and passengers were buckling up. He also helped to launch the National SAFE KIDS Campaign, the national nonprofit organization dedicated solely to the prevention of unintentional childhood injury.

A longtime supporter of MADD, Chuck has been involved in the organization since the very beginning. He attended MADD's first national press conference in Washington, DC, in 1980, and strongly supported the passage of my National 21 Minimum Drinking Age Act in 1984. From 1993 to 1998, Chuck served on the MADD National Board of

Directors and was later named to the MADD National Board of Advisors.

In 2005, Chuck became MADD CEO. Since then, he has developed MADD's Campaign to Eliminate Drunk Driving, which successfully encourages States to require drunk drivers to use an ignition interlock device. He has also been an outspoken advocate for the development of advanced alcohol detection technology, which could someday completely eliminate drunk driving.

Chuck graduated with a bachelor of arts in political science from Dickinson College in Pennsylvania. From 1968 to 1970, he served in the U.S. Navy as an intelligence officer in Taipei, Taiwan. Chuck then worked for Congressman Bill Steiger, where he helped create the Occupational Safety and Health Administration.

In the early 1980s, Chuck helped found the Lifesavers Conference, which is dedicated to reducing the tragic toll of deaths and injuries on our Nation's roadways. Chuck also served as the vice president of the Transportation Safety Group for the National Safety Council and as the executive director of the Council's Air Bag and Seat Belt Safety Campaign. In addition, Chuck served as a senior official at the Insurance Institute for Highway Safety.

Chuck has dedicated his career to making our highways safer for drivers and passengers. On behalf of everyone who uses our Nation's roadways, I am honored to express my gratitude and congratulations to Charles A. ''Chuck'' Hurley and extend my best wishes for a long and happy retirement.●

RECOGNIZING SMITH & WESSON

● Ms. SNOWE. Mr. President, today I pay tribute to Smith & Wesson in Houlton, ME—an Aroostook County economic anchor and an undeniable beacon for businesses in our great State and the Nation, especially in these precarious economic times. Indeed, the name Smith & Wesson has been synonymous with excellence since 1852, and I am proud to say it has been part of Maine's history since 1966 when the Houlton facility first opened its doors.

Over the Easter recess, I was privileged to visit the Smith & Wesson plant where its employees, in demonstrating their meticulous craftsmanship in manufacturing handcuffs and handguns, truly exemplify Maine's legendary work ethic and can-do spirit. As I toured the facility and spoke with these committed team members, I had the opportunity to learn about the vital role they play in assembling their products—and I couldn't help but beam with pride in their dedication to their craft. Their inexhaustible energy was palpable throughout their newly expanded plant, which now allows for shifts 24 hours a day, 7 days a week.

I was also impressed to meet and speak with Smith & Wesson's plant manager, Terry Wade, who has been with the branch since 1972. Terry clearly is deeply devoted to his work as he labors side by side with his employees. A humble individual who credits even his own successes to others, Terry is a force for innovation—and as I discovered, he invented a handcuff model, currently being produced by the company, for which he holds a patent. Terry is a shining testament to the loyalty and drive of Houlton's Smith & Wesson workers, many of whom have been there for more than 20 years.

And let me just say, what began over 40 years ago as a small manufacturing arm of the larger parent company—making parts for revolver assembly and shipping just one 40-pound box of parts a week from a 2,000 square foot building—has evolved steadily from a staff of 18 to today's 160 dedicated men and women who are second to none. In fact, the Houlton plant just completed a hiring phase which, frankly, is outstanding when we consider the tenuous state of our economy and the herculean challenge of creating jobs. Individuals and families are still experiencing the troubling effects of the worst recession since World War II, with unemployment hovering near 10 percent nationwide, so I and, indeed, all of us in this Chamber cannot commend the Houlton facility enough for bucking this trend and hiring more staff.

In addition to developing Smith & Wesson's exemplary line of restraints, the Houlton plant also makes all of the company's semi-automatic rimfire pistols, the Walther PPK and PPK/S, and the SW1911 Series pistols. Due in large part to the exceptional team in Houlton, Smith & Wesson ranks first in the supply of restraints to law enforcement and their weapons are highly sought after by police agencies, security divisions, and military organizations—who surely all recognize the invaluable expertise and reliable quality that goes into each item.

The accomplishments of this phenomenal enterprise in Maine are remarkable. In March 2009, the plant reached an extraordinary milestone when after 30 years of producing high quality handcuffs, it made its six millionth pair. What a landmark occasion for a signature product used worldwide. And with the recent increase in the workforce—not to mention an impressive half-million dollar expansion to their firing range—Smith & Wesson in Houlton was recently named Houlton Business of the Year for 2009—a well-deserved accolade.

President Theodore Roosevelt once said that, ''far and away the best prize that life has to offer is the chance to work hard at work worth doing.'' Those words could not ring more true as we recognize this American success story. Smith & Wesson could not be more emblematic of the world-class industry and workforces that are associated with our great State of Maine. No wonder our State motto is ''Dirigo'' or ''I lead,'' as that is just what this Smith & Wesson plant in Houlton has been doing for more than 44 years.●

RECOGNIZING MONROE, LOUISIANA ROTARY CLUB

● Mr. VITTER. Mr. President, tday I am proud to recognize the members of the Monroe, LA, Rotary Club who have served our country honorably during war.

I would like to thank Charles C. Archibald, Raymond Armstrong, John Baker, Robert Barham, Ronald Blate, Reneau Breard, Lamar Buffington, Roy Cole, Jr., Barry Delcambre, Sam Donald, R.D. Farr, Leon Garfield, Hershal Gentry, James Greenlaw, William Guy, Harvey Hales, Robert Hammock, Howard John, Charles Johns, Barney Jones, Billy Lea, Earl Lingle, Miles Luke, Jim Myers, Ray Patron, Gregg Riley, Jack Tarver, Elbert L. Via and George Weaks for their courageous military service during wartime and for continued civic service in the greater Monroe area.

With the motto ''Service Above Self,'' it is no surprise that these men would be inclined to be members of Rotary. Their lifetime of service is exhibited not only in service to their fellow citizens during a time of war but also in continued commitment to their community.

Rotary's four-way test asks four questions of all things members think, say, and do. These questions are: Is it the truth? Is it fair to all concerned? Will it build goodwill and better friendships? Will it be beneficial to all concerned? These four simple questions have proven to be excellent guidelines for a life of service. We thank these men for serving the Monroe community with these principles. The Monroe Rotary Club has sponsored many local projects including Boy Scouts, Girl Scouts, youth baseball, the Food Bank of Northeast Louisiana, and the Salvation Army, to name just a few.

Thus, today, I honor these veterans for their distinguished service in the U.S. armed services during wartime, and for their continued service to the State of Louisiana in the Monroe Rotary Club.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, 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 which were referred to the appropriate committees.

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

REPORT RELATIVE TO THE SUSPENSIONS UNDER SECTION 902(A)(3) OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1990 AND 1991 WITH RESPECT TO ISSUANCE OF PERMANENT MUNITIONS EXPORT LICENSES FOR EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA INSOFAR AS SUCH RESTRICTIONS PERTAIN TO THE LIGHT SCANNER 32 SYSTEM USED FOR GENE MUTATION GENOTYPING FOR INDIVIDUALIZED CANCER TREATMENT—PM 61

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246)(the ''Act''), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspensions under section 902(a)(3) of the Act with respect to the issuance of permanent munitions export licenses for exports to the People's Republic of China insofar as such restrictions pertain to the LightScanner® 32 System used for gene mutation genotyping for individualized cancer treatment. License requirements remain in place for these exports and require review on a case-by-case basis by the United States Government.

BARACK OBAMA.
THE WHITE HOUSE, *June 9, 2010*.

MESSAGES FROM THE HOUSE

At 10:20 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1061. An act to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 4349. An act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

At 12:43 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5136. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

At 5:21 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2008. An act to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project.

H.R. 5116. An act to invest in innovation through research and development, to improve the competitiveness of the United States, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2008. An act to authorize the Secretary of the Interior to facilitate the development of hydroelectric power on the Diamond Fork System of the Central Utah Project; to the Committee on Energy and Natural Resources.

H.R. 4349. An act to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes; to the Committee on Energy and Natural Resources.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1061. An act to transfer certain land to the United States to be held in trust for the Hoh Indian Tribe, to place land into trust for the Hoh Indian Tribe, and for other purposes.

H.R. 5136. An act to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with amendments:

S. 1507. A bill to amend chapter 89 of title 5, United States Code, to reform Postal Service retiree health benefits funding, and for other purposes (Rept. No. 111–203).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. ROCKEFELLER for the Committee on Commerce, Science, and Transportation.

*Carl Wieman, of Colorado, to be an Associate Director of the Office of Science and Technology Policy.

*Coast Guard nominations beginning with Rear Adm. (lh) Joseph R. Castillo and ending with Rear Adm. (lh) Keith A. Taylor, which nominations were received by the Senate and appeared in the Congressional Record on December 2, 2009.

Mr. ROCKEFELLER. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Coast Guard nominations beginning with Emily S. McIntyre and ending with Scott J. McCann, which nominations were received by the Senate and appeared in the Congressional Record on May 13, 2010.

*National Oceanic and Atmospheric Administration nominations beginning with Rebecca J. Almeida and ending with Oliver E. Brown, which nominations were received by the Senate and appeared in the Congressional Record on April 14, 2010.

*National Oceanic and Atmospheric Administration nominations beginning with Timothy C. Sinquefield and ending with Larry V. Thomas, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 29, 2010.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. LUGAR (for himself, Mr. GRAHAM, and Ms. MURKOWSKI):

S. 3464. A bill to establish an energy and climate policy framework to reach measurable gains in reducing dependence on foreign oil, saving Americans money, improving energy security, and cutting greenhouse gas emissions, and for other purposes; to the Committee on Finance.

By Mr. KERRY (for himself and Mr. BROWN of Massachusetts):

S. 3465. A bill to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the ''Michael C. Rothberg Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY:

S. 3466. A bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Ms. COLLINS, and Mrs. GILLIBRAND):

S. 3467. A bill to require a Northern Border Counternarcotics Strategy; to the Committee on the Judiciary.

By Mr. CORNYN (for himself and Ms. KLOBUCHAR):

S. 3468. A bill to amend chapter 87 of title 18, United States Code, to end the terrorizing effects of the sale of murderabilia on crime victims and their families; to the Committee on the Judiciary.

By Mr. BENNET (for himself and Mr. BROWN of Ohio):

S. 3469. A bill to build capacity and provide support at the leadership level for successful school turnaround efforts; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Mr. CORKER):

S. 3470. A bill to designate as wilderness certain public land in the Cherokee National Forest in the State of Tennessee, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DORGAN (for himself, Mr. JOHNSON, and Mr. BEGICH):

S. 3471. A bill to improve access to capital, bonding authority, and job training for Native Americans and promote native community development financial institutions and Native American small business opportunities, and for other purposes; to the Committee on Indian Affairs.

By Mr. MENENDEZ (for himself, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SCHUMER, Mr. WHITEHOUSE, Mr. SANDERS, Mr. BROWN of Ohio, Mrs. GILLIBRAND, Mr. KAUFMAN, Mrs. MURRAY, Mr. REED, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. DURBIN, Mr. MERKLEY, Mr. CASEY, Mr. LEAHY, Ms. MIKULSKI, Mr. FRANKEN, Mr. HARKIN, Ms. KLOBUCHAR, Mrs. SHAHEEN, and Ms. STABENOW):

S. 3472. A bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full costs of oil spills, and for other purposes; to the Committee on Environment and Public Works.

By Mr. REID:

S. 3473. A bill to amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill; considered and passed.

By Mr. FEINGOLD (for himself, Mr. CARPER, Mr. MCCAIN, Mr. GREGG, Mrs. MCCASKILL, Mr. COBURN, Mr. WHITEHOUSE, Mr. BENNET, and Mr. UDALL of Colorado):

S. 3474. A bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes; to the Committee on the Budget.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. CRAPO (for himself and Mr. MENENDEZ):

S. Res. 547. A resolution supporting National Men's Health Week; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORNYN:

S. Res. 548. A resolution to express the sense of the Senate that Israel has an undeniable right to self-defense, and to condemn the recent destabilizing actions by extremists aboard the ship Mavi Marmara; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 941

At the request of Mr. CRAPO, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 981

At the request of Mr. REID, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 981, a bill to support research and public awareness activities with respect to inflammatory bowel disease, and for other purposes.

S. 1319

At the request of Mr. CORNYN, his name was added as a cosponsor of S. 1319, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1859

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

S. 2800

At the request of Mrs. MURRAY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 2800, a bill to amend subtitle B of title VII of the McKinney-Vento Homeless Assistance Act to provide education for homeless children and youths, and for other purposes.

S. 3000

At the request of Mr. ROCKEFELLER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3000, a bill to extend the increase in the FMAP provided in the American Recovery and Reinvestment Act of 2009 for an additional 6 months.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3072

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 3072, a bill to suspend, during the 2-year period beginning on the date of enactment of this Act, any Environmental Protection Agency action under the Clean Air Act with respect to carbon dioxide or methane pursuant to certain proceedings, other than with respect to motor vehicle emissions, and for other purposes.

S. 3171

At the request of Mrs. LINCOLN, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3171, a bill to amend title 38, United States Code, to provide for the approval of certain programs of education for purposes of the Post-9/11 Educational Assistance Program.

S. 3231

At the request of Mr. GRASSLEY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3231, a bill to amend the Internal Revenue Code of 1986 to extend certain tax incentives for alcohol used as fuel and to amend the Harmonized Tariff Schedule of the United States to extend additional duties on ethanol.

S. 3278

At the request of Mr. BENNET, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 3278, a bill to establish the Meth Project Prevention Campaign Grant Program.

S. 3311

At the request of Mr. KERRY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3311, a bill to improve and enhance the capabilities of the Department of Defense to prevent and respond to sexual assault in the Armed Forces, and for other purposes.

S. 3345

At the request of Mr. WHITEHOUSE, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 3345, a bill to amend title 46, United States Code, to remove the cap on punitive damages established by the Supreme Court in Exxon Shipping Company v. Baker.

S. 3346

At the request of Mr. WHITEHOUSE, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 3346, a bill to increase the limits on liability under the Outer Continental Shelf Lands Act.

S. 3412

At the request of Mr. DODD, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 3412, a bill to provide emergency operating funds for public transportation.

S. 3430

At the request of Ms. SNOWE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 3430, a bill to amend the Internal Revenue Code of 1986 to expand the tip tax credit to employers of cosmetologists and to promote tax compliance in the cosmetology sector.

S. 3462

At the request of Mrs. SHAHEEN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3462, a bill to provide subpoena power to the National Commission on the British Petroleum Oil Spill in the Gulf of Mexico, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S.J. RES. 30

At the request of Mr. ISAKSON, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S.J. Res. 30, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Mediation Board relating to representation election procedures.

S. CON. RES. 39

At the request of Mr. MENENDEZ, the name of the Senator from Illinois (Mr.

DURBIN) was added as a cosponsor of S. Con. Res. 39, a concurrent resolution expressing the sense of the Congress that stable and affordable housing is an essential component of an effective strategy for the prevention, treatment, and care of human immunodeficiency virus, and that the United States should make a commitment to providing adequate funding for the development of housing as a response to the acquired immunodeficiency syndrome pandemic.

AMENDMENT NO. 4302

At the request of Mr. CORNYN, the names of the Senator from Utah (Mr. HATCH) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of amendment No. 4302 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4304

At the request of Mr. CARDIN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of amendment No. 4304 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4311

At the request of Mr. FRANKEN, the names of the Senator from Connecticut (Mr. DODD), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New York (Mrs. GILLIBRAND) were added as cosponsors of amendment No. 4311 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4312

At the request of Mr. VITTER, the names of the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Mrs. HUTCHISON), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. SESSIONS), the Senator from Oklahoma (Mr. COBURN), the Senator from Idaho (Mr. RISCH), the Senator from Mississippi (Mr. WICKER) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of amendment No. 4312 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Mr. BROWN of Massachusetts):

S. 3465. A bill to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the ''Michael C. Rothberg Post Office''; to the Committee on Homeland Security and Government Affairs.

Mr. KERRY. Mr. President, I am proud to introduce legislation to designate the United States Postal Service in Sharon, Massachusetts, as the Michael C. Rothberg Post Office.

Michael Craig Rothberg was born and raised in Sharon. Upon graduation from Sharon High School, Michael earned both undergraduate and master's degree in math and computer science from McGill University in Montreal. Unfortunately, Michael Rothberg's life was tragically cut short on the morning of September 11, 2001, at age 39, while working in his Cantor Fitzgerald office on the 104th floor of the World Trade Center.

During his lifetime, Michael Rothberg created much more than a successful professional life. He used his resources generously contributing not only financial support, but also his time and energy for causes he believed in. He worked hard for causes such as the Dana Farber Cancer Institute's Jimmy Fund, the Multiple Sclerosis Foundation, and Mutual Funds against Cancer. His spirit is remembered through many contributions to the Town of Sharon through the Michael C. Rothberg Memorial Scholarship and other notable charitable contributions to students, athletes and the community of Sharon, Massachusetts.

The people of Sharon, Massachusetts are very proud of Michael and the example he set. It is fitting then that when people go to or pass by the post office in Sharon, they will be reminded of a local man who understood how important it is to give back to causes that touch your heart.

By Mr. LEAHY:

S. 3466. A bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I introduce the Environmental Crimes Enforcement Act, ECEA, common sense legislation that will ensure that those who destroy the lives and livelihoods of Americans through environmental crime are held accountable.

It has been 50 days since the collapse of British Petroleum's Deepwater Horizon Oil Rig, which killed 11 men. Oil continues to gush into the Gulf of Mexico, and deadly contaminants are washing up on the shores and wetlands of Gulf Coast States. This catastrophe threatens the livelihood of many thousands of people throughout the region, as well as precious natural resources and habitats. The people responsible for this catastrophe must be held accountable; they, not the American taxpayers, should pay for the damage and the recovery. The bill I introduce today aims to deter environmental crime, protect and compensate its victims, and encourage accountability among corporate actors.

First, ECEA will deter schemes by Big Oil and other corporations and industries that damage our environment and hurt hardworking Americans by increasing sentences for environmental crimes. All too often, corporations treat fines and monetary penalties as merely a cost of doing business to be factored against profits. To deter criminal behavior by corporations, it is important to have laws resulting in prison time. In that light, this bill directs the United States Sentencing Commission to amend the sentencing guidelines for environmental crimes to reflect the seriousness of these crimes.

Criminal penalties for Clean Water Act violations are not as severe as for other white-collar crimes, despite the widespread harm such crimes can cause. As the current crisis makes clear, Clean Water Act offenses can have serious consequences on people's lives and livelihoods, which should be reflected in the sentences given to the criminals who commit them. This bill takes a reasonable approach, asking the Sentencing Commission to study the issue and raise sentencing guidelines appropriately, and it will have a real deterrent effect.

This bill also aims to help victims of environmental crime—the people who lose their livelihoods, their communities, and even their loved ones—reclaim their natural and economic resources. To do that, ECEA makes restitution mandatory for criminal Clean Water Act violations.

Currently, restitution in environmental crimes—even crimes that result in death—is discretionary, and only available under limited circumstances. Under this bill, those who commit Clean Water Act offenses would have to compensate the victims of these offense for their losses. That restitution will help the people of the Gulf Coast rebuild their coastline and wetlands, their fisheries, and their livelihoods should criminal liability be found.

Importantly, this bill will allow the families of those killed to be compensated for criminal wrongdoing. As we have seen in the BP case, arbitrary laws prevent those killed in tragedies like this one from bringing civil lawsuits for compensation. This bill would ensure that, when a crime is committed, the criminal justice system can provide for restitution to victims, providing some small measure of security for the families of those killed.

This bill takes two common sense steps—well-reasoned increases in sentences and mandatory restitution for environmental crime. These measures are tough, but fair. They are important steps toward deterring criminal conduct that can cause environmental and economic disaster and toward helping those who have suffered so much from the wrongdoing of Big Oil and other large corporations. I hope all Senators will join me in supporting this important reform.

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. 3466

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 ''Environmental Crimes Enforcement Act of 2010''.

SEC. 2. ENVIRONMENTAL CRIMES.

(a) SENTENCING GUIDELINES.—

(1) DIRECTIVE.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and amend the Federal Sentencing Guidelines and policy statements applicable to persons convicted of offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), in order to reflect the intent of Congress that penalties for the offenses be increased in comparison to those provided on the date of enactment of this Act under the guidelines and policy statements, and appropriately account for the actual harm to the public and the environment from the offenses.

(2) REQUIREMENTS.—In amending the Federal Sentencing Guidelines and policy statements under paragraph (1), the United States Sentencing Commission shall—

(A) ensure that the guidelines and policy statements, including section 2Q1.2 of the Federal Sentencing Guidelines (and any successor thereto), reflect—

(i) the serious nature of the offenses described in paragraph (1);

(ii) the need for an effective deterrent and appropriate punishment to prevent the offenses; and

(iii) the effectiveness of incarceration in furthering the objectives described in clauses (i) and (ii);

(B) consider the extent to which the guidelines appropriately account for the actual harm to public and the environment resulting from the offenses;

(C) ensure reasonable consistency with other relevant directives and guidelines and Federal statutes;

(D) make any necessary conforming changes to guidelines; and

(E) ensure that the guidelines relating to offenses under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) adequately meet the purposes of sentencing, as set forth in section 3553(a)(2) of title 18, United States Code.

(b) RESTITUTION.—Section 3663A(c)(1) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''or'' at the end;

(2) in clause (iii), by striking ''and'' at the end and inserting ''or''; and

(3) by adding at the end the following:

''(iv) an offense under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and''.

