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# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

## PRAYER

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

Let us pray.

Our Father in Heaven in whom we live and move and have our being, we glorify Your Name today as we take this moment to remember Your grace and provision. Lord, we ask that You would guide our lawmakers as they influence the future course of this Nation. Lead them with Your wisdom, direct them with Your patience, and protect them with Your power.

We pray that our Senators will faithfully fulfill the duties set before them, providing for the common defense, striving to bring domestic tranquility, and working to ensure liberty and justice for all.

Likewise, we pray that You would lead and bless American citizens as they enjoy the freedoms of this land and work to spread these liberties from sea to shining sea.

We pray in Your righteous Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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 bill clerk read the following letter:

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

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

Mr. UDALL of New Mexico 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 leader remarks, there will be a period of morning business for 1 hour. During that period of time, Senators will be allowed to speak for up to 10 minutes. Republicans will control the first 30 minutes, the majority will control the final 30 minutes.

Today we expect to resume consideration of the House message to H.R. 4213, the tax extenders legislation, and I hope we will have rollcall votes throughout the day.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, I ask unanimous consent that we change the consent agreement that is now before the Senate, that we be in morning business until 2 o'clock today; that the first half hour is controlled by the Republicans, the second half hour is controlled by the majority. After that, if there are enough speakers, we will alternate back and forth. Otherwise, people will just come and talk. There will, of course, be the 10-minute limitation.

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, with Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes and alternating back and forth thereafter.

The Senator from Wyoming is recognized.

## A SECOND OPINION ON HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor today as someone who has practiced medicine and taken care of families in Wyoming since 1983. Again this weekend I was home in Wyoming visiting with families across the State. I was in Thermopolis for Father's Day. I was in Sheridan and in Casper. In all those communities I had a chance to visit with people who are concerned about the direction of the country and are concerned about this new health care law.

Mr. President, I tell you this because I ran into a number of people I have taken care of as their doctor. This happened at church on Sunday morning, where people asked the question: With

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

this new health care law, will I be able to keep my doctor? So I come to you because there is more news as a result of the changes in the health care law in this country. I bring to you my doctor's second opinion as to what the impact of this health care law is going to be on the families across the country.

Specifically, at church, I was hearing from someone I operated on and somebody on Medicare, and they were saying: Am I going to keep my doctor under Medicare? These people have a right to be concerned. It is because of what has come out in this past week. It is a front-page article, USA TODAY: ''Doctors Limit New Medicare Patients.''

I have said from the beginning, as this body was debating and discussing the health care bill that has now come to be law, that I believed this was going to be bad for patients, bad for payers—the American taxpayers who have to pay for the care as well as people who pay for their individual care—and bad for providers, the nurses and doctors and hospitals that take care of all of these patients.

So I come to you with a second opinion because I think what has become law—a bill that cuts Medicare, cuts payment for our seniors on Medicare by $½ trillion—not to help seniors, not to help save Medicare, but to start a whole new government program for other people is resulting in devastating impacts for families all around the country who are on Medicare or will soon be on Medicare.

One of the interesting things about this article in USA TODAY—this was Monday's USA TODAY—there is a list, a table of the number of people who are currently on Medicare and who will be on Medicare by the year 2015 and will be on Medicare by the year 2020. What we are seeing is, as Americans are living longer due to advances in medicine, advances in technology—people are living longer—more and more people every day are turning Medicare age, so the number of people on Medicare continues to grow.

As a matter of fact, if you do the math, there are over 4,000 Americans every day being added to the Medicare ranks. That is almost 1.5 million Americans a year. The question is, Who will the doctors be? Where will the health care providers come from to take care of these people? It is fascinating, when you read the article and you see the complete disconnect between Washington and the reality of the rest of America.

Because, according to this article, the people from the Centers for Medicare and Medicaid Services say 97 percent of doctors accept Medicare, so do not worry. That is what the Centers for Medicare and Medicaid say.

The American Medical Association says 17 percent of over 9,000 doctors who were surveyed are actually restricting the number of Medicare patients in their practice. Among primary care doctors—which is key for our seniors to be able to see primary care doctors—31 percent of primary care doctors are restricting access to Medicare patients. Just since the first of the year in North Carolina, 117 doctors have opted out of Medicare. That does not include the ones who had opted out before. We are talking since January 1, 117 doctors in North Carolina have opted out of Medicare.

In Illinois, in the President's home State, 18 percent of doctors restrict the number of Medicare patients in their practice. In New York State, about 1,100 doctors have left Medicare. Even the president of the Medical Society of New York is not taking new Medicare patients. No new Medicare patients. You say: Why are these physicians no longer taking Medicare patients? It has to do a lot with the way Washington deals with Medicare patients, Medicare and the doctors around the country.

At this point, there is going to be a cut of 21 percent in what Medicare pays doctors for services they give. Prior to that, Medicare always has been kind of a deadbeat payor when it comes to paying for health care. Medicare has not kept up with medical inflation in this country. So as physicians, it is a challenge to take care of patients on Medicare. With 4,000 new people joining the ranks of Medicare on a daily basis, who will care for those people?

You can imagine, I was fairly surprised when the President of the United States yesterday visited with a number of people at the White House. He put out remarks printed from the White House and talked about what his new plan does. He says Americans—this is astonishing. The President of the United States said yesterday: Americans will be able to keep the primary care doctor or pediatrician they choose. He says these protections preserve America's choice of doctors.

What happens if your doctor cannot afford to keep you? We have the President of the United States, for well over a year, making statements just like the one he made a year ago: If you like your health care plan, you will be able to keep your health care plan. Period. That is what the President said. He said: No one will take it away. Period. No matter what. Period.

Yet here we are looking at the facts. Doctors are limiting new Medicare patients, and 4,000 new patients every day are joining the Medicare rolls looking for doctors. We see it all across the United States.

That is why the public remains very skeptical about this new health care law, and why 58 percent of Americans want this law repealed. That is why the American people, when they heard NANCY PELOSI say: We have to pass the bill before you get to find out what is in it, why the American people who are now finding out what is in it are very distressed. They were hoping to take the President at his word when he said he was trying to lower costs and improve quality and increase access to care.

But this body did not pass into law, nor did the House, a reform package that will do those things the American people had wanted, had asked for, and had heard from their President they would get—something that would lower costs, improve quality, and increase access to care. What the American people are seeing is the cost of their care is going to continue to go up, and the quality and the availability is likely to go down. That is not what the American people asked for in this health care law. That is why so many Americans are opposed to it. I talked with people all across Wyoming, and they think of what the impact is going to be on their own lives and their own family. People all across this country are worried for their own health care, that they are going to end up paying more and getting less. That is why the public remains very skeptical about what has been passed into law.

Twenty States have filed suit against the Federal Government because of a national mandate that people have to buy insurance. The Department of Health and Human Services, which says 97 percent of doctors are still taking care of Medicare patients, there actually has been a new nominee to take care of that Department. We have not yet had hearings in the Senate. We have not been able to ask those specific questions of that nominee: What about taking care of these patients? How will they find doctors under this new law and this new plan?

Here we are, 90 days after the health care law has been enacted, signed into law, 90 days ago this became law. The White House is holding press conferences and again repeating promises to the American people that the American people know have been broken. There is a litany of broken promises. It just seems that every week something new comes out that the American people look at and say: You know, it is amazing because we saw this coming. Yet this Congress, this Senate, jammed through a bill that is not going to provide better coverage. It is going to jam 16 million more people onto Medicaid—16 million more onto Medicaid. We know that almost half of the doctors in the country do not take Medicaid patients.

Now we are seeing more and more physicians and hospitals saying: How do we keep the doors open with what Medicare is paying? As fewer and fewer physicians are willing to take care of patients on Medicare, limiting their practice on Medicare and on Medicaid, and Congress now stymied with what is known as the doc fix, huge cuts in additional reimbursement to doctors who take care of our seniors, it is going to be increasingly difficult for the American people to be able to find a doctor.

That is why I come to the floor with my second opinion about this health care law, telling you it is time to repeal this legislation and replace it with legislation that delivers more patient-

centered solutions, delivers more personal responsibility, more opportunities for individuals to take control of their own health and their own care, which is what I tried to do as the medical director of the Wyoming Health Fairs: give people information they could use to keep healthy and drive down the cost of their care.

Half of all the money we spend on health care in this country is on just 5 percent of the people. There are patient-based solutions: allowing people to buy insurance across State lines, giving individuals who buy their own health insurance personally the same tax relief the large companies get when they pay for health insurance, deal with lawsuit abuse, allow small businesses to join together to lower the cost of insurance, and provide individual incentives for people who do take personal responsibility for their own health.

Those are the things that will actually help get down the cost of care. Those are the things that will help Americans stay healthy. But they are not in this health care law that has been passed by the House, passed by the Senate, and signed by the President. That is why I come to the floor this week, as I have week after week since the law has been signed, to offer my second opinion; and that opinion is, it is time to repeal and replace this health care law with a law that will work for the American people.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska is recognized.

## HEALTH CARE

Mr. JOHANNS. Mr. President, I rise today to say at the outset how much I appreciate the very thoughtful advice that has been given by Dr. BARRASSO during this debate. He comes to the floor, he is carefully prepared, he has done his homework, he has done the analysis, but most importantly as a doctor, he understands what the health care system is about. We would all benefit if we listened to his advice.

The problems with this health care legislation just continue and continue. Each week this 2,000-plus page health care bill just produces more bad news, and it produces more unwelcome revelations. Not surprising.

Not that long ago, the President, at every opportunity he had, would allay public concerns by saying to people and promising them: If you like your health insurance, you get to keep it. Those proponents wrote a provision into the new health care law in an attempt to fulfill this promise by grandfathering existing plans.

Recently, the Department of Health and Human Services issued a new regulation on these ''grandfathered'' health plans. Lo and behold, what did the new regulations show? It showed that 51 percent of American workers will be in plans without ''grandfathered'' status by 2013, in just 3 short years.

In fact, under the worst case analysis, as many as four of five small business employees and 69 percent of all American workers will lose their current coverage. Almost 70 percent of those who were comforted by the President's promises are going to be sorely disappointed very quickly. You do not have to believe me. All you have to do is look at the Obama administration's own estimates. Yet instead of solving this problem and fulfilling the promise, the administration has a different approach: ramping up the public relations strategy.

According to the Washington Post, the White House has hired ''a senior official whose sole portfolio will be to sell the health care overhaul to the public in the months leading up to the November elections.''

The administration is spending millions of taxpayer dollars to sell the law to the American public. But let's look at reality versus what we are hearing. The Congressional Budget Office recently estimated that less than 12 percent of small businesses—less than 12 percent of small businesses—will benefit from the much touted small business tax credit. Yet the small business tax credit is one of the main talking points used to convince Americans that this law is actually good for them. In fact, the Internal Revenue Service recently sent out 4.4 million postcards to let small businesses know they might be eligible for small business tax credits.

The IRS spent $1 million in taxpayer dollars on those postcards alone. It does not stop there, though. The Centers for Medicare and Medicaid Services recently mailed a brochure to senior citizens to ''inform them'' about the new law. Well, who paid the bill for that? Taxpayers are footing the $18 million bill for marketing of a piece of legislation to themselves that they did not want in the first place. This classy brochure outlines provisions such as closing the doughnut hole and preventative health care services. However, there are some important details that are not in the brochure. CMS neglects to mention some very key information. For example, less than 10 percent of Medicare beneficiaries will actually receive the $250 rebate for entering the doughnut hole coverage gap. Yet the new health care law will cause all prescription drug Part D premiums to rise, according to the Congressional Budget Office.

When our seniors heard the word ''reform,'' they never would have imagined it meant they all pay more while getting less than 10 percent benefit.

Let me repeat that. Prescription drug premiums go up for all participants, and only 1 in 10 will see the $250 check. Over $½ billion in Medicare savings will be redirected toward creating a new entitlement program. The brochure also claims the new law preserves Medicare.

Yet according to the Obama administration's own Medicare Actuary, Medicare Advantage enrollment will be cut in half. More than one in seven hospitals could become unprofitable as a result of the law ''possibly jeopardizing access to care for Medicare beneficiaries.''

Before I came over here, I had a meeting with those in the oncologist area who were saying: This is a problem. What are they going to have to do to solve it? They will have to pull in satellite facilities, and rural health care suffers. Rural beneficiaries feel the pain of this legislation.

The New York Times recently published an article entitled ''White House and Allies Set Up to Build Up Health Law.'' The article stated:

> President Obama and his allies, concerned about the deep skepticism over his landmark health care overhaul, are orchestrating an elaborate campaign to sell the public on the new law, including a new tax exempt group that will spend millions on advertising to beat back attacks on the measure and Democrats who voted for it.

The article also highlights that many outside groups are now running campaigns to try to sell the bill to the public, in some cases with very direct help from the administration.

With all this going on, with all of this in mind, it is appropriate to ask a few questions—for example, should not the administration be concerned more about implementing the law, especially considering they have missed several deadlines? Is this taxpayer-funded marketing effort crossing boundaries between policy and good politics? Why do we have to spend taxpayer dollars to win over the public if the merits of this law are so solid?

People in Nebraska are not fooled by glossy brochures and media blitzes, especially when the facts are so clear. Facts are stubborn things. The administration's own regulation predicts many employees will not be able to keep their insurance plan. Their own Actuary confirms that Americans will still see health care costs rise because this new law does not bend the health care cost curve down. And the marketing campaign is not going to convince seniors that when they are losing services, they somehow benefit from this new law, especially since it makes it more difficult for them to access home health care services which have a bull's-eye for cuts, hospice services which have a bull's-eye for cuts, and home nursing services which have a bull's-eye for cuts.

We will continue to try to talk about what this health care bill really means to Americans.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. I ask unanimous consent to speak in morning business on the Democratic time for about 10 minutes.

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

## UNEMPLOYMENT INSURANCE

Mr. BROWN of Ohio. Mr. President, I come to the floor to plead with our Republican colleagues to pass the extension of unemployment benefits. I still am amazed, as are so many Ohioans and so many Coloradans and people from all over the country, that all of a sudden my colleagues care so much about the budget deficit, when if we go back 10 years, we had a budget surplus. Then three things happened. One was the war in Iraq. The Presiding Officer opposed it, as did I. But more than that, we went to war and didn't pay for it. We put the cost of the war on our children and grandchildren. There was not an outcry from anybody on the other side of the aisle saying we should pay for that war, that we should not go to war and charge it to the children and grandchildren.

Around the same time, President Bush came to the Congress and asked for major tax cuts for the richest Americans. Again, the Presiding Officer and I opposed these tax cuts and said, at a minimum, if we are going to give tax cuts to the richest Americans, we need to find a way to pay for them. There was no interest on that side of the aisle when they were in the majority in paying for the tax cuts.

Then soon after that, President Bush came to this body and the House, where the Presiding Officer and I served in those days, and asked for a huge subsidy for the drug companies and the insurance companies in the name of Medicare privatization. We both opposed that, but not only did we oppose it because we thought it wasn't done right—it was not the way to provide a drug benefit to seniors—but it was not paid for either. There was nary an outcry on that side of the aisle.

So when it was a $1 trillion war, tax cuts for the richest Americans, and subsidies for the drug and insurance companies, there was no interest in paying for it; just charge that to the grandchildren. But now that it is workers who lose jobs, people who lose their insurance, people who then lose their homes, there seems to be an outcry: We can't do this.

Forget the statistics; forget that there are 900,000 Americans losing their unemployment; forget the numbers. Listen to what people say. I am going to read four letters from around my State. I know the Presiding Officer gets them from Boulder and Colorado Springs and Denver. I know my colleagues get them from Tallahassee and Omaha and New York, letters from people who played by the rules, worked hard, lost their jobs through no fault of their own, who keep fighting to find jobs, keep sending out resumes. You have to do that if you are going to receive unemployment. And then their unemployment insurance ran out.

I wonder sometimes if my colleagues on the other side of the aisle who are voting no every time we try to bring this up, if they know anybody who lost a job, if they know anybody who lost insurance, if they know anybody who lost a home. I plead with them, I ask them, the people who have voted no, to try some empathy. Try to imagine you are a father or a mother and you have lost a job, lost your insurance. You have a sick child. You are borrowing money. You are trying every week to find a job, and you are three payments behind on your home. You have to sit down at dinner one night—a pretty inadequate dinner because you are stretching every cent you have—and you have to explain to your son and daughter, 10- and 12-year-olds, that they will have to move out of their room, out of the house.

Where are we going to go?

I don't know yet, but we don't have much space. What you have collected in your room, we will have to give some of that away.

What school will I go to?

We don't know that yet either.

I wish they would think of the human cost of what this means when people can't get unemployment insurance or can't get assistance in continuing health care insurance, so-called COBRA, with the subsidy the government paid for the last year and a half—something that had never been done before—so people can keep their health insurance.

Zoe from Columbiana, a county just south of Youngstown, writes:

> I lost my job at the end of August. Until then I was gainfully employed. I worked hard to support my 13 year old twins at home. I am 50 years old. If [unemployment insurance] is not extended, things don't look good for my family. We have lived in a rural area for 12 years and chose this community because it is great for the kids. My house is not fancy or expensive. We don't waste money. We are falling behind payments on our electric bill. Pretty soon our service might be cut. We are just trying to hang on. Please make opponents of the extension realize that most people who are unemployed are not lazy. We lost our jobs, which can happen to anyone. Please help me.

My colleagues don't understand, people voting against this don't understand that unemployment insurance is not welfare; it is insurance. You pay into it when you are working. You get help when you lose your job. That is the whole point. Most people hope they never draw unemployment insurance, of course. But that is what insurance is. Just like car insurance, you hope you don't have to use it. If you have health insurance, you hope you don't have to use it except for regular checkups.

Monica from Hamilton County—Cincinnati, Norwood, that area, southwest Ohio—writes:

> My son was laid off last year. He soon enrolled in college at Cincinnati State to obtain an engineering degree because he was hoping to be more marketable in the future. He works hard. He is doing well. He is excited about a new life. But soon his [unemployment insurance] will expire. With other expenses, he is now afraid he may have to quit school and not be able to support his son. Please continue to work to pass an unemployment extension right away. This support is so vital to so many people right now.

Joseph from Stark County writes:

> My July 4th will be nothing to celebrate since I will be out of unemployment benefits. Folks are not finding the jobs or the income to supplant the cash that goes to pay their mortgages and other expenses. Helping a whole lot of people to prevent another failure—like massive foreclosures—will save more in the long run. Please consider a vote to help us.

He is right. The thing about unemployment benefits, it doesn't just help the family who gets the benefits; it helps them pay insurance and helps them stay in their home. Think of the ripple effect when they don't get it. It means if your home is foreclosed on, your next door neighbor's home declines in value. And then two streets away, somebody else is foreclosed on. Somebody else is foreclosed on across the street. The whole neighborhood begins to unravel. These are people's personal stories, people's lives. It absolutely matters.

The other thing unemployment benefits do—JOHN MCCAIN, the Republican Presidential candidate, one of his top economic advisers said unemployment is the best stimulus to the economy because every dollar put in the pocket of Joseph from Stark County or Monica from Cincinnati or Zoe from Columbiana County, every dollar we give them in unemployment compensation gets spent.

It is spent. It is spent in Canton and Cincinnati and Lisbon and East Liverpool. The dollars are spent going into the economy, and they have a multiplier effect that Senator MCCAIN's economic adviser used to talk about, that that multiplier effect means generating economic benefits for everyone in the community—the hardware store, the local school, because you pay your property taxes, all the things that come with that.

The last letter I will read is from Gerald from Wood County, south of Toledo, Bowling Green. Wood County is the site of the terrible tornado in Millbury that happened a couple weeks ago, where we are working with President Obama to get help for people whose homes were destroyed, and there were many. Gerald writes:

> I know Republicans are holding an extension to unemployment benefits. Quite frankly it makes me sick.
>
> I'm unemployed and am looking for a job—but the jobs are not out there.
>
> Most people must not realize what will happen when unemployment insurance runs out.
>
> We will suddenly have millions of people without the support they need to live on. Just think of what that will do to the nation's economy.

Again, this is not a welfare program. It is an insurance program. It is not

something people want to stay on. They have to show they are working to find a job. They have to continue to apply for jobs during this whole period. Most people in this country want to work. Most people want to protect their family and provide for their family and be good citizens.

This is a bridge. Unemployment benefits—it is a bridge that has gone on longer than we had hoped because of the terrible economy President Obama inherited in January 2009, where three-quarters of a million jobs were lost that month. There has been some good economic news. Ohio, my State, in April had more jobs created than any other State in the country—37,000. Not enough, not where we need to go, not sustained yet, but some good economic news.

But the unemployment benefits provide that bridge so people can get along until they find that job where they can begin again to rebuild their lives and join the middle class, as most of these people have been a part of for most of their lives.

So I ask my colleagues, this time please vote to extend unemployment benefits, please support the help for COBRA, health insurance so people can stay insured and can get their lives in order until the economy improves enough where they are actually able to find a job.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Iowa.

## APPROVING THE USE AND SALE OF E15 GASOLINE

Mr. HARKIN. Mr. President, I come to the floor today to speak about the Federal Government's unnecessary and unacceptable delay in deciding to approve the use and sale of E15 gasoline at all the gasoline stations in this country.

Last Friday, we were told by the Environmental Protection Agency and the Department of Energy that they will not make a decision on E15, a gasoline blend that includes 15 percent ethanol, until sometime this fall. Quite frankly, this is an abdication of responsibility, and it couldn't come at a worse time.

To give a little history for those who don't understand this, we have for about 30 years now had approval of a blend of 10 percent ethanol with gasoline. In the old days, it was called gasohol; now it is called E10. When you pull into your gasoline station, you will see E10 pumps all over. There used to be big signs. Now it is hardly noticed because it is so widely used. I will get into that more later.

There has been testing done over about the last 15 years or more as to how much ethanol you can actually use in a gasoline blend without hurting any of the engines or vehicles we use in America. A lot of testing has gone on, and the results of those tests have shown there is absolutely no problem if you increase from 10 percent to 15 percent. As a matter of fact, a lot of the tests that have been done privately show that maybe as much as 20 to 25 percent could be added without any damage whatsoever.

This issue of approval of E15 has been at the EPA and the Department of Energy for a long time. Increasing the blend rate—that is what we call it, the blend rate—from 10 percent to 15 percent is critical to reducing our addiction to oil and accelerating the transition to biofuels. We all understand how important this is. It will strengthen our national security, create jobs, boost our economy, and help the environment.

What makes the dithering at EPA and the Department of Energy all the more baffling and outrageous is that it is happening in the midst of the appalling catastrophe in the Gulf of Mexico. The blowout at the BP Deepwater Horizon well has cast a spotlight on the terrible price we pay for our dependency on petroleum. But instead of spurring EPA and the Department of Energy into action, they have hit the snooze button and given themselves 5 or 6 more months to try to reach a decision. We can't wait until the fall. In the face of the BP disaster, we need a decision on E15 with the utmost urgency.

We have decried our dependence on oil for decades. Going back to the mid-seventies, we have talked—and we have talked and we have talked—about the national security risks associated with our ever-increasing oil dependency. We have decried the fact that we are dependent on oil from nations that are unstable or unfriendly, or both, to the United States. We have been embroiled in conflict after conflict, war after war, in the Middle East because of oil. As we have talked, our total oil usage and our oil imports have risen steadily.

In recent years, there have been some glimmers of hope. In 2007, we passed the Energy Independence and Security Act which mandates an increase in the efficiency of our automobiles and light trucks as well as increasing levels of biofuels in our transportation sector. These two steps—increasing vehicle efficiencies and encouraging the use of domestic alternative fuels—are the two fastest and most effective ways to reduce our dependency on petroleum-based fuels in transportation.

In particular, I wish to highlight what we have accomplished with biofuels. In just the past decade, we have increased the contribution of biofuels for highway transportation from about 2 percent in the year 2000 to almost 10 percent today. I want to repeat that because I don't think most Americans grasp the significance of what our biofuels industry has accomplished in just one decade. Current ethanol production exceeds 9 percent and is quickly approaching 10 percent of total gasoline demand in the United States. To put that in perspective, ethanol now contributes more to our transportation fuel demand than all of our oil imports from Mexico, Venezuela, or Nigeria. I will repeat that. Ethanol contributes more to our transportation fuel than our oil imports from Mexico, or Venezuela, or Nigeria. Only imports from Canada and Saudi Arabia provide more fuel for transport than our domestic ethanol industry. So this is tremendously heartening news.

Congress recognized the potential of biofuels in the 2007 Energy bill. We called for increasing levels of biofuels that roughly match what the industry has accomplished to date. In that bill, we called for that contribution to rise steadily over the next 12 years, reaching 36 billion gallons by 2022. That would put us on a trajectory to get about 25 percent of our transportation fuels from domestic biofuels by 2025. We need to stay on that trajectory because biofuels offer one of our very best alternatives for reducing dependence on petroleum.

However, while our biofuels industry has stepped up to the plate, our fuel markets are lagging behind. Today, nearly all ethanol is used in the form, as I said earlier, of E10, a blend of 10 percent ethanol with gasoline, used in almost all of our cars and light trucks. Since ethanol production is very close to 10 percent of total gasoline demand, we are at what is commonly called the blend wall. In other words, our ethanol production is close to the total amount we can use at that 10 percent blend rate, so we have this blend wall of 10 percent.

So we have to do three things. First and second, we must transition to a fleet of cars and light trucks capable of using higher blends, and we must make higher blends available through the installation of blender pumps. Senator LUGAR and I introduced a bill to accomplish both of these actions last fall. Our Consumer Fuels and Vehicles Choice Act of 2009, which is S. 1627, would mandate the manufacture of an increasing number of flex-fuel vehicles as well as installation of increasing numbers of blender pumps.

Again, this is not some pie-in-the-sky thing. I would point out that in the nation of Brazil, every single car produced in Brazil—by Ford, I might add, or by General Motors, I can also add, or by the Japanese manufacturers that are manufacturing cars in Brazil—every single car is 100 percent flex-fuel, and the cost of doing that is—well, if you did it to every car, it would be almost minuscule. So we need every car produced in America to be totally flex-fuel, just as they are in Brazil. That is what our bill would mandate.

Then, we need to increase the number of blender pumps out there. This is

the old chicken-and-egg argument I have heard for so many years. You go to the oil companies—which we have done; Senator LUGAR and I both have done this—you talk to the oil companies.

Why don't you put in more blender pumps?

They say: Well, we can't put in more blender pumps because there are not that many flex-fuel cars out there to use the higher blends.

You go to the automobile manufacturers and say: Why don't you manufacture flex-fuel cars?

They say: Well, we don't have the blender pumps to supply higher blends.

Back and forth we go. So our bill would do both of those things.

I also noticed that this flex-fuel vehicle mandate is a part of an energy bill Senator LUGAR introduced just a few weeks ago here in the Senate.

The third action we need is approval of E15 right now—right now—for use in all gasoline-fueled vehicles. The EPA has the responsibility for making this decision.

A trade association called Growth Energy applied to the EPA for approval of E15 in March of 2009, more than a year ago. Under the Clean Air Act as amended in the 2007 Energy bill, the EPA is required to take final action to grant or deny such a request within 270 days. But at the end of 270 days, in November of 2009, EPA simply reported that they were going to wait for the results of more Department of Energy testing of vehicles running on E15 before making the mandated decision. However, last November, they also indicated they expected to approve E15 for all vehicles of model year 2001 or newer by mid-2010 provided that the test results continued to be supportive. But now we are being told their decision will be further delayed—further delayed.

First of all, the bill is clear. They were mandated to make this decision within 270 days. That was last November. They said we need a little bit more time. The tests were all supportive. The tests all looked very good. And they told us they expected to approve E15 for all model year cars 2001 and later by June of 2010.

Now what has happened? They're kicking the ball down the field again. They said maybe this fall.

Again, what we are told—I do not know this is factual—what we are told is this is a consequence of testing delays and additional test requirements at the Department of Energy.

I have to ask the question: If this is so, why is the Department of Energy dragging its feet? What is Secretary Chu doing about this? I think Secretary Chu needs to explain these delays. Is it because there is a bias at the Department of Energy against biofuels? There is some indication there just might be that kind of a bias. I would like to know the answer to that question. I hope, if anybody is watching at the Department of Energy, they will tell their boss that Senator HARKIN intends to ask the Secretary in a more formal setting why they are dragging their feet on this in the midst of an oil crisis, the likes of which we have never seen.

If I sound upset, I am. There is absolutely no reason for this foot dragging—none whatsoever. This slow walking may be business as usual for a bureaucracy in ordinary times, but these are not ordinary times, and bureaucratic business as usual is not acceptable. We are in the midst of what many consider the worst environmental disaster in American history, perhaps even world history.

The root cause of this situation is our addiction to oil. We have not just an environmental and national security imperative in that addiction, now we have a profound moral imperative as well. We cannot tolerate any further delay in accelerating our transition to clean, domestically produced, renewable biofuels produced not in the Middle East or in the middle of the fragile Gulf of Mexico but in the middle of our country wherever corn or sorghum or sugarcane or sugar beets or switchgrass or any other feedstocks for ethanol are grown and renewed every single year.

I have come to the floor of the Senate today not just to urge but to demand that the EPA and the Department of Energy give this decision the highest and the most urgent priority. We cannot wait until this fall. It is time for the EPA and the Department of Energy to get off that stump and move ahead aggressively. They had their 270 days last year. We have already gone over that. The law is clear. It is unacceptable that they are dragging their feet.

Both the EPA and the Department of Energy owe us, the Congress, a better accounting for the current delay and the excuses we have been given. Most important, it is time for them to end the delay and the dithering around. We need a decision, and we need it now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## UNEMPLOYMENT INSURANCE BENEFITS

Mr. BINGAMAN. Mr. President, I wish to speak briefly about the issue of unemployment insurance benefits. We, the Congress, allowed these benefits to expire 21 days ago. I believe there is a major misperception on the part of some about what the effect of this is.

This proposal to extend these benefits is talked about as a so-called extension of unemployment insurance. That suggests that the provision simply provides additional weeks of unemployment compensation payments to people who have used up all their benefits. Understandably, there are people in my State and around the country who say: Wait a minute. At some point you don't want to keep adding more and more weeks of unemployment benefits.

What we need to understand is that is not what we are proposing to do here. What we have been trying to do is not to add more weeks but merely to allow the unemployed to continue drawing the same number of weeks of benefits that they were able to draw prior to the expiration of the program we are trying to extend.

The provision does not provide additional payments to anyone who has exhausted his or her Federal and State benefits before the authorization of this program expired on June 2. It does not extend the number of weeks of benefits under the programs. Rather, it simply allows the programs to continue operating for people who use up the weeks of State-provided unemployment benefits that are available to them.

In plain language, what this provision will do is give a person who lost his or her job last month the same unemployment compensation benefits as someone who lost his or her job a full year ago.

What are we talking about as far as the amount of these benefits? There is an editorial in the New York Times this morning indicating that the average unemployment check is $309 a week. It is not that high in my State. Mr. President, $295 a week is the average. We are not talking about a vast amount of money, particularly if a person is trying to support a family and trying to pay some portion of their bills while they seek another job. People need to understand also that you cannot draw unemployment benefits under the State programs or the Federal programs unless you continue to be actively seeking employment.

In plain language, what this provision would do is give a person who lost his or her job just recently the same opportunity that people who lost their jobs some time ago have had.

The bill we are debating would allow what we call the Emergency Unemployment Compensation Program to continue operating. A person who loses his job is eligible to receive up to 26 weeks of benefits through the State unemployment compensation program. When those benefits are exhausted, some States add additional benefits through what they call the extended benefit program, and many do not. Once all the State benefits have been exhausted, the person may be eligible to receive additional benefits through this Emergency Unemployment Compensation Program, which is the subject of our discussion. That program is what we are debating today as part of this extenders package.

Clearly, the date on which a person becomes eligible for the Emergency Unemployment Compensation Program depends on when that person lost his or her job.

Moreover, the number of payments for which that person is eligible also depends on when he lost that job because the benefits are paid in a series of four tiers, with each tier lasting a certain number of weeks.

Because this program has been forced to stop operating, people who lost their job recently will not receive as much unemployment compensation or as many weeks of unemployment compensation as people who lost their jobs months ago.

Continuing the Emergency Unemployment Compensation Program is simply a matter of fairness to those people if they continue to seek employment.

From the week of June 2—21 days ago when this program expired—until the end of last week, there were right at 4,000 people in my State who had run out of State benefits. Those individuals then would find they did not have the benefit they could have had had they run out of State benefits and lost their jobs a few weeks earlier.

Until the Congress acts, none of these people will be eligible for the Emergency Unemployment Compensation Program. An additional 4,600 people who are in one of the lower tiers of the Emergency Unemployment Compensation Program will exhaust their tier of benefits and be unable to receive the next tier of benefit. That is roughly 8,000 New Mexicans who will be affected by the expiration of this Federal program.

In my view, the obstruction that has forced this program to stop is not fair to those New Mexicans. It is not fair to many Americans. These are people who worked for companies that were able to hang on to their employees longer than other companies once the recession hit. Cutting the benefits of these individuals is not fair. These individuals are ones who primarily live in States such as my home State of New Mexico where the recession hit hardest a few months later than it had hit in other parts of the country. It is not fair that the people in these States should be eligible for fewer weeks of benefits when they have paid into the unemployment insurance system just like everybody else.

It is easy to find maps on the Internet to show States that are disadvantaged by what the Senate has failed to do. There are animated maps that show how high unemployment spread across the country. It started on the east coast and the west coast. It crept toward the middle of the country. States such as New Mexico, Texas, Oklahoma, Kansas, Nebraska, Wyoming, South Dakota, and Colorado, I say to the Presiding Officer, were among the last to be affected by the recession. It is the people of these States who are being disadvantaged because the Emergency Unemployment Compensation Program has been allowed to lapse.

I want to be clear that I do not believe this program needs to be continued indefinitely, not least because of the substantial cost involved. When the job market improves, we need to find a way to phase out these costs. In my view, the fair thing to do would be to choose a date and say people who lose their job after that date and begin drawing unemployment benefits after that date will not be eligible to receive the extra weeks of benefits that the Federal Government is adding to what the States are providing.

The economy is much better than it was last year when the country was losing 750,000 jobs every month. The free-fall has stopped. The private sector is once again creating jobs at a very modest level. But the unemployment rate is still at 8.7 percent in my State of New Mexico and at 9.7 nationally. Now is not the time to eliminate the assistance this program has been providing to the many people who have been forced to lose their jobs during this recession.

I urge my colleagues to support the continuation of this Emergency Unemployment Compensation Program until we can find a fairer way to phase it out and terminate these extra Federal benefits.

Mr. President, I yield the floor. I see a colleague seeking recognition.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I ask unanimous consent that at the conclusion of my remarks, the senior Senator from New Hampshire be recognized.

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

## GULF OILSPILL

Mr. LEMIEUX. Mr. President, America is facing a lot of challenges. We have the issue of unemployment compensation that my colleague just mentioned and how to pay for that so we do not put this country into further debt. We have the two wars we are fighting in Afghanistan and Iraq and a myriad of other challenges that are facing this country. But a clear and present danger exists right now in the Gulf of Mexico, a clear and present danger to my home State of Florida.

I have come to the floor almost every day over the past week while we have been in session to talk about the need for the Federal Government to have a more robust response in preventing this oil from coming ashore.

Unfortunately, the situation has gotten worse. In a report this morning on television that I saw by Mark Potter, the oil now is coming ashore in Pensacola in a way that is profoundly worse than it has been. As he described it: It is oil as far as the eye can see. Watching those pristine white beaches covered in brown splotches of oil this morning—it breaks my heart. It breaks my heart for what it is going to mean for the people of northwest Florida, what it will mean for the environment; but it breaks my heart even more because I think a lot of this could have been prevented. Many Members of this body, as well as the one down the hall, have been asking for weeks, where is the Federal response? Where are the skimmers off our coast to suck up this oil before it gets on our beaches, into our waterways and into our estuaries?

Frankly, I have been extremely frustrated with the response from this government. I believe—and there are many who believe this as well—that the Federal Government should not be involved in all aspects of our lives. But what the government does, the government should do well. And one thing the Federal Government should do, and should be uniquely qualified to do, is to help in a time of disaster. In this circumstance, however, the government has fallen far short.

One thing that has been very frustrating to me is trying to determine how many skimmers are in fact off the coast of Florida. Skimmers are these vessels which are equipped to suck the oil off the water, bring it on to a place where it can be contained and disposed of and get that oil out of the ocean. As of yesterday, we found out that there were 20 skimmers off the coast of Florida, plus an additional 5 skimmers that the State of Florida went out on its own and rented.

When I met with the President a week ago yesterday in Pensacola, I raised the issue with him: Why are there not more resources stopping this oil from coming ashore? Admiral Allen, who was at that meeting, and who is the head of the response—the former Commandant of the Coast Guard—told us there are 2,000 skimmers in the United States. So why are there only 20 off of Florida? I have asked the Coast Guard and even the Navy, why are there not more skimmers? I have come to find out that we cannot even determine how many skimmers there are.

The State of Florida, as of yesterday, in their Deepwater Horizon incident report, shows 20. We know an additional five were rented. The Federal Government's report, the National Incident Command Report, says there are 108 skimmers. We asked the Federal Government—the Coast Guard—why this number is different than the number in the State Incident Command Report. We can't get a good answer. And when we drilled down on this 108 last week, we were told: Well, that number isn't correct.

In followup, and having met with the Navy yesterday, and the Coast Guard—and I thank Secretary Mabus for making the Navy and the Coast Guard available to us to talk to them about this issue—we got a more detailed response about skimmers that the Coast Guard reports are off the coast of Florida, and now the number appears to be 86. So we have the State telling us 25, we have the incident report from the Federal Government saying 108, and

now the Coast Guard says it is 86. We can't get a straight answer.

This gets to the base of the problem, which is that we don't know what we are doing down there in the Gulf of Mexico. The Federal Government is not putting the focus and attention on this issue that it should be. When I met with Admiral Allen, I asked him about the 2,000 skimmers he had reported were available in this country and why those skimmers weren't in the Gulf of Mexico now, some 65 days after this disaster first started. I got answers ranging from, well, some are obligated to be other places in case there is an oilspill—to me, that is like saying your house is burning down and we can't send a firetruck because we may need a firetruck for another house that might burn down—to this answer: They are legally constrained. This is what I heard from the Navy yesterday when I met with them. Some 35 skimmers they would like to bring down are legally constrained.

I asked this question yesterday: Why aren't we approaching this issue with a sense of urgency? Why doesn't the President sign an Executive order waiving any legal constraints? Why aren't we doing everything possible to marshal those resources into the Gulf of Mexico?

I have received a new piece of information from the U.S. Coast Guard. It is the National Response Resource Inventory of skimmers and capabilities throughout the whole country.

This document shows the different districts in this country. I will get this blown up and, hopefully, come to the floor tomorrow and show this in greater detail. It has the country broken up by area into districts. Florida is in a district with Georgia and South Carolina. That is district 7. These are Coast Guard districts, for the most part. It shows how many skimmers there are. These are not skimmers offshore, of foreign countries, which we will talk about in a moment. These are skimmers here in this country.

In district 7, Florida, Georgia and South Carolina, there are 251 skimmers—251. In the Texas district, district 8, there are 599. So between the gulf coast of Texas to Florida there are 850 skimmers, and we have somewhere between 25 to 86 to 108, depending on whose number is right. Perhaps they are all incorrect, but given the best accounting possible, there are 108. Where are the other 742 skimmers, and why aren't they being deployed? And that is just in the gulf coast.

In the district that includes California, there are 227 skimmers. In the district that includes Washington State, there are 158. In the district that includes Michigan and other Great Lakes States, there are 72. In the district that includes Maine, New Hampshire, and Vermont, there are 160. In the district that includes the mid-Atlantic, there are still another 157. Why are these skimmers not headed to the Gulf of Mexico? Why are they not there already?

It is not a good answer that they are needed for another oilspill, because we have an oilspill—the worst oilspill that we have ever seen in this country, and one that is washing sheets of oil this morning onto the beaches of Pensacola in my home State of Florida.

That is the national picture. Internationally, the State Department came out with a report which I talked about yesterday—it came out last Friday—that talks about all the offers of assistance from foreign countries, offers that were made by Belgium on June 15, the European Maritime Safety Agency on May 13, by the Republic of Korea on May 2, by the United Arab Emirates on May 10 to give us skimmers, and all of them are still under consideration. Months have gone by and the U.S. Government hasn't returned a phone call to these offers of help.

It is amazing to me that we would not be accepting these offers of assistance to bring in these skimmers from foreign countries. When there is a disaster around the world, whether it is a tsunami in the Far East or an earthquake in Haiti, the United States of America is the first to answer the call. We, because of the goodness of our people, go in and help these countries, as we should. Now they are offering to do for us what we have done for the world and give us assistance, yet we are saying no. That is also beyond belief. The State Department, as of last Friday, reported 56 offers of assistance from 28 countries or international groups. We have accepted 5—5 out of 56—BP has accepted 3, and 46 remain under consideration.

I want to talk about one of these offers specifically. This ship is a Dutch ship from a company called Dockwise. This ship is the Swan. This is a huge vessel that, when equipped with skimming equipment, can suck up 20,000 tons of water and oil—20,000 tons. It was offered to the United States on May 6—May 6—and we never answered the call. Instead, a ship that has one-twentieth of its capability was accepted by the Coast Guard.

I received some followup information yesterday, and here is the response as to why the Coast Guard did not accept this superskimmer for use in the Gulf of Mexico. The response was that it was going to be equipped with arms—sweeping arms, which are what skims the oil into the boat—and BP was able to purchase two sets of these arms from another company and, therefore, the ship wasn't needed. The arms sweep the oil into a ship; the ship holds the oil. The arms are only half of the equation. And if this ship holds 20,000 tons of oil and water mixture, it is certainly needed.

Saying that we didn't need it because we got the arms and we put them on another ship makes no sense. The ship that was used instead has one-twentieth of the capability. That is an American ship, and I am glad we are using it, but we should be using both of them. We should be using every ship possible. And why should we be using every ship possible? Because oil is washing up on the shore of my State and the Federal Government seems anemic, at best, in its response.

What is this doing to our oceans, our waterways? The Mote Marine Laboratory in Sarasota—which I had the privilege to visit a couple of weekends ago—does wonderful work with marine life and has these unique, almost torpedo-like automated vehicles that go out in the water to check to see whether the oil has spread. It is one of the vehicles that helped us determine that this plume of oil, in fact, does exist beyond what you see on the surface. They are reporting yesterday, in an article that was published, that rare plankton-eating sharks are moving toward the coast of Florida. Ten healthy whale sharks were found Friday about 23 miles southwest of Sarasota. They are moving away from the oil—this oil that is growing not just on the surface but underneath.

What will be the long-range implications of this disaster, not just on our economy but on our environment? It is hard to tell. This morning, Florida State's marine biologists are reporting that the fish population has been severely damaged in the Gulf of Mexico.

Mr. President, I will continue to come to the floor every day we are here to sound the siren, to ring the bell and call for more response and a better effort to protect my State of Florida, as well as the other States in the gulf. This response is anemic, and our failure to act is outrageous. This government must do a better job.

With that, Mr. President, I yield the floor to my friend and colleague from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

## THE NATIONAL DEBT

Mr. GREGG. Mr. President, first, all of us express our deepest concern for what the Senator from Florida, the people of Florida, and those along the gulf coast are going through. It is an unconscionable situation going on down there. I think the Senator has correctly indicted the failure of the people responsible to bring the resources that are available on site in order to try to address at least the skimming of as much of the oil as possible. I appreciate his doing this on a daily basis until we can get something done. This is critical, obviously.

I want to speak today, however, about an issue that is equally threatening to our Nation—although not as ominous, in many ways—and that is our debt and the continued spending by this Congress in a way that ignores the fact that we are on the path to passing on to our children a nation which they will not be able to afford as a result of the massive debt which is being put on their backs.

We heard today from a number of Senators from the other side of the

aisle how we have to pass this extender bill. There is some irony in this, in that they are claiming that it is necessary in order to address what are significant stresses on Americans who find themselves confronted with this economic slowdown. What they do not address, of course, is the fact that in passing this bill in the way they have structured it, they are going to put even greater stress on the next generation of Americans by creating even more debt for them to pay off.

There are some legitimate ideas and programs in this extenders bill, but they should be paid for. They should all be paid for. They shouldn't simply be put on the credit card and passed on to the next generation. These are issues which address costs of today—unemployment insurance, the tax extenders. They are issues which affect today's spending and they should be paid for with today's dollars. We shouldn't borrow from the next generation in order to pay for this problem—the problems and the issues which this bill tries to address.

Yet that is the proposal that comes to us. Three times now they have brought these extender programs forward. Once they were going to add $79 billion—$79 billion—to the deficit, and it failed on a point of order brought by myself on the issue of budget fiscal responsibility. Then they brought forward a proposal to spend $50 billion that was not paid for, and again it failed. Now we are going to get a third proposal today, and I suspect it will also be a deficit proposal where we add to the debt and pass the bill on to our kids for something we want to do today that is politically attractive.

But this is just a small tip of the iceberg for what has been happening around here. Since we passed pay-go legislation and we heard all these grandiose statements by the President and by the Democratic leadership of the Senate and the House that they were going to use pay-go to discipline spending around here so we would not be passing these bills on to our kids, since we passed that bill—now almost 2 months ago—we have spent or put in the pipeline to spend $200 billion—$200 billion of new spending that violates the pay-go rules, that adds to the debt of this country.

But that, again, is only a small tip of the iceberg. When we look at what is happening to the Federal debt, this is the line. This is where Federal debt is going as a percentage of gross national product. Historically, our Federal debts have been about 35 percent of gross national product. But since the Obama administration came into office and this Democratic Congress took control of fiscal policy in this country, that debt has gone right through the ceiling, and there is no stop to it. It is going up and up, to the point now where total debt as a percentage of GDP has passed the tipping point.

What is the tipping point? That is what Greece found. That is what Iceland found. That is what, regrettably, maybe Spain may be finding. It is when you get so much debt on the books that people stop believing you can really pay it back in an effective and efficient way. People in the world who are supposed to lend us this money—regrettably, it is other countries now: Saudi Arabia, China, Russia—they start asking themselves: Can they really pay that debt back? Shouldn't I charge a lot more to lend them money because I am not too sure they can pay the debt back? That tipping point is 60 percent of GDP. When your debt to the gross national product exceeds 60 percent of GDP, it is generally accepted in the world community that you passed the tipping point. When it gets up to around 90 percent of GDP, you are in junk bond status. You are on your way to bankruptcy. You are on your way to becoming Greece. We have an advantage over Greece. We can do something called monetizing our debt. But we still have the same problem.

We passed 60 percent this year. Why are we doing that? Because we are spending a lot of money we don't have on the extender program and on the other $200 billion of spending that has come to this floor on pay-go, on the stimulus package, on the health care bill. The health care bill expanded the size of this government by $2.5 trillion. All of that is an expense which grows the government at a rate we cannot afford.

Under the President's own budget as he sent it up here—and where is the budget, by the way? Did I miss something? Isn't the Congress of the United States supposed to do a budget? Isn't that what we are supposed to do as a responsible steward of our financial house and of the American taxpayers' dollars? Where is the budget? Under the desk here? Maybe it is down where that paper was that just fell. Nobody can find it. Why is that? Because the other side of the aisle does not want to show the American people what the deficits are, how much spending they are planning to do that they do not plan to pay for—not only in this year but for the next 10 years.

The President at least had the integrity—I guess under law he had to do it—to send up a budget. His own budget projects a $1.4 trillion deficit this year. That is 4 times larger—3.5 times larger than the biggest budget under the Bush administration—biggest budget deficit. It is the largest budget deficit in our history, $1.4 trillion. But that is not the end of it. For the next 10 years, the President's budget projects a $1 trillion deficit on average every year for the next 10 years. The practical effect of the President's own budget is that the debt of this country doubles in 5 years and triples in 10 years. These are staggering numbers. These are numbers that lead to bankruptcy of our Nation from the standpoint of fiscal policy. You don't have to look too far to see what these types of numbers mean. Just look at what is happening in Greece and other countries that have grossly overextended their debt. Doubling the debt in 5 years, tripling it in 10 years is an unacceptable action.

The numbers are so big, it is hard to put them in context. But to try to put them in some sort of context, if you take all the debt rung up by Presidents since the beginning of this country starting with George Washington through George W. Bush, that is $5.8 trillion. That is all the debt of all the Presidents who came before President Obama and this Democratic Congress. Under the budget sent up by the President, the debt that will be added will be three times that, almost three times that. The amount run up over all these 232 years we have been a nation—in 10 years, we will be adding more debt than occurred in the first 232 years by a factor of almost 2½—over 2½.

It is incredible. Yet nobody around here says anything or does anything about it on the other side of the aisle. What we hear from the other side of the aisle: Let's bring out another bill. Let's game the entitlements. Let's game the pay-go rules one more time, as the extender bill does—or tries to do—and let's spend some more money we don't have and add it to the deficit and the debt. Bill after bill is brought to this floor to do that—spend money we don't have and add it to the debt.

What does it mean in real terms? Children born at the beginning of President Obama's administration and this Democratic Congress, this liberal Congress—it should not even be called a democratic Congress because it is so liberal—had an $85,000 debt on their backs—think of that—when they were born. However, as of today they have a $114,000 debt on their backs. That means kids born just 4 years ago—not even 4 years ago; 1½ years ago—have had added to their burden—and they are going to have to bear this burden. This is not theoretical. This debt is owed. It is owed to China. It is owed to Russia. It is owed to Saudi Arabia. This debt has to be paid back by these people, our children. Just in the last 1½ years, it has gone up by almost $30,000. By the end of this Presidency, should the President be reelected—or even a little bit past that—by the end of the budget projected by this President, that debt on these children will be $196,000. That is what they will have to pay. How are they supposed to buy a home, buy a car, send their kids to college if they have to pay off this debt, which they will have to do through the tax burden? It is inexcusable what we are doing.

Then you have to couple it with the larger picture. Is anything being done to improve this situation? Here are the President's own numbers. Historically, taxes have been about 18 percent of GDP. You will hear a lot of people on the other side of the aisle say we just need to raise taxes more. Under the President's own budget, they are projecting that taxes are going to go up rather dramatically, to almost 20 percent of GDP. What they don't tell you

is that spending has historically been about 20 percent of GDP. If we had the tax revenues they are projecting, we wouldn't have hardly a deficit at all. We would be in pretty good shape.

But that is not what is happening here. As a result of the President's programs—note here how this line goes up sharply during the depression. It is estimated to come back down because of the stimulus being taken out of the spending stream—a very badly flawed decision, by the way, to pass the stimulus in the form it was passed—but then it goes straight back up. If we were to extend this line, it is way up here. What is that caused by? That is caused by the health care bill, $2.5 trillion of new spending, and by the aging of the population. There is no attempt to take this line and bring it down where it should be going, so we close that figure.

No, this area in here is a structural deficit that has been grossly—not structural. It is a created deficit that has been grossly aggravated by the policies of this administration and is being aggravated by the policies of this Congress, as we have seen more and more bills brought forward which are unpaid for and end up adding to this red line going up. It is not a tax issue. It is not a revenue issue. The President's own budget—these are the President's own budget numbers—shows that it is not a revenue issue. Revenues, they project, will be very robust and will be well above the historic highs fairly soon.

Why would they do this? Why would people be doing this to our Nation, running us into bankruptcy like this, putting this burden on the next generation that is so extraordinary? I think there is a philosophy here. The philosophy is pretty simple: This administration is very committed to moving the American model. They want to take us down the road of a European-style social welfare state democracy where you actually have cradle-to-grave coverage of all sorts of social concerns and you have an ever-expanding, dramatically expanding public sector. The President is very honest about this. He said that the way you create prosperity is to grow the government. I don't think anybody ever believed he would grow it quite this much, but he was honest about it, at least. But the implications of it are that because of the fact that we do not have the capacity to pay for this government, we are driving ourselves right into a ditch as a nation. We are putting ourselves into a totally unstable situation which will inevitably lead to some sort of fiscal crisis which will be cataclysmic for our country and will lead to a lower standard of living. That is what this inevitably leads to—a lower standard of living, not a higher standard of living for the next generation.

The European model is not a good model for us to pursue. It simply is not. Look at what is happening in Europe—anemic growth, lack of creativity in the area of economic growth, very little productivity, and basically countries wallowing in a debt structure they cannot get out from under because they are not willing to make the tough decisions. Are we going to take that path also? It appears that way. Under this administration, in this Congress, that appears to be the choice. But it is the wrong choice.

There are ways to address this. To begin with, we could stop spending—very simple. Stop spending money we don't have. Stop bringing bills to the floor that have high deficits attached to them.

We need to address the entitlement programs and recognize that they are, in their present structure, not affordable.

We need to address our tax laws, which are not structured in order to create an incentive for productivity and capital formation but are instead replete with special benefits to special interest groups. We can reduce the rates on all Americans, and especially we can reduce the rates on the productive side of the ledger, on our corporate rates which are now the second highest in the world, and still generate significantly more revenues if we do a total tax reform along the lines of what Senator WYDEN and I have actually proposed.

We need to change our energy policy. We have to stop shipping all this money overseas and buying energy. We need American production of energy. We need more nuclear; we need more natural gas; we obviously need more conservation; we need better cars—hybrids, electric; and sure, we need renewables, but renewables are not going to solve the problem. It is in production of American energy that we need to solve the problem, primarily, and in conservation.

Most important, we need to abandon this idea that we should follow the European model because it stifles productivity, entrepreneurship, risk taking. We need a model that says to the American people: Be creative. That has been at the essence of what has made us strong as a nation.

It has always been one of our unique advantages over the rest of the world—willing to take a risk, willing to make an investment, willing to go out and push the envelope. As a result, they have created jobs in the most prosperous Nation in the history of the world. But that is all at risk now because we decided to depart on this path of massive deficit and debt in order to recreate the European form of government: a social welfare state, which is, first, not sustainable, and, secondly, is not a model for prosperity.

It is time to change, and let's begin the change right here right now by rejecting any extender bill that comes to this floor that is not fully paid for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

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

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

## RECOVERY ACT

Mr. KAUFMAN. Mr. President, I rise today to remind my colleagues that the Recovery Act has worked and is still working. It has been almost a year and a half since I took office and since President Obama was sworn in. Remember, we came into office in the midst of the worst economic crisis since the Great Depression. Our financial system was collapsing. We had already lost millions of jobs and were losing millions more at a truly frightening pace.

We had roughly a $2 trillion hole in our economy, and instead of a surplus of $710 billion that was projected in 2001 for 2009, we wound up with a $1.6 trillion deficit.

Remember back in 2001 when the Bush administration came in? One of the problems was our surpluses were growing too fast. We had projected a $5 trillion surplus through 2009.

What did we end up with? We ended up with $5 trillion in deficits during that period, a $10 trillion turnaround. In 2009 where we had projected a surplus of $710 billion, we ended up with a $1.6 trillion deficit.

Fortunately, the Recovery Act brought us back from the precipice of disaster. It saved us from another full-blown depression and allowed us to rebuild our economy and add jobs.

The nonpartisan Congressional Budget Office just recently completed an analysis that demonstrated what a big impact the Recovery Act has had. The CBO, nonpartisan CBO, indicated that in the first quarter of this year, the Recovery Act accounted for anywhere between 1.8 million and 4.1 million more jobs, 2 to 4 million jobs. I would call that a success.

The CBO also told us unemployment was .7 percent to 1½ percent lower because of the Recovery Act. Our gross domestic product was 1.7 percent to 4.2 percent higher. The CBO is not the only one telling us this story. The Conference Board reported the latest version of its Leading Economic Index. The chart I have shows this index since last January, since the President and I took office. This is when we passed the Recovery Act.

As my colleagues can see, it bottomed out in March 2009, shortly after passage of the Recovery Act, and has been steadily climbing ever since. Other major economic indicators tell a similar story. Take the Dow Jones Industrial Average. Now, take the Dow Jones Industrial Average as a guide to the health of our financial markets.

This chart shows that shortly after passing the Recovery Act, the markets

hit bottom with the Dow at 6,547 on March 9, 2009. I wonder what happened in March that caused the Dow Jones to go up like this? The Dow since then has risen dramatically, rising above 11,000 a couple of months ago, and even remaining above 10,000 amidst recent market turmoil.

Take a look at this chart. Let's throw the last chart up here again. In March 2009, we passed the Recovery Act, and guess what happened. The Dow Jones average takes off. March 2009, guess what. We passed the Recovery Act and the major economic indicators take off. Let's look at another one.

How about the Purchasing Managers Index, a leading indicator of business confidence. Any score over 50 means the businesses around the country believe conditions are better than they were the previous month, and we are headed in the right direction.

Take a look at this chart. Oh, my goodness. Guess what. Early 2009, we are crashing. Now we are up. I wonder what happened during March 2009 to cause this Purchasing Managers Index to go up. Why all of a sudden did businesses around the country believe conditions were getting better? I wonder what that was all about?

Let's look at another chart. Let's look at gross domestic product, one of the very best indicators of our health. From 2007 to the first quarter of 2010 it tells the same story: Things started getting better after the Recovery Act was passed.

Here is the first quarter of 2009. Oh, my goodness, look at this. Going straight down. We get to the first quarter of 2009, straight up.

Either this is one of the truly great coincidences of our time, or the Recovery Act turned this economy around. The key point, as we have said all along, is not the economy, but it is jobs. So let's take a look at jobs.

The most recent unemployment report indicated that we added 431,000 jobs last month. Unemployment is still too high, much too high. Without our efforts to help the economy, most notably the Recovery Act, it would be even higher still.

Take a look at this chart. Here we are, folks. March 2009. What happened in March? I wonder what happened in March 2009. I wonder why jobs went from losing 753,000, which is what we lost in March of last year, to gaining 431,000 in May. I wonder. What could have happened to these charts?

We know the unfortunate thing about this is the economy is coming back, and the economy is coming back because of the Recovery Act. But we know from past experience that job growth lags behind economic recovery, and this chart shows how long that took from previous postwar recessions.

The problem is not that the Recovery Act did not work. It worked and the economy came back. The problem is, if you look back—and we knew this at the time—if you go back to 1949 where the jobs lagged by 5 months, or you go back to more recent history, November 2001, where jobs lagged 22 months, the problem is not that the Recovery Act did not work, the problem is the time it takes from when the economy comes back until jobs come back. That is not hard to explain.

Businesses need to use up their existing capacity and they need to feel confident in the economic climate before they start expanding again. That just makes sense. The process can be especially painful during a financial collapse where businesses and households are forced to pare down their savings and reduce their spending, thus tamping down economic and employment growth.

Due to this lag, which was totally predictable, the jobs have been slower to return than anyone likes. But make no mistake, thanks to the Recovery Act, we have gotten our economy back on track and growing again. We must not, however, take these results for granted. For those who said at the time we could get by with less, my Republican friends—and they are my friends, and I hold them in high regard—but to those who said the economy will come back without the Recovery Act, just look at the example of Japan in 1990.

Remember on this floor, and the vote against this was almost complete, against the Recovery Act. I think we ended up getting three Republican votes. They were saying: We do not need to do anything. The economy will come back.

Let me show you something. Japan tried that. Approximately 20 years ago, Japan also experienced a serious economic downturn that was precipitated by the bursting of speculative bubbles in real estate and financial assets. Sound familiar?

However, Japan was slow not only to address the crisis in the banking sector, but also to use fiscal stimulus to help jumpstart the economy. This chart shows the results. They call it the ''lost decade'' in Japan. Literally no growth in gross domestic product. That is what happens if you do nothing, if we had done nothing. We must not allow that to happen here.

There are those who continue to present a false choice between balancing the budget and fiscal stimulus necessary to get our economy back on track. This is a false choice. But we should know by now there are times in which fiscal stimulus and deficits are necessary—necessary. Good deficits to spur growth and get our economy on track. There are other times when deficits are unnecessary and short-sighted. Deficits are sometimes necessary, looking back through history, to allow fiscal stimulus to jumpstart an economy that is contracting due to a precipitous decline in private sector investment and consumer spending.

There is a hole in the economy because private sector investment and consumer spending stopped. The economy is frozen. That is the time you have to get the economy going. If you have a $2 trillion hole in the economy, you can't let it sit there, as Japan did, and fester. You have to do something. That is what the Recovery Act did. It put money into the economy.

However, my friends on the other side of the aisle are absolutely right when they say deficits are inappropriate during good economic times, which is what we had for the 8 years previous to this. At those times, they are typically the result of irresponsible decisions to cut taxes and put in place unfunded spending programs—tax cuts that were not paid for; the wars in Iraq and Afghanistan, not paid for; Medicare prescription drugs, not paid for. So during a period when the Congressional Budget Office said: In 2001, we are going to run a $5 billion surplus, we ran a $5.6 trillion deficit because we went out and spent and spent and spent with no provision for paying for it.

I cannot believe it when I am presiding here and colleagues come to the floor and talk about the unemployment extension like, man, this is a bad situation. These folks are going to spend money and not pay for it, because we have these incredible deficits.

These deficits didn't just show up in the last year. The deficit in the last year was to get the economy moving again. It was a good idea. Where did the $10 trillion turnaround come from between 2001 and 2008, when time after time, on big programs such as tax cuts and going to war, the decision was made not to pay for it? That is where we got the deficits. That is where the deficits came from. Those are the bad deficits. We were irresponsible. We had good times. That is when we should have built up the deficits. That is when the bipartisan CBO said we would have surpluses, remember? In fact, the rationale for the first tax cut was: It is better in their pockets than in our pocket. We should not have been giving out these tax cuts. But let's just give them to the American people because of the surplus. And we ran up a $5 trillion deficit.