By Mr. ALEXANDER (for himself and Mr. CORKER):

S. 3470. A bill to designate as wilderness certain public land in the Cherokee National Forest in the State of Tennessee, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. ALEXANDER. Mr. President, on behalf of Senator CORKER and myself, I rise to introduce the Tennessee Wilderness Act of 2010. The legislation will implement an important next step in conservation for some of the wildest, most beautiful and pristine areas in east Tennessee near where I live. To say that these are among the wildest, most pristine and beautiful areas sets a very high bar since the region is home to the Appalachian Mountains, and our Nation's most visited national park, a World Heritage site—in fact, one of the most visited sites in the world—the Great Smoky Mountains National Park, much of which is managed as if it were a wilderness area.

From growing up in these mountains and my many years of hiking the quiet trails of the Cherokee National Forest, I can attest that the wilderness areas we protected there are something very special. Congress began protecting wilderness areas in the Cherokee National Forest in 1975, with additional wilderness areas being established by the Tennessee Wilderness Act of 1984 and the Tennessee Wilderness Act of 1986. I was Governor of Tennessee during that time. I remember testifying on behalf of and strongly supporting our congressional delegation as we did that. I know sometimes our western friends are surprised to see Tennessee Republicans advocating wilderness, bragging about the fact that the Great Smoky Mountains National Park is managed in large extent as if it were a wilderness area and adding certain sections of the Cherokee National Forest to wilderness.

The Federal Government doesn't own very much of our land, but we have lots of visitors. Two or three times as many people visited the Great Smokies as visit Yellowstone. We have lots of visitors but very little Federal land. We like to protect it. We like to have clean air. We like to enjoy it ourselves.

We like the Cherokee National Forest because it gives us an opportunity to do some things we can't do in the national park. We can hunt, fish, ride horses, camp, do things in a great many ways. I believe this legislation, the Tennessee Wilderness Act of 2010, will create for Tennessee families and especially Tennessee youngsters, who need to be outdoors and away from the computer screens and television screens, an even more attractive opportunity to enjoy this beautiful part of our natural heritage.

I emphasize that the lands that will be designated as wilderness by this legislation are already Federal lands. They are part of the Cherokee National Forest. The areas covered were recommended for wilderness by the U.S. Forest Service in the development of its comprehensive 2004 forest plan which included extensive opportunities for public comment. Those areas have been managed as if they were wilderness areas since that time.

This new bill will officially designate as wilderness nearly 20,000 acres as recommended by the Forest Service. The bill establishes one new wilderness area, the 9,038 acre Upper Bald River Wilderness in Monroe County. This new area complements the existing Bald River Gorge Wilderness. It lies just south of that existing area, separated only by the Bald River Road, which will, of course, remain an open public road.

By protecting the Upper Bald River Wilderness as well as the existing wilderness area, we will be protecting most of the Bald River watershed. Excellent trails traverse the Upper Bald River area, including the Benton MacKaye Trail, offering excellent hiking, backpacking, and horseback riding, as well as access for hunters and fishermen.

The rest of the lands designated as wilderness in this legislation are relatively small but important additions to some of the areas Congress established in 1975, 1984 and 1986. They have the effect of better protecting not only ecosystems and watersheds but also the diverse recreational value of these areas.

At the southern end of the Cherokee National Forest is one of the largest national forest wilderness complexes in the Southeastern United States. It comprises the Cohutta Wilderness, most of which lies in Georgia, and the Big Frog Wilderness in Polk County, TN. The new legislation makes a small but important addition of 348 acres to the Big Frog Wilderness. The Big Frog-Cohutta combination, with adjacent primitive areas, creates the largest track of wilderness on national forest lands in the Eastern United States.

In the same way, the new legislation makes two small but important additions to the Little Frog Mountain Wilderness, also in Polk County. These additions, totaling 966 acres, were recommended by the Forest Service to give more logical boundaries to the Little Frog Mountain Wilderness and protect the corridor for the Benton MacKaye Trail.

In upper east Tennessee, in Unicoi and Washington Counties, this new legislation would add 2,922 acres to the Sampson Mountain Wilderness. This is at the heart of a marvelous scenic region of our State. Along these scenic trails, visitors can see flame azalea, mountain laurel, rhododendron, trailing arbutus, crested dwarf iris, mayapple, bloodroot, toothwort, magnolia, dogwood, redbud, and many other flowering plants, shrubs, and trees. The last 2 or 3 months have been the time of year to visit that area with its many species of shrubs and trees.

The 1986 Tennessee Wilderness Act established the Big Laurel Branch Wilderness in Carter and Johnson Counties at the furthest upper east Tennessee end of our State. The new legislation proposes to add 4,446 acres, including some 4.5 miles of the Appalachian National Scenic Trail. The addition lies along the slopes of Iron Mountain just north of Watauga Lake, one of the cleanest lakes in America.

The final element of the new legislation is an important addition to the Joyce Kilmer-Slickrock Wilderness. Here visitors will find perhaps the most impressive stands of virgin eastern forest in the United States. The 1,836-acre addition includes remnant old-growth forest. The Benton MacKaye Trail passes through this area, making it a

popular destination for horseback riders and hikers.

This is a simple bill, but it will make a significant contribution for these wild and pristine areas of the Cherokee National Forest.

I thank and salute the Cherokee National Forest staff and the many citizens of Tennessee who worked to define these proposals and to build grassroots support. These proposals have broad support from outdoors clubs, trail maintenance groups, local businesses, and conservation organizations.

I specifically want to thank Will Skelton, a Knoxville lawyer who has been instrumental in conservation for decades in Tennessee. No one has done more to help more families appreciate, enjoy, and hike in the Cherokee National Forest than has Will Skelton. I thank the Tennessee Wild group for their role in this proposal.

Getting out in the woods and mountains of east Tennessee is an ever more popular activity. People go to the wilderness to experience nature most wild, walking a trail to some resting place where the noises are trees creaking, the smells are of wet moss and leaves, the colors are pure, and the world is at peace. That is why these protected wilderness areas have such immense value for our people, and it is why the value will multiply many times as our world grows more crowded.

The foundational statute under which we protect the wilderness areas is the 1964 Wilderness Act. The Congress of that time showed extraordinary prescience about the threats that destroy wilderness:

In order to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas of the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.

We need more opportunities for young Americans to get away from the computer screens and into the American outdoors. Eastern Tennessee provides a beautiful place to do that, and this act will provide more opportunities for that as well.

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

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

S. 3470

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 ''Tennessee Wilderness Act of 2010''.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term ''Map'' means the map entitled ''Proposed Wilderness Areas and Additions-Cherokee National Forest'' and dated January 20, 2010.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(3) STATE.—The term ''State'' means the State of Tennessee.

SEC. 3. ADDITIONS TO CHEROKEE NATIONAL FOREST.

(a) DESIGNATION OF WILDERNESS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following Federal lands in the Cherokee National Forest in the State of Tennessee are designated as wilderness and as additions to the National Wilderness Preservation System:

(1) Certain land comprising approximately 9,038 acres, as generally depicted as the ''Upper Bald River Wilderness'' on the Map and which shall be known as the ''Upper Bald River Wilderness''.

(2) Certain land comprising approximately 348 acres, as generally depicted as the ''Big Frog Addition'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Big Frog Wilderness.

(3) Certain land comprising approximately 630 acres, as generally depicted as the ''Little Frog Mountain Addition NW'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Little Frog Mountain Wilderness.

(4) Certain land comprising approximately 336 acres, as generally depicted as the ''Little Frog Mountain Addition NE'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Little Frog Mountain Wilderness.

(5) Certain land comprising approximately 2,922 acres, as generally depicted as the ''Sampson Mountain Addition'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Sampson Mountain Wilderness.

(6) Certain land comprising approximately 4,446 acres, as generally depicted as the ''Big Laurel Branch Addition'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Big Laurel Branch Wilderness.

(7) Certain land comprising approximately 1,836 acres, as generally depicted as the ''Joyce Kilmer-Slickrock Addition'' on the Map and which shall be incorporated in, and shall be considered to be a part of, the Joyce Kilmer-Slickrock Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file maps and legal descriptions of the wilderness areas designated by subsection (a) with the appropriate committees of Congress.

(2) PUBLIC AVAILABILITY.—The maps and legal descriptions filed under paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Supervisor of the Cherokee National Forest.

(3) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the maps and descriptions.

(c) ADMINISTRATION.—Subject to valid existing rights, the Federal lands designated as wilderness by subsection (a) shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that any reference in that Act to the effective date of that Act shall be deemed to be a reference to the date of the enactment of this Act.

TO PROTECT AND TO PRESERVE

[From the Chattanooga Times Free Press, Sept. 8, 2009]

(Editorial Board)

There seemingly are few exceptions to the paroxysms of partisanship that have paralyzed the nation's capital lately, but there is at last one issue of vital importance where widespread agreement provides immeasurable benefit to the nation. Even in the current political climate, usually antagonistic members of Congress continue to provide broad support for the federal wilderness program. Good for them.

Such bipartisan agreement has been the case since the inception of the Wilderness Act, which was signed into law by President Lyndon B. Johnson 45 years ago this month. At its inception, the program protected 9 million acres in 54 wilderness areas. Today, there are more than 109 million protected acres in 44 states. Expansion efforts, thank goodness, continue unabated.

It is a matter of record that the valuable program has grown continuously under both Democratic and Republican administrations. President Ronald Reagan, a Republican, signed more laws to increase wilderness property than any other president, but Democrat occupants of the White House have done their duty as well.

President Barack Obama is the latest to do so. In March, he signed a bill that established 52 new wilderness areas and that increased acreage at more than two dozen existing wilderness areas. His signature added more than 2 million acres to the protection program.

Every president since Mr. Johnson has now signed legislation to expand wilderness areas. An examination of the record, in fact, shows a steady increase over the years in the number of protected acres regardless of who occupies the White House or which party controls Congress. It's proof that unanimity of purpose in politics is possible if not always procurable.

There are now more than 800 wilderness areas in the United States. They range in size from tiny—the five-acre Rocks and Islands Wilderness in California—to the stagger-the-imagination nine million acres in the Wrangeli-Saint Elias Wilderness in Alaska. The latter state has the most protected acreage with more than 57 million acres. Ohio, with 77 acres, has the least.

Georgia and Tennessee are in the middle of the pack. The former has nearly 500,000 protected wilderness acres and the latter just over 66,000 acres. Those numbers are likely to grow. Efforts to add acreage to protected wilderness areas and to related areas such as the nearby Cherokee National Forest, already the largest tract of public land in Tennessee, are ongoing. All deserve widespread support.

By law, wilderness areas are protected and managed to preserve their natural condition. Use of the land is severely restricted, and properly so, to non-invasive activities such as hiking, backpacking and horseback riding. That's appropriate. Wilderness preservation and protection programs help ensure that future generations can enjoy the nation's patrimony. They also are powerful reminders that we all share an obligation to preserve and to protect such singularly American open spaces.

OP–ED—SKELTON: NEW AREAS NEED PROTECTION

[From the Knoxville News Sentinel, Oct. 24, 2009]

(By Will Skelton)

On Oct. 30, 1984, President Ronald Reagan signed into law a landmark bill that protected many of the outstandingly scenic portions of the southern Cherokee National Forest in Tennessee from timber harvesting, mining and road building.

Thousands of Tennesseans and Americans have used and enjoyed those areas protected as wilderness in 1984; without that bill, many

such areas would have been clear cut and roads built through them. The areas range from the lofty peaks of the Citico Creek and Big Frog Wildernesses to the waterfalls of the Bald River Wilderness and to the quieter streams of Little Frog Mountain Wilderness.

The bill was called the Tennessee Wilderness Act of 1984 and was supported by then-governor Lamar Alexander, then-U.S. representative John J. Duncan, and both of our senators, Howard Baker and James Sasser. The bill protected 32,606 acres (out of a total of 640,000 acres in the Cherokee) in areas known as Big Frog Mountain, Bald River Gorge, Citico Creek, and Little Frog Mountain.

Such areas were designated as ''wilderness,'' the highest form of protection for our federally owned public lands. It protects forests ''in perpetuity'' from logging, mining and road building while allowing for traditional activities like hiking, hunting, horseback riding, fishing and camping. Wilderness also protects wildlife habitat, ensures clean water supplies, and sequesters carbon.

I was coordinator of the Cherokee National Forest Wilderness Coalition that led the effort to have these areas protected. I edited a guidebook to the Cherokee's trails that was published by University of Tennessee Press (''Hiking Guide to the Cherokee National Forest''), and to which Alexander did the forward for both the first (1992) and second (2005) editions.

It has been 25 years since any additional wilderness has been protected in the Cherokee National Forest, in spite of several qualified candidates. These areas include the wonderful Upper Bald River and several additions to existing wilderness areas. The U.S. Forest Service recommended wilderness protection for most of these areas. However, its recommendations can only become ''wilderness'' if Congress approves under the Wilderness Act of 1964.

A newly formed coalition, Tennessee Wild (*http://tnwild.org/*), is urging the protection of the additional areas recommended by the forest service.

Several points are important to consider regarding this current wilderness proposal:

1. The Cherokee National Forest consists of 640,000 acres, roughly the same as the Great Smoky Mountains National Park, with 340,969 in the northern Cherokee and 298,998 in the southern Cherokee. Only 66,389 acres or 10.37 percent of the forest is designated as wilderness; the areas listed above would add only 17,785 acres, so we are talking about a very modest increase.

2. No land is to be acquired by the forest service, as the land proposed for wilderness is already owned by the government.

3. Pursuant to the forest service's current management plan, the service's recommended areas are currently managed as wilderness. So no additional management or change would be required and, because of the nature of wilderness, its management is extremely low cost.

4. No roads would be closed; nor would any facilities be affected as a result of the forest service's recommendation.

5. Finally, and maybe most important, the areas recommended for wilderness are the best unprotected scenic and natural areas in the southern Cherokee National Forest.

We are hopeful that our current political leaders, especially Rep. John J. Duncan Jr. and Sens. Alexander and Bob Corker, will act to protect these additional areas. Let the words of John Muir, featured recently in the Ken Burns' PBS special on our national parks, inspire us to action: ''Everybody needs beauty as well as bread, places to play in and pray in, where nature may heal and give strength to body and soul.''

By Mr. REID:

S. 3473. A bill to amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill; considered and passed.

Mr. REID. 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. 3473

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

SECTION 1. ADVANCES FROM OIL SPILL LIABILITY TRUST FUND FOR DEEPWATER HORIZON OIL SPILL.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence—

(1) by inserting ''(1)'' after ''Coast Guard''; and

(2) by inserting before the period at the end the following: ''and (2) in the case of the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain 1 or more advances from the Fund as needed, up to a maximum of $100,000,000 for each advance, with the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986, and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance''.

SEC. 2. 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.

By Mr. FEINGOLD (for himself, Mr. CARPER, Mr. MCCAIN, Mr. GREGG, Mrs. MCCASKILL, Mr. COBURN, Mr. WHITEHOUSE, Mr. BENNET, and Mr. UDALL of Colorado):

S. 3474. A bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes; to the Committee on the Budget.

Mr. FEINGOLD. Mr. President, I am pleased to join with the Senator from Delaware, Mr. CARPER, and the Senator from Arizona, Mr. MCCAIN, and others in introducing the Reduce Unnecessary Spending Act of 2010, a bill which effectively gives the President a line item veto to cancel wasteful spending.

Based on President Obama's proposal, our measure would permit the President to get expedited consideration in both the House and Senate of a package of proposed spending cuts within larger spending bills Congress sends to the President. The President would have 45 days from when the initial spending measure was enacted to submit his proposed cuts, and once that package of cuts is sent to the Hill, Congress would have less than a month to act on them. Any savings produced if Congress enacts these spending cut packages would go directly to reduce the deficit.

Just a few weeks ago, I chaired a hearing of the Senate Judiciary Committee's Constitution Subcommittee at which this proposal and similar proposals were reviewed, and I am pleased to say that the consensus of that hearing is that the bill we are introducing today is clearly constitutional.

When he took office, President Obama was handed perhaps the worst economic and fiscal mess facing any administration since Franklin Roosevelt took office in 1933. The legacy President Obama inherited poses a gigantic challenge.

There is no magic bullet that will solve all our budget problems. Congress has to make some tough decisions, and there will be no avoiding them if we are to get our fiscal house in order. But we can take some steps that will help Congress make the right decisions, and that can sustain the progress we make.

A line-item veto, properly structured and respectful of the constitutionally central role Congress plays, as this legislation is, can help us get back on track.

As I noted before, Mr. President, I am joined in this effort by a number of colleagues, but most notably by Senator CARPER and Senator MCCAIN. I have been privileged to work on a number of critical budget reforms with Senator CARPER. He has long been an advocate of this kind of expedited rescission or line item veto authority, and was the lead author of a similarly structured measure when he served in the other body.

I have also been pleased to work with Senator MCCAIN on budget matters. He and I have worked together for the past two decades to oppose wasteful earmark spending, and more recently I have been pleased to work with him on line item veto proposals, including this one.

I also thank my colleague from Wisconsin, Congressman PAUL RYAN, for working with me on this issue for several years now. He and I belong to different political parties, and differ on many issues. But we do share at least two things in common—our hometown of Janesville, Wisconsin, and an abiding respect for Wisconsin's tradition of fiscal responsibility. Earlier this year, Congressman RYAN raised this issue with President Obama at a meeting in Baltimore, and I thank him for his efforts to advance this issue.

The bill we introduce today is a significant step forward in our joint efforts to provide the President with the kind of authority needed to cut wasteful spending. As I noted earlier, this legislation is essentially the bill President Obama proposed just a few weeks ago. It provides the President the ability to get quick and definitive congressional action on cuts to individual programs in large spending bills.

Currently, the President must choose between vetoing a bill in its entirety,

or signing it and possibly enacting billions of dollars of wasteful spending. With this bill, the President will have a third option—signing a spending bill, but then submitting a package of proposed cuts from that spending bill to Congress for quick review. The package of cuts proposed by the President will get an up or down vote in the House and, if it passes there, an up or down vote in the Senate.

Our line item veto bill covers earmark discretionary spending as well as broader non-entitlement spending accounts. The measure excludes entitlement spending and tax expenditures from the expedited rescission approach. Spending done through entitlements and tax expenditures make up an enormous amount of the total spending done by the Federal Government. However, unlike the programmatic spending done in discretionary programs, where cuts can be made by zeroing out or reducing a number for a specific account, reducing spending in entitlements or tax expenditures often requires a change in the underlying policy. Indeed, Congress already has a fast-track procedure designed specifically for considering legislation that reduces spending done through entitlements and tax expenditures. It is called reconciliation, and it was used effectively in the 1990s to reduce the deficit.

As I mentioned, a key target of this new line item veto bill is the unauthorized earmark spending that too often finds its way into large appropriations bills. Earmark spending was what Congressman RYAN and I targeted in our line item veto proposal, and it is the example every line-item veto proponent cites when promoting their legislation.

When President Bush asked for this kind of authority, the examples he gave when citing wasteful spending he wanted to target were congressional earmarks. When Members of the House or Senate tout a new line-item veto authority to go after government waste, the examples they give are congressional earmarks. When editorial pages argue for a new line-item veto, they, too, cite congressional earmarks as the reason for granting the President this new authority.

Unauthorized congressional earmarks are a serious problem. We won't solve our budget problems just by addressing earmarks, but if we are to get our fiscal house in order, eliminating earmarks has to be part of the solution. For all the lip service Congress pays to this issue, there are still thousands of earmarked spending provisions enacted every year. Just last year, the Omnibus Appropriations bill for fiscal year 2009 passed in March of 2009 contained more than 8,000 earmarks costing $7 billion, and the Consolidated Appropriations bill for fiscal year 2010 passed in December of 2009 included nearly 5,000 earmarks, costing $3.7 billion.

There is no excuse for a system that allows that kind of wasteful spending year after year. And given the unwillingness of Congress to discipline itself in this regard, it is appropriate to provide the President some additional authority to seek an up or down vote in Congress on proposed cuts in this area of spending.

This is not a cure-all. We will not balance the budget just by passing a line item veto-like authority for the President. Nor will we balance the budget just by eliminating wasteful earmark spending. But we can make real progress in getting our fiscal house in order, and in changing the culture of Washington which over the last 2 decades has seen an explosion of spending done through unauthorized earmarks that circumvent regular congressional review and the scrutiny of the competitive grant process.

Like the measure Congressman RYAN and I introduced, under this proposal, wasteful spending doesn't have anywhere to hide. It's out in the open, so that both Congress and the President have a chance to get rid of wasteful projects before they begin. The taxpayers—who pay the price for these projects—deserve a process that shows some real fiscal discipline, and that is what this legislation promotes.

President Obama recognizes the pernicious effect earmarks have on the entire process. When he asked Congress to take the extraordinary step of sending him a massive economic recovery package, he knew such a large package of spending and tax cuts would naturally attract earmarks. He also recognized that were earmarks to be added to the bill, it would undermine his ability to get it enacted, so he rightly insisted it be free of earmarks.

I am delighted he has stepped forward to propose a new line item veto-like authority, and I am especially pleased to be introducing that proposal with my colleagues today.

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

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

S. 3474

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

SECTION 1. SHORT TITLE AND PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the ''Reduce Unnecessary Spending Act of 2010''.

(b) PURPOSE.—The purpose of this Act is to create an optional fast-track procedure the President may use when submitting rescission requests, which would lead to an up-or-down vote by Congress on the President's package of rescissions, without amendment.

SEC. 2. RESCISSIONS OF FUNDING.

The Impoundment Control Act of 1974 is amended by striking part C and inserting the following:

''PART C—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS

''SEC. 1021. APPLICABILITY AND DISCLAIMER.

''The rules, procedures, requirements, and definitions in this part apply only to executive and legislative actions explicitly taken under this part. They do not apply to actions taken under part B or to other executive and legislative actions not taken under this part.

''SEC. 1022. DEFINITIONS.

''In this part:

''(1) The terms 'appropriations Act', 'budget authority', and 'new budget authority' have the same meanings as in section 3 of the Congressional Budget Act of 1974.

''(2) The terms 'account', '' 'current year' '', 'CBO', and 'OMB' have the same meanings as in section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985 as in effect on September 30, 2002.