While we have serious structural and budgetary problems—and we do—that need to be resolved for the long term, getting our economy growing again has to be our first priority, and had to be. President Obama has established a bipartisan commission to address those long-term problems. In the short-term, we need to grow ourselves out of deficits—a phrase my colleagues across the aisle have invoked many times in the past. They are absolutely right. We have to grow out of this.

One of the ways we grow out of this is to get the economy moving. One of the ways to get the economy moving is by the Recovery Act. I remember February 2009 all too well. No one in the Senate should ever forget what it was actually like in February 2009. We were looking into the abyss before we passed the Recovery Act. The American economy was in free fall, and another Great

Depression was imminent. Those were truly scary days. The Recovery Act helped divert another Great Depression. It has our economy growing again. It has improved our fiscal situation. Imagine the size of our budget deficits if we had another Great Depression, which was an all-too-real possibility just over a year ago. Do you think these deficits are bad? Suppose we had the Great Depression.

We are now on the path to recovery, but it is a narrow ridge, not a broad field. If we do not keep our eyes forward, we will too easily lose our way. We have a fragile economic recovery that has been made even more so by the massive oilspill in the gulf and by serious fiscal and financial strains in Europe. We could have a double-dip. We could turn this around. This is a very fragile time for the economy. Given these perilous circumstances, we need to be vigilant to avoid another double-dip recession.

To conclude, the Recovery Act has done its job and will continue to do so. Now, as we get through this crisis, as this recession passes, we need to create new jobs. That is the key. It isn't enough to try to win back the jobs we lost. We have to do that. To keep pace with our population and keep a sacred promise to our children and grandchildren, we need to create a whole new generation of jobs.

As former President Clinton said in recent years: In the last 10 years, we were creating jobs in three areas—housing, finance, and consumer economy. Unfortunately, all three of these have suffered in this economy. All three of these have benefited from loose credit and easy money to build up a bubble. I am sorry to say that many of these jobs are not coming back, especially in the short term. We cannot look forward to the day or depend on the day where carpenters were scarce because we built more housing than people could afford to buy. We do not need a revitalized legion of clever bankers any more than we need another Starbucks one block closer.

Going forward, we need to transform our economy by revolutionizing how we produce and consume energy. To do this, we will need more scientists and engineers. It is in this area where future job and economic growth will happen. The Recovery Act, thank goodness, began this process, not only by turning our economy around but also by promoting green jobs and investment in clean energy initiatives. Our challenge in the future will be to build upon its foundation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

## NOMINATION OF JOHN S. PISTOLE

Mr. CARDIN. Mr. President, I rise to speak in support of the nomination of John S. Pistole to be Administrator of the Transportation Security Administration and talk about collective bargaining for TSA employees.

The TSA has been without a Senate-confirmed leader for a year and a half. During the last 5 months, we have experienced two major transportation security incidents: the unsuccessful December 25 bombing of Northwest flight 253 and the near escape of the failed Times Square bomber. I welcome the President's nomination of a career FBI official with extensive counterterrorism experience, FBI Deputy Director John S. Pistole, to head the TSA. I look forward to the Senate's swift confirmation of Mr. Pistole for this critical position.

During the confirmation hearings for Mr. Pistole, the issue of collective bargaining for TSA employees was raised. Mr. Pistole stated that he is going to study the issue, gather all the information he can from stakeholders, and make a recommendation to Secretary Napolitano.

Some Members of Congress, however, are strongly opposed to collective bargaining for TSA employees. Their opposition is grounded in the concern that we need to adapt quickly and effectively to specific aviation threats. The underlying premise of this argument is that we must choose between protecting the Nation from threats to aviation and collective bargaining. This choice, however, is a false choice because national security and what I call smart collective bargaining are not mutually exclusive. Under smart collective bargaining agreements, if circumstances and true emergencies were to exist, TSA would be fully capable to deploy assets without there being any negative impact from the collective bargaining agreement.

At his confirmation hearing, Mr. Pistole stated that ''we have to be able to surge resources at any time . . . not only nationwide but worldwide.'' I certainly agree. A smart collective bargaining agreement would enable us to do exactly that.

Moreover, a smart collective bargaining agreement would enhance national security because it would enable TSA to recruit and retain veteran employees. Our Nation's history with labor unions teaches us that collective bargaining boosts morale and allows employees to have a voice in their workplace and increases stability and professionalism. On the other hand, poor workforce management can lead directly to high attrition, job dissatisfaction, and increased costs, which lead to gaps in aviation security. There have been reports that TSA has low worker morale, which can undermine the Agency's mission and our national security.

The fact is, DHS, Customs and Border Patrol officers, some of whom work at the same airports as TSA employees, as well as employees of DHS's Federal Protection Services, and the Capitol Police all operate under collective bargaining agreements. Are members of the flying public less safe because the CPB officers, who work side-by-side with TSA employees, work under a collective bargaining agreement? I don't believe so, nor do I think my colleagues believe that. Are Members of Congress less safe because the Capitol Police work under a collective bargaining agreement? I have heard all my colleagues compliment the efficiency of our Capitol Police.

As the late Senator Kennedy noted in August 2009 when he cosponsored a collective bargaining rights bill for public safety officers, tomorrow morning, thousands of State and local public safety officers, police officers, and firefighters will wake up and go to work to protect us. We should be there to help them. They will put their lives on the line responding to emergencies, policing neighborhoods, and protecting us in Maryland and communities all across the Nation. These dedicated public servants will patrol our streets and run into burning buildings to keep us safe. No one believes for a moment that we are less safe because they have secured collective bargaining rights.

If opponents of collective bargaining for TSA employees want to invoke 9/11 to support their views, they will soon discover that the legacy of 9/11 shows clearly that national security will not be compromised by collective bargaining. It shows just the reverse. Those who helped us save lives during 9/11 were covered under collective bargaining rights. Before 9/11, the New York Port Authority police worked 8-hour days, 4 days on and 2 days off. By the end of the day on 9/11, however, vacations and personal time were canceled and workers were switched to 12-hour tours, 7 days a week. Indeed, schedules did not return to normal for 3 years. The union did not file a grievance, and everyone recognized it was a real crisis.

If there is any doubt about whether collective bargaining will enhance our ability to recruit and retain the best TSA employees to protect us, all we need to do is think about Donnie McIntyre, a Port Authority police officer, one of the many selfless heroes killed on 9/11, and these memorable words written in the third stanza of ''America the Beautiful'' by Katherine Lee Bates:

O beautiful for heroes proved, in liberating strife. Who more than self, their country loved, and mercy more than life.

We learned about the story of Donnie McIntyre from his partner, Paul Nunziato, vice president of the New York Port Authority Police Benevolent Association. He testified before Congress in June of 2007 regarding the Public Safety Employer-Employee Cooperation Act of 2007, a bill almost identical to the amendment offered by Senator REID.

Donnie was one of the 37 port authority police officers who lost their lives on 9/11 at the World Trade Center evacuation effort. He was married with two children, and his wife Jeannie was pregnant with their third child when he died on September 11. While nothing will make up for the loss of Donnie to his family, Jeannie does not have to

worry about paying bills or providing health care for her children, largely because of the benefits the union negotiated for its members.

Collective bargaining for TSA employees will not endanger national security. It will make us more safe. I urge colleagues to support collective bargaining for TSA employees. It will improve our ability to recruit and retain the best employees, like Donnie McIntyre and the countless other American heroes who work every day to protect us and keep us safe under collective bargaining agreements. Moreover, smart collective bargaining for TSA employees will increase stability and professionalism in the workplace and will dramatically reduce attrition rates, job dissatisfaction, and increased costs, which will enhance transportation security.

I urge my colleagues to swiftly confirm John S. Pistole to be the TSA Director and to understand the importance of protecting all of our workers, particularly those who put their lives on the line for us, by giving them basic collective bargaining rights.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

(The remarks of Mr. GRASSLEY pertaining to the submission of S. Res. 562 are printed in today's RECORD under ''Submitted Resolutions.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

Since I do not see any other Members present to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## ORDER FOR RECESS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate stand in recess from 1:00 to 2:30 p.m. today.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

## UNEMPLOYMENT AND COBRA BENEFITS

Mr. BURRIS. Madam President, near the end of May, we learned that the unemployment rate in my home State of Illinois had fallen to about 10.8 percent, down from 11.2 percent in March. That is the first time the unemployment rate has gone down since 2006, when it stood at only 4.4 percent.

I am the first to celebrate the creation of even a single well-paying job. I am happy for each and every Illinoisan we can put back to work because one job will help someone put food on the table, and it will help one family stand just a little taller. It will give people the opportunity to participate in the economy again, buying the goods and services they need.

That, in turn, means more jobs. One by one, these folks will turn our economy around from the bottom up. So I do not dismiss this recent jobs report. This is a step in the right direction. It is welcome news. But it is only a drop in the bucket. For every person we have put back to work, many others are still hurting—and hurting badly.

Our landmark stimulus law, which we enacted more than a year ago, has done a great deal to stop the economy from collapsing and set Americans back on the road to recovery. The economy is growing again. Many key indicators have turned around. I am proud to say the American Recovery and Reinvestment Act has been instrumental in preventing a second Great Depression.

But job creation continues to lag behind. We have made progress in some areas, but we still have a long way to go. That is why I urge my colleagues to come together and support job creation measures so we can keep putting people back to work.

At the same time, I urge them to support further extensions of unemployment and COBRA benefits so we can help people keep their heads above water until the recovery is complete.

These are difficult times. Through no fault of their own, millions of people have suddenly found themselves without a job. These folks are the victims of reckless behavior on Wall Street, but they, rather than Wall Street, have been forced to pay the price.

More Americans are classified as ''long-term unemployed'' and ''disadvantaged workers'' than ever before. Many have exhausted their unemployment benefits or they are dangerously close to doing so.

I believe we must pass this extenders package and restore stability by helping States cover the rising cost of unemployment insurance.

We need to increase access to COBRA so that people can remain on their old health insurance for a period of time after they lose their jobs.

We need to extend these benefits to more hard-working Americans who are struggling to find work during this time of uncertainty.

Just last month, after a long partisan battle, we passed a temporary extension of these programs. But that extension expired on June 2, almost a month ago. So it is time to take up a new measure that will carry unemployment benefits and COBRA through at least another 6 months—I would love to see more time—as our friends in the House of Representatives have discussed. This proposal would make more Americans eligible for existing benefits. It would not increase the current 99-week limit on these programs, but it would offer a helping hand to those who have lost their jobs recently and make sure they have access to the same resources.

This extension would not be a comprehensive fix, but it would help ease the situation and the strain on the victims of this financial crisis until the full effects of our stimulus law have taken hold and the unemployment rate begins to decline at a steady rate.

This extenders package will provide needed relief to those who need it most. That is why I am deeply disappointed that some of my colleagues have proposed cuts to this legislation. Some say we should cut $25 a week in extra unemployment compensation.

Relative to the overall legislation, these cuts would be minimal. But to a family who has been hit hard by this crisis, $25 a week could make a tremendous difference. Some will say we cannot afford to provide these benefits in light of our continued recovery. But what do I say? I say we cannot afford not to.

We cannot afford to nickel and dime these people who are barely scraping by as it is. We need to give them the support they deserve. Let's dispense with this hollow rhetoric about fiscal responsibility from those who have lost their credibility on this issue.

Over the last decade, Republicans squandered our surplus by spending wildly on massive tax breaks for the wealthy and the special interests, a war not paid for, and a medical program not paid for. During the years when they were in control, Senate Republicans voted seven times to increase the debt limit. They refused to pay for major initiatives, they cut revenue, and they increased spending.

It doesn't take a financial expert to recognize that this is just plain irresponsible. It is easy to say their record simply does not match their rhetoric.

Let's be honest with the American people. Let's work together to solve this problem rather than hiding behind the same irresponsible policies that got us here in the first place.

I recognize that job creation must remain our top priority, and I am confident that Democrats and Republicans can agree we need to help people get back to work. In the meantime, let's pass this extension so that folks can get food on the table and get access to the medical care they need. Let's stand up for those who have been hit hardest by this crisis and send them a message loud and clear: We haven't forgotten you and, hopefully, help is on the way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I ask unanimous consent that I may speak for up to 20 minutes.

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

## NOMINATION OF ELENA KAGAN

Mr. SPECTER. Madam President, I have sought recognition to comment on the range of questions for Solicitor General Kagan on her forthcoming hearings before the Senate Judiciary Committee.

Solicitor General Kagan has issued a fairly broad invitation, in effect, on questioning. In an article that she published in the Chicago Law Review back in 1995, her comment at that time was, in part, as follows:

When the Senate ceases to engage nominees in meaningful discussion of legal issues, the confirmation process takes on an air of vacuity . . . and the Senate becomes incapable of either properly evaluating nominees or appropriately educating the public. For nominees, the safest and surest route to the prize lay in alternating platitudinous statements and judicial silence. Who would have done anything different in the absence of pressure from Members of Congress?

That is a fair-sized invitation for a little pressure from Members of the Senate. I think she is right in her pronouncements, and it is something we ought to do. She goes on to write in the law review article:

Chairman Biden and Senator Specter, in particular, expressed impatience with the game as played. Specter warned that the Judiciary Committee one day would ''rear up on its hind legs'' and reject a nominee who refused to answer questions. Senators do not insist that any nominee reveal what kind of a Justice she would make by disclosing her views on important legal issues. Senators have not done so since the hearings on the nomination of Judge Bork.

Solicitor General Kagan goes on to write:

A nominee lacking a public record would have an advantage over a highly prolific author.

There has been some questioning as to whether this nominee has such a small paper trail that it will be doubly difficult, or significantly more difficult, to find out her views. But in her law review article, noting the difference with that kind of a paper trail is, again, another invitation.

The author of the law review article, Solicitor General Kagan, goes on to write:

The Senators' consideration of a nominee, and particularly the Senate's confirmation hearing, ought to focus on substantive issues.

Well, that, then, raises the question about how do you get answers on substantive issues, and what is the value of the substantive issues when the nominee, after being confirmed, is on the bench?

Earlier this week, I made an extensive statement reviewing the records of Chief Justice Roberts and Justice Alito in their confirmation hearings. Although both professed to give great deference to Congress on findings of the facts of the record, when it came to making a decision—for example, in Citizens United—their judicial views were much different.

Both Chief Justice Roberts and Justice Alito talked at length about how it was the legislative function to have hearings, compile the record and find the facts; that it was not a judicial function, and that when judges engaged in that, they were engaging in legislation. But when it came to the case of Citizens United, overturning a century of a prohibition on corporations engaging in paying for political advertising, both Chief Justice Roberts and Justice Alito found the 100,000-page record insufficient. Both of them talked about stare decisis and the value of precedent and the factors that led to the strengthening of stare decisis. Chief Justice Roberts spoke emphatically about not giving the legal system a ''jolt.'' Well, that is hardly what has happened during their tenure on the bench.

So the question which we will put to Solicitor General Kagan, among others, is, How does Congress get those promises translated into actual practice? And in making the comments about Chief Justice Roberts and Justice Alito, I do so without challenging their good faith. There is a big difference between answering questions in a Judiciary Committee hearing and deciding a case in controversy. But the question remains as to how we handle that.

As expressed in my statement earlier this week, I am very much concerned about the fact that there has been a denigration of the strong constitutional doctrine of separation of power and that we have moved to a concentration of power. That has happened by the Supreme Court taking on the proportionality and congruence test, which, as Justice Scalia noted in a dissent, is a ''flabby'' test designed for judicial legislation.

The Court has also ceded enormous powers to the executive by refusing to decide cases where there are conflicts between the executive and legislative branches. I spoke at length earlier this week about the failure of the Supreme Court to deal with the conflict between Congress's Article I powers in enacting the Foreign Intelligence Surveillance Act versus the President's authority as Commander in Chief. I did that in the context of noting that the Supreme Court has time for deciding many more cases.

These are, I think, impressive statistics. In 1886, the Supreme Court had 1,396 cases on its docket and decided 451 cases. In 1987, a century later, the Supreme Court issued 146 opinions. By 2006, the Supreme Court heard argument on 78 cases, wrote opinions in 68. In 2007, they heard argument in 75 cases, wrote opinions in 67 cases. In 2008, they heard arguments in 78 cases, wrote opinions in 75 cases.

In addition to not deciding cases such as the terrorist surveillance program and the sovereign immunities case, which I talked about extensively earlier this week, the Supreme Court has allowed many circuit splits to remain unchecked. There is an informative article in the July/August 2006 edition of the Atlantic entitled ''Of Clerks and Perks,'' written by Stuart Taylor, Jr. and Benjamin Wittes. In that article, the authors point out about how much time the Supreme Court Justices have, noting that one Justice produced four popular books on legal themes while on the bench, another is working on a $1.5 million memoir, and another Justice took 28 trips in 2004 alone and published books in 2002, 2003, and 2005.

Madam President, I ask unanimous consent to have printed in the RECORD the full article to which I just referred.

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

[From the Atlantic, July/August 2006]

### OF CLERKS AND PERKS

#### WHY SUPREME COURT JUSTICES HAVE MORE FREE TIME THAN EVER—AND WHY IT SHOULD BE TAKEN AWAY

(By Stuart Taylor Jr. and Benjamin Wittes)

There are few jobs as powerful as that of Supreme Court justice—and few jobs as cushy. Many powerful people don't have time for extracurricular traveling, speaking, and writing, let alone for three-month summer recesses. Yet the late Chief Justice William Rehnquist produced four popular books on legal themes while serving on the bench. Clarence Thomas has been working on a $1.5 million memoir. And Sandra Day O'Connor, who retired to general adulation, took twenty-eight paid trips in 2004 alone, and published books in 2002, 2003, and 2005.

All this freelancing time breeds high-handedness. Ruth Bader Ginsburg tars those who disagree with her enthusiasm for foreign law with the taint of apartheid and Dred Scott; Antonin Scalia calls believers in an evolving Constitution ''idiots,'' and carries on a public feud with a newspaper over whether a dismissive gesture he made after Sunday Mass—flicking fingers out from under his chin—was obscene. Meanwhile, on the bench the justices behave like a continuing constitutional convention, second-guessing elected officials on issues from school discipline to the outcome of the 2000 election, while leaving unresolved important, if dust-dry, legal questions that are largely invisible to the public.

Many lawmakers are keen to push back against a self-regarding Supreme Court, but all of the obvious levers at their disposal involve serious assaults on judicial independence—a cure that's worse than the disease of judicial unaccountability. The Senate has already politicized the confirmation process beyond redemption, and attacking the federal courts' jurisdiction, impeaching judges, and squeezing judicial budgets are all bludgeons that legislators have historically avoided, and for good reason.

So what's an exasperated Congress to do? We have a modest proposal: let's fire their clerks.

Eliminating the law clerks would force the justices to focus more on legal analysis and, we can hope, less on their own policy agendas. It would leave them little time for silly speeches. It would make them more ''independent'' than they really want to be, by ending their debilitating reliance on twentysomething law-school graduates. Perhaps best of all, it would effectively shorten their tenure by forcing them to do their own work, making their jobs harder and inducing them to retire before power corrupts absolutely or decrepitude sets in.

No justice worth his or her salt should need a bunch of kids who have never (or barely) practiced law to draft opinions for him or her. Yet that is exactly what the Court now has—four clerks in each chamber to handle the lightest caseload in modern history. The justices—who, unlike lower-court judges, don't have to hear any case they don't wish to—have cut their number of full decisions by more than half, from over 160 in 1945 to about 80 today. During the same period they have quadrupled their retinue of clerks.

Because Supreme Court clerks generally follow a strict code of omertà, the individual justices' dependence on them is hard to document. But some have reportedly delegated a shocking amount of the actual opinion writing to their clerks.

Justice Harry Blackman's papers show that, especially in his later years, clerks did most of the opinion writing and the justice often did little more than minor editing, as well as checking the accuracy of spelling and citations. Ginsburg, Thomas, and Anthony Kennedy reportedly have clerks write most or all of their first drafts—according to more or less detailed instructions—and often make few substantial changes. Some of O'Connor's clerks have suggested that she rarely touched clerk drafts; others say she sometimes did substantial rewrites, depending on the opinion.

There's no reason why seats on the highest court in the land, which will always offer their occupants great power and prestige, should also allow them to delegate the detailed writing to smart but unseasoned underlings. Any competent justice should be able to handle more than the current average of about nine majority opinions a year. And those who don't want to work hard ought to resign in favor of people who do.

Cutting the clerks out of the writing will also improve the justices' decision- making, by forcing them to think issues through. As the eighty-six-year-old John Paul Stevens, the only justice who habitually writes his own first drafts, once told the journalist Tony Mauro: ''Part of the reason [I write my own drafts] is for self-discipline . . . I don't really understand a case until I write it out.''

This is not to suggest that the justices should have to spend their time on scut work—reading all 8,000 petitions for review filed in a typical year, or hitting the library to dig up obscure precedents. These are the tasks that law clerks used to do. And this sort of thing is all they will have time to do if Congress cuts each justice's clerk complement from four back to one, as legal historian David Garrow has suggested.

For much of American history, the life of a justice was something of a grind. Watching the strutting pomposity of modern justices, this ''original understanding'' of the job—as a grueling immersion in cases, briefs, and scholarship—seems increasingly attractive.

Justice Louis Brandeis once said that the reason for the Supreme Court justices' relatively high prestige was that ''they are almost the only people in Washington who do their own work.'' That was true then. It should be true again.

Mr. SPECTER. Madam President, this raises the issue about deciding these cases where the workload is not very high, where there is a recess of some 3 months, extensive travels, and extensive lectures. Now they may do what they please, and they will, but there is a balance here. The question is: How do you get more cases decided? How do you deal with the question of having the Justices put into practice, once they are on the bench, what they are talking about in the confirmation hearings? That is hard to determine.

The best way, in my view, and I have spoken about this in some length, is by publicizing their failures. I think when we take up their budget, for example, it is fair to consider how many clerks they need, given their workload. The number started at one, went to two and three, and is now at four. Is it fair to consider the recess period? In evaluating their budget, we have to be very careful not to intrude upon judicial independence, which is the hallmark of our Republic. But on the issue of publicizing what the Court does, I think it is fair game; preeminently reasonable.

For decades now, I have been pressing to have the Supreme Court proceedings televised. Only a very limited number of people can fit inside the chamber—a couple of hundred; less than 300. People are permitted to stay there for only 3 or 4 minutes. Twice the Judiciary Committee has passed out legislation by substantial margins—12–6, and in the current term 13–6—calling on the Supreme Court to be televised.

When the case of Bush v. Gore was argued, Senator Biden and I wrote to the Chief Justice asking that the television cameras be permitted to come in. The Chief Justice declined, but did—in a rather unusual way—authorize a simultaneous audio.

There have been continuing efforts by C–SPAN to have more access to the Court, and I ask unanimous consent to have printed in the RECORD a document entitled ''C–SPAN Timeline: Cameras in the Court'' at the conclusion of this presentation.

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

(See exhibit 1.)

Mr. SPECTER. Madam President, I don't have time to go into it now, with the limited time available, but the reader of the CONGRESSIONAL RECORD can see how frequently the Court has denied access to even the audio.

It is a matter of general knowledge that the Supreme Court Justices engage in television interviews with some frequency. Justice Scalia, for example, appeared on the CBS News program ''60 Minutes'' on April 27 of 2008; Justice Thomas was on ''60 Minutes'' on September 30, 2007; Justices Breyer and Scalia have engaged in several televised debates, including a debate on December 5, 2006. All Justices have sat for television interviews conducted by C–SPAN.

A point I have made with some frequency on the floor of the Senate is the great importance of the Supreme Court in our government. The Supreme Court has the final word. There is nothing in the Constitution which gives the Supreme Court the final word, but they took it in the celebrated case of Marbury v. Madison, and I believe it has been for the betterment of the country. You find the inability of the Congress to act. The most noteworthy illustration of that was segregation, for years the practice in this country. The executive branch did not handle it, but the Court was able to integrate our schools in a recognition of the changing values and the flexible interpretation of a living Constitution.

It is often said that the Court is not final because they are right, but they are right because they are final. Somebody has to make these final decisions, and I think the Court should do it. But I do believe it is of great value if the people in this country understood what the Court is deciding.

Madam President, I ask unanimous consent to have printed in the RECORD a statement of some 11 cases entitled ''List of Cutting-Edge Decisions of the Roberts' Court.''

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

LIST OF CUTTING-EDGE DECISIONS OF THE ROBERTS COURT

Citizens United v. Federal Election Commission (2010). A five-four majority of the Court struck down as facially unconstitutional section 203 of the McCain-Feingold Act, despite an extensive body of Congressional findings, two Supreme Court precedents explicitly uphold section 203 (Austin (1990) and McConnell (2003)), and prohibition on corporation money in federal elections stretching back to 1907.

Parents Involved in Community Schools v. Seattle School District No. 1 (2007). In a 5–4 opinion by Chief Justice Roberts, the Court struck down narrowly tailored race-conscious remedial plans adopted by two local boards designed to maintain racially integrated school districts, contrary to a ''long-standing and unbroken line of legal authority tells us that the Equal Protection Clause [of the Fourteenth Amendment] permits local school boards to use race-conscious criteria to achieve positive race-related goals, even when the Constitution does not compel it.''

Hein v. Freedom from Religion Foundation, Inc. (2007). In a 5–4 opinion by Justice Alito, the Court held that an individual taxpayer did not have standing to challenge the constitutionality of government expenditures to religious organizations under the Bush administration's ''faith-based initiatives'' program. That conclusion ran counter to a four-decade-old precedent holding that taxpayers have standing to challenge federal expenditures as violative of the Establishment Clause (Flast v. Cohen (1968)).

Morse v. Frederick, (2007). In a 5–4 opinion by Chief Justice Roberts, the Court held that the suspension of high school students for displaying a banner across the street from their school that read ''BONG Hits 4 JESUS'' did not violate the First Amendment. That holding ran counter to a long-standing precedent, Tinker (1969), which held unconstitutional the discipline of a public-school student for engaging in First Amendment-protected speech unless it disrupts school activities.

Penn Plaza, LLC v. Pyett (2009). In a 5–4 opinion by Justice Thomas, the Court upended the Court's unanimous 1974 decision in Alexander v. Gardner-Denver Co. (1974), which held that an employee cannot be compelled to arbitrate a statutory discrimination claim under a collectively bargained-for arbitration clause to which he did not consent. The Court held otherwise in Pyett, thereby depriving many employees of their right to bring statutory discrimination claims in federal court.

Leegin Creative Leather Products, Inc. v. PSKS (2007). In a 5–4 opinion by Justice Kennedy, the Court overturned a century-old precedent holding that vertical price-fixing agreements per-se violate the federal antitrust laws.

Federal Election Commission v. Wisconsin Right to Lift (2007). In a 5–4 opinion by Justice Roberts, the Court ruled that the McCain-Feingold Act's limitations on political advertising were unconstitutional as they applied to issue ads like WRTL's (which in this case encouraged viewers to contact two U.S. Senators and tell them to oppose filibusters of judicial nominees). Justice Scalia went so far as to accuse Chief Justice Roberts and Justice Alito of practicing what he called ''faux judicial restraining'' by effectively overruling McConnell (2003) ''without expressly saying so.''

Northwest Austin Municipal Utility District v. Holder (2009). An opinion by Chief Justice Roberts discussed whether the 2006 extension of 5 of the Voting Rights Act of 1965 was supported by an adequate legislative record. Although the court ultimately decided the case on a narrow statutory ground, Roberts made clear that he was disinclined to accept Congress's legislative finding as to the need for §5, despite an extensive record amassed over ten months in 21 hearings.

Ledbetter v. Goodyear Tire and Rubber Company (2007). In a 5–4 opinion by Justice Alito, the Court ruled that Ledbetter's employment discrimination claim was time-barred by Title VII's limitations period, despite the fact that she had only recently found out that the discrimination was occurring.

Ashcroft v. Iqbal (2009) and Bell Atlantic v. Twombly (2007). In these decisions, the Court fundamentally changed the long-standing rules of pleadings under the Federal Rules of Civil Procedure while refusing to acknowledge that a change had been made. These decisions created a heightened pleading standard that may impair the ability of American to access the courts.

District of Columbia v. Heller (2008), In a 5–4 decision, the Court held that the Second Amendment guarantees an individual right to bear arms unconnected with service in a state militia, and, in doing, struck down a District of Columbia gun control law that had been in place for over three decades. The majority and minority opinion diverged sharply on the framer's original understanding of the Second Amendment.

Mr. SPECTER. There is insufficient time to go over them now, but most of them are 5–4 decisions. The Supreme Court decides everything from life to death, Roe vs. Wade to the death penalty cases and double jeopardy. These cases involve the integration issue, religious freedom, freedom of speech, collective bargaining, the antitrust laws, and all of the cutting-edge questions are decided.

It is my hope that we will find time on the Senate's agenda—with as many quorum calls as we have had we ought to find some time—to take up the issue of televising the Supreme Court. And as we approach next Monday's hearings on Solicitor General Kagan, we will be pursuing these very important issues.

In the remaining time available, one other matter which I wish to comment about—and I have sent Solicitor General Kagan three letters setting forth the areas of questioning which I intend to make—is a remarkable, perhaps unprecedented, action by the Supreme Court invalidating the Arizona clean elections law.

Arizona set up a law to provide matching funds. The District Court in Arizona declared it unconstitutional, but the Ninth Circuit overturned the district court. The district court had issued an injunction—that is, to prevent the law from being carried out—on matching funds. The Ninth Circuit reversed that. The Supreme Court—in an unusual decision, to put it mildly—earlier this month, on June 8, put the injunction back into effect.

This is in the context where there hasn't even been a petition for certiorari filed. The regular practice—the regular order—is a petition for cert, briefs, argument. That is the way cases are decided. But here, in the wake of Citizens United, invalidating a key part of McCain-Feingold, we have the Supreme Court invalidating the Arizona law without even the customary procedures.

All of this is in the face of congressional action and action by states to try to respond to public opinion. A recent Hart poll showed that some 95 percent of the American people think that corporations make contributions to exert political influence, and 85 percent of the people feel that corporations ought not to be able to contribute to political campaigns.

These are among the questions which we will be considering with the confirmation proceeding on Solicitor General Kagan. I cited at some length her law review article where she is inviting us to do so, committing at least in her law review article in 1995 to provide substantive answers and acknowledging that someone with a thin paper trail, as she has, is under more of an obligation to respond.

I note the time has expired.

EXHIBIT 1

C–SPAN TIMELINE: CAMERAS IN THE COURT

C–SPAN has sought to provide its audience with coverage of the Judiciary, just as it has covered the Legislative and Executive branches of government. The prohibition of televised coverage of the Supreme Court's oral arguments has been an obstacle to fulfilling that goal. Below is a record of C–SPAN's efforts to make the Court more accessible to the public.

1981—C–SPAN televises its first Supreme Court Senate confirmation hearing with gavel-to-gavel coverage, with the nomination of Sandra Day O'Connor.

1985—C–SPAN launches ''America & the Courts,'' a weekly program focusing on the Judiciary with an emphasis on the Supreme Court.

1987—Court permits C–SPAN to originate live Interview and call-in programs from its Press Room.

2/1988—First letter to Chief Justice Rehnquist requesting camera coverage of Supreme Court.

11/1988—Participated in demonstration of potential camera coverage in Supreme Court.

9/1990—C–SPAN airs first live telecast of a federal court proceeding from a military appeals court.

1991—C–SPAN is instrumental in advocating and implementing a 4-year experiment with the Judicial Conference to test television coverage of civil cases before two federal Courts of Appeals and six District Courts.

11/2000—Letter to Chief Justice Rehnquist requesting camera coverage of Bush v. Palm Beach County Canvassing Board. Court agreed to release audio only.

12/2000—Letter to Chief Justice Rehnquist requesting live audio release of Bush v. Gore. Received early audio release, not live.

2003—Sent letter requesting early audio release of Grutter v. Bollinger and Gratz v. Bollinger. (Affirmative action cases) Court agreed.

2003—Requested early audio release of McConnell v. FEC. (Campaign finance rules) Court agreed.

5/2003—Justice O'Connor participates in C–SPAN's ''Student and Leaders'' with students at Gonzaga College High School in Washington, DC.

5/2003—Justice Thomas participates in C–SPAN's ''Student and Leaders'' with students at Banneker High School.

2004—Requested early audio release in the following cases. Rasul v. Bush and Al Oday v. United States; Cheney v. U.S. District Court; Hamdi v. Rumsfeld; Rumsfeld v. Padilla. Court agreed.

2004—Requested early audio release of Roper v. Simmons. (Execution of juveniles) Denied.

2005—Requested early audio release of Van Orden v. Perry and McCreary County v. ACLU of Kentucky. (Separation of church and state) Denied.

1/2005—Senator Arlen Specter (R–PA) introduces legislation to televise the Supreme Court Statement. Read

4/2005—C–SPAN airs live a ''Constitutional Conversation'' moderated by Tim Russert with Justices Breyer, O'Connor and Scalia. They discuss the role and operation of the Court, among other subjects. Watch

10/2005—First letter to Chief Justice Roberts offering C–SPAN capabilities to provide gavel-to-gavel camera coverage of Supreme Court.

11/2005—Requested early audio release of: Ayotte v. Planned Parenthood of Northern New England (abortion) and Rumsfeid v. Forum for Academic and Institutional Rights (''don't ask, don't tell'' policy). Agreed.

11/2005—C–SPAN CEO Brian Lamb testifies before the Senate Judiciary Committee hearing on the issue of cameras in the Supreme Court. Watch/Read

11/2005—U.S. House passes provisions of Sunshine in the Courtroom Act Statement. Read

2006—Requested audio release of tape of the investiture of Justice Alito. Denied.

2006—Requested early audio release of voting rights act cases. League of United Latin v. Perry; Travis County, Texas v. Perry; Jackson v. Perry; GI Forum v. Perry. Denied.

3/2006—Requested early audio release of Hamdan v. Rumsfeld. (Military Tribunals) Court agreed. Press Release

3/2006—Sens. Grassley (R–IA) and Schumer (D–NY) introduced Sunshine in the Courtroom Act. Press Release

6/2006—Letter to Chief Justice Roberts requesting simultaneous release of all oral arguments beginning with 2006 term. Denied.

8/2006—C–SPAN's Brian Lamb interviews Chief Justice John Roberts in one of his first television interviews since joining the court. Transcript/Watch

10/2006—Requested early audio release of Gonzalez v. Planned Parenthood and Gonzalez v. Carhart (abortion). Court agreed. Press Release

10/2006—C–SPAN airs live a discussion between Justice Scalia and Nadine Strossen, President of the ACLU, called '' The State of Civil Liberties.'' Watch

11/2006—Sent letter requesting early audio release of Parents Involved v. Seattle School District No. 1 and Meredith v. Jefferson County Board of Education (affirmative action). Court agreed.

11/2006—Requested early audio release of oral arguments in Parents Involved v. Seattle School District No. 1 and Meredith v. Jefferson County Board of Education (Affirmative action) Court agreed. Press Release

1/2007—Sent letter requesting early audio release of Davenport v. Washington Education Association and Washington v. Washington Education Association (Union dues). Denied.

1/2007—Introduction of the Sunshine in the Courtroom Act of 2007 in the 110th Congress, co-sponsored by Sens. Grassley (R–IA), Leahy (D–VT) and Schumer (D–NY).

1/2007—Sen. Arlen Specter (R–PA) introduces cameras in the Supreme Court legislation. Watch

2/2007—Sent letter requesting early audio release of Rita v. United States and Claiborne v. United States (Federal sentencing guidelines). Denied

2/2007—Rep. Ted Poe (D–TX/2nd), a former judge, delivers a floor speech about opening the court to cameras. Watch

2/2007—Sens. Specter and Cornyn discuss cameras in the courts with Justice Anthony Kennedy during Judiciary Committee hearing. Sen. Specter questions Justice Kennedy directly. Watch/Sen. Cornyn remarks on his experience with cameras. Watch/Watch Hearing

3/2007—Justices Kennedy and Thomas comment on cameras in the court before a House Appropriations Subcommittee hearing on the FY08 Supreme Court budget. Watch Justice Kennedy/Watch Justice Thomas

3/2007—Sent letter requesting early audio release of FEC v. Wisconsin Right to Life and McCain v. Wisconsin Right to Life (Campaign Finance). Denied.

3/7/2007—Sent letter requesting camera coverage of 3rd circuit CBS vs. FCC hearing on Television Indecency Standards. Received permission for audio only.

8/16/2007—Aired camera footage of Ninth Circuit Court of Appeals 8/15/07 oral argument in two cases on the government's warrantless wiretapping program. Al-Haramain Islamic Foundation, Inc. v. Bush Hepting v. AT&T

9/11/2007—Aired same-day audio of CBS vs. FCC hearing on Television Indecency Standards.

9/27/2007—C–SPAN President Susan Swain testifies before House Judiciary Committee on H.R. 2128, Sunshine in the Courtroom Act of 2007. Watch/Read Testimony

9/2007—Sent letter requesting early audio release of Medellin v. Texas (Presidential Powers) and Stoneridge Investment v. Scientific-Atlanta (Securities Fraud). Denied.

10/2007—Sent letter requesting early audio release of Boumediene v. Bush & Al Odah v. U.S. (Guantanamo Detainees) Court Agreed. Press Release

11/16/2007—9th Circuit Court of Appeals opinion in Al-Haramain Islamic Foundation v. Bush cites C–SPAN'S request to record oral argument and date footage was televised. See footnote 5, page 14969.

12/06/2007—Senate Judiciary Committee votes in favor of sending S. 344 to the full Senate for a vote. The bill would require television coverage of the Supreme Court's open sessions unless a majority of justices vote to block cameras for a particular case.

1/2008—Request for same-day audio release of oral argument in Baze v. Rees (Lethal Injection). Court agreed. Press Release

1/02/2008—Request for same-day audio release of oral argument in Crawford v. Marion County (Voting Rights). Denied.

1/16/2008—NY Times Editorial on Cameras in the Supreme Court.

3/2008—Request denied for same-day audio release of oral argument in United States v. Ressam (''Millenium Bomber'' case).

3/2008—Request granted for same-day audio release of oral argument in District of Columbia v. Heller (DC Gun Law). Press Release

3/6/2008—The Senate Judiciary Committee passes the ''Sunshine in the Courtroom Act'' which allows cameras in federal court rooms with a vote of 10–8 with one member abstaining. The bill is referred to the full senate for consideration. Press Release

3/21/2008—Rochester Democrat and Chronicle Editorial on allowing cameras in the Supreme Court.

4/14/08—Request for same-day audio release of oral argument in Kennedy V. Louisiana (Death Penalty for Rape) denied.

9/26/2008—Request for same-day audio release of oral argument in Altria Group, Inc. v. Good (Marketing of ''Light'' Cigarettes) and Winter v. Natural Resources denied. Request Letter

10/15/2008—Request for same-day audio release of oral argument in FCC v. Fox Television Stations (Television Indecency Standards) denied. Request Letter Story

11/12/2008—Request for audio release of oral argument in Pleasant Grove City v. Summum (Free Speech) denied.

12/3/2008—Request for audio release of oral argument in Phillip Morris USA Inc. v. Williams (Supreme Court-State Court authority) denied.

12/10/2008—Request for same-day audio release of oral argument in Ashcroft v. Iqbal (Can President's Cabinet be sued for constitutional violations by subordinates) denied.

3/3/2009—Request for audio release of oral argument in Caperton v. A.T. Massey (Should elected state judges recuse themselves) denied.

3/27/2009—Joint request for same-day audio release of oral argument in Northwest Austin Municipal Utility District Number One v. Holder 4–291 granted. Request Letter Article

7/2009—Judge Sotomayor questioned about cameras in the court during her confirmation hearings. Sen. Specter on Opinion Poll Sen. Specter on Cameras in the Court Sen. Kohl on Cameras in the Court

7/2009—British Supreme Court decides to televise events from inside the court's three chambers. Article

8/7/2009—Boston Herald op-ed by Wayne Woodlief: ''Televised justice would be for all.'' Article

9/9/2009—Request for Citizens United v. Federal Election Commission (Campaign Finance). Agreed.

11/2009—Requests for audio releases of oral arguments in Jones v. Harris Associates (Investment fund fees), Graham v. Florida (life sentence for minor), and Sullivan v. Florida (life sentence for minor). Denied.

2/16/10—Request for request for same-day audio release of oral argument in Holder v Humanitarian Law Project. Denied.

2/26/10—C–SPAN requests for same-day audio release of oral arguments in Skilling v. United States and McDonald v. City of Chicago on Tuesday, March 2nd—denied.

4/7/10—C–SPAN requests same-day audio release of oral argument in Christian Legal Society Chapter v. Martinez on April 19. Denied.

4/15/10—During hearing of House Appropriations-Subcommittee on Financial Services and General Services, Supreme Court Justice Stephen Breyer comments on cameras in the court. Click here to watch

4/29/10—C–SPAN statement on today's Senate Judiciary Committee passage of two bills concerning TV cameras in the Supreme Court. Press Release

5/10/10—Pres. Obama nominates U.S. Solicitor General Elena Kagan. She gave remarks on cameras in the court during a Ninth Circuit Judicial Conference from July, 23, 2009. Click here to watch

## RECESS

The PRESIDING OFFICER. The Senate stands in recess, under the previous order, until 2:30 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:30 p.m., and reassembled when called to order by the Acting President pro tempore.

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

Mr. REID. Mr. President, I ask unanimous consent that Senator NELSON of Florida be recognized for up to 11 minutes as in morning business and Senator DEMINT be recognized for up to 10 minutes; that during this time that has been requested, there be no amendments or motions in order, and that upon use or yielding back of the time, I be recognized.

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

The Senator from Florida is recognized.

## THE GULF COAST DISASTER

Mr. NELSON of Florida. Mr. President, in my at least weekly report to the Senate about what is happening down on the Gulf Coast, I am sad to report to you that as of this moment, one of the remote operating vehicles has bumped into that top hat process that was funneling the oil off of the big structure, the blowout preventer from the pipe, the riser pipe, with the result that all of that oil now is not being siphoned off. The estimates now are upwards and probably pretty close to 60,000 barrels a day of oil gushing into the Gulf of Mexico.

Remember, when it started off, oh, it was only 1,000 barrels a day. Then it was only 5,000 barrels a day. Then it was maybe 12,000 barrels a day but max 20,000 barrels a day. Senator BOXER and I were able to get the streaming video out so the scientists could look and they could make their estimates, their calculations. Anyway, it has gone on and on. It is now up to 60,000 barrels of oil a day.

The oil industry had said they had started siphoning off—first it was 10,000, then it was 15,000. They were trying to get it up to 25,000. Now, since this accident, that is being shut down—let's hope just very temporarily, but we are now back to the point that most of the oil is gushing back into the gulf. We know the result.

If this continues for another 2 months, to the end of the summer, it is going to fill up the gulf with oil and it is going to do just what it is doing now. When the wind comes this way, it brings the oil from the South to the North; it brings it in onshore. The oil

is now all the way from the wellhead off Louisiana, all the way across the gulf coast of northwest Florida. The blessing we had is that the wind has kept most of it off the coast. But, inevitably, when the wind rises up in the South, it brings the tar balls up. It has brought some of that terrible-looking orange mousse. That is one of the most repulsive-looking things. When I saw that in Pensacola Bay, to think of that in a pristine bay such as that and that the tides and wind were carrying it right to downtown Pensacola—that is what we are having to deal with.

Tomorrow, the Energy Committee is having a hearing on legislation Senator MENENDEZ and I have sponsored. This is to rectify the situation that brought us to this situation in the first place; that is, the safety checks were not made, the attention to detail on the application was not paid, and the checks were not made to see that the backup devices on the blowout preventer were, in fact, going to be there. In other words, the oil regulator—the part of the U.S. Government that is supposed to do all of these safety checks—was not functioning.

Why was it not functioning? Because for better than a decade, there has been a cozy relationship between the oil industry and the regulator, called the Minerals Management Service in the Department of the Interior, and that regulator was so compromised by gifts, by trips, by jobs. Indeed, I am sad to report that the 2008 inspector general's report talked about there were parties, there was booze, there were drugs, there were illicit sexual relationships going on between the industry and the government regulators. How can you have government regulation under these conditions?

Of course, there was the revolving door. The revolving door happens in other regulated industries as well, but this one was particularly revolving and revolving. What that is, somebody would come out of the oil industry, they would go through the revolving door, they would go right into the government regulator shop, they would stay there for a while and they would supposedly be an independent regulator, but, no, the door would revolve again and they would then go right back out of the government job, back into the oil industry—the very industry they were supposed to be regulating before. Is that a conflict of interest? You bet it is. Can you have an independent regulator? Of course you can't under those circumstances.

So Senator MENENDEZ and I have filed a bill. As a matter of fact, we had this back in 2008 when that inspector general's report came out. We could not get anybody to pay any attention to it back then. What is the result of lax regulation? It is exactly what has been visited upon us—this trauma so many people in that region of the Gulf of Mexico are suffering.

As the administration goes about the process of cleaning up the Minerals Management Service, reorganizing it, getting new personnel, then it is up to us to change the law to make sure there are penalties—indeed, even criminal penalties—for gifts and trips by the very industry you are supposedly regulating, which in this case claimed 11 lives and countless jobs and livelihoods and a whole way of life in a culture along the gulf coast.

The bill that will be heard tomorrow, which we are grateful for, sets new penalties. It sets a limit—a mere 2 years—so that when someone comes out of the government regulator's office, they can't be employed in that oil industry they have just regulated until a period of time of 2 years has lapsed. It also provides penalties for the gifts, the trips, the favors we have seen chronicled, not in my words but in the words of the 2008 inspector general's report; the report 2 months ago, the inspector general's report; and the report a month ago, the inspector general's report. In this last report, he particularly talked about the revolving door. It is something we have to change. Sadly, it has taken the biggest environmental disaster in U.S. history, but because of this tragic condition, this Congress ought to be poised now to crack down on the government's buddy-buddy relationships with the oil industry.

Tomorrow, the Senate Energy Committee is set to begin debating legislation aimed at cutting the oil drillers' close ties to the industry and aimed at stopping that revolving door. It is going to prohibit the employees of the Minerals Management Service or its successor—since the Secretary of Interior, Ken Salazar, is now busting it up—they are going to have to wait around for 2 years before they get a job back in the industry. The goal is obvious: to limit the degree of influence big oil has on those who are hired to keep the drillers in line. It is the least we can do for those folks down home who are suffering so much right now. They expect us to update laws to meet the times. This is such a time.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

## THE CAPITAL GAINS AND DIVIDEND TAX

Mr. DEMINT. Mr. President, I wish to speak for a few minutes on the motion that relates to the coming increases in capital gains tax and dividend tax. Very few Americans are aware and I think even some people in the Senate are not aware that in about 6 months, there is going to be a tax explosion in this country—taxes on everyone from the 10-percent bracket all the way up to major corporations. Taxes are going up at a time when we know raising taxes will kill jobs in America.

The Heritage Foundation estimates that if we allow taxes to expire this year, the current rate of taxes to expire, and taxes go up in our economy, in the first year we could lose 270,000 jobs. This is really unacceptable when unemployment is already nearly 10 percent, the economy is waning, and we just got a bad housing report. As all of these companies plan for their future, they are certainly not going to risk capital to expand their companies and add people if they know their taxes are going to go up.

What I proposed as part of this debate on a tax bill is to focus on just one area that we know has a lot to do with investment, with growth of companies; that is, the capital gains tax and the dividends tax. My motion would refer the underlying bill back to committee to add the provisions that cap gains tax and dividend taxes will both stay at 15 percent. If we do not act, in 6 months the capital gains taxes will go from 15 to 20 percent and the dividend taxes, which affect a lot of senior citizens on fixed incomes, will go from 15 all the way up to nearly 40 percent. That makes absolutely no sense in a recession and with the joblessness we have across this country. Surely, as a Senate, as a Congress, we could recognize that raising taxes on investment—those who are going to risk their capital—does not make sense when we are trying to do everything we can to stimulate the economy.

We tried it the other way. We tried the government spending approach. We all know this government spending plan we call the stimulus, where we spent nearly $1 trillion, has failed. The President promised that if we rushed that through and got stimulus immediately into the economy, over a year ago, that we could keep unemployment below 8 percent and put Americans back to work. But since then, we have lost millions of real jobs. We have added some government jobs because this is basically a government spending plan, but we certainly have not put the real economy most Americans depend on back to work.

We are continuing to lose ground. Yet we stick to this failed stimulus plan. Even when we try to pay for extending unemployment benefits with unspent stimulus money, my colleagues on the other side are holding so tightly to this that they will not even use that money to pay for it. Instead, they want to raise taxes and add to our debt—again, at a time when we really cannot afford this as a nation, when all of the so-called economic experts are warning us that this debt we have today is unsustainable. But almost every week in this body, the Democrats are proposing programs that add to the debt, that increase taxes—everything that is counter to improving our economy and adding to jobs and helping to build a brighter future in this country. Even some of those who were strong supporters of the stimulus bill have come out publicly and said: We guessed wrong. I am afraid we should not continue to guess.

One thing we know from history is—if we look back over several decades—

when we lower capital gains and dividends we improve the economy and we increase job creation in the economy. It makes no sense for us to move ahead, sending the signal to all of the investors in this country that we are going to punish their investment at a time when we need them to step up to the plate.

I hope my colleagues will consider this. What we are asking is that the bill be sent back to the Finance Committee so they can work on ways to keep capital gains and dividend taxes the same rather than let them explode, along with all of the other taxes that are going to go up in the next 6 months.

I hope we will have a chance to vote on this bill. I understand the majority is trying to table this motion. I strongly urge my colleagues to take up this matter, to send it back to the Finance Committee where they can figure out how to make sure we do not kill more jobs in the economy like we have done with the other failed stimulus plan.

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

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

The assistant bill clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. REID. Mr. President, we are working to complete work on the so-called extenders bill. We thought we would be ready to do the procedural votes to get to that a couple of hours ago. But as things happen around here, there has been changes requested by a number of Senators. As a result of that, we are going to have to go back to the Joint Committee on Taxation and get some more numbers. That is probably going to take about an hour.

So we are not jammed for time, I ask unanimous consent that the Senate proceed to a period of morning business until 4:30 p.m. today, and that during that period of time Senators be allowed to speak for up to 10 minutes each. We are not going to divide the time Democrat and Republican. What we will do is, if there is a Democrat who wants to talk, talk for 10 minutes. If there is a Republican here, then it would be their turn.

We will try to work this out by a gentlemen-and-ladies agreement to go back and forth, if in fact there are people who want to talk, with 10-minute limitations alternating time, if in fact there are the Senators. If there are two Republicans and no Democrat here, then the two Republicans and vice-versa.

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

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

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

The assistant bill clerk proceeded to call the roll.

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

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

## ELENA KAGAN AS POLITICAL OPERATIVE

Mr. MCCONNELL. Mr. President, on Monday, the Senate will begin the confirmation hearings on Supreme Court nominee Elena Kagan. And I think it is safe to say most American do not know all that much about her.

But a fuller picture of this nominee is beginning to emerge.

The recent release of documents relating to Ms. Kagan's work in the Clinton White House reveals a woman who was committed to advancing a political agenda, a woman who was less concerned about objectively analyzing the law than the ways in which the law could be used to advance a political goal.

In other words, these memos and notes reveal a woman whose approach to the law was as a political advocate, the very opposite of what the American people expect in a judge.

This is the kind of thinking behind the current Democratic effort to pass the so-called DISCLOSE Act, a bill designed to respond to the Supreme Court's decision in Citizens United that they think puts them at a political disadvantage in the fall. That is why the bill was written by the chairman of their campaign committee.

And this is also the kind of thinking that seems to have motivated the Clinton White House to seek a similar legislative response the last time the Supreme Court issued a decision in this area that Democrats thought put them at a political disadvantage.

I am referring here to the case of Colorado Republican Federal Campaign Committee v. FEC, a case in which the Supreme Court essentially said that the Federal Government could not limit political parties from spending money on campaign ads called ''independent expenditures'' that said things like, ''Vote against Smith,'' or ''Vote for Jones.''

This was not an especially controversial decision, as evidenced by the fact that it was written by Justice Breyer, one of the Court's most prominent liberals. But the decision put Democrats at a political disadvantage. So the Clinton administration did the same thing then that the Obama administration is trying to do today. They considered proposals to lessen its impact and to benefit Democrats over Republicans. And Elena Kagan worked to advance that goal as part of President Clinton's campaign finance task force.

Ms. Kagan's notes reveal that finding ways to help Democrats over Republicans was very much on her mind. According to one of her notes, she wrote:

''Free TV as balance to independent expenditures? Clearly, on mind of Dems—need a way to balance this.''

The ''balance'' Ms. Kagan is referring to was a way for Democrats to balance what they viewed as the Republicans' advantage in helping their candidates with independent expenditures. And ''free TV,'' well, that is a reference to Democrats wanting free television to help them out in their campaigns. Providing free TV would be a ''significant benefit,'' Ms. Kagan wrote. It was also something the Clinton administration could bring about, she suggested, by simply having the FCC issue a new regulation, or by adding such a provision to legislation the White House was helping to craft.

But this was not the only way in which Ms. Kagan thought about stacking the deck to help Democrats over Republicans at the time. Another note reveals her approach to the issue of soft money, the money political parties used to spend outside of Federal elections. Ms. Kagan's notes show that she thought banning it would hurt Republicans and help Democrats. She even seemed to delight in the prospect of finding ways to disadvantage Republicans. Here is what she wrote in her notes:

''Soft [money] ban—affects Repubs, not Dems!''

And if I had this quote up on a chart, you would see that she punctuated this sentence with an exclamation point.

So let me repeat that quote one more time:

''Soft [money] ban—affects Repubs, not Dems''—punctuated with an exclamation point.

We already knew that Ms. Kagan and her office argued to the Supreme Court at different points in the Citizens United case that the Federal Government had the power to ban political speech in videos, books and pamphlets if it did not like the speaker.

Then we learned she went out of her way to prevent lawyers at the Justice Department from officially noting their serious legal concerns with campaign finance legislation in order to help the Clinton administration achieve its political goals.

Now we learn that she thought about drafting such legislation in ways to help Democrats and hurt Republicans. And her advocacy and apparent glee at identifying some political harm to Republicans is, to my mind, another piece of her record that calls into question her ability to impartially apply the law to all who would come before her as a Justice on our Nation's highest Court.

The more we learn about Ms. Kagan's work as a political adviser and political operative, the more questions arise about her ability to make the necessary transition from politics to neutral arbiter. As Ms. Kagan herself once noted, during her years in the Clinton

administration, she spent ''most'' of her time not serving ''as an attorney'' but as a policy adviser. And her notes and memoranda reveal that all too often her policy advice and actions were based, first and foremost, on what was good for Democrats.

This kind of thinking might be okay for a political adviser. But there is a place for politics and for advocating for one's party, and that place is not on the Supreme Court. A political adviser may be expected to seek political advantage, but judges have a different task.

We do not know how Elena Kagan will apply the law because she has no judicial record, little experience as a private practitioner, and no significant writings for the last several years. So the question before the Senate is whether, given Ms. Kagan's background as a political adviser and academic, we believe she could impartially apply the law to groups with which she does not agree and for which she and the Obama administration might not empathize. So far, I do not have that confidence.

As the hearings progress, we will know better whether Ms. Kagan could ''administer justice without respect to persons,'' as the judicial oath requires.

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.

Ms. MURKOWSKI. I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. MURKOWSKI. Mr. President, I understand we are in a period of morning business.

The PRESIDING OFFICER. The Senator is correct.

## HEALTH CARE

Ms. MURKOWSKI. Mr. President, I rise to speak about the health care debate that has gone on in the Congress throughout the past year. President Obama promised that the Democrats' health care bill would reduce the spiraling cost of health care. The promise was made that if one likes their health care plan, they can keep it. Not necessarily every day but just about every other day there is yet another report released that confirms what many of us who opposed a Federal takeover of the health care system feared all along—higher costs, less access, and unsustainable spending. The President and this Democratically controlled Congress need to repeal this bill and put in place meaningful health care reform measures that will allow individuals to exercise more control over their health benefits and see their premiums actually go down instead of up.

I wish to speak to some of the reports that have been coming out. Let's start with a government report that came out 4 weeks after the health care bill was signed into law. It was from the President's own Chief Actuary at the Centers for Medicare and Medicaid Services, CMS, a gentleman by the name of Rick Foster. He released his report saying that President Obama's new health care reform law will actually increase national health care spending by $311 billion over the next 10 years. Foster's report also said about 14 million people would lose their employer coverage by the year 2019, largely as a result of small employers terminating coverage and workers who currently have employer coverage enrolling in Medicaid.

Mr. Foster also reports that the $530 billion in Medicare cuts may not be what he calls ''realistic and sustainable,'' potentially driving 15 percent of all hospitals, nursing homes, and similar providers into the red within 10 years. This would cause providers who depend on Medicare for a substantial part of their business to be forced to drop out of the program, ''possibly jeopardizing access to care''—those are Mr. Foster's words: ''jeopardizing access to care''—for our senior citizens.

The situation in my home State of Alaska is particularly dire. I have stood on this floor and I have discussed and certainly spoke to the statistics. Back in March of 2009, the Institute for Social and Economic Research at the University of Alaska reported that just 13—13—out of 75 primary care physicians in Anchorage were accepting new Medicare patients. Anchorage is our State's largest community, and we had 13 out of 75 primary care physicians who were accepting new Medicare patients. Just 15 months after this report was done by ISER, that number has dropped to the single digits.

Further cuts to Medicare will only worsen this situation for the most vulnerable Alaskans—our senior and disabled citizens. This is one of the main reasons I simply could not support the health care bill that came forward. The issue, as it relates to access for those who are Medicare eligible, has been a crisis in our State that only continues to worsen. But there are some other reasons for my objections.

In May—so last month—the neutral government scorekeeper, the Congressional Budget Office, or CBO, revised its initial cost estimate of the bill to say that the law will likely cost $115 billion more in discretionary spending over 10 years than the original projection. So 2 months after the law was enacted, the American people learn from yet another new government report that their Congress has passed a bill that would increase their health care costs and reduce their benefits. Again, this was something Republicans warned about over and over again during the last year as we discussed health care.

The small businesses in this country stand to lose the most under this health care bill. They were promised a pipedream, filled with tax credits to save small businesses money, but the bill is simply not having that effect. In fact, it is having the opposite effect. The Associated Press released a ''fact-check'' article last month that stated point blank: The small business tax credit included in the health care reform falls short.

The story interviews a gentleman by the name of Zach Hoffman. I know this story has been repeated on the Senate floor, but it is worth repeating.

Mr. Hoffman is the owner of an Illinois furniture company. He has 24 employees. They earn an average of $35,000 a year—clearly, a very modest wage by any standard. Yet the amount of the credit Mr. Hoffman calculated he would receive under this new law as a small business would be zero to him.

The AP article points out, the ''fine print''—which many small businesses will not qualify for the credit—was left out of the administration's press releases that touted the credit's ''broad eligibility.'' But you really just need to go back to the individuals who are being impacted by this or had hoped they would be impacted positively. Go back to the Illinois small business owner and look at his comment. He says:

> It leaves you with this feeling of bait-and-switch.

But thinking of how Mr. Hoffman could be eligible for the tax credit, he learned that all he needed to do was to cut his workforce to 10 employees and cut their wages. To this, the small business owner says: This does not make sense. He says:

> That seems like a strange outcome, given we've got 10 percent unemployment.

I think we would all agree it is a strange outcome. An unacceptable outcome is what it is.

This Illinois employer's situation is no different than any other employer regardless of what State they are in. In States such as Alaska and other particularly high-cost localities—whether it is New York City, San Francisco—where wages are higher because of the cost of living, the employers stand to lose because they will not be able to be eligible for these tax credits simply because they pay their employees higher wages than are allowed for in the health care bill.

Since enactment of the health care law, we have also heard from well-respected health care consulting firms that have released information showing that businesses fear the law's new employer mandate penalties. According to a report, more than one in four employers—about 26 percent—and nearly two in five retailers may not be in compliance with provisions requiring coverage of all employees working over 30 hours per week. Of those, a majority—54 percent—said they would consider changing their business practices ''so that fewer employees work 30 hours or more per week.'' This would be a devastating blow—a devastating blow—to an already ravaged economy.

We have another well-known consulting firm, Mercer. They released a

survey of the impact of the new health care law on employers just last month. The survey shows there is near unanimous belief by employers that the new law will raise employees' premiums. Only 3 percent of employers that responded said they believed the legislative changes would not cause their premiums to rise. This does not demonstrate very much faith in how this is going to benefit them.

One-quarter of respondents believed the bill would raise premiums by at least 3 percent over and above this year's normal rise in costs due to medical inflation.

Last week, there was a PricewaterhouseCoopers report that stated the cost for businesses providing health care coverage to employees will jump by 9 percent next year, in 2011, which analysts predict employers will shift more of the cost to workers next year. For the first time, most of the American workforce is expected to have health insurance deductibles of $400 or more.

Also, last week, the administration's new regulations on grandfathered health plans were released, outlining the various ways in which existing employer health plans will be forced to change under the new law. According to the Obama administration report, these regulations could result in nearly 7 out of 10 workers—and 80 percent of workers at small businesses; so 80 percent of the workers in our small businesses—would see changes in their plans.

In other words, under the new health care bill, more than half of those who get insurance through their jobs may be forced to change their plans whether they want to or not. Internal administration documents reveal that up to 51 percent of employers may have to relinquish their current health care coverage because of the health care bill—which takes me back again to the statement the President initially made: If you like your health care plan, you can keep it. That simply is not what we are seeing. It is not translating in the real world.