''(3) The term 'days of session' shall be calculated by excluding weekends and national holidays. Any day during which a chamber of Congress is not in session shall not be counted as a day of session of that chamber. Any day during which neither chamber is in session shall not be counted as a day of session of Congress.

''(4) The term 'entitlement law' means the statutory mandate or requirement of the United States to incur a financial obligation unless that obligation is explicitly conditioned on the appropriation in subsequent legislation of sufficient funds for that purpose, and the Supplemental Nutrition Assistance Program.

''(5) The term 'funding' refers to new budget authority and obligation limits except to the extent that the funding is provided for entitlement law.

''(6) The term 'rescind' means to eliminate or reduce the amount of enacted funding.

''(7) The terms 'withhold' and 'withholding' apply to any executive action or inaction that precludes the obligation of funding at a time when it would otherwise have been available to an agency for obligation. The terms do not include administrative or preparatory actions undertaken prior to obligation in the normal course of implementing budget laws.

''SEC. 1023. TIMING AND PACKAGING OF RESCISSION REQUESTS.

''(a) TIMING.—If the President proposes that Congress rescind funding under the procedures in this part, OMB shall transmit a message to Congress containing the information specified in section 1024, and the message transmitting the proposal shall be sent to Congress not later than 45 calendar days after the date of enactment of the funding.

''(b) PACKAGING AND TRANSMITTAL OF REQUESTED RESCISSIONS.—Except as provided in subsection (c), for each piece of legislation that provides funding, the President shall request at most 1 package of rescissions and the rescissions in that package shall apply only to funding contained in that legislation. OMB shall deliver each message requesting a package of rescissions to the Secretary of the Senate if the Senate is not in session and to the Clerk of the House of Representatives if the House is not in session. OMB shall make a copy of the transmittal message publicly available, and shall publish in the Federal Register a notice of the message and information on how it can be obtained.

''(c) SPECIAL PACKAGING RULES.—After enactment of—

''(1) a joint resolution making continuing appropriations;

''(2) a supplemental appropriations bill; or

''(3) an omnibus appropriations bill;

covering some or all of the activities customarily funded in more than 1 regular appropriations bill, the President may propose as many as 2 packages rescinding funding contained in that legislation, each within the 45-day period specified in subsection (a). OMB shall not include the same rescission in both packages, and, if the President requests the rescission of more than one discrete amount of funding under the jurisdiction of

a single subcommittee, OMB shall include each of those discrete amounts in the same package.

"SEC. 1024. REQUESTS TO RESCIND FUNDING.

''For each request to rescind funding under this part, the transmittal message shall—

''(1) specify—

''(A) the dollar amount to be rescinded;

''(B) the agency, bureau, and account from which the rescission shall occur;

''(C) the program, project, or activity within the account (if applicable) from which the rescission shall occur;

''(D) the amount of funding, if any, that would remain for the account, program, project, or activity if the rescission request is enacted; and

''(E) the reasons the President requests the rescission;

''(2) designate each separate rescission request by number; and

''(3) include proposed legislative language to accomplish the requested rescissions which may not include—

''(A) any changes in existing law, other than the rescission of funding; or

''(B) any supplemental appropriations, transfers, or reprogrammings.

"SEC. 1025. GRANTS OF AND LIMITATIONS ON PRESIDENTIAL AUTHORITY.

''(a) PRESIDENTIAL AUTHORITY TO WITHHOLD FUNDING.—Notwithstanding any other provision of law and if the President proposes a rescission of funding under this part, OMB may, subject to the time limits provided in subsection (c), temporarily withhold that funding from obligation.

''(b) EXPEDITED PROCEDURES AVAILABLE ONLY ONCE PER BILL.—The President may not invoke the procedures of this part, or the authority to withhold funding granted by subsection (a), on more than 1 occasion for any Act providing funding.

''(c) TIME LIMITS.—OMB shall make available for obligation any funding withheld under subsection (a) on the earliest of—

''(1) the day on which the President determines that the continued withholding or reduction no longer advances the purpose of legislative consideration of the rescission request;

''(2) starting from the day on which OMB transmitted a message to Congress requesting the rescission of funding, 25 calendar days in which the House of Representatives has been in session or 25 calendar days in which the Senate has been in session, whichever occurs second; or

''(3) the last day after which the obligation of the funding in question can no longer be fully accomplished in a prudent manner before its expiration.

''(d) DEFICIT REDUCTION.—

''(1) IN GENERAL.—Funds that are rescinded under this part shall be dedicated only to reducing the deficit or increasing the surplus.

''(2) ADJUSTMENT OF LEVELS IN THE CONCURRENT RESOLUTION ON THE BUDGET.—Not later than 5 days after the date of enactment of an approval bill as provided under this part, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise allocations and aggregates and other appropriate levels under the appropriate concurrent resolution on the budget to reflect the repeal or cancellation, and the applicable committees shall report revised suballocations pursuant to section 302(b), as appropriate.

"SEC. 1026. CONGRESSIONAL CONSIDERATION OF RESCISSION REQUESTS.

''(a) PREPARATION OF LEGISLATION TO CONSIDER A PACKAGE OF EXPEDITED RESCISSION REQUESTS.—

''(1) IN GENERAL.—If the House of Representatives receives a package of expedited rescission requests, the Clerk shall prepare a House bill that only rescinds the amounts requested which shall read as follows:

''There are enacted the rescissions numbered [insert number or numbers] as set forth in the Presidential message of [insert date] transmitted under part C of the Impoundment Control Act of 1974 as amended.

''(2) EXCLUSION PROCEDURE.—The Clerk shall include in the bill each numbered rescission request listed in the Presidential package in question, except that the Clerk shall omit a numbered rescission request if the Chairman of the Committee on the Budget of the House, after consulting with the Chairman of the Committee on the Budget of the Senate, CBO, GAO, and the House and Senate committees that have jurisdiction over the funding, determines that the numbered rescission does not refer to funding or includes matter not permitted under a request to rescind funding.

''(b) INTRODUCTION AND REFERRAL OF LEGISLATION TO ENACT A PACKAGE OF EXPEDITED RESCISSIONS.—The majority leader or the minority leader of the House or Representatives, or a designee, shall (by request) introduce each bill prepared under subsection (a) not later than 4 days of session of the House after its transmittal, or, if no such bill is introduced within that period, any member of the House may introduce the required bill in the required form on the fifth or sixth day of session of the House after its transmittal. If such an expedited rescission bill is introduced in accordance with the preceding sentence, it shall be referred to the House committee of jurisdiction. A copy of the introduced House bill shall be transmitted to the Secretary of the Senate, who shall provide it to the Senate committee of jurisdiction.

''(c) HOUSE REPORT AND CONSIDERATION OF LEGISLATION TO ENACT A PACKAGE OF EXPEDITED RESCISSIONS.—The House committee of jurisdiction shall report without amendment the bill referred to it under subsection (b) not more than 5 days of session of the House after the referral. The committee may order the bill reported favorably, unfavorably, or without recommendation. If the committee has not reported the bill by the end of the 5-day period, the committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

''(d) HOUSE MOTION TO PROCEED.—

''(1) IN GENERAL.—After a bill to enact an expedited rescission package has been reported or the committee of jurisdiction has been discharged under subsection (c), it shall be in order to move to proceed to consider the bill in the House. A Member who wishes to move to proceed to consideration of the bill shall announce that fact, and the motion to proceed shall be in order only during a time designated by the Speaker within the legislative schedule for the next calendar day of legislative session or the one immediately following it.

''(2) FAILURE TO SET TIME.—If the Speaker does not designate a time under paragraph (1), 3 or more calendar days of legislative session after the bill has been reported or discharged, it shall be in order for any Member to move to proceed to consider the bill.

''(3) PROCEDURE.—A motion to proceed under this subsection shall not be in order after the House has disposed of a prior motion to proceed with respect to that package of expedited rescissions. The previous question shall be considered as ordered on the motion to proceed, without intervening motion. A motion to reconsider the vote by which the motion to proceed has been disposed of shall not be in order.

''(4) REMOVAL FROM CALENDAR.—If 5 calendar days of legislative session have passed since the bill was reported or discharged under this subsection and no Member has made a motion to proceed, the bill shall be removed from the calendar.

''(e) HOUSE CONSIDERATION.—

''(1) CONSIDERED AS READ.—A bill consisting of a package of rescissions under this part shall be considered as read.

''(2) POINTS OF ORDER.—All points of order against the bill are waived, except that a point of order may be made that 1 or more numbered rescissions included in the bill would enact language containing matter not requested by the President or not permitted under this part as part of that package. If the Presiding Officer sustains such a point of order, the numbered rescission or rescissions that would enact such language are deemed to be automatically stripped from the bill and consideration proceeds on the bill as modified.

''(3) PREVIOUS QUESTION.—The previous question shall be considered as ordered on the bill to its passage without intervening motion, except that 4 hours of debate equally divided and controlled by a proponent and an opponent are allowed, as well as 1 motion to further limit debate on the bill.

''(4) MOTION TO RECONSIDER.—A motion to reconsider the vote on passage of the bill shall not be in order.

''(f) SENATE CONSIDERATION.—

''(1) REFERRAL.—If the House of Representatives approves a House bill enacting a package of rescissions, that bill as passed by the House shall be sent to the Senate and referred to the Senate committee of jurisdiction.

''(2) COMMITTEE ACTION.—The committee of jurisdiction shall report without amendment the bill referred to it under this subsection not later than 3 days of session of the Senate after the referral. The committee may order the bill reported favorably, unfavorably, or without recommendation.

''(3) DISCHARGE.—If the committee has not reported the bill by the end of the 3-day period, the committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

''(4) MOTION TO PROCEED.—On the following day and for 3 subsequent calendar days in which the Senate is in session, it shall be in order for any Senator to move to proceed to consider the bill in the Senate. Upon such a motion being made, it shall be deemed to have been agreed to and the motion to reconsider shall be deemed to have been laid on the table.

''(5) DEBATE.—Debate on the bill in the Senate under this subsection, and all debatable motions and appeals in connection therewith, shall not exceed 10 hours, equally divided and controlled in the usual form. Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to not more than 1 hour, to be equally divided and controlled in the usual form. A motion to further limit debate on such a bill is not debatable.

''(6) MOTIONS NOT IN ORDER.—A motion to amend such a bill or strike a provision from it is not in order. A motion to recommit such a bill is not in order.

''(g) SENATE POINT OF ORDER.—It shall not be in order under this part for the Senate to consider a bill approved by the House enacting a package of rescissions under this part if any numbered rescission in the bill would enact matter not requested by the President or not permitted under this Act as part of that package. If a point of order under this subsection is sustained, the bill may not be considered under this part.''.

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking

the matter for part C of title X and inserting the following:

''PART C—EXPEDITED CONSIDERATION OF PROPOSED RESCISSIONS

''Sec. 1021. Applicability and disclaimer.
''Sec. 1022. Definitions.
''Sec. 1023. Timing and packaging of rescission requests.
''Sec. 1024. Requests to rescind funding.
''Sec. 1025. Grants of and limitations on presidential authority.
''Sec. 1026. Congressional consideration of rescission requests.''.

(b) TEMPORARY WITHHOLDING.—Section 1013(c) of the Impoundment Control Act of 1974 is amended by striking ''section 1012'' and inserting ''section 1012 or section 1025''

(c) RULEMAKING.—

(1) 904(A).—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking ''and 1017'' and inserting ''1017, and 1026''.

(2) 904(D)(1).—Section 904 (d)(1) of the Congressional Budget Act of 1974 is amended by striking ''1017'' and inserting ''1017 or 1026''.

SEC. 4. AMENDMENTS TO PART A OF THE IMPOUNDMENT CONTROL ACT.

(a) IN GENERAL.—Part A of the Impoundment Control Act of 1974 is amended by inserting at the end the following:

''SEC. 1002. SEVERABILITY.

''If the judicial branch of the United States finally determines that 1 or more of the provisions of parts B or C violate the Constitution of the United States, the remaining provisions of those parts shall continue in effect.''.

(b) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting at the end of the matter for part A of title X the following:

''Sec. 1002. Severability.''.

SEC. 5. EXPIRATION.

Part C of the Impoundment Control Act of 1974 (as amended by this Act) shall expire on December 31, 2014.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 547—SUPPORTING NATIONAL MEN'S HEALTH WEEK

Mr. CRAPO (for himself and Mr. MENENDEZ) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 547

Whereas, despite advances in medical technology and research, men continue to live an average of more than 5 years less than women, and African-American men have the lowest life expectancy;

Whereas 9 of the 10 leading causes of death, as defined by the Centers for Disease Control and Prevention, affect men at a higher percentage than women;

Whereas according to the Centers for Disease Control and Prevention, between ages 45 and 54, men are over 1½ times more likely than women to die of heart attacks;

Whereas according to the Centers for Disease Control and Prevention, men die of heart disease at 1½ times the rate of women;

Whereas men die of cancer at almost 1½ times the rate of women;

Whereas testicular cancer is one of the most common cancers in men aged 15 to 34, and, when detected early, has a 96 percent survival rate;

Whereas according to the American Cancer Society, the number of cases of colon cancer among men will reach almost 49,470 in 2010, and nearly 50 percent of men diagnosed with colon cancer will die from the disease;

Whereas the likelihood that a man will develop prostate cancer is 1 in 6;

Whereas according to the American Cancer Society, the number of men developing prostate cancer in 2010 will reach more than 217,730 and an estimated 32,050 of those men will die from the disease

Whereas African-American men in the United States have the highest incidence in the world of prostate cancer;

Whereas significant numbers of health problems that affect men, such as prostate cancer, testicular cancer, colon cancer, and infertility, could be detected and treated if men's awareness of these problems was more pervasive;

Whereas according to the Bureau of the Census, more than ½ of the elderly widows now living in poverty were not poor before the death of their husbands, and by age 100, women outnumber men 4 to 1;

Whereas educating both the public and health care providers about the importance of early detection of male health problems will result in reducing rates of mortality for these diseases;

Whereas appropriate use of tests such as prostate specific antigen (PSA) exams, blood pressure screens, and cholesterol screens, in conjunction with clinical examination and self-testing for problems such as testicular cancer, can result in the detection of many of these problems in their early stages and increase the survival rates to nearly 100 percent;

Whereas women are 2 times more likely than men to visit their doctor for annual examinations and preventive services;

Whereas men are less likely than women to visit their health center or physician for regular screening examinations of male-related problems for a variety of reasons, including fear, lack of health insurance, lack of information, and cost factors;

Whereas Congress established National Men's Health Week in 1994 and urged men and their families to engage in appropriate health behaviors, and the resulting increased awareness has improved health-related education and helped prevent illness;

Whereas the Governors of over 45 States issue proclamations annually declaring Men's Health Week in their States;

Whereas, since 1994, National Men's Health Week has been celebrated each June by dozens of States, cities, localities, public health departments, health care entities, churches, and community organizations throughout the Nation that promote health awareness events focused on men and family;

Whereas the National Men's Health Week Internet website has been established at www.menshealthweek.org and features Governors' proclamations and National Men's Health Week events;

Whereas men who are educated about the value that preventive health can play in prolonging their lifespan and their role as productive family members will be more likely to participate in health screenings;

Whereas men and their families are encouraged to increase their awareness of the importance of a healthy lifestyle, regular exercise, and medical checkups; and

Whereas June 13 through 20, 2010, is National Men's Health Week, which has the purpose of heightening the awareness of preventable health problems and encouraging early detection and treatment of disease among men and boys: Now, therefore, be it

Resolved, That the Senate—

(1) supports the annual National Men's Health Week; and

(2) calls upon the people of the United States and interested groups to observe National Men's Health Week with appropriate ceremonies and activities.

SENATE RESOLUTION 548—TO EXPRESS THE SENSE OF THE SENATE THAT ISRAEL HAS AN UNDENIABLE RIGHT TO SELF-DEFENSE, AND TO CONDEMN THE RECENT DESTABILIZING ACTIONS BY EXTREMISTS ABOARD THE SHIP MAVI MARMARA

Mr. CORNYN submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 548

Whereas the State of Israel, since its founding in 1948, has been a strong and steadfast ally of the United States, standing alone in its commitment to democracy, individual liberty, and free-market principles in the Middle East, a region characterized by instability and violence;

Whereas the special bond between the United States and Israel, forged through common values and mutual interests, must never be broken;

Whereas Israel has an undeniable right to defend itself against any threat to its security, as does every nation;

Whereas Hamas is a terrorist group, formally designated as a Foreign Terrorist Organization by the Secretary of State, and similarly designated by the European Union;

Whereas Hamas is committed to the annihilation of Israel and opposes the peaceful resolution of the Israeli–Palestinian conflict;

Whereas Hamas took control of the Gaza Strip in 2007 through violent means and has maintained control ever since;

Whereas Hamas routinely violates the human rights of the residents of Gaza, including attempting to control and intimidate political rivals through extra-judicial killing, torture, severe beatings, maiming, and arbitrary detentions;

Whereas Hamas continues to hold prisoner Israeli Staff Sergeant Gilad Shalit, who was seized on Israeli soil and has been denied basic rights, including contact with the International Red Cross;

Whereas the military build-up of Hamas has been enabled by the smuggling of arms and other materiel into Gaza;

Whereas the Government of Iran has materially aided and supported Hamas by providing extensive funding, weapons, and training;

Whereas, since 2001, Hamas and other Palestinian terrorist organizations have fired more than 10,000 rockets and mortars from Gaza into Israel, killing at least 18 Israelis and wounding dozens more;

Whereas approximately 860,000 Israeli civilians, more than 12 percent of Israel's population, reside within range of rockets fired from Gaza and live in fear of attacks;

Whereas, in 2007, the Government of Israel, out of concern for the safety of its citizens, put in place a legitimate and justified blockade of Gaza, which has been effective in reducing the flow of weapons into Gaza and the firing of rockets from Gaza into southern Israel;

Whereas, at the same time, the Government of Egypt imposed a blockade of Gaza from its land border;

Whereas, according to Michael Oren, the Israeli Ambassador to the United States, ''If the sea lanes are open to Hamas in Gaza . . . they will acquire thousands of rockets that will threaten every single citizen in the state of Israel and also kill the peace process. . . . Hamas armed with thousands of rockets not

only threatens 7,500,000 Israelis but it's the end of the peace process.'';

Whereas the Israeli blockade has not hindered the transfer of approximately 1,000,000 tons of humanitarian supplies into Gaza over the last 18 months to aid its 1,500,000 residents;

Whereas, on May 28, 2010, the ''Free Gaza'' flotilla, which included the Mavi Marmara and 5 other ships, departed from a port in Turkey and sailed towards Israel's defensive naval blockade of Gaza;

Whereas the sponsor of the flotilla was a Turkish organization, the Humanitarian Relief Foundation;

Whereas the Humanitarian Relief Foundation has aided al Qaeda in the past, ''basically helping al Qaeda when [Osama] bin Laden started to want to target U.S. soil,'' according to statements by a former French counterterrorism official, in a June 2, 2010, Associated Press interview;

Whereas the Humanitarian Relief Foundation has a clear link to Hamas, according to a 2008 order of the Government of Israel, and the Humanitarian Relief Foundation is a member of the Union for Good, a United States-designated terrorist organization created by Hamas leaders in 2000 to help fund Hamas;

Whereas there were at least 5 active terrorist operatives among the passengers on the Mavi Marmara, with affiliations with terrorist groups such as al Qaeda and Hamas, according to the Israel Defense Forces;

Whereas the flotilla's primary aim was to break the Israeli blockade of Gaza, under the guise of delivering humanitarian aid to the residents of Gaza;

Whereas, on May 27, 2010, while the flotilla was moving towards Gaza, one of its organizers admitted, ''This mission is not about delivering humanitarian supplies, it's about breaking Israel's siege on 1,500,000 Palestinians,'' according to news reports;

Whereas, based on interviews with Mavi Marmara passengers after the incident, the actual intention of passengers on the Mavi Marmara had been to achieve ''martyrdom'' at the hands of the Israel Defense Forces;

Whereas Saleh Al-Azraq, a journalist who was aboard the ship, recounted that, ''The moment the ship set sail, the cries of 'Allahu Akbar' began. . . It made you feel as if you were going on an Islamic conquest or raid,'' according to an interview recorded on Al-Hiwar TV on June 4, 2010;

Whereas Hussein Orush, a Humanitarian Relief Foundation official, read from the diary of a dead Mavi Marmara passenger: ''The last lines he wrote before the attack were: 'Only a short time left before martyrdom. This is the most important stage of my life. Nothing is more beautiful than martyrdom, except for one's love for one's mother. But I don't know what is sweeter—my mother or martyrdom.'''', and also stated, ''All the passengers on board the ship were ready for this outcome. Everybody wanted and was ready to become a martyr. . . . Our goal was to reach Gaza or to die trying. All the ship's passengers were ready for this. IHH was ready for this too.'', according to an interview recorded on Al-Jazeera TV on June 5, 2010;

Whereas Ali Haider Banjinin, another dead Mavi Marmara passenger, told his family before departing on the flotilla, ''I am going to be a martyr, I dreamed about it,'' according to news reports in Turkey;

Whereas Ali Ekber Yaratilmis, another dead Mavi Marmara passenger, ''always wanted to become a Martyr,'' one of his friends told Al-Hayat Al-Jadida newspaper in an interview on June 3, 2010;

Whereas one female passenger on the deck of the Mavi Marmara stated, ''Right now we face one of two happy endings: either martyrdom or reaching Gaza,'' according to Al Jazeera footage taken prior to the incident;

Whereas the Government of Israel had extended a reasonable offer to transfer the flotilla's humanitarian cargo to Gaza;

Whereas the Mavi Marmara and the other ships of the flotilla ignored repeated Israeli calls to turn around or be peacefully escorted to an Israeli port outside of Gaza;

Whereas, on May 31, 2010, the Israeli Navy intercepted the Mavi Marmara 75 miles west of Haifa, Israel, in an effort to maintain the integrity of the blockade and prevent potential smuggling of arms and other materiel into the hands of Hamas;

Whereas, upon the boarding of the Mavi Marmara by the Israeli Navy, the Mavi Marmara's passengers brutally and violently attacked the members of the Israeli Navy with knives, clubs, pipes, and other weapons, injuring several of them;

Whereas the members of the Israeli Navy, under attack and in grave danger, reacted in self-defense and used lethal force against their attackers on the Mavi Marmara, shooting and killing 9 of them;

Whereas the incident has fomented unwarranted international criticism of Israel and its blockade of Gaza;

Whereas, in the time since the attack, the United Nations has unjustly criticized the actions of the Government of Israel and called for an investigation of such actions; and

Whereas the actions of the United Nations are undermining Israel's inherent right to self-defense, compromising its sovereignty, and helping to legitimize Hamas: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that Israel has an inherent and undeniable right to defend itself against any threat to the safety of its citizens;

(2) to reaffirm that the United States stands with Israel in pursuit of shared security goals, including the security of Israel;

(3) to condemn the violent attack and provocation by extremists aboard the Mavi Marmara, who created a highly destabilizing incident in a region that cannot afford further instability;

(4) to condemn any future such attempts to break the Israeli blockade of Gaza for the purpose of creating or provoking violent confrontation or otherwise undermining the security of Israel;

(5) to condemn Hamas for its failure to recognize the right of Israel to exist, its human rights abuses against the residents of Gaza, and its continued rejection of a constructive path to peace for the Israeli and Palestinian people;

(6) to condemn the Government of Iran for its role, past and present, in directly supporting Hamas and undermining the security of Israel;

(7) to encourage the Government of Turkey to recognize the importance of continued strong relations with Israel and the necessity of closely scrutinizing organizations with potential ties to terrorist groups; and

(8) to express profound disappointment with the counterproductive actions of the United Nations regarding this incident.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4318. Mr. SANDERS (for himself, Mr. WHITEHOUSE, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

SA 4319. Mr. SANDERS (for himself, Mr. GRASSLEY, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4320. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4321. Mr. CASEY (for himself, Mr. BROWN, of Ohio, Mr. BEGICH, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. HARKIN, Mr. LEVIN, Mr. BURRIS, Mr. FRANKEN, Ms. STABENOW, Mr. REED, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4322. Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4323. Mrs. FEINSTEIN (for herself, Mr. GREGG, Ms. SNOWE, Mr. BARRASSO, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by her to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4324. Mr. WHITEHOUSE (for himself, Mr. BENNET, Mrs. FEINSTEIN, Mr. KAUFMAN, Mr. PRYOR, Mr. SPECTER, Mr. GRAHAM, Ms. LANDRIEU, Mr. MENENDEZ, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4325. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4326. Mr. BAUCUS (for himself, Mr. KERRY, and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4327. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4328. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4329. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4330. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4331. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4332. Mr. KOHL (for himself, Mr. GRASSLEY, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4333. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4318. Mr. SANDERS (for himself, Mr. WHITEHOUSE, and Mr. WYDEN) submitted an amendment intended to be

proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title IV, insert the following:

SEC. —. REPEAL OF EXPENSING AND 60-MONTH AMORTIZATION OF INTANGIBLE DRILLING COSTS.