Then, of course, we have the CBO letter that just came out. This is dated June 21—just the day before yesterday. This letter comes from Mr. Elmendorf, the Director of the Congressional Budget Office, in responding to the ranking member on the HELP Committee about the high-risk pools. That letter confirms that an additional $5 billion to $10 billion would be needed to fully fund all eligible enrollees in the high-risk pool expansion, and, further, that the new high-risk pool program, which was supposed to be providing health insurance coverage to Americans—but to date the government has failed to provide any funding for these new high-risk programs and those with preexisting coverage have not been able to enroll in these new high-risk pools—but, again, coming from the Congressional Budget Office, with these new estimates, in fact, the funding available for the subsidies is simply not sufficient to cover the costs of all applicants and then the additional cost that is anticipated, an additional $5 billion to $10 billion to cover all eligible enrollees.

With new government reports telling us this bill will not reduce the premiums, and with employer groups looking at how they can minimize the hits they are taking under this new law, we have put American businesses, particularly our small businesses, in peril of dropping employees to avoid the $2,000-per-employee penalty, called the employer mandate. We have put these small businesses in peril of reducing employee wages in order to qualify for small business credits. We have passed a bill that hurts our small businesses during one of the worst economic downturns in the history of our Nation.

Last week, Investor's Business Daily stated that small firms will be even more likely to lose existing plans. In fact—this is their statement—the ''midrange estimate is that 66% of small employer plans and 45 percent of large employer plans will relinquish their grandfathered status by the end of 2013.''

So in the worst-case scenario, 69 percent of employers—again, 80 percent of smaller firms—would lose that status, exposing them to far more provisions under the new health care law.

Again, it makes you ask the question: Was this what the President envisioned in health care reform when he said: ''If you like what you have, you can keep it''? I think this new law has failed—has clearly failed—to keep the President's promise to the people.

It was for these reasons I objected at the time this bill was moving through the process. I have stood up and strongly supported the efforts of the State of Alaska and other States to strike the most egregious provisions of the law through a multistate lawsuit. Again, it is why I voted to repeal the entire law when we had that opportunity this past March.

This law is not what the American people wanted, and it is not what our President promised. I believe the legislation has to be repealed. It has to be replaced with sensible alternatives that are widely supported. We know what so many of those are: buying across State lines; implementing medical malpractice reform; reimbursing for quality of service, not quantity of service. This is what the people wanted. This is what the American people expected. Yet this is not what was delivered.

It is time to help our economy rather than to kill it with this legislation that was passed.

Mr. President, I yield the floor.

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.

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

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

## TRIBUTE TO REGAN MURRAY

Mr. KAUFMAN. Mr. President, I rise today to recognize another of our Nation's great Federal employees. Americans continue to watch closely the efforts in the Gulf of Mexico to clean up the worst oilspill in our Nation's history. That oilspill has been a reminder to all of us just how important clean water is for wildlife, businesses, and our food supply.

The Federal employee I have chosen to honor today designed innovative software to identify risks and solutions to possible attacks against our Nation's water supply.

Dr. Regan Murray is a native of Cincinnati, OH. She holds a bachelor's degree from Kalamazoo College and a Ph.D. in applied mathematics from the University of Arizona. After completing her doctorate, she worked in the private sector but soon realized she wanted to make a difference by serving her country.

Then came the attacks of September 11. Shortly after that tragic day, Regan started working at the Environmental Protection Agency as a mathematical statistician.

Looking back at her decision to pursue public service, Regan said:

> I wanted to do more meaningful work that directly impacted people's lives.

Regan was instrumental in leading the development team for new software that identifies security vulnerabilities in our water supply and helps devise solutions to make it safer. One of these programs, TEVA–SPOT, helps find the best locations in water utility distribution systems in which to install sensors. Another, called CANARY, is a real-time data analysis program to monitor the sensors and identify contaminants.

Regan attributes her success to a strong background in mathematics. She has said:

> Math is the language of science, which is perfect when leading an interdisciplinary group of researchers.

I have spoken often on this floor about the desirability of more of our students, especially women, to consider careers in the fields of science, technology, engineering, and math, or STEM. Regan is a wonderful example of how someone who studies mathematics can make a real and important difference.

Her story, though, does not end with her success in developing these software programs. Regan also worked hard to build and maintain important relationships with water utilities in order to ensure that these programs would be put to use.

Furthermore, despite her long hours of work for the agency, Regan co-founded a nonprofit that focuses on improving the lives of children affected by HIV–AIDS and poverty in Africa. She visits Zambia annually and has raised thousands of dollars to benefit the schools there.

Outstanding government employees such as Dr. Regan Murray are making a difference each and every day. So many of them also serve as volunteers in their communities and around the world.

I hope my colleagues will join me in thanking Dr. Regan Murray and all those working at the Environmental Protection Agency for their hard work and dedicated service on behalf of the American people. They are all truly great Federal employees.

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.

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

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

## TURKEY

Mr. LAUTENBERG. Mr. President, this past weekend, 12 Turkish soldiers were killed by PKK terrorists. Yesterday, another four Turkish soldiers were killed, as well as the innocent daughter of an officer, and according to the Turkish government, the PKK is responsible for this massacre as well.

Our condolences go out to these families and all the people of Turkey. Terrorist assaults are unacceptable wherever they occur in the world, and we all have to fight together against them.

We are reminded of our common bond with Turkey, and our common fight against terrorists and terror wherever we see it. Turkey has been an important ally, a democracy in a troubled region and a force for stability.

We must keep in mind that Turkey has been a member of NATO since 1952. They established a strategic and military alliance with Israel in the 1990s, and now have boots on the ground in Afghanistan helping us there.

For many years, the bond between the United States and Turkey has been strong and unchallengeable. Despite this progress, Turkey's current prime minister is jeopardizing and risking much of what his country and the Turkish people have accomplished over recent decades. Moving Turkey away from the middle and toward a dangerous extremist path cannot possibly be a good course of action for that country.

Prime Minister Erdogan used his vote on the U.N. Security Council to oppose sanctions on Iran. He calls Iranian President Ahmadinejad a friend, while turning away from those in Iran who would promote peace. He has normalized relations with Syria, despite its support for terrorist groups Hezbollah and Hamas.

In fact, I was on a visit recently—last year—to Turkey with two other Senators. We joined the prime minister in his conference room. Upon sitting down, he forcefully declared that ''Hamas is not a terrorist organization.'' That is a deeply troubling statement from a member of NATO.

Hamas has refused to accept the existence of Israel, a country of more than 7 million people, while declaring threats to destroy the country. It has unleashed more than 10,000 rockets on Israeli neighborhoods and threatens to send thousands more.

This group has sent suicide bombers into Israel, who have killed not only Israelis, but Americans also, including people from my State of New Jersey.

What puzzles me most of all is how Prime Minister Erdogan refuses to condemn Hamas for a terrorist organization for engaging in the same murderous activity as the PKK. It doesn't add up. It challenges Turkey's standing across the world.

The PKK is so dangerous to the Turkish people, their economy, and their national well-being for the very same reasons that Hamas is dangerous to Israel.

The prime minister's alignment with the most radical forces in the Middle East is a serious concern for all of us. But the situation is not irreversible.

I hope that Prime Minister Erdogan changes course, rejects his drift toward extremism, and embraces the moderate forces within Turkey and across the Middle East. If Turkey wants the standing and respect that a balanced democratic nation earns, it has to treat all peaceful nations the same and terrorists with disdain.

I was in Turkey some years ago when the PKK—primarily of Kurdish population—was thought to be a concern, but not particularly active in the terrorism that I saw, anyway, in my visit there. But we saw them then putting people in prison because they differed in opinion with the government. I thought that was a sign of censorship that didn't fit the picture, but they knew that in the Kurdish community, there was a lot of resistance to what the Turkish Government was doing.

Now we see that Turkey has 30,000 troops chasing the PKK on the border near Iraq. So it is hard to understand how a nation that has the power that Turkey could have in the Middle East—and in the world generally—is falling prey to identifying one group as friendly and another group—or one group as terrorists in one place and a good-meaning organization in another. Hamas is a terrorist organization, and everybody knows it. They have overtaken the Gaza, and they control all the flow of everything there—arms, et cetera—and maintain an arsenal with which to attack Israel.

We have to let Turkey know this is not a good way for us to continue an alliance. We have an interest in balance and respect for the countries in the Middle East. So I hope we can continue a long-time, close relationship with this great country and long-time friend.

I close with a wish that in Turkey they will take a second look at the policies they are currently condoning and join with us in the fight against terrorism.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. 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.

## ASIAN CARP FOUND IN LAKE CALUMET

Ms. STABENOW. Mr. President, I rise today with a very urgent and critical situation from my home State and the home State of the Presiding Officer and for our Great Lakes in general.

We are just finding out today that a commercial fisherman, contracted by the government to do routine sampling of areas leading into the Great Lakes and Lake Michigan, caught a 34-inch, 20-pound Asian carp in Lake Calumet, approximately 6 miles downstream from Lake Michigan, past the barriers, and on its way to Lake Michigan. This is the first Asian carp found past the electric barriers. It represents a very serious risk to the Great Lakes' ecosystem and, frankly, to our way of life in the Great Lakes region. These fish are huge, and they are able to invade the Great Lakes. They could easily destroy our $7 billion fishing industry and our $16 billion recreational boating industry. Invasive species in the Great Lakes have already contributed to significant declines in fish populations. The Asian carp could completely unwind the food chain, with devastating effects for our existing fish populations. We heard in testimony before my Subcommittee on Water and Power that these fish, which can get up to 90 or 100 pounds, effectively have no stomach. They eat all the time. They eat up everything in the food chain, leaving other fish to die throughout the Great Lakes. It is extremely serious.

We have been working on this issue for a number of years with electric fencing and most recently poisoning a part of the waters in the Chicago channels to determine whether there are any of these Asian carp that have come up the Mississippi River and into the Illinois River. At the time, they didn't find anything. Unfortunately, today they did, and it was well past the electric barriers and fences for the first time.

Let me share with you one story from a few years ago that reflects what

happens if these huge fish get into our precious Great Lakes. In 2003, a woman named Mary Poplett, from Peoria, IL, decided to enjoy some warm October weather with a little jet skiing on the Illinois River. As she cruised the waves, the sound of her ski's motor excited a 30-pound Asian carp swimming under the water, which then leapt up and crashed into her. Imagine being hit in the face by a bowling ball. That is how she referred to it. She was knocked unconscious. She broke her nose, fractured a vertebrae, and she would have drowned if other boaters in the area had not gotten to her in time. Imagine that. Imagine that happening over and over again in Lake Michigan, in Lake Superior, and around our Great Lakes. I can't imagine it. I don't want to imagine it.

Mary is not alone. Since Asian carp were introduced to control algae in catfish ponds down South in the 1970s, the carp have spread at a very rapid pace, causing injuries, destroying ecosystems, and threatening entire industries. Now that an Asian carp has been found so close to Lake Michigan, it better be a huge wake-up call that we have to act swiftly to contain this threat.

Despite everyone's best efforts, this situation we find ourselves in is calling for very decisive action. I have introduced legislation to close the locks until we have a permanent solution. This has also been introduced in the House by my colleague, Congressman CAMP, and others, and I today urge in the strongest possible terms that the Army Corps close the locks between the rivers and Lake Michigan now—now, today—while they continue to determine the best way to permanently separate the Chicago area waterway system from the Great Lakes.

We know we need additional monitoring and sampling of resources applied to the area. I appreciate that last December, when there was fish DNA found above the locks, the administration worked with us very quickly to redirect resources to the Army Corps to take some immediate actions at that time. But now it is not just DNA from a dead fish. Now it is a live fish, and it is beyond the electric barrier. It is on its way in open waters into our Great Lakes, and we have to act decisively and immediately to protect our waters while a long-term solution is found.

Again, I urge the Army Corps of Engineers and the other agencies involved to take this finding very seriously and to act with the same tremendous urgency that all of us who represent Great Lakes States feel to prevent further encroachment by these Asian carp into our Great Lakes. This isn't just the economy, it is not just boating, and it is not just fishing; it really is our way of life in the Great Lakes. Despite efforts that have gone on for years to stop the fish, that hasn't happened, and now we have to take very decisive action to close the locks immediately so we can determine how best, in the long term, to solve this problem.

Mr. President, I yield the floor, and 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. WICKER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

## CONGRATULATING THE SUMRALL BASEBALL TEAM

Mr. WICKER. Mr. President, I rise today to inform the Senate of the accomplishments of Mississippi's Sumrall High School varsity baseball team. Earlier this year, the Bobcats set a Mississippi record by winning 67 consecutive games and winning their third straight State championship, an impressive achievement worthy of recognition.

The team fell just eight wins shy of breaking the national record for consecutive wins and secured their spot as the team with the Nation's fourth longest winning streak. Some teams might have been discouraged after a loss ended such an impressive streak, but the Bobcats regrouped and went on to win their final 11 games and their third consecutive Class 3–A State Championship. The Bobcats' state title and 36–1 record earned them the top spot in USA Today's national high school baseball rankings.

Sumrall High's baseball staff consists of Head Coach Larry Knight and Assistant Coaches Steve Cooley, Andy Davis, Richard Broom, and Matt Thomas. The team members and coaching staff have demonstrated outstanding teamwork, discipline, and sportsmanship. I congratulate the Sumrall High School baseball team and wish them continued success both on and off the field.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, we are still working on this extenders bill. We thought we had it all worked out. There was one of the Senators who wanted some more changes. Each time we do that, we have to rescore the bill. It takes time. We are in the process of doing that right now. So I apologize to everyone for not having these votes.

I ask unanimous consent now that the Senate be in a period of morning business until 6 o'clock tonight, with Senators allowed to speak for up to 10 minutes each; that during this time we are involved in morning business it would be for debate only.

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

Mr. REID. Mr. President, 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. REID. 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. REID. I ask for the regular order.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

Motion to concur in the House amendment to the Senate amendment with an 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. 4369 (to the amendment of the House to the amendment of the Senate to the bill), in the nature of a substitute.

Coburn amendment No. 4331 (to amendment No. 4369), to pay for the cost of this act by reducing wasteful, inefficient, excessive, and duplicative government spending.

Casey/Brown (OH) amendment No. 4371 (to amendment No. 4369), to provide for the extension of premium assistance for COBRA benefits.

LeMieux amendment No. 4300 (to amendment No. 4369), to establish an expedited procedure for consideration of a bill returning spending levels to 2007 levels.

DeMint motion to refer the House message to accompany H.R. 4213, to the Committee on Finance with instructions.

MOTION TO REFER

Mr. REID. Is the pending matter the DeMint motion?

The PRESIDING OFFICER (Mr. WARNER). It is the motion to refer.

Mr. REID. I move to table that motion 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 to table.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from West Virginia (Mr. ROCKEFELLER) are 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 result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—57

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

NAYS—40

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

NOT VOTING—3

| | | |
|---|---|---|
| Byrd | Roberts | Rockefeller |

The motion was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, for the benefit of all Members, we are trying to work through having an amendment Senator BAUCUS will offer when we dispose of the present amendment.

I have had one Senator come to me and ask: Once we get on the next Baucus amendment, what are we going to do? I will be happy to confer with the Republican leader and see if there is a way of moving forward. We have been on this matter for a long time—not on a contiguous basis, but this is the beginning of the end of the eighth week on this piece of legislation. But we have no desire at this time to have an outline of how we are going to get where we are going to.

I will be happy to visit with the Republican leader because one of his Senators asked me what we were going to do once we get on the Baucus amendment. The plan would be to complete tabling the Baucus amendment, and then the plan would be to recess subject to the call of the Chair. At that time, Senator BAUCUS would lay down the amendment. It is not ready. That is why we are not doing it now. And then we could decide at that time, or maybe even in the morning, how we are going to proceed. I think that gives everyone a general idea. There will be no more votes tonight after we have this one vote.

Mr. President, I move to table the Baucus motion to concur in the House amendment to the Senate amendment with amendment No. 4369, and I 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), the Senator from North Dakota (Mr. DORGAN), and the Senator from West Virginia (Mr. ROCKEFELLER) are 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 result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—56

| | | |
|---|---|---|
| Akaka | Gillibrand | Murray |
| Baucus | Hagan | Nelson (NE) |
| Bayh | Harkin | Nelson (FL) |
| Begich | Inouye | Pryor |
| Bennet | Johnson | Reed |
| Bingaman | Kaufman | Reid |
| 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 |
| Durbin | McCaskill | Webb |
| Feingold | Menendez | Whitehouse |
| Feinstein | Merkley | Wyden |
| Franken | Mikulski | |

NAYS—40

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

NOT VOTING—4

| | |
|---|---|
| Byrd | Roberts |
| Dorgan | Rockefeller |

The motion to table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

## MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business and that Senators be recognized for up to 10 minutes each.

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

## INDIAN ARTS AND CRAFTS AMENDMENTS ACT OF 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 339, H.R. 725.

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

The assistant legislative clerk read as follows:

A bill (H.R. 725) to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, I ask unanimous consent that the Dorgan amendment, which is at the desk, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 4391) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 725), as amended, was read the third time and passed.

## IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT OF 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 430, S. 1508.

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

The assistant legislative clerk read as follows:

A bill (S. 1508) to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with an amendment, as follows:

S. 1508

*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 ''Improper Payments Elimination and Recovery Act of 2009''.

**SEC. 2. IMPROPER PAYMENTS ELIMINATION AND RECOVERY.**

(a) SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (a) and inserting the following:

''(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—

''(1) IN GENERAL.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, periodically review all programs and activities that the relevant agency head administers and identify all programs and activities that may be susceptible to significant improper payments.

''(2) FREQUENCY.—Reviews under paragraph (1) shall be performed for each program and activity that the relevant agency head administers during the year after which the Improper Payments Elimination and Recovery Act of 2009 is enacted and at least once every 3 fiscal years thereafter.

''(3) RISK ASSESSMENTS.—

''(A) DEFINITION.—In this subsection the term 'significant' means—

''(i) except as provided under clause (ii), that improper payments in the program or activity in the preceding fiscal year may have exceeded—

''(I) $10,000,000 of all program or activity payments made during that fiscal year reported and 2.5 percent of program outlays; or

''(II) $100,000,000; and

''(ii) with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget, that improper payments in the program or activity in the preceding fiscal year may have exceeded—

''(I) $10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays; or

''(II) $100,000,000.

''(B) SCOPE.—In conducting the reviews under paragraph (1), the head of each agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as—

''(i) whether the program or activity reviewed is new to the agency;

''(ii) the complexity of the program or activity reviewed;

''(iii) the volume of payments made through the program or activity reviewed;

''(iv) whether payments or payment eligibility decisions are made outside of the agency, such as by a State or local government;

''(v) recent major changes in program funding, authorities, practices, or procedures;

''(vi) the level and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate; and

''(vii) significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification.''.

(b) ESTIMATION OF IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (b) and inserting the following:

''(b) ESTIMATION OF IMPROPER PAYMENTS.—With respect to each program and activity identified under subsection (a), the head of the relevant agency shall—

''(1) produce a statistically valid or otherwise appropriate estimate of the improper payments made by each program and activity; and

''(2) include those estimates in the accompanying materials to the annual financial statement of the agency required under section 3515 of title 31, United States Code, or similar provision of law and applicable guidance of the Office of Management and Budget.''.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (c) and inserting the following:

''(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce improper payments, including—

''(1) a description of the causes of the improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes;

''(2) in order to reduce improper payments to a level below which further expenditures to reduce improper payments would cost more than the amount such expenditures would save in prevented or recovered improper payments, a statement of whether the agency has what is needed with respect to—

''(A) internal controls;

''(B) human capital; and

''(C) information systems and other infrastructure;

''(3) if the agency does not have sufficient resources to establish and maintain effective internal controls under paragraph (2)(A), a description of the resources the agency has requested in its budget submission to establish and maintain such internal controls;

''(4) program-specific and activity-specific improper payments reduction targets that have been approved by the Director of the Office of Management and Budget; and

''(5) a description of the steps the agency has taken to ensure that agency managers, programs, and, where appropriate, States and localities are held accountable through annual performance appraisal criteria for—

''(A) meeting applicable improper payments reduction targets; and

''(B) establishing and maintaining sufficient internal controls, including an appropriate control environment, that effectively—

''(i) prevent improper payments from being made; and

''(ii) promptly detect and recover improper payments that are made.''.

(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (d) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (c) the following:

''(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—With respect to any improper payments identified in recovery audits conducted under section 2(h) of the Improper Payments Elimination and Recovery Act of 2009 (31 U.S.C. 3321 note), the head of the agency shall provide with the estimate under subsection (b) a report on all actions the agency is taking to recover improper payments, including—

''(1) a discussion of the methods used by the agency to recover overpayments;

''(2) the amounts recovered, outstanding, and determined to not be collectable, including the percent such amounts represent of the total overpayments of the agency;

''(3) if a determination has been made that certain overpayments are not collectable, a justification for that determination;

''(4) an aging schedule of the amounts outstanding;

''(5) a summary of how recovered amounts have been disposed of;

''(6) a discussion of any conditions giving rise to improper payments and how those conditions are being resolved; and

''(7) if the agency has determined under section 2(h) of the Improper Payments Elimination and Recovery Act of 2009 (31 U.S.C. 3321 note) that performing recovery audits for any applicable program or activity is not cost effective, a justification for that determination.

''(e) GOVERNMENTWIDE REPORTING OF IMPROPER PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAYMENTS.—

''(1) REPORT.—Each fiscal year the Director of the Office of Management and Budget shall submit a report with respect to the preceding fiscal year on actions agencies have taken to report information regarding improper payments and actions to recover improper payments to—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(B) the Committee on Oversight and Government Reform of the House of Representatives; and

''(C) the Comptroller General.

''(2) CONTENTS.—Each report under this subsection shall include—

''(A) a summary of the reports of each agency on improper payments and recovery actions submitted under this section;

''(B) an identification of the compliance status of each agency to which this Act applies;

''(C) governmentwide improper payment reduction targets; and

''(D) a discussion of progress made towards meeting governmentwide improper payment reduction targets.''.

(e) DEFINITIONS.—Section 2 of the Improper Payment Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsections (f) (as redesignated by this section) and inserting the following:

''(f) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means an executive agency, as that term is defined in section 102 of title 31, United States Code.

''(2) IMPROPER PAYMENT.—The term 'improper payment'—

''(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

''(B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts.

''(3) PAYMENT.—The term 'payment' means any transfer or commitment for future transfer of Federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-Federal person or entity, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

''(4) PAYMENT FOR AN INELIGIBLE GOOD OR SERVICE.—The term 'payment for an ineligible good or service' shall include a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other procurement mechanism.''.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (g) (as redesignated by this section) and inserting the following:

''(g) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Improper Payments Elimination and Recovery Act of 2009, the Director of the Office of Management and Budget shall prescribe guidance for agencies to implement the requirements of this section. The guidance shall not include any exemptions to such requirements not specifically authorized by this section.

''(2) CONTENTS.—The guidance under paragraph (1) shall prescribe—

''(A) the form of the reports on actions to reduce improper payments, recovery actions, and governmentwide reporting; and

''(B) strategies for addressing risks and establishing appropriate prepayment and postpayment internal controls.''.

(g) DETERMINATION OF AGENCY READINESS FOR OPINION ON INTERNAL CONTROL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget shall develop—

(1) specific criteria as to when an agency should initially be required to obtain an opinion on internal control over financial reporting; and

(2) criteria for an agency that has demonstrated a stabilized, effective system of internal control over financial reporting, whereby the agency would qualify for a multiyear cycle for obtaining an audit opinion on internal control over financial reporting, rather than an annual cycle.

(h) RECOVERY AUDITS.—

(1) DEFINITION.—In this subsection, the term ''agency'' has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) as redesignated by this Act.

(2) IN GENERAL.—

(A) CONDUCT OF AUDITS.—Except as provided under paragraph (4) and if not prohibited under any other provision of law, the head of each agency shall conduct recovery audits with respect to each program and activity of the agency that expends $1,000,000 or more annually if conducting such audits would be cost-effective.

(B) PROCEDURES.—In conducting recovery audits under this subsection, the head of an agency—

(i) shall give priority to the most recent payments and to payments made in any program or programs identified as susceptible to significant improper payments under section 2(a) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note);

(ii) shall implement this subsection in a manner designed to ensure the greatest financial benefit to the Government; and

(iii) may conduct recovery audits directly, by procuring performance of recovery audits by contract (subject to the availability of appropriations), or by any combination thereof.

(C) RECOVERY AUDIT CONTRACTS.—With respect to recovery audits procured by an agency by contract—

(i) subject to subparagraph (B)(iii), the head of the agency may authorize the contractor to notify entities (including persons) of potential overpayments made to such entities, respond to questions concerning potential overpayments, and take other administrative actions with respect to overpayment claims made or to be made by the agency; and

(ii) such contractor shall have no authority to make final determinations relating to whether any overpayment occurred and whether to compromise, settle, or terminate overpayment claims.

(D) CONTRACT TERMS AND CONDITIONS.—The agency shall include in each contract for procurement of performance of a recovery audit a requirement that the contractor shall—

(i) provide to the agency periodic reports on conditions giving rise to overpayments identified by the contractor and any recommendations on how to mitigate such conditions; and

(ii) notify the agency of any overpayments identified by the contractor pertaining to the agency or to any other agency or agencies that are beyond the scope of the contract.

(E) AGENCY ACTION FOLLOWING NOTIFICATION.—An agency shall take prompt and appropriate action in response to a report or notification by a contractor under subparagraph (D)(ii), to collect overpayments and shall forward to other agencies any information that applies to such agencies.

(3) DISPOSITION OF AMOUNTS RECOVERED.—

(A) IN GENERAL.—Amounts collected by agencies each fiscal year through recovery audits conducted under this subsection shall be treated in accordance with this paragraph.

(B) USE FOR FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—Not more than 25 percent of the amounts collected by an agency through recovery audits—

(i) shall be available, subject to appropriation, to the head of the agency or the State or local government administering the program or activity to carry out the financial management improvement program of the agency under paragraph (4);

(ii) may be credited, if applicable, for that purpose by the head of an agency to any agency appropriations and funds that are available for obligation at the time of collection; and

(iii) shall be used to supplement and not supplant any other amounts available for that purpose and shall remain available until expended.

(C) USE FOR ORIGINAL PURPOSE.—Not more than 25 percent of the amounts collected by an agency—

(i) ⟦shall be credited to the appropriation or fund, if any, available for obligation at the time of collection⟧ *shall be deposited and available subject to appropriation* for the same general purposes as the appropriation or fund from which the overpayment was made; and

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited.

(D) USE FOR INSPECTOR GENERAL ACTIVITIES.—Not more than 5 percent of the amounts collected by an agency shall be available, subject to appropriation, to the Inspector General of that agency for—

(i) the Inspector General to carry out this Act; or

(ii) any other activities of the Inspector General relating to investigating improper payments or auditing internal controls associated with payments.

(E) DEPOSIT OF PROCEEDS.—Funds made available under subparagraphs (B) and (D) by appropriations shall be—

(i) deposited into the appropriate program integrity accounts of the agency or the State or local government administering the program or activity; and

(ii) expended only as authorized in annual appropriations Acts.

(F) REMAINDER.—Amounts collected that are not applied in accordance with subparagraphs (B), (C), or (D) or to meet obligations to recovery audit contractors shall be deposited in the Treasury as miscellaneous receipts.

(G) EXCEPTIONS RELATING TO ENTITLEMENT AND TAX CREDIT PROGRAMS.—This paragraph shall not apply to amounts collected through recovery audits conducted under this subsection relating to—

(i) entitlement programs under section 3(9) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(9)); or

(ii) tax credit programs under the Internal Revenue Code of 1986.

(4) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

(A) REQUIREMENT.—The head of each agency shall conduct a financial management improvement program, consistent with rules prescribed by the Director of the Office of Management and Budget.

(B) PROGRAM FEATURES.—In conducting the program, the head of the agency—

(i) shall, as the first priority of the program, address problems that contribute directly to agency improper payments; and

(ii) may seek to reduce errors and waste in other agency programs and operations.

(5) OTHER RECOVERY AUDIT REQUIREMENTS.—

(A) IN GENERAL.—Subchapter VI of chapter 35 of title 31, United States Code, is repealed.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 31, United States Code, is amended by striking the matter relating to subchapter VI.

(ii) DEFINITION.—Section 3501 of title 31, United States Code, is amended by striking ''and subchapter VI of this title''.

(iii) HOMELAND SECURITY GRANTS.—Section 2022(a)(6) of the Homeland Security Act of 2002 (6 U.S.C. 612(a)(6)) is amended by striking ''(as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code)'' and inserting ''under section 2(h) of the Improper Payments Elimination and Recovery Act of 2009 (31 U.S.C. 3321 note)''.

(6) RULE OF CONSTRUCTION.—Except as provided under paragraph (5), nothing in this section shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under existing provisions of law to recover improper payments and use recovered amounts.

(i) REPORT ON RECOVERY AUDITING.—Not later than 2 years after the date of the enactment of this Act, the Chief Financial Officers Council established under section 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note), in consultation with the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409) and recovery audit experts, shall conduct a study of—

(1) the implementation of subsection (h);

(2) the costs and benefits of agency recovery audit activities, including those under subsection (h), and including the effectiveness of using the services of—

(A) private contractors;

(B) agency employees;

(C) cross-servicing from other agencies; or

(D) any combination of the provision of services described under subparagraphs (A) through (C); and

(3) submit a report on the results of the study to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(C) the Comptroller General.

**SEC. 3. COMPLIANCE.**

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) as redesignated by this Act.

(2) ANNUAL FINANCIAL STATEMENT.—The term ''annual financial statement'' means the annual financial statement required under section 3515 of title 31, United States Code, or similar provision of law.

(3) COMPLIANCE.—The term ''compliance'' means that the agency—

(A) has published an annual financial statement for the most recent fiscal year and posted that report and any accompanying materials required under guidance of the Office of Management and Budget on the agency website;

(B) if required, has conducted a program specific risk assessment for each program or activity that conforms with section 2(a) the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note);

(C) if required, publishes improper payments estimates for all programs and activities identified under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in the accompanying materials to the annual financial statement;

(D) publishes programmatic corrective action plans prepared under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may

have in the accompanying materials to the annual financial statement;

(E) publishes improper payments reduction targets established under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may have in the accompanying materials to the annual financial statement for each program assessed to be at risk, and is meeting such targets; and

(F) has reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(b) ANNUAL COMPLIANCE REPORT BY INSPECTORS GENERAL OF AGENCIES.—Each fiscal year, the Inspector General of each agency shall determine whether the agency is in compliance and submit a report on that determination to—

(1) the head of the agency;

(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

(4) the Comptroller General.

(c) REMEDIATION.—

(1) NONCOMPLIANCE.—

(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) in a fiscal year, the head of the agency shall submit a plan to Congress describing the actions that the agency will take to come into compliance.

(B) PLAN.—The plan described under subparagraph (A) shall include—

(i) measurable milestones to be accomplished in order to achieve compliance for each program or activity;

(ii) the designation of a senior agency official who shall be accountable for the progress of the agency in coming into compliance for each program or activity; and

(iii) the establishment of an accountability mechanism, such as a performance agreement, with appropriate incentives and consequences tied to the success of the official designated under clause (ii) in leading the efforts of the agency to come into compliance for each program and activity.