Subsection (c) of section 263 is amended by striking the period at the end of the third sentence and inserting '', or to any costs paid or incurred after December 31, 2010.''.

SEC. —. REPEAL OF PERCENTAGE DEPLETION FOR OIL AND GAS WELLS.

(a) IN GENERAL.—Section 613 is amended by adding at the end the following new subsection:

''(f) TERMINATION OF PERCENTAGE DEPLETION FOR OIL AND GAS PROPERTIES.—In the case of oil and gas properties, this section shall not apply to any taxable year beginning after December 31, 2010.''.

(b) LIMITATIONS ON PERCENTAGE DEPLETION IN CASE OF OIL AND GAS WELLS.—Section 613A is amended by adding at the end the following new subsection:

''(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 2010.''.

SEC. —. DENIAL OF DEDUCTION FOR INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION OF OIL, NATURAL GAS, OR PRIMARY PRODUCTS THEREOF.

(a) IN GENERAL.—Subparagraph (B) of section 199(c)(4) is amended by striking ''or'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', or'', and by inserting after clause (iii) the following new clause:

''(iv) the production, refining, processing, transportation, or distribution of oil, natural gas, or any primary product thereof.''.

(b) PRIMARY PRODUCT.—Section 199(c)(4)(B) is amended by adding at the end the following flush sentence:

''For purposes of clause (iv), the term 'primary product' has the same meaning as when used in section 927(a)(2)(C), as in effect before its repeal.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 199(c)(4) is amended—

(A) in subparagraph (A)(i)(III) by striking ''electricity, natural gas,'' and inserting ''electricity'', and

(B) in subparagraph (B)(ii) by striking ''electricity, natural gas,'' and inserting ''electricity''.

(2) Section 199(d) is amended by striking paragraph (9) and by redesignating paragraph (10) as paragraph (9).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. —. APPROPRIATION OF FUNDS.

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Energy Efficiency and Conservation Block Grant Program, under subtitle E of the Energy Independence and Security Act of 2007, $2,000,000,000 for each of fiscal years 2011, 2012, 2013, 2014, and 2015.

SA 4319. Mr. SANDERS (for himself, Mr. GRASSLEY, and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CERTIFICATION REQUIREMENT.

(a) SHORT TITLE.—This section may be cited as the ''Employ America Act''.

(b) IN GENERAL.—The Secretary of Homeland Security may not approve a petition by an employer for any visa authorizing employment in the United States unless the employer has provided written certification, under penalty of perjury, to the Secretary of Labor that—

(1) the employer has not provided a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) during the 12-month period immediately preceding the date on which the alien is scheduled to be hired; and

(2) the employer does not intend to provide a notice of a mass layoff pursuant to such Act.

(c) EFFECT OF MASS LAYOFF.—If an employer provides a notice of a mass layoff pursuant to the Worker Adjustment and Retraining Notification Act after the approval of a visa described in subsection (b), any visas approved during the most recent 12-month period for such employer shall expire on the date that is 60 days after the date on which such notice is provided. The expiration of a visa under this subsection shall not be subject to judicial review.

(d) NOTICE REQUIREMENT.—Upon receiving notification of a mass layoff from an employer, the Secretary of Homeland Security shall inform each employee whose visa is scheduled to expire under subsection (c)—

(1) the date on which such individual will no longer be authorized to work in the United States; and

(2) the date on which such individual will be required to leave the United States unless the individual is otherwise authorized to remain in the United States.

(e) EXEMPTION.—An employer shall be exempt from the requirements under this section if the employer provides written certification, under penalty of perjury, to the Secretary of Labor that the total number of the employer's workers who are United States citizens and are working in the United States have not been, and will not be, reduced as a result of a mass layoff described in subsection (c).

(f) RULEMAKING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Labor shall promulgate regulations to carry out this section, including a requirement that employers provide notice to the Secretary of Homeland Security of a mass layoff (as defined in section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101)).

SA 4320. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title IV, insert the following:

SEC. 4___. ALTERNATIVE MINIMUM TAX RATE FOR PUBLIC CORPORATIONS INCORPORATED IN FOREIGN TAX HAVENS.

(a) IN GENERAL.—Section 11 of the is amended by adding at the end the following:

''(e) ALTERNATIVE MINIMUM TAX FOR PUBLIC CORPORATIONS INCORPORATED IN FOREIGN TAX HAVENS.—

''(1) TAX IMPOSED.—A tax is hereby imposed (in addition to any other tax imposed by this subtitle) for each taxable year on the net book income of each disqualified corporation.

''(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) shall be equal to the excess (if any) of—

''(A) 35 percent of the net book income of the disqualified corporation, over

''(B) the sum of any other taxes imposed on the income of such disqualified corporation under this subtitle.

''(3) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The tax imposed by paragraph (1) shall not be treated as a tax imposed under this chapter for the purpose of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.

''(4) DISQUALIFIED CORPORATION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'disqualified corporation' means any public corporation which—

''(i) is chartered or incorporated in an offshore secrecy jurisdiction, or

''(ii) owns, directly or indirectly, 50 percent or more (by vote or value) of the stock of a corporation chartered or incorporated in an offshore secrecy jurisdiction.

''(B) PUBLIC CORPORATION.—The term 'public corporation' means any issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports under section 15(d) of that Act (15 U.S.C. 78o(d)), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.

''(C) OFFSHORE SECRECY JURISDICTION.—

''(i) IN GENERAL.—The term 'offshore secrecy jurisdiction' means any foreign jurisdiction which is listed by the Secretary as an offshore secrecy jurisdiction for purposes of this subsection.

''(ii) DETERMINATION OF JURISDICTIONS ON LIST.—A jurisdiction shall be listed under clause (i) if the Secretary determines that such jurisdiction has corporate, business, bank, or tax secrecy rules and practices which, in the judgment of the Secretary, unreasonably restrict the ability of the United States to obtain information relevant to the enforcement of this title, unless the Secretary also determines that such country has effective information exchange practices.

''(iii) SECRECY OR CONFIDENTIALITY RULES AND PRACTICES.—For purposes of clause (ii), corporate, business, bank, or tax secrecy or confidentiality rules and practices include both formal laws and regulations and informal government or business practices having the effect of inhibiting access of law enforcement and tax administration authorities to beneficial ownership and other financial information.

''(iv) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of clause (ii), a jurisdiction shall be deemed to have ineffective information exchange practices unless the Secretary determines, on an annual basis, that—

''(I) such jurisdiction has in effect a treaty or other information exchange agreement with the United States that provides for the prompt, obligatory, and automatic exchange of such information as is forseeably relevant for carrying out the provisions of the treaty or agreement or the administration or enforcement of this title,

''(II) during the 12-month period preceding the annual determination, the exchange of information between the United States and such jurisdiction was in practice adequate to prevent evasion or avoidance of United States income tax by United States persons and to enable the United States effectively to enforce this title, and

''(III) during the 12-month period preceding the annual determination, such jurisdiction was not identified by an intergovernmental group or organization of which the United States is a member as uncooperative with international tax enforcement or information exchange and the United States concurs in such identification.

''(v) INITIAL LIST OF OFFSHORE SECRECY JURISDICTIONS.—For purposes of this subparagraph, each of the following foreign jurisdictions, which have been previously and publicly identified by the Internal Revenue Service as secrecy jurisdictions in Federal court proceedings, shall be deemed listed by the Secretary as an offshore secrecy jurisdiction unless delisted by the Secretary under clause (vi)(II):

''(I) Anguilla.
''(II) Antigua and Barbuda.
''(III) Aruba.
''(IV) Bahamas.
''(V) Barbados.
''(VI) Belize.
''(VII) Bermuda.
''(VIII) British Virgin Islands.
''(IX) Cayman Islands.
''(X) Cook Islands.
''(XI) Costa Rica.
''(XII) Cyprus.
''(XIII) Dominica.
''(XIV) Gibraltar.
''(XV) Grenada.
''(XVI) Guernsey/Sark/Alderney.
''(XVII) Hong Kong.
''(XVIII) Isle of Man.
''(XIX) Jersey.
''(XX) Latvia.
''(XXI) Liechtenstein.
''(XXII) Luxembourg.
''(XXIII) Malta.
''(XXIV) Nauru.
''(XXV) Netherlands Antilles.
''(XXVI) Panama.
''(XXVII) Samoa.
''(XXVIII) St. Kitts and Nevis.
''(XXIX) St. Lucia.
''(XXX) St. Vincent and the Grenadines.
''(XXXI) Singapore.
''(XXXII) Switzerland.
''(XXXIII) Turks and Caicos.
''(XXXIV) Vanuatu.

''(vi) MODIFICATIONS TO LIST.—The Secretary—

''(I) shall add to the list under clause (i) jurisdictions which meet the requirements of clause (ii), and

''(II) may remove from such list only those jurisdictions which do not meet the requirements of clause (ii).

''(5) NET BOOK INCOME.—For purposes of this subsection, the term 'net book income' means, with respect to a taxable year, the net income (if any) reported by the disqualified corporation in its financial statement to its shareholders, subject to such regulations as the Secretary may prescribe.

''(6) CONTROLLED GROUP.—For purposes of applying this subsection, all component members of a controlled group of corporations (as defined in section 1563) shall be treated as one corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

SA 4321. Mr. CASEY (for himself, Mr. BROWN of Ohio, Mr. BEGICH, Mr. WHITEHOUSE, Mr. LAUTENBERG, Mr. KERRY, Mr. WYDEN, Mr. HARKIN, Mr. LEVIN, Mr. BURRIS, Mr. FRANKEN, Ms. STABENOW, Mr. REED, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle B of title V of the amendment, insert the following:

SEC. ___. 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), as amended by section 3(a) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''November 30, 2010''.

(b) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as amended by section 3(b) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by adding at the end the following:

''(19) ADDITIONAL RULES RELATED TO 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after June 1, 2010, and prior to the date of the enactment of this paragraph, rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.''.

(c) EFFECTIVE DATE.—The amendment 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.

SA 4322. Ms. LANDRIEU (for herself and Mr. COCHRAN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 363, between lines 3 and 4, insert the following:

SEC. 621. DISASTER LOANS PROGRAM ACCOUNT.

(a) IN GENERAL.—From unobligated balances in the appropriations account appropriated under the heading ''DISASTER LOANS PROGRAM ACCOUNT'' under the heading ''SMALL BUSINESS ADMINISTRATION'', up to $100,000,000 shall be available to the Administrator of the Small Business Administration (in this section referred to as the ''Administrator'') to waive the payment, for a period of not more than 3 years, of not more than $15,000 in interest on loans made under section 7(b) of the Small Business Act (15 U.S.C. 636(b)) to businesses located in an area affected by a hurricane occurring during 2005 or 2008 for which the President declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) PRIORITY.—The Administrator shall, to the extent practicable, give priority to an application for a waiver of interest under the program established under this section by a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) with not more than 50 employees or that the Administrator determines suffered a substantial economic injury as a result of the Deepwater Horizon oil spill of 2010.

(c) TERMINATION.—The Administrator may not approve an application under the program established under this section after December 31, 2010.

(d) OTHER DISASTERS.—If a disaster is declared under section 7(b) of the Small Business Act (15 U.S.C.636(b)) during the period beginning on the date of enactment of this Act and ending on December 31, 2010, and to the extent there are inadequate funds in the appropriations account described in subsection (a) to provide assistance relating to the disaster under section 7(b) of the Small Business Act and waive the payment of interest under the program established under this section, the Administrator shall give priority in using the funds to applications under section 7(b) of the Small Business Act relating to the disaster.

(e) BUDGETARY PROVISION.—This section is designated as an emergency for purposes of pay-as-you-go principles. The amount made available under this section is designated as an emergency requirement pursuant to sections 403(a) and 423(b) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. The amount made available under this section is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g)).

SA 4323. Mrs. FEINSTEIN (for herself, Mr. GREGG, Ms. SNOWE, Mr. BARRASSO, and Mr. BROWN of Ohio) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT CHECKS IN PRISON EMPLOYMENT PROGRAMS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to checks issued after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (a)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SA 4324. Mr. WHITEHOUSE (for himself, Mr. BENNET, Mrs. FEINSTEIN, Mr.

KAUFMAN, Mr. PRYOR, and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 364, after line 4, add the following:

TITLE VIII—REGISTRATION OF AGENTS OF FOREIGN MANUFACTURERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS

SEC. 801. FINDINGS.

Congress makes the following findings:

(1) Each year, many people in the United States are injured by defective products manufactured or produced by foreign entities and imported into the United States.

(2) Both consumers and businesses in the United States have been harmed by injuries to people in the United States caused by defective products manufactured or produced by foreign entities.

(3) People in the United States injured by defective products manufactured or produced by foreign entities often have difficulty recovering damages from the foreign manufacturers and producers responsible for such injuries.

(4) The difficulty described in paragraph (3) is caused by the obstacles in bringing a foreign manufacturer or producer into a United States court and subsequently enforcing a judgment against that manufacturer or producer.

(5) Obstacles to holding a responsible foreign manufacturer or producer liable for an injury to a person in the United States undermine the purpose of the tort laws of the United States.

(6) The difficulty of applying the tort laws of the United States to foreign manufacturers and producers puts United States manufacturers and producers at a competitive disadvantage because United States manufacturers and producers must—

(A) abide by common law and statutory safety standards; and

(B) invest substantial resources to ensure that they do so.

(7) Foreign manufacturers and producers can avoid the expenses necessary to make their products safe if they know that they will not be held liable for violations of United States product safety laws.

(8) Businesses in the United States undertake numerous commercial relationships with foreign manufacturers, exposing the businesses to additional tort liability when foreign manufacturers or producers evade United States courts.

(9) Businesses in the United States engaged in commercial relationships with foreign manufacturers or producers often cannot vindicate their contractual rights if such manufacturers or producers seek to avoid responsibility in United States courts.

(10) One of the major obstacles facing businesses and individuals in the United States who are injured and who seek compensation for economic or personal injuries caused by foreign manufacturers and producers is the challenge of serving process on such manufacturers and producers.

(11) An individual or business injured in the United States by a foreign company must rely on a foreign government to serve process when that company is located in a country that is a signatory to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters done at The Hague November 15, 1965 (20 UST 361; TIAS 6638).

(12) An injured person in the United States must rely on the cumbersome system of letters rogatory to effect service in a country that did not sign the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters. These countries do not have an enforceable obligation to serve process as requested.

(13) The procedures described in paragraphs (11) and (12) add time and expense to litigation in the United States, thereby discouraging or frustrating meritorious lawsuits brought by persons injured in the United States against foreign manufacturers and producers.

(14) Foreign manufacturers and producers often seek to avoid judicial consideration of their actions by asserting that United States courts lack personal jurisdiction over them.

(15) The due process clauses of the fifth amendment to and section 1 of the 14th amendment to the Constitution govern United States court assertions of personal jurisdiction over defendants.

(16) The due process clauses described in paragraph (15) are satisfied when a defendant consents to the jurisdiction of a court.

(17) United States markets present many opportunities for foreign manufacturers.

(18) Creating a competitive advantage for either foreign or domestic manufacturers violates the principles of United States trade agreements with other countries.

(19) In choosing to import products into the United States, a foreign manufacturer or producer subjects itself to the laws of the United States. Such a foreign manufacturer or producer thereby acknowledges that it is subject to the personal jurisdiction of the State and Federal courts in at least one State.

SEC. 802. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) foreign manufacturers and producers whose products are sold in the United States should not be able to avoid liability simply because of difficulties relating to serving process upon them;

(2) to avoid such lack of accountability, foreign manufacturers and producers of foreign products distributed in the United States should be required, by regulation, to register an agent in the United States who is authorized to accept service of process for such manufacturer or producer;

(3) it is unfair to United States consumers and businesses that foreign manufacturers and producers often seek to avoid judicial consideration of their actions by asserting that United States courts lack personal jurisdiction over them;

(4) those who benefit from importing products into United States markets should expect to be subject to the jurisdiction of at least one court within the United States;

(5) importing products into the United States should be understood as consent to the accountability that the legal system of the United States ensures for all manufacturers and producers, foreign, and domestic;

(6) importers recognize the scope of opportunities presented to them by United States markets but also should recognize that products imported into the United States must satisfy Federal and State safety standards established by statute, regulation, and common law;

(7) foreign manufacturers should recognize that they are responsible for the contracts they enter into with United States companies;

(8) foreign manufacturers should act responsibly and recognize that they operate within the constraints of the United States legal system when they import products into the United States;

(9) foreign manufacturers who are unwilling to act and recognize as described in paragraphs (6), (7), and (8) should not have access to United States markets;

(10) United States laws and the laws of United States trading partners should not put burdens on foreign manufacturers and importers that do not apply to domestic companies;

(11) it is fair to ensure that foreign manufacturers, whose products are distributed in commerce in the United States, are subject to the jurisdiction of State and Federal courts in at least one State because all United States manufacturers are subject to the jurisdiction of the State and Federal courts in at least one State; and

(12) it should be understood that, by registering an agent for service of process in the United States, the foreign manufacturer or producer acknowledges consent to the jurisdiction of the State in which the registered agent is located.

SEC. 803. DEFINITIONS.

In this title:

(1) APPLICABLE AGENCY.—The term ''applicable agency'' means, with respect to covered products—

(A) described in subparagraphs (A) and (B) of paragraph (3), the Food and Drug Administration;

(B) described in paragraph (3)(C), the Consumer Product Safety Commission;

(C) described in subparagraphs (D) and (E) of paragraph (3), the Environmental Protection Agency.

(2) COMMERCE.—The term ''commerce'' means trade, traffic, commerce, or transportation—

(A) between a place in a State and any place outside thereof; or

(B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

(3) COVERED PRODUCT.—The term ''covered product'' means any of the following:

(A) Drugs, devices, and cosmetics, as such terms are defined in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(B) A biological product, as such term is defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

(C) A consumer product, as such term is used in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052).

(D) A chemical substance or new chemical substance, as such terms are defined in section 3 of the Toxic Substances Control Act (15 U.S.C. 2602).

(E) A pesticide, as such term is defined in section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136).

(4) DISTRIBUTE IN COMMERCE.—The term ''distribute in commerce'' means to sell in commerce, to introduce or deliver for introduction into commerce, or to hold for sale or distribution after introduction into commerce.

SEC. 804. REGISTRATION OF AGENTS OF FOREIGN MANUFACTURERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS IN THE UNITED STATES.

(a) REGISTRATION.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act and except as provided in paragraph (3), the head of each applicable agency shall require foreign manufacturers and producers of covered products distributed in commerce (or component parts that will be used in the United States to manufacture such products) to establish a registered agent in the United States who is authorized to accept service of process on behalf of such manufacturer or producer for the purpose of all civil and regulatory actions in State and Federal courts, if such service is made in accord with the State or Federal rules for service of process in the

State in which the case or regulatory action is brought.

(2) LOCATION.—The head of each applicable agency shall require that an agent of a foreign manufacturer or producer registered under paragraph (1) be located in a State with a substantial connection to the importation, distribution, or sale of the products of such foreign manufacturer or producer.

(3) MINIMUM SIZE.—Paragraph (1) shall only apply to foreign manufacturers and producers that manufacture or produce covered products (or component parts that will be used in the United States to manufacture such products) in excess of a minimum value or quantity established by the head of the applicable agency under this section.

(b) REGISTRY OF AGENTS OF FOREIGN MANUFACTURERS.—

(1) IN GENERAL.—The Secretary of Commerce shall, in cooperation with each head of an applicable agency, establish and keep up to date a registry of agents registered under subsection (a).

(2) AVAILABILITY.—The Secretary of Commerce shall make the registry established under paragraph (1) available to the public through the Internet website of the Department of Commerce.

(c) CONSENT TO JURISDICTION.—A foreign manufacturer or producer of covered products that registers an agent under this section thereby consents to the personal jurisdiction of the State or Federal courts of the State in which the registered agent is located for the purpose of any civil or regulatory proceeding.

(d) REGULATIONS.—Not later than the date described in subsection (a)(1), the Secretary of Commerce and each head of an applicable agency shall prescribe regulations to carry out this section.

SEC. 805. PROHIBITION OF IMPORTATION OF PRODUCTS OF MANUFACTURERS WITHOUT REGISTERED AGENTS IN UNITED STATES.

(a) IN GENERAL.—Beginning on the date that is 180 days after the date the regulations required under section 804(d) are prescribed, a person may not import into the United States a covered product (or component part that will be used in the United States to manufacture a covered product) if such product (or component part) or any part of such product (or component part) was manufactured or produced outside the United States by a manufacturer or producer who does not have a registered agent described in section 804(a) whose authority is in effect on the date of the importation.

(b) ENFORCEMENT.—The Secretary of Homeland Security shall prescribe regulations to enforce the prohibition in subsection (a).

SEC. 806. STUDY ON REGISTRATION OF AGENTS OF FOREIGN FOOD PRODUCERS AUTHORIZED TO ACCEPT SERVICE OF PROCESS IN THE UNITED STATES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture and the Commissioner of Food and Drugs shall jointly—

(1) complete a study on the feasibility and advisability of requiring foreign producers of food distributed in commerce to establish a registered agent in the United States who is authorized to accept service of process on behalf of such producers for the purpose of all civil and regulatory actions in State and Federal courts; and

(2) submit to Congress a report on the findings of the Secretary with respect to such study.

SEC. 807. RELATIONSHIP WITH OTHER LAWS.

Nothing in this title shall affect the authority of any State to establish or continue in effect a provision of State law relating to service of process or personal jurisdiction, except to the extent that such provision of law is inconsistent with the provisions of this title, and then only to the extent of such inconsistency.

SA 4325. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, add the following:

SEC. _____. EXEMPTION FOR PEDIATRIC MEDICAL DEVICES.

(a) IN GENERAL.—Paragraph (2) of section 4191(b) of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (C) the following new subparagraph:

''(D) medical devices primarily designed to be used by or for pediatric patients, and''.

(b) EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.—Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986 is amended by striking ''8 percent'' and inserting ''5 percent''.

SA 4326. Mr. BAUCUS (for himself, Mr. KERRY, and Mr. DODD) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign-Held Debt Transparency and Threat Assessment Act''.

SEC. __02. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the following:

(A) The Committee on Armed Services, the Committee on Foreign Relations, the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget of the Senate.

(B) The Committee on Armed Services, the Committee on Foreign Affairs, the Committee on Ways and Means, the Committee on Financial Services, and the Committee on the Budget of the House of Representatives.

(2) DEBT INSTRUMENTS OF THE UNITED STATES.—The term ''debt instruments of the United States'' means all bills, notes, and bonds held by the public and issued or guaranteed by the United States or by an entity of the United States Government.

SEC. __03. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the growing Federal debt of the United States has the potential to jeopardize the national security and economic stability of the United States;

(2) large foreign holdings of debt instruments of the United States have the potential to make the United States vulnerable to undue influence by foreign creditors in national security and economic policymaking;

(3) the People's Republic of China, Japan, and the United Kingdom are the 3 largest foreign holders of debt instruments of the United States; and

(4) the current level of transparency in the scope and extent of foreign holdings of debt instruments of the United States is inadequate and needs to be improved.

SEC. __04. ANNUAL REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

(a) ANNUAL REPORT.—Not later than March 31 of each year, the Secretary of the Treasury shall submit to the appropriate congressional committees a report on the risks posed by foreign holdings of debt instruments of the United States, in both classified and unclassified form.

(b) MATTERS TO BE INCLUDED.—Each report submitted under this section shall include the following:

(1) The most recent data available on foreign holdings of debt instruments of the United States, which data shall not be older than the date that is 9 months preceding the date of the report.

(2) The total amount of debt instruments of the United States that are held by foreign residents, broken out by the residents' country of domicile and by public and private residents.

(3) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by foreign holdings of debt instruments of the United States.

(c) PUBLIC AVAILABILITY.—The Secretary of the Treasury shall make each report required by subsection (a) available, in its unclassified form, to the public by posting it on the Internet in a conspicuous manner and location.

SEC. __05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

(a) IN GENERAL.—Not later than March 31 of each year, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the risks to the United States posed by the Federal debt of the United States.

(b) CONTENT OF REPORT.—Each report submitted under this section shall include the following:

(1) An analysis of the current and foreseeable risks to the long-term national security and economic stability of the United States posed by the Federal debt of the United States.

(2) Specific recommendations for reducing the levels of risk resulting from the Federal debt.

SEC. __06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

If the President determines that foreign holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

(1) formulate a plan of action to reduce such risk;

(2) submit to the appropriate congressional committees a report on the plan of action that includes a timeline for the implementation of the plan and recommendations for any legislative action that would be required to fully implement the plan; and

(3) move expeditiously to implement the plan in order to protect the long-term national security and economic stability of the United States.

SA 4327. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. _____. PERMANENT EXTENSION OF ELECTIVE TAX TREATMENT FOR ALASKA NATIVE SETTLEMENT TRUSTS.

(a) IN GENERAL.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to the provisions of, and amendments made by, section 671 of such Act (relating to tax treatment and information requirements of Alaska Native Settlement Trusts).

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective upon the date of enactment of this Act.

SA 4328. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 251, insert the following:

SEC. 251A. CHARITABLE CONTRIBUTIONS OF APPARENTLY WHOLESOME FOOD TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) (relating to special rule for contributions of inventory and other property) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) SPECIAL RULE FOR INDIAN TRIBES.—

''(i) IN GENERAL.—For purposes of this paragraph, an Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A) with respect to apparently wholesome food (as defined in section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)) (as in effect on the date of the enactment of this subparagraph)) only.

''(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the apparently wholesome food donated is related to the exercise of an essential governmental function of the Indian tribal government (within the meaning of section 7871), such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SA 4329. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—PENSION BENEFIT GUARANTY CORPORATION GOVERNANCE IMPROVEMENT

SEC. 801. SHORT TITLE.

This title may be cited as the ''Pension Benefit Guaranty Corporation Governance Improvement Act of 2010''.

SEC. 802. BOARD OF DIRECTORS OF THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Section 4002(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(d)) is amended to read as follows:

''(d)(1) The board of directors of the corporation consists of—

''(A) the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce;

''(B) a member that is a representative of employers offering defined benefit plans;

''(C) a member that is a representative of organized labor and employees; and

''(D) 2 other members.

''(2)(A) The members of the board of directors described under subparagraphs (B) through (D) of paragraph (1)—

''(i) shall be appointed by the President by and with the advice and consent of the Senate—

''(I) at the beginning of the second year of the President's term of office, with respect to such members described under subparagraphs (B) and (C) of paragraph (1); and

''(II) at the beginning of the fourth year of the President's term of office, with respect to such members described under subparagraph (D) of paragraph (1); and

''(ii) shall serve for a term of 4 years.

''(B) Not more than 2 members of the board of directors described under subparagraphs (B) through (D) of paragraph (1) shall be affiliated with the same political party.

''(C) Each member of the board of directors described under subparagraphs (B) through (D) of paragraph (1) shall not have a direct financial interest in the decisions of the corporation.

''(3) Each member of the board of directors described under subparagraph (A) of paragraph (1) shall designate in writing an official, not below the level of Assistant Secretary, to serve as the voting representative of such member on the board. Such designation shall be effective until revoked or until a date or event specified therein. Any such representative may refer for board action any matter under consideration by the designating board member.

''(4) The members of the board of directors described under—

''(A) subparagraph (A) of paragraph (1), shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the board; and

''(B) subparagraphs (B) through (D) of paragraph (1) shall, for each day (including traveltime) during which they are attending meetings or conferences of the board or otherwise engaged in the business of the board, be compensated at a rate fixed by the corporation which is not in excess of the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

''(5)(A) The Secretary of Labor is the chairman of the board of directors.

''(B) The President shall designate 1 of the members appointed under paragraph (2) as the vice-chairman of the board of directors.

''(6) The Inspector General of the corporation shall report to the board of directors, and not less than twice a year, shall attend a meeting of the board of directors to provide a report on the activities and findings of the Inspector General, including with respect to monitoring and review of the operations of the corporation.

''(7) The General Counsel of the corporation shall—

''(A) serve as the secretary to the board of directors, and shall advise such board as needed; and

''(B) have overall responsibility for all legal matters affecting the corporation and provide the corporation with legal advice and opinions on all matters of law affecting the corporation, except that the authority of the General Counsel shall not extend to the Office of Inspector General and the independent legal counsel of such Office.

''(8) Notwithstanding any other provision of this Act, the Office of Inspector General and the legal counsel of such Office is independent of the management of the corporation and the General Counsel of the corporation.''.

(b) NUMBER OF MEETINGS; PUBLIC AVAILABILITY.—Section 4002(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(e)) is amended—

(1) by striking ''The board'' and inserting ''(1) The board'';

(2) by striking ''the corporation.'' and inserting ''the corporation, but in no case less than 4 times a year with a quorum of not less than 5 members. Not less than 1 meeting of the board of directors during each year shall be a joint meeting with the advisory committee under subsection (h).''; and

(3) by adding at the end the following:

''(2) The chairman of the board of directors shall make available to the public the minutes from each meeting of the board, unless the chairman designates a meeting or portion of a meeting as closed to the public, based on the confidentiality of the matters to be discussed during such meeting.''.

(c) ADVISORY COMMITTEE.—

(1) ISSUES CONSIDERED BY THE COMMITTEE.—Section 4002(h)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(h)(1)) is amended—

(A) by striking '', and (D)'' and inserting '', (D)''; and

(B) by striking ''time to time.'' and inserting ''time to time, and (E) other issues as determined appropriate by the advisory committee.''.

(2) JOINT MEETING.—Section 4002(h)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302(h)(3)) is amended by adding at the end the following: ''Not less than 1 meeting of the advisory committee during each year shall be a joint meeting with the board of directors under subsection (e).''.

SEC. 803. AVOIDING CONFLICTS OF INTEREST.

Section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) is amended by adding at the end the following:

''(j) The Director of the corporation, and each member of the board of directors described under subparagraphs (B) through (D) of subsection (d)(1), shall agree in writing to recuse him or herself from participation in activities which present a potential conflict of interest or appearance of such conflict, including by not serving on a technical evaluation panel.''.

SEC. 804. SENSE OF CONGRESS.

(a) FORMATION OF COMMITTEES.—It is the sense of Congress that the board of directors of the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this title, should form committees, including an audit committee and an investment committee, to enhance the overall effectiveness of the board of directors.

(b) RISK MANAGEMENT POSITION.—It is the sense of Congress that the Pension Benefit Guaranty Corporation established under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302), as amended by this title, should establish a risk management position that evaluates and mitigates the risk that the corporation might experience. The individual in such position should coordinate the risk management efforts of the corporation, explain risks and controls to senior management and the board of directors of the corporation, and make recommendations.

SA 4330. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. PARTICIPATION OF PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE HEALTH INSURANCE EXCHANGES.

(a) IN GENERAL.—Section 1312(d)(3)(D) of the Patient Protection and Affordable Care Act is amended to read as follows:

''(D) PRESIDENT, VICE PRESIDENT, MEMBERS OF CONGRESS, POLITICAL APPOINTEES, AND CONGRESSIONAL STAFF IN THE EXCHANGE.—

''(i) IN GENERAL.—Notwithstanding chapter 89 of title 5, United States Code, or any provision of this title—

''(I) the President, Vice President, each Member of Congress, each political appointee, and each Congressional employee shall be treated as a qualified individual entitled to the right under this paragraph to enroll in a qualified health plan in the individual market offered through an Exchange in the State in which the individual resides; and

''(II) any employer contribution under such chapter on behalf of the President, Vice President, any Member of Congress, any political appointee, and any Congressional employee may be paid only to the issuer of a qualified health plan in which the individual enrolled in through such Exchange and not to the issuer of a plan offered through the Federal employees health benefit program under such chapter.

This subparagraph shall not apply to any individual until an Exchange is operating in the State in which the individual resides.

''(ii) PAYMENTS BY FEDERAL GOVERNMENT.—The Secretary, in consultation with the Director of the Office of Personnel Management, shall establish procedures under which—

''(I) the employer contributions under such chapter on behalf of the President, Vice President, each Member of Congress, each political appointee, and each Congressional employee are determined and actuarially adjusted for individual or family coverage, rating areas, and age (in accordance with clauses (i) through (iii) of section 2701(a)(1)(A) of the Public Health Service Act); and

''(II) the employer contributions may be made directly to an Exchange for payment to an issuer.

''(iii) POLITICAL APPOINTEE.—In this subparagraph, the term 'political appointee' means any individual who—

''(I) is employed in a position described under sections 5312 through 5316 of title 5, United States Code, (relating to the Executive Schedule);

''(II) is a limited term appointee, limited emergency appointee, or noncareer appointee in the Senior Executive Service, as defined under paragraphs (5), (6), and (7), respectively, of section 3132(a) of title 5, United States Code; or

''(III) is employed in a position in the executive branch of the Government of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

''(iv) CONGRESSIONAL EMPLOYEE.—In this subparagraph, the term 'Congressional employee' means an employee whose pay is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the Patient Protection and Affordable Care Act.

SA 4331. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE ___—OFFSETTING THE COSTS OF THIS ACT

SEC. ___01. DISCLOSING TRUE COST OF CONGRESSIONAL BORROWING AND SPENDING.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by Congressional Budget Office.

(3) The number of new Government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SEC. ___02. REDUCING BUDGETS OF MEMBERS OF CONGRESS.

Of the funds made available under Public Law 111–68 for the legislative branch, $100,000,000 in unobligated balances are permanently rescinded with $50,000,000 from the House of Representatives and $50,000,000 from the Senate: Provided, That the rescissions made by the section shall not apply to funds made available to the Capitol Police.

SEC. ___03. ENACTING THE WHITE HOUSE'S PROPOSED 5 PERCENT CUT ON GOVERNMENT SPENDING.

(a) RESCISSIONS OF EXCESSIVE SPENDING.—There is rescinded an amount equal to 5 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2010 for any discretionary account in any other fiscal year 2010 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2010 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2010 for any program subject to limitation contained in any fiscal year 2010 appropriation Act.

(b) EXCEPTIONS.—This section shall not apply to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs and the Department of Defense: Provided, That the Secretary of Defense shall submit a report to Congress no later than one year after the enactment of this Act outlining potential savings within the Department that could be obtained by eliminating outdated, unneeded, inefficient, poorly performing, or duplicative programs and initiatives.

(c) OMB REPORT.—Within 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section and the report shall be posted on the public website of the Office of Management and Budget.

SEC. ___04. ELIMINATING NONESSENTIAL GOVERNMENT TRAVEL.

Within 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the heads of the Federal departments and agencies, shall establish a definition of ''nonessential travel'' and criteria to determine if travel-related expenses and requests by Federal employees meet the definition of ''nonessential travel''. No travel expenses paid for, in whole or in part, with Federal funds shall be paid by the Federal Government unless a request is made prior to the travel and the requested travel meets the criteria established by this section. Any travel request that does not meet the definition and criteria shall be disallowed, including reimbursement for air flights, automobile rentals, train tickets, lodging, per diem, and other travel-related costs. The definition established by the Director of the Office of Management and Budget may include exemptions in the definition, including travel related to national defense, homeland security, border security, national disasters, and other emergencies. The Director of the Office of Management and Budget shall ensure that all travel costs paid for in part or whole by the Federal Government not related to national defense, homeland security, border security, national disasters, and other emergencies do not exceed $5,000,000,000 annually.

SEC. ___05. REDUCING UNNECESSARY PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Not later than 180 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to—

(1) determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs over the 10-year period beginning with fiscal year 2010, except that the Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available;

(2) establish government-wide Federal guidelines on employee printing;

(3) issue on the Office of Management and Budget's public website the results of a cost-benefit analysis on implementing a digital signature system and on establishing employee printing identification systems, such as the use of individual employee cards or codes, to monitor the amount of printing done by Federal employees; except that the Director of the Office of Management and Budget shall ensure that Federal employee printing costs unrelated to national defense, homeland security, border security, national disasters, and other emergencies do not exceed $860,000,000 annually; and

(4) issue guidelines requiring every department, agency, commission or office to list at a prominent place near the beginning of each publication distributed to the public and issued or paid for by the Federal Government the following:

(A) The name of the issuing agency, department, commission or office.

(B) The total number of copies of the document printed.

(C) The collective cost of producing and printing all of the copies of the document.

(D) The name of the firm publishing the document.

SEC. ___06. DISPOSING OF UNNEEDED AND UNUSED GOVERNMENT PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''§ 621. Definitions

''In this subchapter:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term 'expedited disposal of a real property' means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

''(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

''(4) REAL PROPERTY.—

''(A) IN GENERAL.—The term 'real property' means—

''(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

''(I) excess;

''(II) surplus;

''(III) underperforming; or

''(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

''(ii) a building or other structure located on real property described under clause (i).

''(B) EXCLUSION.—The term 'real property' excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''§ 622. Disposal program

''(a) The Director of the Office of Management and Budget shall dispose of by sale or auction not less than $15,000,000,000 worth of real property that is not meeting Federal Government from fiscal year 2010 to fiscal year 2015.

''(b) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

''(c) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the program and notify the recommending agency accordingly.

''(d) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

''(1) be updated routinely; and

''(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

''(e) The Director may transfer real property identified in the enactment of this section to the Department of Housing and Urban Development if the Secretary of Housing and Urban Development has determined such properties are suitable for use to assist the homeless.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''Sec. 621. Definitions.

''Sec. 622. Disposal program.''.

SEC. ___07. AUCTIONING AND SELLING OF UNUSED AND UNNEEDED EQUIPMENT.

(a) IN GENERAL.—Notwithstanding section 1033 of the National Defense Authorization Act of 1997 or any other provision of law, the Secretary of Defense shall auction or sell unused, unnecessary, or surplus supplies and equipment without providing preference to State or local governments.

(b) EXCEPTIONS.—The Secretary may make exceptions to the sale or auction of such equipment for transfers of excess military property to state and local law enforcement agencies related to counter-drug efforts, counter-terrorism activities, or other efforts determined to be related to national defense or homeland security. The Secretary of Defense may sell such equipment to State and local agencies at fair market value.

SEC. ___08. CAPPING THE TOTAL NUMBER OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the head of each relevant Federal department or agency shall collaborate with the Director of the Office of Management and Budget to determine how many full-time employees the department or agency employs. For each new full-time employee added to any Federal department or agency for any purpose, the head of such department or agency shall ensure that the addition of such new employee is offset by a reduction of one existing full-time employee at such department or agency.

(b) INFORMATION ON TOTAL EMPLOYEES.—The Director of the Office of Management and Budget shall publicly disclose the total number of Federal employees, as well as a breakdown of Federal employees by agency and the annual salary by title of each Federal employee at an agency and update such information not less than once a year.

SEC. ___09. TEMPORARY ONE-YEAR FREEZE ON COST OF FEDERAL EMPLOYEES SALARIES.

Notwithstanding any other provision of law, the total amount of funds expended on salaries for civilian employees of the Federal Government in fiscal year 2011 shall not exceed the total costs for such salaries in Fiscal Year 2009: Provided the amounts spent on salaries of members of the armed forces are exempt from the provisions of this section; Provided further, nothing in this section prohibits an employee from receiving an increase in salary or other compensation so long as such an increase does not increase an agency's net expenditures for employee salaries.

SEC. ___10. COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''§ 7381. Collection of unpaid taxes from employees of the Federal Government

''(a) DEFINITION.—For purposes of this section—

''(1) the term 'seriously delinquent tax debt' means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

''(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; and

''(B) a debt with respect to which a collection due process hearing under section 6330 of such Code, or relief under subsection (a), (b), or (f) of section 6015 of such Code, is requested or pending; and

''(2) the term 'Federal employee' means—

''(A) an employee, as defined by section 2105; and

''(B) an employee of the United States Congress, including Members of the House of Representatives and Senators.

''(b) COLLECTION OF UNPAID TAXES.—The Internal Revenue Service shall coordinate with the Department of the Treasury and the hiring agency of a Federal employee who has a seriously delinquent tax debt to collect such taxes by withholding a portion of the employee's salary over a period set by the hiring agency to ensure prompt payment.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''Sec. 7381. Collection of unpaid taxes from employees of the Federal Government.''.

SEC. ___11. REDUCING EXCESSIVE DUPLICATION AND OVERHEAD WITHIN THE FEDERAL GOVERNMENT.

(a) REDUCING DUPLICATION.—The Director of the Office of Management Budget and the Secretary of each department (or head of each independent agency) shall work with the Chairman and ranking member of the relevant congressional appropriations subcommittees and the congressional authorizing committees and the Director of the Office of Management Budget to consolidate programs with duplicative goals, missions, and initiatives.