(2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for 2 consecutive fiscal years for the same program or activity, and the Director of the Office of Management and Budget determines that additional funding would help the agency come into compliance, the head of the agency shall obligate additional funding, in an amount determined by the Director, to intensified compliance efforts.

(B) FUNDING.—In providing additional funding described under subparagraph (A), the head of an agency shall use any reprogramming or transfer authority available to the agency. If after exercising that reprogramming or transfer authority additional funding is necessary to obligate the full level of funding determined by the Director of the Office of Management and Budget under subparagraph (A), the agency shall submit a request to Congress for additional reprogramming or transfer authority.

(3) REAUTHORIZATION PROPOSALS.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for more than 3 consecutive fiscal years for the same program or activity, the head of the agency shall, not later than 30 days after such determination, submit to Congress—

(A) reauthorization proposals for each program or activity that has not been in compliance for 3 or more consecutive fiscal years; or

(B) proposed statutory changes necessary to bring the program or activity into compliance.

(d) COMPLIANCE ENFORCEMENT PILOT PROGRAMS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget may establish 1 or more pilot programs which shall test potential accountability mechanisms with appropriate incentives and consequences tied to success in ensuring compliance with this Act and eliminating improper payments.

(2) REPORT.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress on the findings associated with any pilot programs conducted under paragraph (1). The report shall include any legislative or other recommendations that the Director determines necessary.

(e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF 1990.—Not later than 1 year after the date of the enactment of this Act, the Chief Financial Officers Council established under section 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note) and the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409), in consultation with a broad cross-section of experts and stakeholders in Government accounting and financial management shall—

(1) jointly examine the lessons learned during the first 20 years of implementing the Chief Financial Officers Act of 1990 (31 U.S.C. 901) and identify any reforms or improvements to the legislative and regulatory compliance framework for Federal financial management that will optimize Federal agency efforts to—

(A) publish relevant, timely, and reliable reports on Government finances; and

(B) implement internal controls that mitigate the risk for fraud, waste, and error in Government programs; and

(2) submit a report on the results of the examination to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(C) the Comptroller General.

Mr. DURBIN. Mr. President, I ask unanimous consent that the committee-reported amendment be withdrawn; the Carper substitute amendment, which is at the desk, be agreed to, and the bill, as amended, be read a third time and passed; the motions to reconsider be laid upon the table, without intervening action or debate; and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment was withdrawn.

The amendment (No. 4392) was agreed to.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

The bill (S. 1508), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

## NATIONAL POST-TRAUMATIC STRESS DISORDER AWARENESS DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 541, and that the Senate then proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 541) designating June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to; that a Conrad amendment to the preamble be agreed to; the preamble, as amended, be agreed to; the motions to reconsider be laid upon the table, with no intervening action or debate; and that any statements relating to the resolution be printed in the RECORD.

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

The resolution was agreed to.

The amendment (No. 4393) was agreed to as follows:

Strike the preamble and insert the following:

Whereas the brave men and women of the United States Armed Forces, who proudly serve the United States, risk their lives to protect the freedom of the United States and deserve the investment of every reasonable resource to ensure their lasting physical, mental, and emotional well-being;

Whereas up to 15 percent of Operation Iraqi Freedom and Operation Enduring Freedom veterans, 10 percent of Operation Desert Storm veterans, 30 percent of Vietnam veterans, and 8 percent of the general population of the United States suffer or have suffered from Post Traumatic Stress Disorder (referred to in this preamble as ''PTSD'');

Whereas the incidence of PTSD in members of the military is rising as the United States Armed Forces conducts 2 wars, exposing hundreds of thousands of soldiers to traumatic life-threatening events;

Whereas from 2000 to 2009, approximately 76,000 Department of Defense patients were diagnosed with PTSD;

Whereas the Department of Defense patients—

(1) were hospitalized more than 5,300 times with a primary diagnosis of PTSD; and

(2) had more than 578,000 outpatient visits in which PTSD was the primary diagnosis;

Whereas PTSD significantly increases the risk of depression, suicide, and drug and alcohol related disorders and deaths;

Whereas the Departments of Defense and Veterans Affairs have made significant advances in the prevention, diagnosis, and treatment of PTSD and the symptoms of PTSD, but many challenges remain; and

Whereas the establishment of a National Post-Traumatic Stress Disorder Awareness Day will raise public awareness about issues related to PTSD: Now, therefore, be it

The preamble, as amended, was agreed to.

The resolution, with its preamble, as amended, is as follows:

S. RES. 541

Whereas the brave men and women of the United States Armed Forces, who proudly serve the United States, risk their lives to protect the freedom of the United States and deserve the investment of every possible resource to ensure their lasting physical, mental, and emotional well-being;

Whereas 12 percent of Operation Iraqi Freedom veterans, 11 percent of Operation Enduring Freedom veterans, 10 percent of Operation Desert Storm veterans, 30 percent of Vietnam veterans, and at least 8 percent of the general population of the United States suffers from Post Traumatic Stress Disorder (referred to in this preamble as ''PTSD'');

Whereas the incidence of PTSD in members of the military is rising as the United States Armed Forces conducts 2 wars, exposing hundreds of thousands of soldiers to traumatic life-threatening events;

Whereas women, who are more than twice as likely to experience PTSD than men, are increasingly engaged in direct combat on the front lines, putting these women at even greater risk of PTSD;

Whereas—

(1) from 2003 to 2007, approximately 40,000 Department of Defense patients were diagnosed with PTSD; and

(2) from 2000 to 2009—

(A) more than 5,000 individuals were hospitalized with a primary diagnosis of PTSD; and

(B) more than 500,000 individuals were treated for PTSD in outpatient visits;

Whereas PTSD significantly increases the risk of depression, suicide, and drug and alcohol related disorders and deaths;

Whereas the Departments of Defense and Veterans Affairs have made significant advances in the prevention, diagnosis, and treatment of PTSD and the symptoms of PTSD, but many challenges remain; and

Whereas the establishment of a National Post-Traumatic Stress Disorder Awareness Day will raise public awareness about issues related to PTSD: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day'';

(2) urges the Secretary of Veterans Affairs and the Secretary of Defense to continue working to educate servicemembers, veterans, the families of servicemembers and veterans, and the public about the causes, symptoms, and treatment of post-traumatic stress disorder; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Secretary of Veterans Affairs and the Secretary of Defense.

## OLYMPIC DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 552 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 552) designating June 23, 2010, as ''Olympic Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 552) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 552

Whereas Olympic Day celebrates the Olympic ideal of developing peace through sport;

Whereas June 23 marks the date on which the Congress of Paris approved the proposal of Pierre de Coubertin to found the modern Olympics;

Whereas thousands of people in more than 170 countries will celebrate the ideals of the Olympic spirit on June 23, 2010;

Whereas for more than a century, the Olympic movement has built a more peaceful and better world by—

(1) educating young people through amateur athletics;

(2) bringing together athletes from many countries in friendly competition; and

(3) forging new relationships bound by friendship, solidarity, and fair play;

Whereas the United States Olympians and Paralympians continue to achieve competitive excellence, preserve the Olympic ideals, and inspire all people of the United States;

Whereas community celebrations of Olympic Day improve the communities of the United States and inspire the Olympic and Paralympic champions of tomorrow;

Whereas Olympic Day encourages the development of Olympic and Paralympic sport in the United States;

Whereas Olympic Day encourages the youth of the United States to participate in and support Olympic and Paralympic sport; and

Whereas, as of the date of approval of this resolution, enthusiasm for Olympic and Paralympic sport is at an all-time high: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates June 23, 2010, as ''Olympic Day'';

(2) supports the goals and ideals of Olympic Day; and

(3) promotes—

(A) the fitness and well-being of all people of the United States; and

(B) the Olympic ideals of fair play, perseverance, respect, and sportsmanship.

## RECESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate now stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 7:35 p.m., recessed until 9:09 p.m. and reassembled when called to order by the Presiding Officer (Mr. WARNER).

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

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

## AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

AMENDMENT NO. 4386

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to the bill, with the Baucus amendment, which is at the desk. I offer this on behalf of Senator BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for Mr. Baucus, proposes an amendment numbered 4386 to the House amendment to the Senate amendment to H.R. 4213.

Mr. REID. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. REID. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

AMENDMENT NO. 4387 TO AMENDMENT NO. 4386

Mr. REID. Mr. President, I now call up the Baucus second-degree amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for Mr. BAUCUS, proposes an amendment numbered 4387 to amendment No. 4386.

The amendment is as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 3 days after enactment.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 4213, the American Jobs and Closing Tax Loopholes Act, with a Baucus amendment No. 4386.

Harry Reid, Max Baucus, Patrick J. Leahy, Al Franken, Patty Murray, Richard J. Durbin, Sheldon Whitehouse, Roland W. Burris, Kent Conrad, Daniel K. Akaka, Robert P. Casey, Jr., Jeanne Shaheen, Edward E. Kaufman, Jeff Merkley, Jeff Bingaman, Mark L. Pryor, Sherrod Brown, Carl Levin.

MOTION TO REFER WITH AMENDMENT NO. 4388

Mr. REID. Mr. President, I have a motion to refer, with instructions, at the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) moves to refer the House message on H.R. 4213 to the Senate Committee on Finance, with instructions of amendment No. 4388.

The amendment is as follows:

At the end, insert the following:

The Committee on Finance is requested to study the economic impact of the delay in

implementing the provisions of the Act on job creation on a national and regional level.

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

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

The yeas and nays were ordered.

AMENDMENT NO. 4389

Mr. REID. Mr. President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) proposes an amendment numbered 4389 to the instructions of the motion to refer to the House message No. 4213.

The amendment is as follows:

At the end, insert the following:

''and include statistical data on the specific service related positions created.''

Mr. REID. On this, I ask for the yeas and nays.

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

The yeas and nays were ordered.

AMENDMENT NO. 4390 TO AMENDMENT NO. 4389

Mr. REID. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID) proposes an amendment numbered 4390 to amendment No. 4389.

The amendment is as follows:

At the end, insert the following:

''and the impact on the local economy.''

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider, en bloc, Calendar Nos. 782, 953, 954, 955, 956, and 957; that the nominations be confirmed, en bloc; that the motions to reconsider be laid upon the table, en bloc; that any statements relating to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action; and that the Senate resume legislative session.

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

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF TRANSPORTATION

Michael Peter Huerta, of the District of Columbia, to be Deputy Administrator of the Federal Aviation Administration.

ENVIRONMENTAL PROTECTION AGENCY

Malcolm D. Jackson, of Illinois, to be an Assistant Administrator of the Environmental Protection Agency.

DELTA REGIONAL AUTHORITY

Christopher A. Masingill, of Arkansas, to be Federal Cochairperson, Delta Regional Authority.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Rafael Moure-Eraso, of Massachusetts, to be Chairperson of the Chemical Safety and Hazard Investigation Board for a term of five years.

Mark A. Griffon, of New Hampshire, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

Rafael Moure-Eraso, of Massachusetts, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## MORNING BUSINESS

### REMEMBERING STEPHEN YOUNG

Mr. BYRD. Mr. President, the State of West Virginia and the Nation's coal industry lost a very good man last week, and I lost a good friend. Mr. Stephen Young, a native of Buckhannon, WV, who had been the vice president of government affairs at Consol Energy for more than three decades, passed away on June 15th.

Steve and I worked together to protect and promote the best interests of coal, a vital form of energy which has helped make our country strong, and on which our Nation depends. I always, I repeat, always, found Steve Young to be a friendly and cooperative person with whom to work, as well as a decent and considerate man. Steve was a gentleman. He was soft spoken, effective in everything he did, and respected and liked by all.

Steve was the director of State operations for Consol Energy. He had also been president of the West Virginia Coal Association and had served on the Board of Directors of a number of other State coal associations. He also served on the board of directors of the West Virginia Chamber of Commerce and was a member of its executive committee. As a tribute to his talents, a few years ago, Steve was elected to the West Virginia Coal Hall of Fame.

Mr. Young was simply devoted to the coal industry, to the progress of West Virginia, his home State which he loved dearly, and to his family. I will certainly miss him and his vast experience and expertise.

I extend my heart felt condolences to his wife Maureen, his children and grandchildren, and his sister.

SCENT OF THE ROSES

Let fate do her worst, there are relics of joy,
Bright dreams of the past that she cannot destroy,
That come in the night-time of sorrow and care,
And bring back the features that joy used to wear.
Long, long be my heart with such memories filled,
Like the vase in which roses have once been distilled,
You may break, you may shatter the vase if you will,
But the scent of the roses will hang round it still.—Thomas Moore.

### INTERNATIONAL COMMISSION AGAINST IMPUNITY IN GUATEMALA

Mr. LEAHY. Mr. President, on June 7, the head of the International Commission against Impunity in Guatemala, CICIG, a U.N. supported body set up to investigate organized crime and clandestine groups in Guatemala, resigned. In a press conference, he highlighted problems with Guatemala's newly selected attorney general, who he accused of trying to undermine the Commission's investigations. He also described a general lack of cooperation from the Guatemalan Government in CICIG's mission.

Not long ago, on April 5, I spoke in this Chamber of Guatemala's need for an attorney general with the integrity, experience, courage and determination to show that justice can be a reality for all the people of Guatemala regardless of race, ethnicity, gender or economic status. Unfortunately, President Colom's choice fell short on all counts.

This concerns me greatly. The Commission was created three years ago, at the request of the Guatemalan Government and with the approval of the legislature. It was intended to support Guatemala in investigating and dismantling powerful criminal networks deeply entrenched in state institutions and to help strengthen the capacity of the country's dysfunctional judicial system. Since its creation, CICIG has received substantial political and financial backing from the international community, including the United States. I have been a strong supporter of the Commission, and I was encouraged that the Guatemalan Government and the legislature had the political courage to back a serious effort to challenge the organized criminal structures that threaten Guatemala's fragile democracy.

Under the leadership of internationally respected Spanish jurist and prosecutor Carlos Castresana, the CICIG, with dedicated Guatemalan personnel from the Public Ministry, the police, and the support of the courts, has made significant, indeed historic, progress in combating organized crime and ending impunity. Its work has led to the successful investigation of high-profile cases, the arrest of dozens of government officials and ex-military officers, and the purge of thousands of police officers linked to illegal groups.

Having seen that progress, I was saddened to learn of Director Castresana's resignation. I commend him, the Commission's staff, and the many Guatemalans who have supported the CICIG for their courage and resolve.

The CICIG is a ground-breaking effort and one of the few successful strategies in the fight against organized crime and rampant institutional corruption in Guatemala. Its efforts must continue. Both the U.N. and the Guatemalan Government need to act swiftly

and decisively if the CICIG is to continue as a meaningful body. I urge U.N. Secretary General Ban Ki Moon to appoint a new CICIG Commissioner with demonstrated expertise in investigating and prosecuting organized criminal networks so the advances of the CICIG continue under new leadership. Equally important is the integrity and continuity of CICIG's professional staff.

In Guatemala, the government needs to address the problems that so frustrated Director Castresana. Fortunately, Guatemala's Constitutional Court annulled the selection of the attorney general, who subsequently resigned. This is a positive step, but it needs to be followed up. Guatemala's next attorney general should have a strong commitment to working closely with and supporting the efforts of the CICIG, as well as reform of the National Police, the establishment of a high impact court for cases of organized crime with heightened security for judges, witnesses and prosecutors, a maximum security jail, and other initiatives by the Guatemalan Legislature that would facilitate the investigation and prosecution of organized crime.

It is not just the attorney general, however. Implementation of many of the CICIG's recommendations has been repeatedly delayed. The entire Guatemalan Government—the executive, legislature and the courts—must act decisively to demonstrate that it can implement urgent anti-impunity reforms, strengthen and professionalize its law enforcement and judicial institutions, and prove that it can be a partner in the fight against organized crime. Reforming the National Police, which is widely perceived as corrupt, ineffective and unaccountable, and whose officers are under-paid, under-trained, and under-equipped, is a critical priority. I hope there is convincing progress in these areas soon.

The United States is providing assistance to bolster Guatemala's institutions, particularly through our Central America Regional Security Initiative. But as chairman of the Appropriations Subcommittee on the Department of State and Foreign Operations, I would find it difficult to justify investing further resources in Guatemala's judicial system unless its own government demonstrates a strong commitment to ending impunity and combating organized criminal networks and corruption, which must be rooted out from their entrenched positions within Guatemala's state institutions.

I urge the Guatemalan Government to show, at this critical moment, its firm commitment to the CICIG and to taking the steps necessary to end impunity and strengthen the rule of law so the United States can continue to partner with Guatemala to tackle its many challenges.

## EXTENDING FAMILY LEAVE

Mr. LEAHY. Mr. President, today, the Obama administration took another step toward ensuring equal treatment for all Americans by extending family leave to lesbian, gay, bisexual and transgender—LGBT—employees. Earlier this year, I praised President Obama for directing the Department of Health and Human Services to issue regulations ensuring hospital visitation rights for same-sex couples. Now these same couples will be treated fairly when their children are sick, injured, or in need of care. Both of these measures promote the value of strong families and enduring relationships.

There is a tragic history of discrimination in the workplace, but fortunately, we are making progress to end it. In 1993, Congress passed the Family Medical Leave Act, FMLA, allowing employees to take reasonable unpaid leave for certain family and medical reasons. The FMLA sought to promote equal employment opportunities for men and women. Unfortunately, the benefits of that law were not extended to LGBT families. Under the Department of Labor's new interpretation of ''son or daughter'' under the FMLA, a gay or lesbian employee may now take family and medical leave to care for a newly born, newly adopted, or sick child of the employee's same-sex partner, even if the employee does not have a biological or legal relationship with the child.

The fight for equal rights protections continues in Congress. I am a proud cosponsor of the bipartisan Domestic Partnership Benefits and Obligations Act of 2009, which would provide domestic partners of Federal employees all of the protections and benefits afforded to spouses of Federal employees, including participation in applicable retirement programs, compensation for work injuries, and health insurance benefits. I also support the Tax Equity for Health Plan Beneficiaries Act of 2009, which would end the taxation of health benefits provided to domestic partners in workplaces that provide domestic partner health benefits to their employees.

Respecting the rights of all hard-working Americans to care for their children in times of crisis is something every American should support.

## RECOGNIZING THE LOS ANGELES LAKERS

Mrs. BOXER. Mr. President, I ask my colleagues to join me in congratulating the 2009–2010 National Basketball Association champions, the Los Angeles Lakers. In winning their 16th championship, and the 5th of this decade, the Lakers cemented their status as one of the most successful and storied franchises in the history of professional sports.

Led by a dedicated management and coaching staff and with contributions from an outstanding roster of perennial all-stars, reliable veterans and exciting young players, the Lakers began their successful defense of their 2008–2009 championship by compiling the best regular season record in the Western Conference.

During the playoffs, the Lakers stood tall against challengers to their title as they defeated the Oklahoma City Thunder, the Utah Jazz, and the Phoenix Suns en route to winning the Western Conference title.

In the NBA finals, the Lakers triumphed against their archrivals, the Boston Celtics, in a fiercely contested seven-game series that gripped basketball fans from coast to coast and the world over. True to their reputation as a team of great resolve and determination, the Lakers overcame a deficit in the last quarter of the deciding game in order to ensure that the NBA championship trophy will reside in Los Angeles for at least another year.

It is my pleasure to congratulate the members of the Lakers organization who worked tirelessly to bring the championship to Los Angeles and Southern California.

As the Los Angeles Lakers and their fans celebrate the 2009–2010 championship campaign, I congratulate them on another remarkable and memorable season and wish them continued success in future seasons.

## UNIVERSITY OF ARKANSAS ATHLETES AND COACHES

Mrs. LINCOLN. Mr. President, today I recognize University of Arkansas athletes and coaches who are leading an effort to challenge northwest Arkansas volunteers to pack 2 million meals in 24 hours for people affected by the earthquake in Haiti. They are attempting to break the one-day record for the most food packed, which was set in Kansas City earlier this year.

Under the leadership of Jeff Long, athletic director of the University of Arkansas at Fayetteville, athletes and volunteers will meet at the Randal Tyson Track Center on the University campus June 25 and 26 to work 2-hour shifts filling and sealing packets of soy power, rice, dried vegetables, and vitamins. The packets will reach Haitians 5 to 7 days later after being transported by ground and sea transportation.

Called Razorback Relief Operation Haiti, the effort is also led by former Razorback golfer Rich Morris and sophomore track athlete Terry Prentice, a member of the student athlete advisory committee.

I commend the entire northwest Arkansas community for pulling together to help their global neighbors in need. These athletes and volunteers represent the best of Arkansas, and I am proud of their efforts.

## SECRET HOLDS

Mr. UDALL of New Mexico. Mr. President, the Senate Rules Committee held another important hearing today to review yet another example of how the Senate rules are abused. I want to thank Chairman SCHUMER again for holding these hearings—they have been

invaluable in exploring ways to make the Senate work better for our country.

Over the past few months during this series of hearings, we have discussed and debated example after example of how the filibuster in particular—and the Senate's incapacitating rules in general—too often stand in the way of achieving real progress for the American people.

Today's hearing topic—secret holds and the confirmation process—was just one more example of how manipulation of the rules continues to foster a level of gridlock and obstruction unlike any we have seen before.

Senators WYDEN, GRASSLEY, and MCCASKILL testified at the hearing about their efforts to end the practice of secret holds. I applaud their work and dedication to transparency in government. Their fight to end the practice of secret holds is a worthy one that I wholeheartedly support.

Earlier this year I was proud to sign on to Senator MCCASKILL's letter to the majority and minority leaders, in which we pledged to no longer place anonymous holds and asked for Senate leadership to end the practice altogether.

At today's hearing, Senator MCCASKILL said that she has gathered enough support to surpass the 67-vote threshold required to consider and amend the Senate rules. That is no small task, as everyone in the Senate would attest. She should be congratulated for her work, as should all of our colleagues—Democrat and Republican—who have signed on to this effort. This bipartisan effort is proof that we are capable of working together.

But the mere fact that we have to have this conversation, that Senator MCCASKILL had to work for months for 67 votes to change rules that the Constitution clearly authorizes us to do with a simple majority vote, illustrates that secret holds are just another symptom of a much larger problem.

That problem is the Senate rules themselves.

The current rules—specifically rules V and XXII—effectively deny a majority of the Senate the opportunity to ever change its rules. This is something the drafters of the Constitution never intended.

As I have explained numerous times in committee hearings and here on the floor, a simple majority of the Senate can adopt or amend its rules at the beginning of a new Congress because it is not bound by the rules of the previous Congress.

Many colleagues, as well as constitutional scholars, agree with me. As my esteemed colleague from Utah, Senator HATCH, stated in a National Review article in 2005:

> The Senate has been called a 'continuing body.' Yet language reflecting this observation was included in Senate rules only in 1959. The more important, and much older, sense in which the Senate is a continuing body is its ongoing constitutional authority to determine its rules. Rulings by vice presidents of both parties, sitting as the President of the Senate, confirm that each Senate may make that decision for itself, either implicitly by acquiescence or explicitly by amendment. Both conservative and liberal legal scholars, including those who see no constitutional problems with the current filibuster campaign, agree that a simple majority can change Senate rules at the beginning of a new Congress.

It is through this path—by a majority vote at the beginning of the next Congress—that we can reform the abuse of holds, secret filibusters, and the broken confirmation process. We can end the need for multiple cloture votes on the same matter, and we can instead begin to focus on the important business at hand.

Now, critics will argue that the two-thirds vote requirement for cloture on a rules change is reasonable. They'll say that Senator MCCASKILL managed to gather 67 Senators, so it must be an achievable threshold.

As I said at today's hearing, I commend Senator MCCASKILL for her diligence in building support to end secret holds. But I think it is also important to understand that other crucial reform efforts have failed because, inexplicably, it takes the same number of Senators to amend our rules as it takes to amend the U.S. Constitution.

As Senators WYDEN and GRASSLEY said in their testimony today, their efforts to end secret holds goes back more than a decade. Indeed, the effect of holds, on both legislation and the confirmation of nominees, is hardly a new problem.

In January 1979, Senator BYRD—then majority leader—proposed changing the Senate rules to limit debate to 30 minutes on a motion to proceed. Doing so would have significantly weakened the power of holds—and thus curbed their abuse.

At the time, Leader BYRD took to the Senate Floor and said that unlimited debate on a motion to proceed, ''makes the majority leader and the majority party the subject of the control and the will of the minority. If I move to take up a matter, then one senator can hold up the Senate for as long as he can stand on his feet.'' Despite the moderate change that Senator BYRD proposed, it did not have the necessary 67 votes to overcome a filibuster.

Efforts to reform the motion to proceed have continued since.

In 1984, a bipartisan study group recommended placing a 2-hour limit on debate of a motion to proceed. That recommendation was ignored.

And in 1993, Congress convened the Joint Committee on the Organization of Congress to determine how it can be a better institution. Senator Pete Domenici, my immediate predecessor, was the co-vice chairman of the committee. At a hearing before the committee, he said, ''If we abolish [the debatable motion to proceed], we have gone a long way to diffusing the validity of holds, because a hold is predicated on the fact that you can't get [a bill] up without a filibuster.''

The final report of that joint committee stated: ''There was significant agreement that the motion to proceed to a bill should not be debatable, or that debate on the motion should be limited to 2 hours.'' Despite the recommendation, nothing came of it.

And here we are again today—31 years after Senator BYRD tried to institute a reform that members of both parties have agreed is necessary.

Talking about change, and reform, does not solve the problem. We can hold hearings, convene bipartisan committees, and study the problem to death. But until we agree that the Constitution provides the right for each Senate to adopt its rules of proceedings by a simple majority vote, there will be no real reform.

Recognizing our constitutional right to change Senate rules by a majority will not only allow reform, but it will help prevent abuse. Members are less likely to abuse a rule if they know that it can be changed by a majority in the next Congress. Conversely, if they think it takes 67 votes to change the rule, there is no disincentive against abuse.

I look forward to future hearings in the Rules Committee and exploring ways that we can bring needed reform to the Senate at the beginning of the 112th Congress.

I ask unanimous consent that an April 19 Roll Call article titled, ''In Senate, Motion to Proceed' Should be Non-Debatable'' and Senator HATCH's 2005 article from the National Review Online be printed in the RECORD.

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

[From Roll Call, Apr. 19, 2010]

STEVENSON: IN SENATE,''MOTION TO PROCEED'' SHOULD BE NON-DEBATABLE

(By Charles A. Stevenson)

There's a simple step the Senate could take that would prevent a lot of the current delay and obstruction, while still permitting lawmakers to debate some controversial matters at length.

The ''motion to proceed'' should be made non-debatable and subject to an immediate majority-rule vote.

This may seem like an arcane parliamentary matter, but in practice the chance to kill a bill or nomination before it is open to debate and amendment is a key weapon in the hands of obstructionists. They don't even have to oppose the measure; they just argue that ''now is not the time'' to take it up. In fact, in the past 20 years, more than one-fourth of the cloture petitions to end debate have been on motions to proceed.

Maybe the Senate, under pressure from voters and stymied by the recent surge in filibusters, will change or repeal the current rule that requires a 60-vote supermajority to cut off debate. But that isn't likely, since it takes 67 votes to change the rules and since all Senators can envision circumstances when they might want to fight even though outnumbered.

Even if lawmakers eliminated the 60-vote rule, obstructionists would retain numerous tools to block or delay action.

A compromise might be found on the motion to proceed, which would have substantial additional benefits while still preserving

the right of extended debate on substantive matters.

Right now, the motion to take up legislation is non-debatable only in very special circumstances: if the Senate has adjourned rather than recessing at the end of the previous day, if it has a period of morning business the next day and if it is in the second hour of the session. Even then, the bill goes back to the calendar if debate continues at the end of morning business.

The biggest problem in the Senate's current rules isn't that the majority can't work its will, but that a handful of Senators can clog the legislative stream, preventing action even on broadly supported measures.

Cutting off debate requires a day's wait after the first cloture petition is filed, and then 30 more hours of debate even if cloture is invoked. This means that the leadership needs at least four days just to end debate on the motion to proceed, plus many more on controversial amendments.

Four days on one measure is four days that can't be devoted to other matters—and the Senate has averaged only 167 days in session each year this decade.

Making the motion to proceed non-debatable would not only reduce the opportunities for filibusters but would also end the practice of individual ''holds'' on bills and nominations.

Those holds aren't in the rules, but they are the result of rules that require, for example, the Senate to take up bills and nominations in the order they were added to the calendar—that is, oldest first, with more urgent matters or more recent versions delayed until all previous matters have been disposed of.

A non-debatable motion to proceed could still be rejected by majority vote, and a matter being debated could still be filibustered, but the opponents would have to muster their troops, whereas now a single Member can hold the whole Senate hostage.

There are other rules changes that the Senate might adopt to have a more orderly and businesslike legislative process.

It could change the rule (XIX) that requires that ''all debate shall be germane and confined to the specific question then pending before the Senate'' for only the first three hours and it could enforce more rigorously the section of that rule that ''no Senator shall speak more than twice upon any one question in debate on the same legislative day.''

Senators could also drop the provision saying that the rules continue from one Congress to another unless changed by a two-thirds vote. That was added in 1959 under pressure from Senators fighting civil rights bills in order to overturn a ruling that would have allowed each new Congress to adopt rules by majority vote—as the House of Representatives does every two years.

But if Senators are unwilling to change the basic rule on filibusters, they should at least make the motion to proceed non-debatable so that the Senate can get to work without petty delays.

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[From the National Review Online, Jan. 12, 2005]

CRISIS MODE: A FAIR AND CONSTITUTIONAL OPTION TO BEAT THE FILIBUSTER GAME

(By Senator Orrin G. Hatch)

Judicial nominations will be one of the most important issues facing the Senate in the 109th Congress and the question is whether we will return to the tradition of giving nominations reaching the Senate floor an up or down vote. The filibusters used to block such votes have mired the judicial-confirmation process in a political and constitutional crisis that undermines democracy, the judiciary, the Senate, and the Constitution. The Senate has in the past changed its procedures to rebalance the minority's right to debate and the majority's right to decide and it must do so again.

Newspaper editorials condemning the filibusters outnumber supporting ones by more than six-to-one. Last November, South Dakotans retired former Senate Minority Leader Tom Daschle, in no small part, because he led the filibuster forces. Yet within hours of his election to succeed Senator Daschle as Minority Leader, Senator Harry Reid took to the Senate floor to defend them. Hope is fading that the shrinking Democratic minority will abandon its destructive course of using filibusters to defeat majority supported judicial nominations. Their failure to do so will require a deliberate solution.

DIAGNOSING THE CRISIS

If these filibusters were part of the Senate's historical practice or, as a recent NRO editorial put it, merely made confirming nominees more difficult, a deliberate solution might not be warranted. But this is a crisis, not a problem of inconvenience.

Senate rules reflect an emphasis on deliberation and debate. Either by unanimous agreement or at least 60 votes on a motion to invoke cloture under Rule 22, the Senate must end debate before it can vote on anything. From the Spanish filibustero, a filibuster was a mercenary who tries to destabilize a government. A filibuster occurs most plainly on the Senate floor when efforts to end debate fail, either by objection to unanimous consent or defeat of a cloture motion. During the 108th Congress, Senate Democrats defeated ten majority-supported nominations to the U.S. Court of Appeals by objecting to every unanimous consent request and defeating every cloture motion. This tactic made good on then-Democratic Leader Tom Daschle's February 2001 vow to use ''whatever means necessary'' to defeat judicial nominations. These filibusters are unprecedented, unfair, dangerous, partisan, and unconstitutional.