(b) CONTROLLING BUREAUCRATIC OVERHEAD COSTS.—Each Federal department and agency shall reduce annual administrative expenses by at least five percent in fiscal year 2011.

SEC. ___12. ELIMINATING BONUSES FOR POOR PERFORMANCE BY GOVERNMENT CONTRACTORS.

(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO OUTCOMES.—Not later than 180 days after the date of enactment of this Act, each Federal department or agency shall issue guidance, with detailed implementation instructions (including definitions), on the appropriate use of award and incentive fees in department or agency programs.

(b) ELEMENTS.—The guidance under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be excellent or superior and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be acceptable, average, expected, good, or satisfactory;

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure that the Department or agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis; and

(8) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes.

(c) RETURN OF UNEARNED BONUSES.—Any funds intended to be awarded as incentive fees that are not paid due to contractors inability to meet the criteria established by this section shall be returned to the Treasury.

SEC. ___13. $1 BILLION LIMITATION ON VOLUNTARY PAYMENTS TO THE UNITED NATIONS.

Notwithstanding any other provision of law, the Secretary of State shall ensure no more than $1,000,000,000 is provided to the United Nations each year in excess of the United States' annual assessed contributions.

SEC. ___14. RETURNING EXCESSIVE FUNDS FROM AN UNNECESSARY, UNNEEDED, UNREQUESTED, DUPLICATIVE RESERVE FUND THAT MAY NEVER BE SPENT.

Notwithstanding any other provision of law, unobligated funds for the Women, Infants and Children special supplemental nutrition program appropriated and placed in reserve by Public Law 111–5 are rescinded.

SEC. ___15. RESCINDING A STATE DEPARTMENT TRAINING FACILITY UNWANTED BY RESIDENTS OF THE COMMUNITY IN WHICH IT IS IT IS PLANNED TO BE CONSTRUCTED.

Notwithstanding any other provision of law, no Federal funds may be spent to construct a State Department training facility in Ruthsberg, Maryland, and any funding obligated for the facility by Public Law 111–5 are rescinded, except that, this section does not prohibit funds otherwise appropriated to be spent by the State Department for training facilities in other jurisdictions in accordance with law.

SEC. ___16. ELIMINATING A WASTEFUL AND INEFFICIENT GOVERNMENT PROGRAM.

Within 30 days after the date of enactment of this Act, the Energy Star program administered by the United States Environmental Protection Agency shall be terminated and no Federal tax rebates or tax credits related to the Energy Star program shall be any longer available.

SEC. ___17. RESCINDING UNSPENT FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all unobligated Federal funds available, $100,000,000,000 in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

(c) EXCEPTION.—This section shall not apply to the unobligated Federal funds of the Department of Defense or the Department of Veterans Affairs.

SEC. ___18. REDUCING WASTEFUL ENERGY COSTS BY THE DEPARTMENT OF ENERGY.

Notwithstanding any other provision of law, $13,800,000 is rescinded from the Department of Energy intended for administrative funds, except that the Secretary of Energy shall implement policies to reduce unnecessary energy costs by the Department by $13,800,000.

SEC. ___19. STRIKING AN EARMARK THAT INCREASES THE MEDICARE PAYMENTS FOR SOME CALIFORNIA DOCTORS.

Notwithstanding any other provision of this Act, section 522, relating to adjustment to Medicare payment localities, shall have no force or effect of law.

SEC. ___20. NO NEW TAXES.

Notwithstanding any other provision of this Act, title IV, relating to revenue offsets, shall have no force or effect of law.

SA 4332. Mr. KOHL (for himself, Mr. GRASSLEY, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE _____—PRESERVE ACCESS TO AFFORDABLE GENERICS ACT

SEC. __01. SHORT TITLE.

This title be cited as the ''Preserve Access to Affordable Generics Act''.

SEC. __02. UNLAWFUL COMPENSATION FOR DELAY.

(a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 44 et seq.) is amended by—

(1) redesignating section 28 as section 29; and

(2) inserting before section 29, as redesignated, the following:

''SEC. 28. PRESERVING ACCESS TO AFFORDABLE GENERICS.

''(a) IN GENERAL.—

''(1) ENFORCEMENT PROCEEDING.—The Federal Trade Commission may initiate a proceeding to enforce the provisions of this section against the parties to any agreement resolving or settling, on a final or interim basis, a patent infringement claim, in connection with the sale of a drug product.

''(2) PRESUMPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), in such a proceeding, an agreement shall be presumed to have anticompetitive effects and be unlawful if—

''(i) an ANDA filer receives anything of value; and

''(ii) the ANDA filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the ANDA product for any period of time.

''(B) EXCEPTION.—The presumption in subparagraph (A) shall not apply if the parties to such agreement demonstrate by clear and convincing evidence that the procompetitive benefits of the agreement outweigh the anticompetitive effects of the agreement.

''(b) COMPETITIVE FACTORS.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall consider—

''(1) the length of time remaining until the end of the life of the relevant patent, compared with the agreed upon entry date for the ANDA product;

''(2) the value to consumers of the competition from the ANDA product allowed under the agreement;

''(3) the form and amount of consideration received by the ANDA filer in the agreement resolving or settling the patent infringement claim;

''(4) the revenue the ANDA filer would have received by winning the patent litigation;

''(5) the reduction in the NDA holder's revenues if it had lost the patent litigation;

''(6) the time period between the date of the agreement conveying value to the ANDA filer and the date of the settlement of the patent infringement claim; and

''(7) any other factor that the fact finder, in its discretion, deems relevant to its determination of competitive effects under this subsection.

''(c) LIMITATIONS.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall not presume—

''(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

''(2) that the agreement's provision for entry of the ANDA product prior to the expiration of the relevant patent or statutory exclusivity means that the agreement is procompetitive, although such evidence may be relevant to the fact finder's determination under this section.

''(d) EXCLUSIONS.—Nothing in this section shall prohibit a resolution or settlement of a patent infringement claim in which the consideration granted by the NDA holder to the ANDA filer as part of the resolution or settlement includes only one or more of the following:

''(1) The right to market the ANDA product in the United States prior to the expiration of—

''(A) any patent that is the basis for the patent infringement claim; or

''(B) any patent right or other statutory exclusivity that would prevent the marketing of such drug.

''(2) A payment for reasonable litigation expenses not to exceed $7,500,000.

''(3) A covenant not to sue on any claim that the ANDA product infringes a United States patent.

''(e) REGULATIONS AND ENFORCEMENT.—

''(1) REGULATIONS.—The Federal Trade Commission may issue, in accordance with section 553 of title 5, United States Code, regulations implementing and interpreting this section. These regulations may exempt certain types of agreements described in subsection (a) if the Commission determines such agreements will further market competition and benefit consumers. Judicial review of any such regulation shall be in the United States District Court for the District of Columbia pursuant to section 706 of title 5, United States Code.

''(2) ENFORCEMENT.—A violation of this section shall be treated as a violation of section 5.

''(3) JUDICIAL REVIEW.—Any person, partnership or corporation that is subject to a final order of the Commission, issued in an administrative adjudicative proceeding under the authority of subsection (a)(1), may, within 30 days of the issuance of such order, petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the ultimate parent entity, as defined at 16 C.F.R. 801.1(a)(3), of the NDA holder is incorporated as of the date that the NDA is filed with the Secretary of the Food and Drug Administration, or the United States Court of Appeals for the circuit in which the ultimate parent entity of the ANDA filer is incorporated as of the date that the ANDA is filed with the Secretary of the Food and Drug Administration. In such a review proceeding, the findings of the Commission as to

the facts, if supported by evidence, shall be conclusive.

''(f) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair or supersede the applicability of the antitrust laws as defined in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) and of section __05 of this title to the extent that section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit or supersede the right of an ANDA filer to assert claims or counterclaims against any person, under the antitrust laws or other laws relating to unfair competition.

''(g) PENALTIES.—

''(1) FORFEITURE.—Each person, partnership or corporation that violates or assists in the violation of this section shall forfeit and pay to the United States a civil penalty sufficient to deter violations of this section, but in no event greater than 3 times the value received by the party that is reasonably attributable to a violation of this section. If no such value has been received by the NDA holder, the penalty to the NDA holder shall be shall be sufficient to deter violations, but in no event greater than 3 times the value given to the ANDA filer reasonably attributable to the violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the Federal Trade Commission, in its own name by any of its attorneys designated by it for such purpose, in a district court of the United States against any person, partnership or corporation that violates this section. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

''(2) CEASE AND DESIST.—

''(A) IN GENERAL.—If the Commission has issued a cease and desist order with respect to a person, partnership or corporation in an administrative adjudicative proceeding under the authority of subsection (a)(1), an action brought pursuant to paragraph (1) may be commenced against such person, partnership or corporation at any time before the expiration of one year after such order becomes final pursuant to section 5(g).

''(B) EXCEPTION.—In an action under subparagraph (A), the findings of the Commission as to the material facts in the administrative adjudicative proceeding with respect to such person's, partnership's or corporation's violation of this section shall be conclusive unless—

''(i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive; or

''(ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

''(3) CIVIL PENALTY.—In determining the amount of the civil penalty described in this section, the court shall take into account—

''(A) the nature, circumstances, extent, and gravity of the violation;

''(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA holder, compensation received by the ANDA filer, and the amount of commerce affected; and

''(C) other matters that justice requires.

''(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in lieu of, any other remedy provided by Federal law. Nothing in this paragraph shall be construed to affect any authority of the Commission under any other provision of law.

''(h) DEFINITIONS.—In this section:

''(1) AGREEMENT.—The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of this Act.

''(2) AGREEMENT RESOLVING OR SETTLING A PATENT INFRINGEMENT CLAIM.—The term 'agreement resolving or settling a patent infringement claim' includes any agreement that is entered into within 30 days of the resolution or the settlement of the claim, or any other agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) ANDA.—The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) ANDA FILER.—The term 'ANDA filer' means a party who has filed an ANDA with the Food and Drug Administration.

''(5) ANDA PRODUCT.—The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) DRUG PRODUCT.—The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) NDA.—The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) NDA HOLDER.—The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) PATENT INFRINGEMENT.—The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) PATENT INFRINGEMENT CLAIM.—The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

''(11) STATUTORY EXCLUSIVITY.—The term 'statutory exclusivity' means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act .''.

(b) EFFECTIVE DATE.—Section 28 of the Federal Trade Commission Act, as added by this section, shall apply to all agreements described in section 28(a)(1) of that Act entered into after November 15, 2009. Section 28(g) of the Federal Trade Commission Act, as added by this section, shall not apply to agreements entered into before the date of enactment of this title.

SEC. __03. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended by—

(1) striking ''the Commission the'' and inserting the following: ''the Commission—

''(1) the'';

(2) striking the period and inserting ''; and''; and

(3) inserting at the end the following:

''(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. __04. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505(j)(5)(D)(i)(V) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 28 of the Federal Trade Commission Act or'' after ''that the agreement has violated''.

SEC. __05. COMMISSION LITIGATION AUTHORITY.

Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D), by striking ''or'' after the semicolon;

(2) in subparagraph (E), by inserting ''or'' after the semicolon; and

(3) inserting after subparagraph (E) the following:

''(F) under section 28;''.

SEC. __06. STATUTE OF LIMITATIONS.

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 3, except for an action described in section 28(g)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(c)(2) and (d) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note).

SEC. __07. 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 the provisions of such title or amendments to any person or circumstance shall not be affected thereby.

SA 4333. Mr. THUNE submitted an amendment intended to be proposed to

amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs and Closing Tax Loopholes Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in titles I, II, and IV of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—INFRASTRUCTURE INCENTIVES

SEC. 101. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—

(1) IN GENERAL.—Paragraph (3) of section 146(g) is amended by inserting ''(4), (5),'' after ''(2),''.

(2) CONFORMING AMENDMENT.—Paragraphs (2) and (3)(B) of section 146(k) are both amended by striking ''(4), (5), (6),'' and inserting ''(6)''.

(b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (c) of section 7871 is amended by adding at the end the following new paragraph:

''(4) EXCEPTION FOR BONDS FOR WATER AND SEWAGE FACILITIES.—Paragraph (2) shall not apply to an exempt facility bond 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide facilities described in paragraph (4) or (5) of section 142(a).''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 102. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

SEC. 103. ALLOWANCE OF NEW MARKETS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Patient Protection and Affordable Care Act, is amended by redesignating clauses (v) through (ix) as clauses (vi) through (x), respectively, and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 45D, but only with respect to credits determined with respect to qualified equity investments (as defined in section 45D(b)) initially made before January 1, 2012,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined with respect to qualified equity investments (as defined in section 45D(b) of the Internal Revenue Code of 1986) initially made after March 15, 2010.

SEC. 104. EXTENSION OF TAX-EXEMPT ELIGIBILITY FOR LOANS GUARANTEED BY FEDERAL HOME LOAN BANKS.

Clause (iv) of section 149(b)(3)(A) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 105. EXTENSION OF TEMPORARY SMALL ISSUER RULES FOR ALLOCATION OF TAX-EXEMPT INTEREST EXPENSE BY FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Clauses (i), (ii), and (iii) of section 265(b)(3)(G) are each amended by striking ''or 2010'' and inserting '', 2010, or 2011''.

(b) CONFORMING AMENDMENT.—Subparagraph (G) of section 265(b)(3) is amended by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 201. 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. 202. 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. 203. EXTENSION AND MODIFICATION OF CREDIT FOR STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be

the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)''; and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 204. 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. 205. 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. 206. 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) MODIFICATION OF DEFINITION OF INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Clause (i) of section 451(i)(4)(B) is amended to read as follows:

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order—

''(I) is not itself a market participant as determined by the Commission, and also is not controlled by any such market participant, or

''(II) to be independent from market participants or to be an independent transmission company within the meaning of such Commission's rules applicable to independent transmission providers, and''.

(2) RELATED PERSONS.—Paragraph (4) of section 451(i) is amended by adding at the end the following flush sentence:

''For purposes of subparagraph (B)(i)(I), a person shall be treated as controlled by another person if such persons would be treated as a single employer under section 52.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 2009.

(2) MODIFICATIONS.—The amendments made by subsection (b) shall apply to dispositions after the date of the enactment of this Act.

SEC. 207. 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.

SEC. 208. DIRECT PAYMENT OF ENERGY EFFICIENT APPLIANCES TAX CREDIT.

In the case of any taxable year which includes the last day of calendar year 2009 or calendar year 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for 2009 and 2010, but once made shall be irrevocable. No amount shall be includible in gross income or alternative minimum taxable income by reason of this section.

SEC. 209. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (4) of section 25C(c) is amended by striking ''unless'' and all that follows and inserting ''unless—

''(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

''(B) in the case of any component placed in service after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 210. 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. 211. 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. 212. 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. 213. 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.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 221. 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. 222. 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. 223. 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. 224. 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. 225. 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. 226. 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. 227. 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. 231. ELECTION FOR DIRECT PAYMENT OF 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), plus any increase in the State housing credit ceiling for 2010 made by reason of section 1400N(c) (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), 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, plus any increase in the State housing credit ceiling for 2010 made by reason of the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i).

''(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 ''36C,''.

Subtitle C—Business Tax Relief

SEC. 241. 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. 242. 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. 243. 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. 244. 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. 245. 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) CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 104, is amended—

(1) by redesignating clauses (vii) through (x) as clauses (viii) through (xi), respectively; and

(2) by inserting after clause (vi) the following new clause:

''(vii) the credit determined under section 45N,''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2009.

(2) ALLOWANCE AGAINST AMT.—The amendments made by subsection (b) shall apply to credits determined for taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 246. 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. 247. 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. 248. 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. 249. 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. 250. 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. 251. 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. 252. 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. 253. 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. 254. 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. 255. 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. 256. 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. 257. 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. 258. 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. 259. 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. 260. 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 ''a taxable year beginning on or 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. 261. TREATMENT OF CERTAIN DIVIDENDS 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. 262. 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. 263. 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. 264. 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. 265. 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. 266. 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 ''2014'' 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. 267. 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. 268. 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. 269. PAYMENT TO AMERICAN SAMOA IN LIEU OF EXTENSION OF ECONOMIC DEVELOPMENT CREDIT.

The Secretary of the Treasury (or his designee) shall pay $18,000,000 to the Government of American Samoa for purposes of economic development. The payment made under the preceding sentence shall be treated for purposes of section 1324 of title 31, United States Code, as a refund of internal revenue collections to which such section applies.

SEC. 270. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH NEW DOMESTIC INVESTMENTS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply for its first taxable year beginning after December 31, 2009, the limitation imposed by subsection (c) for such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit for its first taxable year beginning after December 31, 2009, determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsection (b) of section 6401, the aggregate increase in the credits allowable under this part for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C (and not under any other subpart). For purposes of section 6425, any amount treated as so allowed shall be treated as a payment of estimated income tax for the taxable year.

''(5) ELECTION.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once made, may be revoked only with the consent of the Secretary. Not later than 90 days after the date of the enactment of this subsection, the Secretary shall issue guidance specifying such time and manner.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, a corporation shall take into account its allocable share of any new domestic investments by a partnership for any taxable year if, and only if, more than 90 percent of the capital and profits interests in such partnership are owned by such corporation (directly or indirectly) at all times during such taxable year.

''(7) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—A corporation making an election under this subsection may not make an election under subparagraph (H) of section 172(b)(1).

''(B) SPECIAL RULES WITH RESPECT TO TAXPAYERS PREVIOUSLY ELECTING APPLICABLE NET OPERATING LOSSES.—In the case of a corporation which made an election under subparagraph (H) of section 172(b)(1) and elects the application of this subsection—

''(i) ELECTION OF APPLICABLE NET OPERATING LOSS TREATED AS REVOKED.—The election under such subparagraph (H) shall (notwithstanding clause (iii)(II) of such subparagraph) be treated as having been revoked by the taxpayer.

''(ii) COORDINATION WITH PROVISION FOR EXPEDITED REFUND.—The amount otherwise treated as a payment of estimated income tax under the last sentence of paragraph (4) shall be reduced (but not below zero) by the aggregate increase in unpaid tax liability determined under this chapter by reason of the revocation of the election under clause (i).

''(iii) APPLICATION OF STATUTE OF LIMITATIONS.—With respect to the revocation of an election under clause (i)—

''(I) the statutory period for the assessment of any deficiency attributable to such revocation shall not expire before the end of the 3-year period beginning on the date of the election to have this subsection apply, and

''(II) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(C) EXCEPTION FOR ELIGIBLE SMALL BUSINESSES.—Subparagraphs (A) and (B) shall not apply to an eligible small business as defined in section 172(b)(1)(H)(v)(II).

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including to prevent fraud and abuse under this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting ''53(g),'' after ''53(e),''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''53(g),'' after ''53(e),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 271. 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 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 May 22, 2009.

SEC. 272. STUDY OF EXTENDED TAX EXPENDITURES.

(a) FINDINGS.—Congress finds the following:

(1) Currently, the aggregate cost of Federal tax expenditures rivals, or even exceeds, the amount of total Federal discretionary spending.

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.

(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

(b) REQUIREMENT TO REPORT.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this title.

(c) ROLLING SUBMISSION OF REPORTS.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) in order of the tax expenditure incurring the least aggregate cost to the greatest aggregate cost (determined by reference to the cost estimate of this Act by the Joint Committee on Taxation). Thereafter, such reports may be submitted in such order as the Chief of Staff determines appropriate.

(d) CONTENTS OF REPORT.—Such reports shall contain the following:

(1) An explanation of the tax expenditure and any relevant economic, social, or other context under which it was first enacted.

(2) A description of the intended purpose of the tax expenditure.

(3) An analysis of the overall success of the tax expenditure in achieving such purpose, and evidence supporting such analysis.

(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

(5) A description of the direct and indirect beneficiaries of the tax expenditure, including identifying any unintended beneficiaries.

(6) An analysis of whether the tax expenditure is the most cost-effective method for achieving the purpose for which it was intended, and a description of any more cost-effective methods through which such purpose could be accomplished.

(7) A description of any unintended effects of the tax expenditure that are useful in understanding the tax expenditure's overall value.

(8) An analysis of how the tax expenditure could be modified to better achieve its original purpose.

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

(10) A description of any unavailable information the staff of the Joint Committee on Taxation may need to complete a more thorough examination and analysis of the tax expenditure, and what must be done to make such information available.

(e) MINIMUM ANALYSIS BY DEADLINE.—In the event the Chief of Staff of the Joint Committee on Taxation concludes it will not be feasible to complete all reports by the date specified in subsection (a), at a minimum, the reports for each tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) shall be completed by such date.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 281. 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. 282. 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. 283. 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. 284. 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. 285. 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.

SEC. 286. 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.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 291. 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. 292. 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. 295. 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.

SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

SEC. 297. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

SEC. 298. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) CONFORMING AMENDMENTS.—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3913, 3919) are each amended by striking''January 1, 2011'' each place it appears and inserting ''January 1, 2012''.

Subpart C—Midwester Disaster Areas

SEC. 299. 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. 300. 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 III—PENSION PROVISIONS

Subtitle A—Single Employer Plans

SEC. 301. 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—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) 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 restriction period 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 in a restriction period with respect to an election 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) ANNUAL LIMITATION.—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 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) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) 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 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

''(II) 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) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(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 excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends 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).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of this title).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 302(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(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—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) 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 restriction period 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 in a restriction period with respect to an election 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) ANNUAL LIMITATION.—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 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) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) 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 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

''(II) 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) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(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 excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043 of the Employee Retirement Income Security Act of 1974) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends 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).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of title I of Employee Retirement Income Security Act of 1974).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 412(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(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. 302. 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 (determined without regard to section 414(c) of the Internal Revenue Code) 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. 303. 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.

SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(f) of the Employee Retirement Income Security Act of 1974 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

''(I) such ratio, as determined without regard to this subparagraph, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007, and before September 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, 2008, and before January 1, 2011, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3) of the Internal Revenue Code of 1986.''.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 430(f) of the Internal Revenue Code of 1986 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year of a plan shall be the greater of—

''(I) such ratio, as determined without regard to this subsection, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007 and before September 1, 2008, as determined under rules prescribed by the Secretary.

''(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 September 1, 2007, as determined under rules prescribed by the Secretary.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after August 31, 2009.

(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, 2008.

Subtitle B—Multiemployer Plans

SEC. 321. 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 any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(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 ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, 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 at least as high 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—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) 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 any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to

the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(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 the first 2 plan years beginning after August 31, 2008, 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 at least as high 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—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) 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 ending 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 IV—REVENUE OFFSETS

SEC. 401. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

SEC. 402. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 403. TEMPORARY ONE-YEAR FREEZE ON RAISES, BONUSES, AND OTHER SALARY INCREASES FOR FEDERAL EMPLOYEES.

Notwithstanding any other provision of law, civilian employees of the Federal Government in fiscal year 2011 shall not receive a cost of living adjustment or other salary increase, including a bonus. The salaries of members of the armed forces are exempt from the provisions of this section.

SEC. 404. CAPPING THE TOTAL NUMBER OF FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than 3 months after the date of enactment of this Act, the head of each relevant Federal department or agency shall collaborate with the Director of the Office of Management and Budget to determine how many full-time employees the department or agency employs. For each new full-time employee added to any Federal department or agency for any purpose, the head of such department or agency shall ensure that the addition of such new employee is offset by a reduction of one existing full-time employee at such department or agency.

(b) INFORMATION ON TOTAL EMPLOYEES.—The Director of the Office of Management and Budget shall publicly disclose the total number of Federal employees, as well as a breakdown of Federal employees by agency and the annual salary by title of each Federal employee at an agency and update such information not less than once a year.

SEC. 405. COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) IN GENERAL.—Chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''§ 7381. Collection of unpaid taxes from employees of the Federal Government

''(a) DEFINITION.—For purposes of this section—

''(1) the term 'seriously delinquent tax debt' means an outstanding debt under the Internal Revenue Code of 1986 for which a notice of lien has been filed in public records pursuant to section 6323 of such Code, except that such term does not include—

''(A) a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or section 7122 of such Code; and

''(B) a debt with respect to which a collection due process hearing under section 6330 of such Code, or relief under subsection (a), (b), or (f) of section 6015 of such Code, is requested or pending; and

''(2) the term 'Federal employee' means—

''(A) an employee, as defined by section 2105; and

''(B) an employee of the United States Congress, including Members of the House of Representatives and Senators.

''(b) COLLECTION OF UNPAID TAXES.—The Internal Revenue Service shall coordinate

with the Department of Treasury and the hiring agency of a Federal employee who has a seriously delinquent tax debt to collect such taxes by withholding a portion of the employee's salary over a period set by the hiring agency to ensure prompt payment.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 5, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VIII—COLLECTION OF UNPAID TAXES FROM EMPLOYEES OF THE FEDERAL GOVERNMENT

''Sec. 7381. Collection of unpaid taxes from employees of the Federal Government.''.

SEC. 406. REDUCING PRINTING AND PUBLISHING COSTS OF GOVERNMENT DOCUMENTS.

Within 90 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the heads of Federal departments and independent agencies to determine which Government publications could be available on Government websites and no longer printed and to devise a strategy to reduce overall Government printing costs by no less than a total of $4,600,000 over the 10-year period beginning with fiscal year 2010. The Director shall ensure that essential printed documents prepared for Social Security recipients, Medicare beneficiaries, and other populations in areas with limited internet access or use continue to remain available.

SEC. 407. REDUCING EXCESSIVE DUPLICATION, OVERHEAD AND SPENDING WITHIN THE FEDERAL GOVERNMENT.

(a) REDUCING DUPLICATION.—The Director of the Office of Management Budget and the Secretary of each department (or head of each independent agency) shall work with the Chairman and ranking member of the relevant congressional appropriations subcommittees and the congressional authorizing committees and the Director of the Office of Management Budget to consolidate programs with duplicative goals, missions, and initiatives.

(b) CONTROLLING BUREAUCRATIC OVERHEAD COSTS.—Each Federal department and agency shall reduce annual administrative expenses by at least five percent in fiscal year 2011.

(c) RESCISSIONS OF EXCESSIVE SPENDING.—There is hereby rescinded an amount equal to 5 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2010 for any discretionary account in any other fiscal year 2010 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2010 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2010 for any program subject to limitation contained in any fiscal year 2010 appropriation Act.

(d) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget)

(e) EXCEPTIONS.—This section shall not apply to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs and the Department of Defense.

(f) OMB REPORT.—Within 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section and the report shall be posted on the public website of the Office of Management and Budget.

SEC. 408. ELIMINATING NONESSENTIAL GOVERNMENT TRAVEL.

Within 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget, in consultation with the heads of the Federal departments and agencies, shall establish a definition of ''nonessential travel'' and criteria to determine if travel-related expenses and requests by Federal employees meet the definition of ''nonessential travel''. No travel expenses paid for, in whole or in part, with Federal funds shall be paid by the Federal Government unless a request is made prior to the travel and the requested travel meets the criteria established by this section. Any travel request that does not meet the definition and criteria shall be disallowed, including reimbursement for air flights, automobile rentals, train tickets, lodging, per diem, and other travel-related costs. The definition established by the Director of the Office of Management and Budget may include exemptions in the definition, including travel related to national defense, homeland security, border security, national disasters, and other emergencies. The Director of the Office of Management and Budget shall ensure that all travel costs paid for in part or whole by the Federal Government not related to national defense, homeland security, border security, national disasters, and other emergencies do not exceed $5,000,000,000 annually.

SEC. 409. ELIMINATING BONUSES FOR POOR PERFORMANCE BY GOVERNMENT CONTRACTORS.

(a) GUIDANCE ON LINKING OF AWARD AND INCENTIVE FEES TO OUTCOMES.—Not later than 180 days after the date of enactment of this Act, each Federal department or agency shall issue guidance, with detailed implementation instructions (including definitions), on the appropriate use of award and incentive fees in department or agency programs.

(b) ELEMENTS.—The guidance under subsection (a) shall—

(1) ensure that all new contracts using award fees link such fees to outcomes (which shall be defined in terms of program cost, schedule, and performance);

(2) establish standards for identifying the appropriate level of officials authorized to approve the use of award and incentive fees in new contracts;

(3) provide guidance on the circumstances in which contractor performance may be judged to be excellent or superior and the percentage of the available award fee which contractors should be paid for such performance;

(4) establish standards for determining the percentage of the available award fee, if any, which contractors should be paid for performance that is judged to be acceptable, average, expected, good, or satisfactory;

(5) ensure that no award fee may be paid for contractor performance that is judged to be below satisfactory performance or performance that does not meet the basic requirements of the contract;

(6) provide specific direction on the circumstances, if any, in which it may be appropriate to roll over award fees that are not earned in one award fee period to a subsequent award fee period or periods;

(7) ensure that the Department or agency—

(A) collects relevant data on award and incentive fees paid to contractors; and

(B) has mechanisms in place to evaluate such data on a regular basis; and

(8) include performance measures to evaluate the effectiveness of award and incentive fees as a tool for improving contractor performance and achieving desired program outcomes.

(c) RETURN OF UNEARNED BONUSES.—Any funds intended to be awarded as incentive fees that are not paid due to contractors inability to meet the criteria established by this section shall be returned to the Treasury.

SEC. 410. $1,000,000,000 LIMITATION ON VOLUNTARY PAYMENTS TO THE UNITED NATIONS.

Notwithstanding any other provision of law, the Secretary of State shall ensure no more than $1,000,000,000 is provided to the United Nations each year in excess of the United States' annual assessed contributions.

SEC. 411. RESCINDING A STATE DEPARTMENT TRAINING FACILITY UNWANTED BY RESIDENTS OF THE COMMUNITY IN WHICH IT IS PLANNED TO BE CONSTRUCTED.

Notwithstanding any other provision of law, no Federal funds may be spent to construct a State Department training facility in Ruthsberg, Maryland, and any funding obligated for the facility by Public Law 111–5 are rescinded, *Provided That*, this section does not prohibit funds otherwise appropriated to be spent by the State Department for training facilities in other jurisdictions in accordance with law.

SEC. 412. REDUCING BUDGETS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Of the funds made available under Public Law 111–68 for the legislative branch, $100,000,000 in unobligated balances are permanently rescinded on a pro rata basis: *Provided*, That the rescissions made by the section shall not apply to funds made available to the Capitol Police.

(b) REPORTING.—The Director of the Office of Management and Budget shall report to Congress the amounts rescinded under subsection (a).

SEC. 413. DISPOSING OF UNNEEDED AND UNUSED GOVERNMENT PROPERTY.

(a) IN GENERAL.—Chapter 5 of subtitle I of title 40, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''§ 621. Definitions

''In this subchapter:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) EXPEDITED DISPOSAL OF A REAL PROPERTY.—The term 'expedited disposal of a real property' means a demolition of real property or a sale of real property for cash that is conducted under the requirements of section 545.

''(3) LANDHOLDING AGENCY.—The term 'landholding agency' means a landholding agency as defined under section 501(i)(3) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11411(i)(3)).

''(4) REAL PROPERTY.—

''(A) IN GENERAL.—The term 'real property' means—

''(i) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

''(I) excess;

''(II) surplus;

''(III) underperforming; or

''(IV) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

''(ii) a building or other structure located on real property described under clause (i).

''(B) EXCLUSION.—The term 'real property' excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

''§ 622. Disposal program

''(a) The Director of the Office of Management and Budget shall dispose of by sale or auction not less than $15,000,000,000 worth of real property that is not meeting Federal Government from fiscal year 2010 to fiscal year 2015.

''(b) Agencies shall recommend candidate disposition real properties to the Director for participation in the pilot program established under section 622.

''(c) The Director, with the concurrence of the head of the executive agency concerned and consistent with the criteria established in this subchapter, may then select such candidate real properties for participation in the program and notify the recommending agency accordingly.

''(d) The Director shall ensure that all real properties selected for disposition under this section are listed on a website that shall—

''(1) be updated routinely; and

''(2) include the functionality to allow members of the public, at their option, to receive such updates through electronic mail.

''(e) The Director may transfer real property identified in the enactment of this section to the Department of Housing and Urban Development if the Secretary of Housing and Urban Development has determined such properties are suitable for use to assist the homeless.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of subtitle I of title 40, United States Code, is amended by inserting after the item relating to section 611 the following:

''SUBCHAPTER VII—EXPEDITED DISPOSAL OF REAL PROPERTY

''Sec. 621. Definitions .

''Sec. 622. Disposal program.''.

SEC. 414. AUCTIONING AND SELLING OF UNUSED AND UNNEEDED EQUIPMENT.

(a) Notwithstanding section 1033 of the National Defense Authorization Act of 1997 or any other provision of law, the Secretary of Defense shall auction or sell unused, unnecessary, or surplus supplies and equipment without providing preference to State or local governments.

(b) The Secretary may make exceptions to the sale or auction of such equipment for transfers of excess military property to state and local law enforcement agencies related to counter-drug efforts, counter-terrorism activities, or other efforts determined to be related to national defense or homeland security. The Secretary of Defense may sell such equipment to State and local agencies at fair market value.

SEC. 415. RESCINDING UNSPENT FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, $80,000,000,000 in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

(c) EXCEPTION.—This section shall not apply to the unobligated Federal funds of the Department of Defense or the Department of Veterans Affairs.

SEC. 416. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded such that the aggregate amount of such rescissions equal $37,500,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SEC. 417. DEFICIT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:

''§ 3114. Certain rescinded stimulus funds to reduce public debt

''(a) There is established in the Treasury of the United States a trust fund to be known as the 'Deficit Reduction Trust Fund' (in this section referred to as the 'Trust Fund').

''(b) There is appropriated to the Trust Fund the following amounts:

''(1) Amounts equivalent to the reductions in Federal spending, as estimated by the Secretary from time to time, as a result of the provisions of sections 403, 404, 406, 407 (other than subsection (c) thereof), 408, 409, 410, and 414 of the American Jobs and Closing Tax Loopholes Act of 2010.

''(2) Amounts equivalent to the amounts rescinded under sections 407(c), 411, 412, 415, and 416 of the American Jobs and Closing Tax Loopholes Act of 2010.

''(3) Amounts equivalent to the amounts received under the program established under section 622 of title 5, United States Code.

''(4) The amount of taxes received in the Treasury attributable to section 7384 of the Internal Revenue Code of 1986 and the amendments made by sections 401 and 402 of the American Jobs and Closing Tax Loopholes Act of 2010, as estimated by the Secretary.

''(c) The Secretary of the Treasury shall use the moneys in the Trust Fund solely to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt.

''(d) Any obligation of the Government which is paid, redeemed, or bought with money from the Trust Fund shall be canceled and retired and may not be reissued.''.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end the following new item:

''3114. Certain rescinded stimulus funds to reduce public debt.''.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

SEC. 501. 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 ''June 2, 2010'' each place it appears and inserting ''November 30, 2010'';

(B) in the heading for subsection (b)(2), by striking ''JUNE 2, 2010'' and inserting ''NOVEMBER 30, 2010''; and

(C) in subsection (b)(3), by striking ''November 6, 2010'' and inserting ''April 30, 2011''.

(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 ''June 2, 2010'' and inserting ''November 30, 2010'';

(B) in the heading for paragraph (2), by striking ''JUNE 2, 2010'' and inserting ''NOVEMBER 30, 2010''; and

(C) in paragraph (3), by striking ''December 7, 2010'' and inserting ''May 31, 2011''.

(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 ''June 2, 2010'' each place it appears and inserting ''December 1, 2010''; and

(B) in subsection (c), by striking ''November 6, 2010'' and inserting ''May 1, 2011''.

(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 ''November 6, 2010'' and inserting ''April 30, 2011''.

(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 (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E) the following:

''(F) the amendments made by section 501(a)(1) of the American Jobs and Closing Tax Loopholes Act of 2010; and''.

(c) CONDITIONS FOR RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before ''shall apply'' the following: ''(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 502. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REASON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''(g) COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.—

''(1) If—

''(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

''(B) that benefit year has expired,

''(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

''(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either $100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

''(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

''(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with

respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

''(B) The State shall, if permitted by State law, defer the establishment of a new benefit year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph(1)(A);

''(C) The State shall pay, if permitted by State law—

''(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

''(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

''(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by this section, expire after the date of enactment of this Act.

Subtitle B—Physician Payment Update and Other Provisions

PART I—PHYSICIAN PAYMENT UPDATE

SEC. 511. PHYSICIAN PAYMENT UPDATE.

Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (d)—

(A) in paragraph (10), in the heading, by striking ''PORTION'' and inserting ''THE FIRST 5 MONTHS''; and

(B) by adding at the end the following new paragraph:

''(11) UPDATE FOR THE LAST 7 MONTHS OF 2010 AND FOR 2011 AND 2012.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply—

''(i) for 2010 for the period beginning on June 1, 2010, and ending on December 31, 2010, the update to the single conversion factor shall be 2.0 percent; and

''(ii) for each of 2011 and 2012, the update to the single conversion factor shall be 2.0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2013 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2013 and subsequent years as if subparagraph (A) had never applied.''; and

(2) in subsection (f), by adding at the end the following new paragraph:

''(5) TEMPORARY ADJUSTMENT.—In determining the growth rate under paragraph (2) for 2014, the Secretary's estimate of the percentage change otherwise determined under paragraph (2)(D) shall be reduced by 4.0 percentage points.''.

PART II—EXTENSION OF EXPIRING PROVISIONS

SEC. 521. EXTENSION OF MMA SECTION 508 RECLASSIFICATIONS.

Section 106(a) 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), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

SEC. 522. EXTENSION OF MEDICARE WORK GEOGRAPHIC ADJUSTMENT FLOOR.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)), as amended by section 3102 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''before January 1, 2011'' and inserting ''before January 1, 2012''.

SEC. 523. EXTENSION OF EXCEPTIONS PROCESS FOR MEDICARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''and ending on'' and all that follows through ''2010'' and inserting ''and ending on December 31, 2011''.

SEC. 524. 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), section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and section 3104 of the Patient Protection and Affordable Care Act (Public Law 111–148) is amended by striking ''and 2010'' and inserting ''2010, and 2011''.

SEC. 525. EXTENSION OF AMBULANCE ADD-ONS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)), as amended by sections 3105(a) and 10311(a) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in the matter preceding clause (i), by striking ''2011'' and inserting ''2012''; and

(2) in each of clauses (i) and (ii), by striking ''January 1, 2011'' and inserting ''January 1, 2012'' each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)), as amended by sections 3105(c) and 10311(c) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''2011'' and inserting ''2012''.

SEC. 526. EXTENSION OF PHYSICIAN FEE SCHEDULE MENTAL HEALTH ADD-ON PAYMENT.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by section 3107 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 527. 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)), as amended by section 3121(a) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2011''and inserting ''2012''; and

(B) in the second sentence, by striking ''or 2010'' and inserting ''2010, or 2011''; and

(2) in subclause (III), by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

SEC. 528. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 416(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), as amended by section 105 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395l note), section 107 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395l note), and section 3122 of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''the 1-year period beginning on July 1, 2010'' and inserting ''the 2-year period beginning on July 1, 2010''.

SEC. 529. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) EXTENSION.—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking ''December 2010'' and inserting ''December 2011''.

(b) EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.—Section 1933(g) of such Act (42 U.S.C. 1396u-3(g)) is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (M);

(B) in subparagraph (N), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

''(O) for the period that begins on January 1, 2011, and ends on September 30, 2011, the total allocation amount is $720,000,000; and

''(P) for the period that begins on October 1, 2011, and ends on December 31, 2011, the total allocation amount is $280,000,000.''; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking ''or (N)'' and inserting ''(N), or (P)''.

SEC. 530. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 531. EXTENSION OF DRA COURT IMPROVEMENT GRANTS.

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''.

PART III—CHANGES TO THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND ADDITIONAL PROVISIONS

Subpart A—Changes to the Patient Protection and Affordable Care Act and Additional Provisions

SEC. 541. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''8 percent'' and inserting ''5 percent''.

SEC. 542. REPLACEMENT OF MEDICAID PRIMARY CARE PAYMENT CLIFF.

(a) PAYMENTS TO PRIMARY CARE PROVIDERS.—

(1) GRANTS TO STATES TO INCREASE PAYMENTS.—From the amounts appropriated

under paragraph (2), the Secretary of Health and Human Services shall award grants to States with an approved State plan amendment under the Medicaid program under title XIX of the Social Security Act to permanently increase payment rates to primary care providers under the State Medicaid program above the rates applicable under the State Medicaid program on the date of enactment of this Act. Funds paid to a State from such a grant shall only be used for expenditures attributable to the additional amounts paid to such providers as a result of the increase in such rates.

(2) APPROPRIATION.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary of Health and Human Services on January 1, 2013, $8,000,000,000, to remain available until expended.

(b) REPEAL OF MEDICAID PRIMARY CARE PAYMENT CLIFF.—Section 1202 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152) (and the amendments made by such section) is repealed.

SEC. 543. ESTABLISH A CMS–IRS DATA MATCH TO IDENTIFY FRAUDULENT PROVIDERS.

(a) AUTHORITY TO DISCLOSE RETURN INFORMATION CONCERNING OUTSTANDING TAX DEBTS FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

''(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information with respect to a taxpayer who has applied to enroll, or reenroll, as a provider of services or supplier under the Medicare program under title XVIII of the Social Security Act. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer;

''(ii) the amount of the delinquent tax debt owed by that taxpayer; and

''(iii) the taxable year to which the delinquent tax debt pertains.

''(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services for the purposes of, and to the extent necessary in, establishing the taxpayer's eligibility for enrollment or reenrollment in the Medicare program, or in any administrative or judicial proceeding relating to, or arising from, a denial of such enrollment or reenrollment, or in determining the level of enhanced oversight to be applied with respect to such taxpayer pursuant to section 1866(j)(3) of the Social Security Act.

''(C) DELINQUENT TAX DEBT.—For purposes of this paragraph, the term 'delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed pursuant to section 6323, but the term does not include a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, or a debt with respect to which a collection due process hearing under section 6330 is requested, pending, or completed and no payment is required.''.

(2) CONFORMING AMENDMENTS.—Section 6103(p)(4) of such Code, as amended by sections 1414 and 3308 of Public Law 111–148, in the matter preceding subparagraph (A) and in subparagraph (F)(ii), is amended by striking ''or (17)'' and inserting ''(17), or (22)'' each place it appears.

(b) SECRETARY'S AUTHORITY TO USE INFORMATION FROM THE DEPARTMENT OF TREASURY IN MEDICARE ENROLLMENTS AND REENROLLMENTS.—Section 1866(j)(2) of the Social Security Act (42 U.S.C. 1395cc(j)), as inserted by section 6401(a) of Public Law 111–148, is further amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) USE OF INFORMATION FROM THE DEPARTMENT OF TREASURY CONCERNING TAX DEBTS.—In reviewing the application of a provider of services or supplier to enroll or reenroll under the program under this title, the Secretary shall take into account the information supplied by the Secretary of the Treasury pursuant to section 6103(l)(22) of the Internal Revenue Code of 1986, in determining whether to deny such application or to apply enhanced oversight to such provider of services or supplier pursuant to paragraph (3) if the Secretary determines such provider of services or supplier owes such a debt.''.

(c) AUTHORITY TO ADJUST PAYMENTS OF PROVIDERS OF SERVICES AND SUPPLIERS WITH THE SAME TAX IDENTIFICATION NUMBER FOR MEDICARE OBLIGATIONS.—Section 1866(j)(6) of the Social Security Act (42 U.S.C. 1395cc(j)(6)), as inserted by section 6401(a) of Public Law 111–148, is amended—

(1) in the paragraph heading, by striking ''PAST-DUE'' and inserting ''MEDICARE'';

(2) in subparagraph (A), by striking ''past-due obligations described in subparagraph (B)(ii) of an'' and inserting ''amount described in subparagraph (B)(ii) due from such''; and

(3) in subparagraph (B)(ii), by striking ''a past-due obligation'' and inserting ''an amount that is more than the amount required to be paid''.