A POLITICAL CRISIS

These are the first filibusters in American history to defeat majority supported judicial nominations. Before the 108th Congress, 13 of the 14 judicial nominations on which the Senate took a cloture vote were confirmed. President Johnson withdrew the 1968 nomination of Abe Fortas to be Supreme Court chief justice the day after a failed cloture vote showed the nomination did not have clear majority support. In contrast, Democrats have now crossed the confirmation Rubicon by using the filibuster to defeat judicial nominations which enjoy clear majority support.

Focusing on President Clinton's judicial nominations in 1999, I described what has been the Senate's historical standard for judicial nominations: ''Let's make our case if we have disagreement, and then vote.'' Democrats' new filibusters abandons this tradition and is unfair to senators who must provide the ''advice and consent'' the Constitution requires of them through a final up or down vote. It is also unfair to nominees who have agreed, often at personal and financial sacrifice, to judicial service only to face scurrilous attacks, trumped up charges, character assassination, and smear campaigns. They should not also be held in permanent filibuster limbo. Senators can vote for or against any judicial nominee for any reason, but senators should vote.

These unprecedented and unfair filibusters are distorting the way the Senate does business. Before the 108th Congress, cloture votes were used overwhelmingly for legislation rather than nominations. The percentage of cloture votes used for judicial nominations jumped a whopping 900 percent during President Bush's first term from the previous 25 years since adoption of the current cloture rule. And before the 108th Congress, the few cloture votes on judicial nominations were sometimes used to ensure up or down votes. Even on controversial nominees such as Richard Paez and Marsha Berzon, we invoked cloture to ensure that we would vote on confirmation. We did, and both are today sitting federal judges. In contrast, these new Democratic filibusters are designed to prevent, rather than secure, an up or down vote and to ensure that targeted judicial nominations are defeated rather than debated.

These filibusters are also completely partisan. The average tally on cloture votes during the 108th Congress was 53–43, enough to confirm but not enough to invoke cloture and end debate. Democrats provided every single vote against permitting an up or down vote. In fact, Democrats have cast more than 92 percent of all votes against cloture on judicial nominations in American history.

A CONSTITUTIONAL CRISIS

Unprecedented, unfair, and partisan filibusters that distort Senate procedures constitute a political crisis. By trying to use Rule 22's cloture requirement to change the Constitution's confirmation requirement, these Democratic filibusters also constitute a constitutional crisis.

The Constitution gives the Senate authority to determine its procedural rules. More than a century ago, however, the Supreme Court unanimously recognized the obvious maxim that those rules may not ''ignore constitutional restraints.'' The Constitution explicitly requires a supermajority vote for such things as trying impeachments or overriding a presidential veto; it does not do so for confirming nominations. Article II, Section 2, even mentions ratifying treaties and confirming nominees in the very same sentence, requiring a supermajority for the first but not for the second. Twisting Senate rules to create a confirmation supermajority undermines the Constitution. As Senator Joseph Lieberman once argued, it amounts to ''an amendment of the Constitution by rule of the U.S. Senate.''

But don't take my word for it. The same senators leading the current filibuster campaign once argued that all filibusters are unconstitutional. Senator Lieberman argued in 1995 that a supermajority requirement for cloture has ''no constitutional basis.'' Senator Tom Harkin insisted that ''the filibuster rules are unconstitutional'' because ''the Constitution sets out . . . when you need majority or supermajority votes in the Senate.'' And former Senator Daschle said that because the Constitution ''is straightforward about the few instances in which more than a majority of the Congress must vote. . . . Democracy means majority rule, not minority gridlock.'' He later applied this to judicial nomination filibusters: ''I find it simply baffling that a Senator would vote against even voting on a judicial nomination.'' That each of these senators voted for every judicial-nomination filibuster during the 108th Congress is baffling indeed.

These senators argued that legislative as well as nomination filibusters are unconstitutional. Filibusters of legislation, however, are different and solving the current crisis does not require throwing the entire filibuster baby out with the judicial nomination bathwater. The Senate's authority to determine its own rules is greatest regarding what is most completely within its jurisdiction, namely, legislation. And legislative filibusters have a long history. Rule 22 itself did not even potentially apply to nominations until decades after its adoption. Neither America's founders, nor the Senate that

adopted Rule 22 to address legislative gridlock, ever imagined that filibusters would be used to highjack the judicial appointment process.

TRYING TO CHANGE THE SUBJECT

Liberal interest groups, and many in the mainstream media, eagerly repeat Democratic talking points trying to change, rather than address, the subject. For example, they claim that, without the filibuster, the Senate would be nothing more than a ''rubberstamp'' for the president's judicial nominations. Losing a fair fight, however, does not rubberstamp the winner; giving up without a fight does. Active opposition to a judicial nomination, especially expressed through a negative vote, is the best remedy against being a rubberstamp.

They also try to change the definition of a filibuster. On March 11, 2003, for example, Senator Patrick Leahy, ranking Judiciary Committee Democrat, used a chart titled ''Republican Filibusters of Nominees.'' Many individuals on the list, however, are today sitting federal judges, some confirmed after invoking cloture and others without taking a cloture vote at all. Invoking cloture and confirming nominations is no precedent for not invoking cloture and refusing to confirm nominations.

Many senators once opposed the very judicial nomination filibusters they now embrace. Senator Leahy, for example, said in 1998: ''I have stated over and over again. . .that I would object and fight against any filibuster on a judge, whether it is somebody I opposed or supported.'' Since then, he has voted against cloture on judicial nominations 21 out of 26 times. Senator Ted Kennedy, a former chairman of the Judiciary Committee, said in 1995 that ''Senators who believe in fairness will not let a minority of the Senate deny [the nominee] his vote by the entire Senate.'' Since then, he has voted to let a minority of the Senate deny judicial nominees a vote 18 out of 23 times.

Let me put my own record on the table. I have never voted against cloture on a judicial nomination. I opposed filibusters of Carter and Clinton judicial nominees, Reagan and Bush judicial nominees, all judicial nominees. Along with then-Majority Leader Trent Lott, I repeatedly warned that filibustering Clinton judicial nominees would be a ''travesty'' and helped make sure that every Clinton judicial nomination reaching the full Senate received a final confirmation decision. That should be the permanent standard, no matter which party controls the Senate or occupies the White House.

SOLVING THE CRISIS

The Senate has periodically faced the situation where the minority's right to debate has improperly overwhelmed the majority's right to decide. And we have changed our procedures in a way that preserves the minority's right to debate, and even to filibuster legislation, while solving the crisis at hand.

The Senate's first legislative rules, adopted in 1789, directly reflected majority rule. Rule 8 allowed a simple majority to ''move the previous question'' and proceed to vote on a pending matter. Invoked only three times in 17 years, however, Rule 8 was dropped in the Senate rules revision of 1806, meaning unanimous consent was then necessary to end debate. Dozens of reform efforts during the 19th century tried to rein in the minority's abuse of the right to debate. In 1917, President Woodrow Wilson described what had become of majority rule: ''The Senate of the United States is the only legislative body in the world which cannot act when its majority is ready for action. . . . The only remedy is that the rules of the Senate shall be altered.'' Leadership turned gridlock into reform, and that year the Senate adopted Rule 22, by which ⅔ of Senators present and voting could invoke cloture, or end debate, on a pending measure.

Just as the minority abused the unanimous consent threshold in the 19th century, the minority abused the ⅔ threshold in the 20th century. A resolution to reinstate the previous question rule was introduced, and only narrowly defeated, within a year of Rule 22's adoption. A steady stream of reform attempts followed, and a series of modifications made until the current 60-vote threshold was adopted in 1975. The point is that the Senate has periodically rebalanced the minority's right to debate and the majority's right to decide. Today's crisis, with constitutional as well as political dimensions and affecting all three branches of government, presents an even more compelling case to do so.

These filibusters are an unprecedented shift in the kind, not just the degree, of the minority's tactics. After a full, fair, and vigorous debate on judicial nominations, a simple majority must at some point be able to proceed to a vote. A simple majority can achieve this goal either by actually amending Rule 22 or by sustaining an appropriate parliamentary ruling.

A SIMPLE MAJORITY CAN CHANGE THE RULES

The Senate exercises its constitutional authority to determine its procedural rules either implicitly or explicitly. Once a new Congress begins, operating under existing rules implicitly adopts them ''by acquiescence.'' The Senate explicitly determines its rules by formally amending them, and the procedure depends on its timing. After Rule 22 has been adopted by acquiescence, it requires 67 votes for cloture on a rules change. Before the Senate adopts Rule 22 by acquiescence, however, ordinary parliamentary rules apply and a simple majority can invoke cloture and change Senate rules.

Some object to this conclusion by observing that, because only a portion of its membership changes with each election, the Senate has been called a ''continuing body.'' Yet language reflecting this observation was included in Senate rules only in 1959. The more important, and much older, sense in which the Senate is a continuing body is its ongoing constitutional authority to determine its rules. Rulings by vice presidents of both parties, sitting as the President of the Senate, confirm that each Senate may make that decision for itself, either implicitly by acquiescence or explicitly by amendment. Both conservative and liberal legal scholars, including those who see no constitutional problems with the current filibuster campaign, agree that a simple majority can change Senate rules at the beginning of a new Congress.

A SIMPLE MAJORITY CAN UPHOLD A PARLIAMENTARY RULING

An alternative strategy involves a parliamentary ruling in the context of considering an individual nomination. This approach can be pursued at any time, and would not actually amend Rule 22. The precedent it would set depends on the specific ruling it produces and the facts of the situation in which it arises.

Speculation, often inaccurate, abounds about how this strategy would work. One newspaper, for example, offered a common description that this approach would seek ''a ruling from the Senate parliamentarian that the filibuster of executive nominations is unconstitutional.'' Under long-standing Senate parliamentary precedent, however, the presiding officer does not decide such constitutional questions but submits them to the full Senate, where they are debatable and subject to Rule 22's 60-vote requirement. A filibuster would then prevent solving this filibuster crisis. Should the chair rule in favor of a properly framed non-debatable point of order, Democrats would certainly appeal, but the majority could still sustain the ruling by voting for a non-debatable motion to table the appeal.

Democrats have threatened that, if the majority pursues a deliberate solution to this political and constitutional crisis, they will bring the entire Senate to a screeching halt. Perhaps they see this as way to further escalate the confirmation crisis, as the Senate cannot confirm judicial nominations if it can do nothing at all. No one, however, seriously believes that, if the partisan roles were reversed, Democrats—the ones who once proposed abolishing even legislative filibusters—would hesitate for a moment before changing Senate procedures to facilitate consideration of judicial nominations they favored.

A FAMILIAR FORK IN THE ROAD

The United States Senate is a unique institution. Our rules allowing for extended debate protect the minority's role in the legislative process. We must preserve that role. The current filibuster campaign against judicial nominations, however, is the real attack on Senate tradition and an unprecedented example of placing short-term advantage above longstanding fundamental principles. It is not simply annoying or frustrating, but a new and dangerous kind of obstruction which threatens democracy, the Senate, the judiciary, and even the Constitution itself. As such, it requires a more serious and deliberate solution.

While judicial appointments can be politically contentious and ideologically divisive, the confirmation process must still be handled through a fair process that honors the Constitution and Senate tradition. If the fight is fair and constitutional, let the chips fall where they may. As it has before, the Senate must change its procedures to properly balance majority rule and extended debate. That way, we can vigorously debate judicial nominations and still conduct the people's business.

## REMEMBERING REPRESENTATIVE THOMAS LUDLOW ''LUD'' ASHLEY

Mr. BROWN of Ohio. Mr. President, as we search for solutions to our twin challenges in the housing and energy sectors, we should pause to celebrate, remember, and learn from the life of a legislator who brokered solutions to these very same problems more than 30 years ago ''Lud'' Ashley, the distinguished gentlemen who represented the 9th Congressional District of Ohio.

Thomas Ludlow Ashley represented the Toledo area from 1955 until 1981. He was a pragmatic progressive who knew how to broker a deal to move the Nation forward.

He was tapped by the late Speaker Tip O'Neill to lead the effort to develop a bipartisan set of proposals to address the Nation's energy crisis. His work laid the foundation for the passage of a series of bills that aimed to reduce our dependence on oil and spur the research and development of new, clean energy sources.

We could use his advice and counsel today.

Congressman Ashley made a profound difference in the well-being of everyday Americans. He was known as

''Mr. Housing'' for his leadership of the House Subcommittee on Housing and Community Development. In this role, he authored landmark pieces of legislation in the Housing and Community Development Acts of 1974 and 1977.

''Americans sleep in better homes today because of Lud Ashley,'' Senator Ted Kennedy once said of Congressman Ashley.

As a legislator, Congressman Ashley continued the family legacy of fighting for equality. His great-grandfather, who represented Toledo in Congress during the Civil War era, co-authored the 13th amendment abolishing slavery. A century later, Lud Ashley worked tirelessly to secure the passage of the 1964 Civil Rights Act.

An Army veteran, who served in the Pacific during World War II, Lud Ashley returned home to pursue his education. He earned degrees from Yale University and the Ohio State University College of Law.

Hearing the call to public service, Lud Ashley ran and won the privilege of representing the 9th Congressional District of Ohio in 1954. His service was defined by a passionate but collegial devotion to liberal causes, one that earned him the respect and friendship of his peers on both sides of the aisle.

I hope that my colleagues will take a moment to honor the life and legacy of Congressman Lud Ashley a great Ohioan and a great American.

## ADDITIONAL STATEMENTS

### ELGIN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, today I recognize a community in North Dakota that will be celebrating its 100th anniversary. On July 17–20, the residents of Elgin will gather to celebrate their community's history and founding.

Elgin, a Northern Pacific Railroad town site, was first named Shanley, but became Elgin in 1910. The residents were having difficulty agreeing on a new name, and Isadore Gintzler is said to have looked at his pocket watch to check the time at a very late hour, and suggested its brand name, Elgin, as a compromise name for the town site. Elgin watches are made in Elgin, IL, which was named by founder James T. Gifford for Elgin, Scotland. The post office was established August 11, 1910. Elgin was incorporated as a village in 1911.

Some of the present day businesses and accommodations that continue to thrive within the city of Elgin include the Jacobson Memorial Hospital Care Center and Clinics, Dakota Hill Housing, a dentist, an eye clinic, a cafe and bowling alley, a grocery store, a hardware store, gas stations, a bank, accounting offices, a drug store, insurance agencies, a newspaper, the post office, a lumber yard, a motel, a new public library, and grain elevators.

Citizens of Elgin have organized numerous activities to celebrate their centennial. Some of the activities include an opening ceremony, historical power point presentation, historical bus tour, musical entertainment, an alumni football game, a magician show, and an antique parade.

I ask the U.S. Senate to join me in congratulating Elgin, ND, and its residents on the first 100 years and in wishing them well through the next century. By honoring Elgin and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Elgin that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Elgin has a proud past and a bright future.●

### ARKANSAS'S FARM BUREAU SCHOLARSHIP WINNERS

● Mrs. LINCOLN. Mr. President, today I congratulate eight Arkansas college students who were recently selected as recipients of this year's Arkansas Farm Bureau Foundation Scholarship Program. The students will receive $1,000 per semester for their agriculture studies in the 2010–2011 school year.

These young Arkansans represent the best of our State, and I am pleased to see them receive this funding to advance their education and prepare them for their future agriculture careers. Agriculture is the backbone of Arkansas's economy, creating more than 270,000 jobs in the State and providing $9.1 billion in wages and salaries. In total, agriculture contributes roughly $15.9 billion to the Arkansas economy each year.

To be eligible for the Farm Bureau scholarship, students must be Arkansas residents, members of a Farm Bureau family, and enrolled as juniors or seniors in a State-accredited university. They must also maintain a 2.5 grade-point-average and pursue an agriculture-related degree. As a seventh generation Arkansan and farmer's daughter and as chairman of the Senate Agriculture Committee, I understand firsthand and appreciate the hard work and contributions of our farm families, and these students are quite deserving of this honor.

This year's scholarship recipients are:

Anna Elizabeth Buck, 21, of Delight, Pike County, daughter of Ricky and Rebecca Buck. She is an agricultural business major with a marketing minor at Southern Arkansas University in Magnolia.

Laura Jones, 29, of Clinton, Washington County, daughter of Rosemary and Willie Jones. She is an animal science/pre-vet major at Arkansas State University in Jonesboro.

Mia Hand, 21, of Magnolia, Columbia County, daughter of Rosanne Hand. She is an agricultural education major at Southern Arkansas University in Magnolia.

Jaimie McMeechan, 23, of Gamaliel, Baxter County, daughter of William and Shirley McMeechan. She is an agriculture education major at Southern Arkansas University in Magnolia.

Jared McMillan, 20, of Pine Bluff, Jefferson County, son of Dale and Teresa McMillan. He is an animal science major at the University of Arkansas at Monticello.

Kevin Dale Morrison, 21, of Onyx, Yell County, son of Vernon and Elise Morrison. He is an agriculture business major with an emphasis in animal science at Arkansas Tech University in Russelville.

Daniel Wade Walters, 20, of Fayetteville, Washington County, son of Danny and Bonita Walters. He is an agriculture business major at Arkansas Tech University in Russelville.

Fines ''Levi'' Hudson, 22, of Mt. Judea, Newton County, son Richard and Anita Hudson. He is a food, human nutrition and hospitality major with a dietetics concentration at the University of Arkansas at Fayetteville.●

### REMEMBERING REVEREND GERALD ARCHIE ''G.A.'' MANGUN

● Mr. VITTER. Mr. President, today I wish to acknowledge Reverend Gerald Archie ''G.A'' Mangun of Alexandria, LA, and to honor his memory as an important spiritual leader to the citizens of central Louisiana. I would like to take some time to make a few remarks about his legacy.

Reverend Mangun passed away Thursday, June 17, 2010, at the age of 91. Reverend Mangun was born March 11, 1919, in LaPaz, IN. He was ordained a minister in 1942 and spent the years before coming to Alexandria preaching across the country. He then came to Alexandria and was elected pastor of the then-First United Pentecostal Church in 1950.

Reverend Mangun relentlessly dedicated himself to reaching out to his community through his church. His church began small, with only 35 members, but with his unyielding dedication and inspiration it continued to grow. Today, the Pentecostal Church of Alexandria has a congregation numbering more than 3,000. This growth in itself shows his spiritual leadership and positive influence in the State of Louisiana.

Through his leadership, the church grew to be an integral part of the city of Alexandria and the State of Louisiana. His leadership, however, reached far beyond his own State. For example, Reverend Mangun raised 1.13 million for mission work in 2009 alone. His impact in and outside of his own State and community have been remarkable.

Reverend Mangun suffered a stroke on May 28, 2010, and passed away on June 17, 2010. His passing is a great loss to the State of Louisiana. However, his legacy will continue through the hearts and minds of people he touched and influenced through his ministry. His impact continues to be felt today throughout the country and around the world through his ministry and mission work. Thus today, I am proud to honor Reverend Gerald Archie Mangun for his service and leadership in his community and in the State of Louisiana.●

## MESSAGE FROM THE HOUSE

At 12:44 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has agreed to the following concurrent resolution:

H. Con. Res. 288. Concurrent resolution supporting National Men's Health Week.

## MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 288. Concurrent resolution supporting National Men's Health Week; to the Committee on Health, Education, Labor, and Pensions.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6318. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment to Part 766 of the Export Administration Regulations'' (RIN0694–AE93) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6319. A communication from the Senior Regulations Analyst, Office of the Secretary of Transportation, Department of Transportation, transmitting, pursuant to law, a rule entitled ''Transportation for Individuals with Disabilities: Passenger Vessels'' (RIN2105–AB87) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6320. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Jet Routes J–32, J–38, and J–538; Minnesota'' ((RIN2120–AA66)(Docket No. FAA–2009–1080)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6321. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Restricted Area R–2504; Camp Roberts, CA'' ((Docket No. FAA–2010–0557)(FAA Docket No. 2010–0557)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6322. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (53); Amdt. No. 3375'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6323. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (86); Amdt. No. 3374'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6324. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (13); Amdt. No. 3377'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6325. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (12); Amdt. No. 3377'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6326. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (12); Amdt. No. 3376'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6327. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class C Airspace; Beale Air Force Base, CA'' ((RIN2120–AA66)(Docket No. FAA–2010–0367)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6328. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D and E Airspace; Victorville, CA'' ((RIN2120–AA66)(Docket No. FAA–2009–1140)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6329. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Mount Pleasant, SC'' ((RIN2120–AA66)(Docket No. FAA–2010–0069)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6330. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Mount Pleasant, SC; Confirmation of Effective Date'' ((RIN2120–AA66)(Docket No. FAA–2010–0069)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6331. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Panama City, Tyndall AFB, FL'' ((RIN2120–AA66)(Docket No. FAA–2010–0249)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6332. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Quitman, GA'' ((RIN2120–AA66)(Docket No. FAA–2010–0053)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6333. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Austin, TX'' ((RIN2120–AA66)(Docket No. FAA–2009–1152)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6334. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace, Corpus Christi, TX'' ((RIN2120–AA66)(Docket No. FAA–2010–0089)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6335. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Hoquiam, WA'' ((RIN2120–AA66)(Docket No. FAA–2009–1063)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6336. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Magnolia, AR'' ((RIN2120–AA66)(Docket No. FAA–2009–1179)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6337. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Kaltag, AK'' ((RIN2120–AA66)(Docket No. FAA–2010–0082)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6338. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Wainwright, AK'' ((RIN2120–AA66)(Docket No. FAA–2010–0080)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6339. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Nenana, AK'' ((RIN2120–AA66)(Docket No. FAA–2010–0081)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6340. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Galena, AK'' ((RIN2120–AA66)(Docket No. FAA–2010–0299)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6341. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation,

transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; West Yellowstone, MT'' ((RIN2120–AA66)(Docket No. FAA–2009–1101)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6342. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revocation and Establishment of Class E Airspace; Nuiqsut, AK'' ((RIN2120–AA66)(Docket No. FAA–2010–0502)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6343. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters'' ((RIN2120–AA64)(Docket No. FAA–2008–0071)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6344. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Learjet Inc. Model 60 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0495)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6345. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; PILATUS Aircraft Ltd. Model PC–7 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0250)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6346. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; CFM International, S.A. Models CFM56–3 and –3B Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0606)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6347. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes; Airbus Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model CR–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and Model A310 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0171)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6348. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Microturbo Saphir 20 Model 095 Auxiliary Power Units (APUs)'' ((RIN2120–AA64)(Docket No. FAA–2010–0512)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6349. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Arriel 2B1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2007–27009)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6350. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, and 702) Airplanes, Model CL–600–2D15 (Regional Jet Series 705) Airplanes, and Model CL–600–2D24 (Regional Jet Series 900) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–1033)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6351. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca S.A. MAKILA 1A and 1A1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2009–0982)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6352. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; General Electric Company CF6–45 and CF6–50 Series Turbofan Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0068)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6353. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135ER, –135KE, –135KL, and –135LR Airplanes; and EMBRAER Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0170)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6354. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Honeywell International Inc. Auxiliary Power Unit Models GTCP36–150(R) and GTCP36–150(RR)'' ((RIN2120–AA64)(Docket No. FAA–2009–0803)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6355. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (53); Amdt. No. 3375'' (RIN2120–AA65) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6356. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Astazou XIV B and XIV H Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0219)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6357. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dassault-Aviation Model FALCON 2000 and FALCON 2000EX Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0791)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6358. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200 and –300 Series Airplanes, and Model A340–300 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0914)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6359. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0176)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6360. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 190–100 STD, –100 LR, –100 IGW, –200 STD, –200 LR, and –200 IGW Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0175)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6361. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Corporation Model MD–11 and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0866)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6362. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Stemme GmbH and Co. KG Model S10–VT Powered Sailplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0788)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6363. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; SOCATA Model TBM 700 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0286)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6364. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; AeroSpace Technologies of Australia Pty

Ltd Models N22B, N22S, and N24A Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0235)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6365. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Quartz Mountain Aerospace, Inc. Model 11E Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0261)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6366. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135BJ, –135ER, –135KE, –135KL, –135LR, –145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0132)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6367. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; AVOX Systems and B/E Aerospace Oxygen Cylinders as Installed on Various 14 CFR Part 23 and CAR 3 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0272)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6368. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dowty Propellers R175/4-30–4/13; R175/4-30–4/13e; R184/4-30–4/50; R193/4-30–4/50; R193/4-30–4/61; R193/4-30–4/64; R193/4-30–4/65; R193/4-30–4/66; R.209/4-40–4.5/2; R212/4-30–4/22; R.245/4-40–4.5/13; R257/4-30–4/60; and R.259/4-40–4.5/17 Model Propellers'' ((RIN2120–AA64)(Docket No. FAA–2008–0750)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6369. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Model CL–600–1A11 (CL–600), CL–600–2A12 (CL–601), and CL–600–2B16 (CL–601–3A, CL–601–3R, and CL–604 Variants) Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0169)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6370. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Gulfstream Aerospace LP (Type Certificate Previously Held by Israel Aircraft Industries, Ltd.) Model Gulfstream 100 Airplanes, and Model Astra SPX and 1125 Westwind Astra Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0034)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6371. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A300 Series Airplanes; Model A300 B4–600, B4–600R, F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and A310 Series Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2010–0172)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6372. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; BAE SYSTEMS (Operations) Limited Model BAe 146 Airplanes and Model Avro 146–RJ Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2008–0909)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6373. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Thielert Aircraft Engines GmbH (TAE) Models TAE 125–01 and TAE 125–02–99 Reciprocating Engines Installed in, but not limited to, Diamond Aircraft Industries Model DA 42 Airplanes'' ((RIN2120–AA64)(Docket No. FAA–2009–0201)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6374. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Makila 2A Turboshaft Engines'' ((RIN2120–AA64)(Docket No. FAA–2010–0411)) received in the Office of the President of the Senate on June 21, 2010; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, with an amendment:

S. 3249. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program and for other purposes (Rept. No. 111–215).

## 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. KOHL (for himself, Ms. SNOWE, and Mr. LIEBERMAN):

S. 3523. A bill to reauthorize the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. HUTCHISON:

S. 3524. A bill to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. RISCH):

S. 3525. A bill to repeal the Jones Act restrictions on coastwise trade and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WICKER:

S. 3526. A bill to require the GAO to evaluate the propriety of assistance provided to General Motors Corporation under the Troubled Asset Relief Program, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRASSLEY:

S. Res. 562. A resolution to increase transparency by requiring Senate amendments to be made available to the public in a timely manner; to the Committee on Rules and Administration.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 563. A resolution recognizing the Los Angeles Lakers on their 2010 National Basketball Association Championship and congratulating the players, coaches, and staff for their outstanding achievements; to the Committee on the Judiciary.

By Mr. WEBB (for himself, Mr. INHOFE, Mr. LIEBERMAN, Mr. DODD, and Mr. BOND):

S. Res. 564. A resolution recognizing the 50th anniversary of the ratification of the Treaty of Mutual Security and Cooperation with Japan, and affirming support for the United States-Japan security alliance and relationship; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 311

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 311, a bill to prohibit the application of certain restrictive eligibility requirements to foreign nongovernmental organizations with respect to the provision of assistance under part I of the Foreign Assistance Act of 1961.

S. 831

At the request of Mr. KERRY, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 831, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 931

At the request of Mr. FEINGOLD, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 931, a bill to amend title 9 of the United States Code with respect to arbitration.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United

States Army, in recognition of their dedicated service during World War II.

S. 1553

At the request of Mr. GRASSLEY, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1553, a bill to require the Secretary of the Treasury to mint coins in commemoration of the National Future Farmers of America Organization and the 85th anniversary of the founding of the National Future Farmers of America Organization.

S. 1756

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

S. 3232

At the request of Mr. BURR, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 3232, a bill to amend the Internal Revenue Code of 1986 to make employers of spouses of military personnel eligible for the work opportunity credit.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3320

At the request of Mr. WHITEHOUSE, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Washington (Ms. CANTWELL), the Senator from Michigan (Ms. STABENOW), the Senator from Nevada (Mr. REID), the Senator from Hawaii (Mr. INOUYE) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3335

At the request of Mr. COBURN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 3335, a bill to require Congress to establish a unified and searchable database on a public website for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress.

S. 3411

At the request of Mrs. GILLIBRAND, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 3411, a bill to provide for the adjustment of status for certain Haitian orphans paroled into the United States after the earthquake of January 12, 2010.

S. 3412

At the request of Mr. DODD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3412, a bill to provide emergency operating funds for public transportation.

S. 3466

At the request of Mr. LEAHY, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 3466, a bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

S. 3469

At the request of Mr. BENNET, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3469, a bill to build capacity and provide support at the leadership level for successful school turnaround efforts.

S. 3471

At the request of Mr. DORGAN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of 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.

S. 3474

At the request of Mr. FEINGOLD, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3474, a bill to provide an optional fast-track procedure the President may use when submitting rescission requests, and for other purposes.

S. 3478

At the request of Mr. SCHUMER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3478, a bill to amend title 46, United States Code, to repeal certain limitations of liability and for other purposes.

S. 3509

At the request of Mr. UDALL of Colorado, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3509, a bill to amend the Energy Policy Act of 2005 to promote the research and development of technologies and best practices for the safe development and extraction of natural gas and other petroleum resources, and for other purposes.

S. 3510

At the request of Mr. CONRAD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3510, a bill to amend the Internal Revenue Code of 1986 to permanently extend the 15-year recovery period for qualified leasehold improvement property, qualified restaurant property, and qualified retail improvement property.

S. 3512

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 3512, a bill to provide a statutory waiver of compliance with the Jones Act to foreign flagged vessels assisting in responding to the Deepwater Horizon oil spill.

S. 3513

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3513, a bill to amend the Internal Revenue Code of 1986 to extend for one year the special depreciation allowances for certain property.

S. 3516

At the request of Mr. BINGAMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3516, a bill to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, and for other purposes.

S.J. RES. 29

At the request of Mrs. FEINSTEIN, the names of the Senator from Minnesota (Mr. FRANKEN), the Senator from North Carolina (Mrs. HAGAN) and the Senator from Louisiana (Ms. LANDRIEU) 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. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

S. RES. 552

At the request of Mr. BENNET, the names of the Senator from Idaho (Mr. RISCH) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Res. 552, a resolution designating June 23, 2010, as ''Olympic Day''.

AMENDMENT NO. 4324

At the request of Mr. WHITEHOUSE, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 4324 intended to be 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. KOHL (for himself, Ms. SNOWE, and Mr. LIEBERMAN):

S. 3523. A bill to reauthorize the Hollings Manufacturing Extension Partnership Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. KOHL. Mr. President, I rise today to introduce legislation to reauthorize the Manufacturing Extension Partnership program. I want to thank my cosponsors, Senators SNOWE and LIEBERMAN for their support of this legislation and for their long-time support of this program.