SEC. 544. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of such title that involve reprocessing of claims, 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, $175,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

Subpart B—Medical Liability Reform

SEC. 551. SHORT TITLE.

This subpart may be cited as the ''Medical Care Access Protection Act of 2010'' or the ''MCAP Act''.

SEC. 552. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this subpart to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. 553. DEFINITIONS.

In this subpart:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment

for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care institution, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(8) HEALTH CARE INSTITUTION.—The term ''health care institution'' means any entity licensed under Federal or State law to provide health care services (including but not limited to ambulatory surgical centers, assisted living facilities, emergency medical services providers, hospices, hospitals and hospital systems, nursing homes, or other entities licensed to provide such services).

(9) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(10) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider or health care institution, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term ''health care provider'' means any person (including but not limited to a physician (as defined by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)), registered nurse, dentist, podiatrist, pharmacist, chiropractor, or optometrist) required by State or Federal law to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(B) TREATMENT OF CERTAIN PROFESSIONAL ASSOCIATIONS.—For purposes of this subpart, a professional association that is organized under State law by an individual physician or group of physicians, a partnership or limited liability partnership formed by a group of physicians, a nonprofit health corporation certified under State law, or a company formed by a group of physicians under State law shall be treated as a health care provider under subparagraph (A).

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(15) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider or health care institution. Punitive damages are neither economic nor noneconomic damages.

(16) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(17) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 554. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

(a) IN GENERAL.—Except as otherwise provided for in this section, the time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.

(b) GENERAL EXCEPTION.—The time for the commencement of a health care lawsuit shall not exceed 3 years after the date of manifestation of injury unless the tolling of time was delayed as a result of—

(1) fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

(c) MINORS.—An action by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that if such minor is under the full age of 6 years, such action shall be commenced within 3 years of the manifestation of injury, or prior to the eighth birthday of the minor, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care institution have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

(d) RULE 11 SANCTIONS.—Whenever a Federal or State court determines (whether by motion of the parties or whether on the motion of the court) that there has been a violation of Rule 11 of the Federal Rules of Civil Procedure (or a similar violation of applicable State court rules) in a health care liability action to which this subpart applies, the court shall impose upon the attorneys, law firms, or pro se litigants that have violated Rule 11 or are responsible for the violation, an appropriate sanction, which shall include an order to pay the other party or parties for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorneys' fee. Such sanction shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the party or parties injured by such conduct.

SEC. 555. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this subpart shall limit the recovery by a claimant of the full amount of the available economic damages, notwithstanding the limitation contained in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—

(1) HEALTH CARE PROVIDERS.—In any health care lawsuit where final judgment is rendered against a health care provider, the amount of noneconomic damages recovered from the provider, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties other than a health care institution against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(2) HEALTH CARE INSTITUTIONS.—

(A) SINGLE INSTITUTION.—In any health care lawsuit where final judgment is rendered against a single health care institution, the amount of noneconomic damages recovered from the institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(B) MULTIPLE INSTITUTIONS.—In any health care lawsuit where final judgment is rendered against more than one health care institution, the amount of noneconomic damages recovered from each institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence, except that the total amount recovered from all such institutions in such lawsuit shall not exceed $500,000.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit—

(1) an award for future noneconomic damages shall not be discounted to present value;

(2) the jury shall not be informed about the maximum award for noneconomic damages under subsection (b);

(3) an award for noneconomic damages in excess of the limitations provided for in subsection (b) shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law; and

(4) if separate awards are rendered for past and future noneconomic damages and the combined awards exceed the limitations described in subsection (b), the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. 556. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—

(1) IN GENERAL.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants.

(2) CONTINGENCY FEES.—

(A) IN GENERAL.—In any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity.

(B) LIMITATION.—The total of all contingent fees for representing all claimants in a health care lawsuit shall not exceed the following limits:

(i) 40 percent of the first $50,000 recovered by the claimant(s).

(ii) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(iii) 25 percent of the next $500,000 recovered by the claimant(s).

(iv) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—

(1) IN GENERAL.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution.

(2) MINORS.—In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. 557. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. 558. PUNITIVE DAMAGES.

(a) PUNITIVE DAMAGES PERMITTED.—

(1) IN GENERAL.—Punitive damages may, if otherwise available under applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer.

(2) FILING OF LAWSUIT.—No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages.

(3) SEPARATE PROCEEDING.—At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; and

(B) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(4) LIMITATION WHERE NO COMPENSATORY DAMAGES ARE AWARDED.—In any health care lawsuit where no judgment for compensatory damages is rendered against a person, no punitive damages may be awarded with respect to the claim in such lawsuit against such person.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages under this section, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may not exceed an amount equal to two times the amount of economic damages awarded in the lawsuit or $250,000, whichever is greater. The jury shall not be informed of the limitation under the preceding sentence.

(c) LIABILITY OF HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a drug, biological product, or medical device approved by the Food and Drug Administration, for an approved indication of the drug, biological product, or medical device, shall not be named as a party to a product liability lawsuit invoking such drug, biological product, or medical device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug, biological product, or medical device.

(2) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans. The terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

SEC. 559. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this subpart.

SEC. 560. EFFECT ON OTHER LAWS.

(a) GENERAL VACCINE INJURY.—

(1) IN GENERAL.—To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this subpart shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this subpart in conflict with a rule of law of such title XXI shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this subpart or otherwise applicable law (as determined under this subpart) will apply to such aspect of such action.

(b) SMALLPOX VACCINE INJURY.—

(1) IN GENERAL.—To the extent that part C of title II of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a smallpox vaccine-related injury or death—

(A) this subpart shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this subpart in conflict with a rule of law of such part C shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a smallpox vaccine-related injury or death to which a Federal rule of law under part C of title II of the Public Health Service Act does not apply, then this subpart or otherwise applicable law (as determined under this subpart) will apply to such aspect of such action.

(c) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this subpart shall be deemed to affect any defense available, or any limitation on liability that applies to, a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. 561. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this subpart shall preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this subpart. The provisions governing health care lawsuits set forth in this subpart supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this subpart; or

(2) prohibits the introduction of evidence regarding collateral source benefits.

(b) PREEMPTION OF CERTAIN STATE LAWS.—No provision of this subpart shall be construed to preempt any State law (whether effective before, on, or after the date of the enactment of this subpart) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this subpart, notwithstanding section 555(a).

(c) PROTECTION OF STATE'S RIGHTS AND OTHER LAWS.—

(1) IN GENERAL.—Any issue that is not governed by a provision of law established by or under this subpart (including the State standards of negligence) shall be governed by otherwise applicable Federal or State law.

(2) RULE OF CONSTRUCTION.—Nothing in this subpart shall be construed to—

(A) preempt or supersede any Federal or State law that imposes greater procedural or substantive protections (such as a shorter statute of limitations) for a health care provider or health care institution from liability, loss, or damages than those provided by this subpart;

(B) preempt or supercede any State law that permits and provides for the enforcement of any arbitration agreement related to a health care liability claim whether enacted prior to or after the date of enactment of this subpart;

(C) create a cause of action that is not otherwise available under Federal or State law; or

(D) affect the scope of preemption of any other Federal law.

SEC. 562. APPLICABILITY; EFFECTIVE DATE.

This subpart shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this subpart, except that any health care lawsuit arising from an injury occurring prior to the date of enactment of this subpart shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

TITLE VI—OTHER PROVISIONS

SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7(a) of Public Law 111–157, is amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on May 31, 2010.

SEC. 602. 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'', $505,000,000, 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; 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.

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 ''May 31, 2010'' and inserting ''December 31, 2010''.

(c) APPROPRIATION.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $5,000,000, to remain available until expended, which may be transferred and merged with the appropriation for ''Small Business Administration—Salaries and Expenses''.

SEC. 603. SUMMER EMPLOYMENT FOR YOUTH.

There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Department of Labor—Employment and Training Administration—Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (''WIA''), $1,000,000,000 shall be available for obligation on the date of enactment of this Act for grants to States for youth activities, including summer employment for youth: *Provided*, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further*, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: *Provided further*, That with respect to the youth activities provided with such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': *Provided further*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds: *Provided further*, That an amount that is not more than 1 percent of such amount may be used for the administration, management, and oversight of the programs, activities, and grants carried out with such funds, including the evaluation of the use of such funds: *Provided further*, That funds available under the preceding proviso, together with funds described in section 801(a) of division A of the American Recovery and reinvestment Act of 2009 (Public Law 111–5), and funds provided in such Act under the heading ''Department of Labor–Departmental Management–Salaries and Expenses'', shall remain available for obligation through September 30, 2011.

SEC. 604. EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION TO INCLUDE ALL CHAPTER 61 DISABILITY RETIREES REGARDLESS OF DISABILITY RATING PERCENTAGE OR YEARS OF SERVICE.

(a) PHASED EXPANSION CONCURRENT RECEIPT.—Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

''(a) PAYMENT OF BOTH RETIRED PAY AND DISABILITY COMPENSATION.—

''(1) PAYMENT OF BOTH REQUIRED.—

''(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (in this section referred to as a 'qualified retiree') is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

''(B) APPLICABILITY OF FULL CONCURRENT RECEIPT PHASE-IN REQUIREMENT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree is subject to subsection (c).

''(C) PHASE-IN EXCEPTION FOR 100 PERCENT DISABLED RETIREES.—The payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following qualified retirees:

''(i) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

''(ii) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

''(D) TEMPORARY PHASE-IN EXCEPTION FOR CERTAIN CHAPTER 61 DISABILITY RETIREES; TERMINATION.—Subject to subsection (b), during the period beginning on January 1, 2011,

and ending on September 30, 2012, subsection (c) shall not apply to a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

''(2) QUALIFYING SERVICE-CONNECTED DISABILITY DEFINED.—In this section:

''(A) 50 PERCENT RATING THRESHOLD.—In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs. However, during the period specified in paragraph (1)(D), members or former members receiving retired pay under chapter 61 with 20 years or more of creditable service computed under section 12732 of this title, but not otherwise entitled to retired pay under any other provision of this title, shall qualify in accordance with subparagraphs (B) and (C).

''(B) INCLUSION OF MEMBERS NOT OTHERWISE ENTITLED TO RETIRED PAY.—In the case of a member or former member receiving retired pay under chapter 61 of this title, but who is not otherwise entitled to retired pay under any other provision of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2011, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent.

''(ii) January 1, 2012, rated 80 percent or 70 percent.

''(iii) January 1, 2013, rated 60 percent or 50 percent.

''(C) ELIMINATION OF RATING THRESHOLD.—In the case of a member or former member receiving retired pay under chapter 61 regardless of being otherwise eligible for retirement, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2014, rated 40 percent or 30 percent.

''(ii) January 1, 2015, any rating.

''(3) LIMITED DURATION.—Notwithstanding the effective date specified in each clause of subparagraphs (B) and (C) of paragraph (2), the clause—

''(A) shall apply only if the termination date specified in paragraph (1)(D) would occur during or after the calendar year specified in the clause; and

''(B) shall not apply beyond the termination date specified in paragraph (1)(D).''.

(b) CONFORMING AMENDMENT TO SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b) of such section is amended to read as follows:

''(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED FOR SUCH RETIREES.—

''(1) GENERAL REDUCTION RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the members retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(2) CHAPTER 61 RETIREES NOT OTHERWISE ENTITLED TO RETIRED PAY.—

''(A) BEFORE TERMINATION DATE.—If a member with a qualifying service-connected disability (as defined in subsection (a)(2)) is retired under chapter 61 of this title, but is not otherwise entitled to retired pay under any other provision of this title, and the termination date specified in subsection (a)(1)(D) has not occurred, the retired pay of the member is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

''(B) AFTER TERMINATION DATE.—Subsection (a) does not apply to a member described in subparagraph (A) if the termination date specified in subsection (a)(1)(D) has occurred.''.

(c) CONFORMING AMENDMENT TO FULL CONCURRENT RECEIPT PHASE-IN.—Subsection (c) of such section is amended by striking ''the second sentence of''.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

''§ 1414. Concurrent receipt of retired pay and veterans' disability compensation''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item related to section 1414 and inserting the following new item:

''1414. Concurrent receipt of retired pay and veterans' disability compensation.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 605. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) by striking ''before May 31, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 606. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 of the Internal Revenue Code of 1986 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. 607. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(B) by striking ''Not later than'' and inserting the following:

''(1) DEFINITION.—In this subsection, the term 'covered program' means a program for which funds are appropriated under this division—

''(A) in an amount that is—

''(i) more than $2,000,000,000; and

''(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

''(B) that did not exist before the date of enactment of this Act.

''(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

''(A) a description of the goals for the covered program using recovery funds;

''(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

''(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

''(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

''(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

''(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

''(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

''(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

''(i) discusses the progress of the agency in implementing the plan;

''(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

''(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

''(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

''(v) discusses—

''(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

''(II) if the covered program has failed to meet the milestones, the reasons why; and

''(III) any changes in the milestones for the covered program, including the reasons for the change;

''(vi) discusses the performance of the covered program, including—

''(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

''(II) if the covered program has failed to meet the performance measures, the reasons why; and

''(III) any trends in information relating to the performance of the covered program; and

''(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.'';

(2) in subsection (f)—

(A) by striking ''Within 180 days'' and inserting the following:

''(1) IN GENERAL.—Within 180 days''; and

(B) by adding at the end the following:

''(2) PENALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the Attorney General may bring a civil action in an appropriate United States district court against a recipient of recovery funds from an agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

''(B) NOTIFICATION.—

''(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

''(ii) LIMITATION.—A court may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

''(C) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court shall consider—

''(i) the number of times the recipient has failed to provide the information required under subsection (c);

''(ii) the amount of recovery funds provided to the recipient;

''(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

''(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

''(D) APPLICABILITY.—This paragraph shall apply to any report required to be submitted on or after the date of enactment of this paragraph.

''(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

''(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

''(4) PUBLIC LISTING.—

''(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information required under subsection (c) for the calendar quarter.

''(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the Board, the reason for noncompliance.

''(5) REGULATIONS AND REPORTING.—

''(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

''(B) REPORTING.—

''(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include—

''(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

''(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

''(III) any other information determined appropriate by the Director.''; and

(3) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

TITLE VII—BUDGETARY PROVISIONS

SEC. 701. 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 CONGRESSIONAL ENFORCEMENT.—In the House of Representatives, this Act, with the exception of section 511, is designated as an emergency for purposes of pay-as-you-go principles. In the Senate, this Act is 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.

(c) EMERGENCY DESIGNATION FOR STATUTORY PAYGO.—This Act, with the exception of section 511, is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111-139; 2 U.S.C. 933(g)).

NOTICE OF HEARING

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 Subcommittee on Energy. The hearing will be held on Tuesday, June 15, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills:

S. 3460, a bill to require the Secretary of Energy to provide funds to states for rebates, loans, and other incentives to eligible individuals or entities for the purchase and installation of solar energy systems for properties located in the United States, and for other purposes.

S. 3396, a bill to amend the Energy Policy and Conservation Act to establish within the Department of Energy a Supply Star program to identify and promote practices, companies, and products that use highly efficient supply chains in a manner that conserves energy, water, and other resources.

S. 3251, a bill to improve energy efficiency and the use of renewable energy by Federal agencies, and for other purposes.

S. 679, a bill to establish a research, development, demonstration, and commercial application program to promote research of appropriate technologies for heavy duty plug-in hybrid vehicles, and for other purposes.

S. 3233, a bill to amend the Atomic Energy Act of 1954 to authorize the Secretary of Energy to barter, transfer, or sell surplus uranium from the inventory of the Department of Energy, and for other purposes.

S. 2900, a bill to establish a research, development, and technology demonstration program to improve the efficiency of gas turbines used in combined cycle and simple cycle power generation systems.

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 e-mail to Abigail_Campbell@energy.senate.gov.

For further information, please contact Alicia Jackson or Abigail Campbell.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 9, 2010, at 10 a.m. to conduct a hearing entitled ''Local Perspectives on the Livable Communities Act.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 9, 2010, in room SR–253 of the Russell Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on June 9, 2010, 9:30 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on June 9, 2010, at 10:30 a.m. in room 406 of the Dirksen Office Building.

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

SUBCOMMITTEE ON ANTITRUST, COMPETITION POLICY, AND CONSUMER RIGHTS

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Antitrust, Competition Policy, and Consumer Rights, be authorized to meet during the session of the Senate, on June 9, 2010, at 2 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Enforcement of the Antitrust Laws.''

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on June 9, 2001, at 2:30 p.m. to conduct a hearing entitled ''The National Security Personnel System and Performance Management in the Federal Government.''

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

SUBCOMMITTEE ON WATER AND POWER

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate to conduct a hearing on June 9, 2010, at 3 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

OIL SPILL LIABILITY TRUST FUND

Mr. SANDERS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3473, introduced earlier today.

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

The legislative clerk read as follows:

A bill (S. 3473) to amend the Oil Pollution Act of 1990 to authorize advances from Oil Spill Liability Trust Fund for the Deepwater Horizon oil spill.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CONRAD. Mr. President, this is the Statement of Budgetary Effects of PAYGO Legislation for S. 3473. This statement has been prepared pursuant to section 4 of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139), and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of S. 3473 by the Senate.

Total Budgetary Effects of S. 3473 for the 5-year Statutory PAYGO Scorecard: $0.

Total Budgetary Effects of S. 3473 for the 10-year Statutory PAYGO Scorecard: $0.

Also submitted for the RECORD as part of this statement is a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this act.

CBO ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR S. 3473, A BILL TO AMEND THE OIL POLLUTION ACT OF 1990 TO AUTHORIZE ADVANCES FROM OIL SPILL LIABILITY TRUST FUND FOR THE DEEPWATER HORIZON SPILL, AS PROVIDED TO CBO BY THE SENATE BUDGET COMMITTEE ON JUNE 8, 2010

	By fiscal year in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
Net Increase or Decrease (−) in the Deficit													
Statutory Pay-As-You-Go Impact	50	0	−50	0	0	0	0	0	0	0	0	0	0

Note: The bill would allow the Coast Guard to draw up to an additional $850 million from the Oil Spill Liability Trust Fund to respond to the Deepwater Horizon oil spill. CBO estimates that additional spending would be recovered from the responsible party.

Mr. SANDERS. I ask unanimous consent that the bill be read three times, that the bill be passed, and the motion to reconsider be laid upon the table; further, that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 3473) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3473

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

SECTION 1. ADVANCES FROM OIL SPILL LIABILITY TRUST FUND FOR DEEPWATER HORIZON OIL SPILL.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752) is amended in the second sentence—

(1) by inserting ''(1)'' after ''Coast Guard''; and

(2) by inserting before the period at the end the following: ''and (2) in the case of the discharge of oil that began in 2010 in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon, may, without further appropriation, obtain 1 or more advances from the Fund as needed, up to a maximum of $100,000,000 for each advance, with the total amount of all advances not to exceed the amounts available under section 9509(c)(2) of the Internal Revenue Code of 1986, and within 7 days of each advance, shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance''.

SEC. 2. 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.

UNANIMOUS-CONSENT AGREEMENT—S.J. RES. 26

Mr. SANDERS. Mr. President, I ask unanimous consent that the order with respect to Senate consideration of S.J. Res. 26 be modified to provide that the debate time on the motion to proceed be allotted in 30-minute alternating blocks, with Senator MURKOWSKI controlling the first 30-minute block, and with the first block commencing at 9:45 a.m., Thursday, June 10.

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

ORDERS FOR THURSDAY, JUNE 10, 2010

Mr. SANDERS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Thursday, June 10; that following the prayer and

pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that following leader remarks, the Senate consider S.J. Res. 26, as provided for under the previous order.

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

PROGRAM

Mr. SANDERS. Mr. President, tomorrow the Senate will debate, for up to 6 hours, the motion to proceed to the joint resolution of disapproval of the EPA findings with respect to greenhouse gases. If all time is used, Senators should expect the vote on the motion to proceed to occur at around 3:45 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANDERS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:48 p.m., adjourned until Thursday, June 10, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

AFRICAN DEVELOPMENT FOUNDATION

MIMI E. ALEMAYEHOU, EXECUTIVE VICE PRESIDENT OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2015, VICE LLOYD O. PIERSON, TERM EXPIRED.

JOHNNIE CARSON, AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS), TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 27, 2015, VICE JENDAYI ELIZABETH FRAZER, TERM EXPIRED.

EDWARD W. BREHM, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2011, VICE CLAUDE A. ALLEN, TERM EXPIRED.

DEPARTMENT OF STATE

JAMES FREDERICK ENTWISTLE, OF VIRGINIA, 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 DEMOCRATIC REPUBLIC OF THE CONGO.

DEPARTMENT OF JUSTICE

MARK LLOYD ERICKS, OF WASHINGTON, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF WASHINGTON FOR THE TERM OF FOUR YEARS, VICE WILLIAM JOSEPH HAWE.

JOSEPH PATRICK FAUGHNAN, SR., OF CONNECTICUT, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF CONNECTICUT FOR THE TERM OF FOUR YEARS, VICE JOHN FRANCIS BARDELLI, RESIGNED.

HAROLD MICHAEL OGLESBY, OF ARKANSAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE RICHARD JAMES O'CONNELL, TERM EXPIRED.

DONALD MARTIN O'KEEFE, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS, VICE FEDERICO LAWRENCE ROCHA, TERM EXPIRED.

CHARLES THOMAS WEEKS II, OF OKLAHOMA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF OKLAHOMA FOR THE TERM OF FOUR YEARS, VICE MICHAEL WADE ROACH, TERM EXPIRED.

KENNETH JAMES RUNDE, OF IOWA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE TIMOTHY ANTHONY JUNKER, TERM EXPIRED.

ROBERT E. O'NEILL, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE A. BRIAN ALBRITTON.