For the last few years, there have been too many jobs lost, and the manufacturing sector has been particularly

hard-hit. My home State of Wisconsin has been particularly hard hit—in the last 10 years we have lost 168,000 manufacturing jobs, nearly a 30 percent drop in the manufacturing workforce.

Despite these struggles, our Nation remains the world's largest manufacturing economy, and still employs a sizable percentage of our workforce. We must continue to do better, and work harder for our manufacturers. To put it simply, a strong manufacturing sector means a strong economy. Retaining and creating manufacturing jobs grows our prosperity.

That is why the MEP remains a good investment for our country. The MEP is the only public-private program dedicated to providing technical support and services to small and medium-sized manufacturers, helping them provide quality jobs for American workers. The MEP is a nationwide network of proven resources that enables manufacturers to compete globally, supports greater supply chain integration, and provides access to information, training, and technologies that improve efficiency, productivity, and profitability.

MEP's results are undeniable. In fiscal year 2009 alone, based on services provided in 2008, MEP projects with small and medium-sized manufacturers created or retained 52,948 jobs nationwide, generated more than $9.1 billion in sales, and provided cost savings of more than $1.4 billion.

In my home State of Wisconsin, the results are just as impressive. Wisconsin is home to two MEP Centers, and in the last year, Wisconsin companies that worked with the two centers were able to save or create more than 1,200 jobs, generate $118.6 million in sales, make $54 million in new investments, and generate $19.3 million in cost savings.

Our small- and medium-sized manufacturers face different challenges than larger companies, especially in this tough economy. The improvements that come to a business from working with an MEP Center can mean the difference between profitability and growth or shutting their doors. It is vital that we support our manufacturers, and so it is equally vital that we continue strong support for MEP.

The bill I have introduced today reauthorizes the MEP program for 5 years, through fiscal year 2015, and authorizes $825 million for the base program over those 5 years. This increase is in line with what President Obama called for in his budget and is a reasonable amount of growth at a time when we must scrutinize all Federal investments.

The bill also includes Senator SNOWE's legislation to change the cost-share percentage for MEP Centers to fully-access Federal funding. At a time of tight State budgets, and at a time when manufacturers have less funding to pay for MEP services, MEP Centers are finding it harder and harder to meet the current 2/3 cost-share requirement. The time they must take to meet this requirement takes away from their time with manufacturers. The bill changes the cost share to 50/50—in line with most other programs at the Commerce Department—and calls for a study to determine if this level is reasonable for the long-term.

As I mentioned, state funding is one key component of a MEP Center's budget, and one area where funding has been constrained as of late. In response, this legislation authorizes a $5 million State incentive program. We should encourage State participation to grow this program, and make it a true partnership between the State, Federal Government and private sector.

Finally, the bill creates a separate funding authorization for the Competitive Grant Program created in the 2007 America COMPETES Bill. This will ensure that funding for the base MEP program goes to the existing MEP centers and allows Congress and the Commerce Department to separately fund new, innovative services for our manufacturers.

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. 3523

*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 ''Hollings Manufacturing Extension Partnership Program Reauthorization Act of 2010''.

**SEC. 2. REAUTHORIZATION OF HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.**

(a) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM COST-SHARING.—Section 25(c) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)) is amended by adding at the end the following:

''(7) Notwithstanding paragraphs (1), (3), and (5), for each of the fiscal years 2011 through 2013, the Secretary may not provide a Center with more than 50 percent of the costs incurred by such Center and may not require that a Center's cost share exceed 50 percent.

''(8) Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall submit a report to Congress on the cost share requirements under the Centers program, which shall—

''(A) analyze various cost share structures, including—

''(i) the cost share structure in place before the date of the enactment of this paragraph;

''(ii) the cost share structure in place under paragraph (7); and

''(iii) the effect of such cost share structures on individual Centers and the overall program; and

''(B) include a recommendation for structuring the cost share requirement after fiscal year 2013 to best provide for the long-term sustainability of the program.''.

(b) STATE INCENTIVE PROGRAM.—Section 25 of such Act (15 U.S.C. 278k) is amended by adding at the end the following:

''(g) STATE INCENTIVE PROGRAM.—If a State provides financial support to a Center in excess of 25 percent of the capital and annual operating and maintenance funds required to create and maintain such Center, the Secretary shall provide such Center assistance that is—

''(1) in addition to assistance otherwise provided to such Center under this section; and

''(2) in an amount determined according to a formula the Secretary shall establish for purposes of this subsection.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out subsections (a) through (e) of such section 25—

(A) $145,000,000 for fiscal year 2011;

(B) $155,000,000 for fiscal year 2012;

(C) $165,000,000 for fiscal year 2013;

(D) $175,000,000 for fiscal year 2014; and

(E) $185,000,000 for fiscal year 2015.

(2) COMPETITIVE GRANT PROGRAM.—There is authorized to be appropriated to carry out subsection (f) of such section $5,000,000 for each of the fiscal years 2011 through 2015.

(3) STATE INCENTIVE PROGRAM.—There is authorized to be appropriated to carry out subsection (g) of such section, as added by subsection (b) of this section, $5,000,000 for each of the fiscal years 2011 through 2015.

(d) DESIGNATION OF PROGRAM.—

(1) IN GENERAL.—Such section 25 (15 U.S.C. 278k) is further amended by adding at the end the following:

''(h) DESIGNATION.—

''(1) HOLLINGS MANUFACTURING EXTENSION PARTNERSHIP PROGRAM.—The program under this section shall be known as the 'Hollings Manufacturing Extension Partnership Program'.

''(2) HOLLINGS MANUFACTURING EXTENSION CENTERS.—The Regional Centers for the Transfer of Manufacturing Technology created and supported under subsection (a) shall be known as the 'Hollings Manufacturing Extension Centers' (in this Act referred to as the 'Centers').''.

(2) CONFORMING AMENDMENT TO CONSOLIDATED APPROPRIATIONS ACT, 2005.—Division B of title II of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 2879; 15 U.S.C. 278k note) is amended under the heading ''INDUSTRIAL TECHNOLOGY SERVICES'' by striking ''2007: *Provided further, That*'' and all that follows through ''Extension Centers.'' and inserting ''2007.''.

(3) TECHNICAL AMENDMENT.—Section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(a)) is amended in the matter preceding paragraph (1) by striking ''Regional Centers for the Transfer of Manufacturing Technology'' and inserting ''regional centers for the transfer of manufacturing technology''.

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By Mrs. HUTCHISON:

S. 3524. A bill to authorize the Secretary of the Interior to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historical Park, to expand the boundary of the Park, to conduct a study of potential land acquisitions, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. HUTCHISON. Mr. President, today I rise to speak on the San Antonio Missions National Historical Park Boundary Expansion Act of 2010. This legislation will preserve and enhance one of Texas' most historic regions. Additionally, it will provide for a new education center so folks from around the nation can learn more about one of the many historic gems Texas has to offer.

I would like to commend Congressman CIRO RODRIGUEZ for his leadership

and dedication to the San Antonio Missions. The legislation I have introduced today is a Senate companion to legislation that Congressman RODRIGUEZ introduced earlier this year.

During the 1700s, Spain greatly influenced the San Antonio area. As Spanish explorers travelled through modern-day Texas, Catholic missionaries and soldiers accompanied the group and established the missions and forts we now benefit from in the San Antonio Missions National Historical Park. The missions and forts were originally established to protect Spanish land claims from the French in Louisiana. The missions and forts were also important to Spain in order to spread their influence and recruit new citizens for Spain's expanding empire. The San Antonio Missions National Historical Park preserves the 18th century missions on site and offers visitors an opportunity to learn about the historical importance that the area played in vocational and educational training during the 1700s.

Furthermore, the park exemplifies the diverse cultural influences we enjoy in Texas. The park's cultural influences can be seen through the formation of San Antonio Missions National Historical Park, the largest concentration of historical Catholic missions in North America. The park also has some of the most effectively maintained Spanish colonial architecture in the United States. The rich history of the San Antonio Missions Historic Park must be preserved for future generations to enjoy. I am pleased to join Congressman RODRIGUEZ in supporting the San Antonio Missions.

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By Mr. MCCAIN (for himself and Mr. RISCH):

S. 3525. A bill to repeal the Jones Act restrictions on coastwise trade and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am pleased to introduce legislation that would fully repeal the Jones Act, a 1920s law that hinders free trade and favors labor unions over consumers. Specifically, the Jones Act requires that all goods shipped between waterborne ports of the United States be carried by vessels built in the United States and owned and operated by Americans. This restriction only serves to raise shipping costs, thereby making U.S. farmers less competitive and increasing costs for American consumers.

This was highlighted by a 1999 U.S. International Trade Commission economic study, which suggested that a repeal of the Jones Act would lower shipping costs by approximately 22 percent. Also, a 2002 economic study from the same Commission found that repealing the Jones Act would have an annual positive welfare effect of $656 million on the overall U.S. economy. Since these studies are the most recent statistics available, imagine the impact a repeal of the Jones Act would have today: far more than a $656 million annual positive welfare impact—maybe closer to $1 billion. These statistics demonstrate that a repeal of the Jones Act could prove to be a true stimulus to our economy in the midst of such difficult economic times.

The Jones Act also adds a real, direct cost to consumers—particularly consumers in Hawaii and Alaska. A 1988 GAO report found that the Jones Act was costing Alaskan families between $1,921 and $4,821 annually for increased prices paid on goods shipped from the mainland. In 1997, a Hawaii government official asserted that ''Hawaii residents pay an additional $1 billion per year in higher prices because of the Jones Act. This amounts to approximately $3,000 for every household in Hawaii.''

This antiquated and protectionist law has been predominantly featured in the news as of late due to the Gulf Coast oil spill. Within a week of the explosion, 13 countries, including several European nations, offered assistance from vessels and crews with experience in removing oil spill debris, and as of June 21, the State Department has acknowledged that overall ''it has had 21 aid offers from 17 countries.'' However, due to the Jones Act, these vessels are not permitted in U.S. waters.

The Administration has the ability to grant a waiver of the Jones Act to any vessel—just as the previous Administration did during Hurricane Katrina—to allow the international community to assist in recovery efforts. Unfortunately, this Administration has not done so.

Therefore, some Senators have put forward legislation to waive the Jones Act during emergency situations, and I am proud to cosponsor this legislation. However, the best course of action is to permanently repeal the Jones Act in order to boost the economy, saving consumers hundreds of millions of dollars. I hope my colleagues will join me in this effort to repeal this unnecessary, antiquated legislation in order to spur job creation and promote free trade.

## SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 562—TO INCREASE TRANSPARENCY BY REQUIRING SENATE AMENDMENTS TO BE MADE AVAILABLE TO THE PUBLIC IN A TIMELY MANNER

Mr. GRASSLEY submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 562

*Resolved,*

**SECTION 1. AVAILABILITY TO THE PUBLIC.**

Not later than 6 months after the date of adoption of this resolution, the Secretary of the Senate shall make the Senate amendment database (ats.senate.gov or a similar amendment database) available to the public on a public website in a manner that will allow the public to view amendments as soon as they are made widely available to Members of Congress and staff.

**SEC. 2. UPGRADES TO THE WEBSITE.**

Not later than 6 months after the date of adoption of this resolution, the Secretary of the Senate shall improve the Senate amendment website and any other amendment website made available to the public by ensuring that—

(1) all amendments are scanned and posted on the website in their entirety;

(2) all submitted amendments have their purpose inputted when they are entered into the website;

(3) all amendments are identified on the website as first degree or second degree and by what bill or amendment they are offered, if available;

(4) all amendments on the website have the dates they were submitted, proposed, and disposed of; and

(5) all amendments and any associated metadata are permanently available on the website or the Legislative Information System (LIS)/THOMAS sites.

**SEC. 3. FUNDING.**

It is the sense of the Senate that appropriations should be made available through the appropriations process to carry out this resolution.

Mr. GRASSLEY. Mr. President, I address my colleagues for the purpose of submitting a resolution that will bring about greater transparency in government. I think my colleagues know I have a long history in promoting this sort of transparency. I believe the more people are aware of what we are doing in the Senate and the Congress, or in Washington generally, the more accountable we are. The more accountable we are, the better job we will do. I hope everybody agrees that is a pretty simple concept.

Today, the purpose I come to the Senate floor is to submit a resolution that will improve transparency in this body and hold us all more accountable to the people we serve; in other words, reminding the people that we work for them; they do not work for us.

This resolution requires the Secretary of the Senate to make filed amendments publicly available as soon as they are made available to Members and staff. I will show, in just a minute, that they are almost immediately made available to Members and staff. So why not the public?

In this day and age you would think this was already happening. We live in a world of 24-hour news. We live in a world of instant coverage over the Internet of just about everything. Yet we have not been allowing the general public to get this information real time. My proposal would add more transparency to how the Senate works and what we are debating on the Senate floor.

Some might question whether this is necessary. Under the current system, the public is usually able to see an amendment the next day in the CONGRESSIONAL RECORD. So I want to say why that is not good enough. In many cases, that may simply be too late.

Under the current system, the public may not be able to see the amendment until after debate has begun or even

after the Senate has already voted. This would be even more common during some of the controversial debates that stretch late into the evening. You might remember the late evening votes we had on health care reform last December and again in March where hundreds of amendments were filed and votes were cast well past midnight.

In fact, today we make the vote count public on the Internet within an hour of when a vote takes place. But we might not be able to make the substance of what we voted on available until the next day. So we let the public see how we voted, but we do not always let them see what we voted on. Of course, that does not make sense.

Just last night, Members tried to call up and pass various amendments. But only the most experienced Washington insider would have been able to actually find copies of those amendments. Shouldn't we have some kind of searchable system for amendments to allow our constituents the same access to information that some seasoned lobbyist or some seasoned congressional staffer has?

Don't we want to give our constituents a chance to see the amendments before we vote on them, if they are interested in reading them? Don't we want to know what our constituents think about amendments before we vote on them?

In order for that to happen, they have to know what those amendments are that have been filed. Of course, I am not talking about an amendment that might change a word here or a word there—although those should be publicly available as well. Some amendments I am talking about are hundreds of pages long and even constitute a complete rewrite of an underlying bill.

Today, we will likely see our fifth version of the extenders bill that is now the pending business on the floor of the Senate, and that fifth version would be in the form of an amendment. But our constituents may not be able to see that until tomorrow.

Shouldn't the public be able to see that amendment as soon as we Members or our staffs can read that amendment? This is a representative system of government, and it is impossible to represent the American people if they do not have access to the same information we have.

In addition to those who will question whether this is necessary, others might wonder whether it is even possible, like technically possible.

In fact, we are already doing it. That is right. The amendments are already available electronically to Senate offices almost immediately after they are filed, but they are not available to the public—not necessarily intentionally hidden from the public, but the public cannot get them like everybody in the Senate and in our offices can get them.

I have a chart in the Chamber that shows there is already an Amendment Tracking System Web site that is only available to Members of Congress and staff. It provides a copy of the amendment, the purpose of the amendment, the sponsor of the amendment, and the status of that amendment.

My resolution is this simple: It would simply make this or a similar Web site available to the public, much like already is done with the Legislative Information System site or the Thomas site at the Library of Congress.

That way, the public gets to see exactly what we Members and our staffs are seeing almost immediately after filing. They get the same information and can provide their input prior to a vote.

There is a lot of distrust of government these days. People believe Congress is ignoring what the public thinks and what the public wants. Some of this is the result of the policies that are being considered around here. But it also has to do with the lack of transparency and accountability in government.

I am not saying this resolution is going to fix all that is wrong with that distrust that is expressed—because it will not—but this resolution is one more step toward letting a little more sunshine into this Chamber. This straightforward resolution will increase transparency, it will promote accountability, and it will make us all better representatives of the people we serve.

I hope the Senate will consider this resolution at some point in the near future, and I also urge my colleagues to support it. The public deserves access to this information on the same basis as those of us who are closely connected to this institution—meaning the Members and our staffs.

## SENATE RESOLUTION 563—RECOGNIZING THE LOS ANGELES LAKERS ON THEIR 2010 NATIONAL BASKETBALL ASSOCIATION CHAMPIONSHIP AND CONGRATULATING THE PLAYERS, COACHES, AND STAFF FOR THEIR OUTSTANDING ACHIEVEMENTS

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 563

Whereas on June 17, 2010, the Los Angeles Lakers won the 2010 National Basketball Association (NBA) Championship with a 83–79 victory over the Boston Celtics in Game 7 of the NBA Finals;

Whereas during the 2010 NBA Playoffs, the Lakers defeated the Oklahoma City Thunder, Utah Jazz, Phoenix Suns, and Boston Celtics en route to the storied franchise's 16th championship and 11th in Los Angeles;

Whereas the 2010 Lakers honored the franchise's tradition of excellence that dates back to its establishment in 1947 in Minneapolis, Minnesota, where the Lakers were named for the ''Land of 10,000 Lakes'' and won 5 championships before moving to Los Angeles in 1960;

Whereas this marks the Lakers' 5th NBA championship since 1999, the most by any franchise during that period, and matches the run by the ''Showtime'' Lakers of the 1980's that featured Hall of Fame players Earvin ''Magic'' Johnson, Kareem Abdul-Jabbar, and James Worthy;

Whereas Phil Jackson has won more championships than any other coach in NBA history, recording his 11th championship this year and 5th with the Lakers;

Whereas the 2010 NBA Championship marks the 10th for the Lakers owner Gerald Hatten Buss;

Whereas general manager Mitch Kupchak has built a team that has exemplified the talent, character, and resilience necessary to repeat as NBA Champions;

Whereas Kobe Bryant won his 5th NBA Championship, tying him with Earvin ''Magic'' Johnson and Derek Fisher for the most by a Lakers player;

Whereas Kobe Bryant averaged 28.6 points, 8.0 rebounds, and 3.9 assists during the NBA Finals, en route to winning his 2nd consecutive NBA Finals Most Valuable Player Award and becoming just the 8th player to win the award on multiple occasions;

Whereas Ron Artest, whose hustle and defensive tenacity were critical to the Lakers' win, recorded 20 points and 5 steals during Game 7 of the NBA Finals;

Whereas the frontcourt of Pau Gasol, Andrew Bynum, and Lamar Odom played stifling defense and helped the Lakers out-rebound the Celtics in the decisive Game 7;

Whereas Derek Fisher consistently showed toughness and leadership and scored 16 critical points in Game 3 in Boston;

Whereas the Lakers bench scored 25 points in a pivotal Game 6, and players Jordan Farmar, Luke Walton, Sasha Vujacic, Shannon Brown, Josh Powell, and DJ Mbenga all contributed to the team's 2010 Championship;

Whereas the Lakers posted a record of 57–25 during the regular season, the best record in the Western Conference and 3rd best in the NBA; and

Whereas the Los Angeles Lakers have demonstrated that they are both champions on the court and in the community through the team's involvement in charity and outreach programs throughout the Southern California community: Now, therefore, be it

*Resolved*, That the Senate recognizes and congratulates—

(1) the Los Angeles Lakers for winning the 2010 NBA Finals;

(2) the Boston Celtics for winning the NBA Eastern Conference Championship and continuing a timeless rivalry; and

(3) coach Phil Jackson for winning his record-setting 11th championship.

## SENATE RESOLUTION 564—RECOGNIZING THE 50TH ANNIVERSARY OF THE RATIFICATION OF THE TREATY OF MUTUAL SECURITY AND COOPERATION WITH JAPAN, AND AFFIRMING SUPPORT FOR THE UNITED STATES-JAPAN SECURITY ALLIANCE AND RELATIONSHIP

Mr. WEBB (for himself, Mr. INHOFE, Mr. LIEBERMAN, Mr. DODD, and Mr. BOND) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 564

Whereas Japan became a treaty ally of the United States with the signing of the Treaty of Mutual Cooperation and Security on January 19, 1960;

Whereas the treaty entered into force on June 19, 1960, after its ratification by the Japanese Diet and the United States Senate;

Whereas, in furtherance of the treaty, Japan hosts approximately 36,000 members of the United States Armed Forces, 43,000 dependents, and 5,000 civilian employees of the Department of Defense, with a majority located on the island of Okinawa;

Whereas the United States and Japan signed the Roadmap for Realignment Implementation on May 1, 2006, to strengthen the alliance by maintaining defense capabilities while reducing burdens on local communities;

Whereas the United States and Japan signed the Guam Agreement on February 17, 2009, on the relocation of approximately 8,000 Marines assigned to the III Marine Expeditionary Force (MEF) personnel and their approximately 9,000 dependents from Okinawa to Guam, which would reduce the presence of the Marine Corps on Okinawa by nearly half;

Whereas the Governments of the United States and Japan maintain a strong security partnership through joint exercises between the United States Armed Forces and Japan's Self-Defense Forces;

Whereas Japan's Self-Defense Forces have contributed broadly to global security missions, including relief operations following the tsunami in Indonesia in 2005, reconstruction in Iraq from 2004 to 2006, relief assistance following the earthquake in Haiti in 2010, and maritime security operations in the Gulf of Aden;

Whereas Japan assists in the United States-led effort in Afghanistan where it ranks as the second-largest donor after the United States, pledging $5,000,000,000 over five years to improve infrastructure, education, and health, in addition to underwriting, with the United Kingdom, a reintegration trust fund for former Taliban fighters;

Whereas Japan's Self-Defense Forces have played a vital role in United Nations peacekeeping operations around the world, beginning in 1992 when Japan dispatched two 600-member engineering battalions to the United Nations Transitional Authority in Cambodia (UNTAC);

Whereas the sinking of the Republic of Korea's Cheonan naval ship by North Korea was a direct provocation intended to destabilize Northeast Asia and demonstrates the importance of cooperation between the United States and Japan on regional security issues;

Whereas recent maritime activities by China's People's Liberation Army Navy to challenge Japan's sovereignty claims in waters contested by Japan and China underscore the vital nature of the United States-Japan alliance to maintaining a balance of security in the region;

Whereas, on May 28, 2010, members of the United States-Japan Security Consultative Committee reconfirmed that, in this 50th anniversary year of the signing of the Treaty of Mutual Cooperation and Security, the United States-Japan alliance remains ''indispensable not only to the defense of Japan, but also to the peace, security, and prosperity of the Asia-Pacific region'';

Whereas the security alliance has served as the foundation for deep cultural, political, and economic ties between the people of the United States and the people of Japan; and

Whereas Japan remains a steadfast global partner with shared values of freedom, democracy, and liberty: Now, therefore, be it

*Resolved,* That the Senate—

(1) affirms its commitment to the United States-Japan security alliance and the deep friendship of both countries that is based on shared values;

(2) recognizes the benefits of the alliance to the national security of the United States and Japan, as well as to regional peace and security;

(3) recognizes the contributions of and expresses appreciation for the people of Japan, and in particular the people of Okinawa, in hosting members of the United States Armed Forces and their families in Japan;

(4) values the involvement of Japan's Self-Defense Forces in regional and global security operations;

(5) promotes the implementation of the Roadmap for Realignment to reduce the burden on local communities while maintaining the United States strategic posture in Asia; and

(6) anticipates the continuation of the steadfast alliance with its invaluable contribution to global peace, democracy, and security.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4386. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

SA 4387. Mr. REID (for Mr. BAUCUS) proposed an amendment to amendment SA 4386 proposed by Mr. REID (for Mr. BAUCUS) to the bill H.R. 4213, supra.

SA 4388. Mr. REID proposed an amendment to the bill H.R. 4213, supra.

SA 4389. Mr. REID proposed an amendment to amendment SA 4388 proposed by Mr. REID to the bill H.R. 4213, supra.

SA 4390. Mr. REID proposed an amendment to amendment SA 4389 proposed by Mr. REID to the amendment SA 4388 proposed by Mr. REID to the bill H.R. 4213, supra.

SA 4391. Mr. DURBIN (for Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Ms. CANTWELL, Mr. KYL, Mr. MCCAIN, Mr. TESTER, Mr. THUNE, Mr. UDALL of New Mexico, and Mr. UDALL, of Colorado)) proposed an amendment to the bill H.R. 725, to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes.

SA 4392. Mr. DURBIN (for Mr. CARPER) proposed an amendment to the bill S. 1508, to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

SA 4393. Mr. DURBIN (for Mr. CONRAD) proposed an amendment to the resolution S. Res. 541, designating June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day''.

## TEXT OF AMENDMENTS

**SA 4386.** Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SECTION 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. EXTENSION OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 54AA(d)(1) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

(b) EXTENSION OF PAYMENTS TO ISSUERS.—

(1) IN GENERAL.—Section 6431 is amended—

(A) by striking ''January 1, 2011'' in subsection (a) and inserting ''January 1, 2013''; and

(B) by striking ''January 1, 2011'' in subsection (f)(1)(B) and inserting ''a particular date''.

(2) CONFORMING AMENDMENTS.—Subsection (g) of section 54AA is amended—

(A) by striking ''January 1, 2011'' and inserting ''January 1, 2013''; and

(B) by striking ''QUALIFIED BONDS ISSUED BEFORE 2011'' in the heading and inserting ''CERTAIN QUALIFIED BONDS''.

(c) REDUCTION IN PERCENTAGE OF PAYMENTS TO ISSUERS.—Subsection (b) of section 6431 is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(2) by striking ''35 percent'' and inserting ''the applicable percentage''; and

(3) by adding at the end the following new paragraph:

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

| ''In the case of a qualified bond issued during calendar year: | The applicable percentage is: |
|---|---|
| 2009 or 2010 | 35 percent |
| 2011 | 32 percent |
| 2012 | 30 percent.''. |

(d) CURRENT REFUNDINGS PERMITTED.—Subsection (g) of section 54AA is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CURRENT REFUNDING BONDS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified bond' includes any bond (or series of bonds) issued to refund a qualified bond if—

''(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

''(B) APPLICABLE PERCENTAGE.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

''(C) DETERMINATION OF AVERAGE MATURITY.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).''.

(e) CLARIFICATION RELATED TO LEVEES AND FLOOD CONTROL PROJECTS.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting ''(including capital expenditures for levees and other flood control projects)'' after ''capital expenditures''.

### SEC. 102. 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. 103. 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. 104. EXTENSION AND ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY.

(a) EXTENSION OF RECOVERY ZONE BOND AUTHORITY.—Section 1400U–2(b)(1) and section 1400U–3(b)(1)(B) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section 1400U–1 is amended by adding at the end the following new subsection:

''(c) ALLOCATION OF 2010 RECOVERY ZONE BOND LIMITATIONS BASED ON UNEMPLOYMENT.—

''(1) IN GENERAL.—The Secretary shall allocate the 2010 national recovery zone economic development bond limitation and the 2010 national recovery zone facility bond limitation among the States in the proportion that each such State's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

''(2) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under paragraph (1) for each State to the extent necessary to ensure that no State (prior to any reduction under paragraph (3)) receives less than 0.9 percent of the 2010 national recovery zone economic development bond limitation and 0.9 percent of the 2010 national recovery zone facility bond limitation.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities (as defined in subsection (a)(3)(B)) in such State in the proportion that each such county's or municipality's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all the counties and large municipalities (as so defined) in such State.

''(B) 2010 ALLOCATION REDUCED BY AMOUNT OF PREVIOUS ALLOCATION.—Each State shall reduce (but not below zero)—

''(i) the amount of the 2010 national recovery zone economic development bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone economic development bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof), and

''(ii) the amount of the 2010 national recovery zone facility bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone facility bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof).

''(C) WAIVER OF SUBALLOCATIONS.—A county or municipality may waive any portion of an allocation made under this paragraph. A county or municipality shall be treated as having waived any portion of an allocation made under this paragraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.

''(D) SPECIAL RULE FOR A MUNICIPALITY IN A COUNTY.—In the case of any large municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) 2009 UNEMPLOYMENT NUMBER.—For purposes of this subsection, the term '2009 unemployment number' means, with respect to any State, county or municipality, the number of individuals in such State, county, or municipality who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

''(5) 2010 NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—The 2010 national recovery zone economic development bond limitation is $10,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–2 in the same manner as an allocation of national recovery zone economic development bond limitation.

''(B) RECOVERY ZONE FACILITY BONDS.—The 2010 national recovery zone facility bond limitation is $15,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–3 in the same manner as an allocation of national recovery zone facility bond limitation.''.

(c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009 ALLOCATIONS.—Subparagraph (A) of section 1400U–1(a)(3) is amended by adding at the end the following: ''A county or municipality shall be treated as having waived any portion of an allocation made under this subparagraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.''.

**SEC. 105. 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. 106. 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. 107. 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. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.**

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended—

(1) by striking ''5-year period'' and inserting ''6-year period''; and

(2) by adding at the end the following: ''In the case of the last year of the 6-year period described in the preceding sentence, the credit determined under subsection (a) with respect to electricity produced during such year shall not exceed 80 percent of such credit determined without regard to this sentence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

**SEC. 204. 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 apply to fuel produced and sold after September 30, 2008.

(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. 205. 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. 206. 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. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.**

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of paragraph (2), and

''(C) December 31, 2009, in any other case.''.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of subsection (d)(2), and

''(C) December 31, 2009, in any other case.''.

(c) PAYMENT AUTHORITY.—

(1) IN GENERAL.—Paragraph (6) of section 6427(e) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting ''or (E)'' after ''subparagraph (D)''.

(d) EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

**SEC. 208. 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. 209. 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. 210. 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. 211. 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.

## 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.

(c) TEMPORARY COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS.—In the case of any taxpayer for any taxable year beginning in 2010, no deduction shall be allowed under section 222 of the Internal Revenue Code of 1986 if—

(1) the taxpayer's net Federal income tax reduction which would be attributable to such deduction for such taxable year, is less than

(2) the credit which would be allowed to the taxpayer for such taxable year under section 25A of such Code (determined without regard to sections 25A(e) and 26 of such Code).

**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.

**SEC. 228. FIRST-TIME HOMEBUYER CREDIT.**

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010'.'' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010'.''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010'.'' after ''for 'July 1, 2010'.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to residences purchased after June 30, 2010.

## 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 DIRECT PAYMENT OF CREDIT.—

''(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 credits returned to the State attributable to section 1400N(c) (including credits made available under such section as 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 credits for 2010 attributable to 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,''.

**SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.**

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting '', plus any increase for 2009 or 2010 attributable to section 1400N(c) of such Code (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any credits for 2009 attributable to the application of such section 702(d)(2) and 704(b)'' after ''such section'' in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by subsection (a), is amended by adding at the end the following flush sentence:

''For purposes of paragraph (1)(B), 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) of such Code shall be applied without regard to clause (i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

### 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 105, 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. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

**SEC. 268. 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. 269. 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. 270. 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. 271. 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. 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.

## 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''.

## TITLE III—PENSION FUNDING RELIEF

## Subtitle A—Single-Employer Plans

### SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) ERISA AMENDMENTS.—

(1) IN GENERAL.—Section 303(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)(2)) is amended by adding at the end the following subparagraphs:

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be determined without regard to this subparagraph.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments described in this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the applicable plan year, interest on the shortfall amortization base (determined by using the effective interest rate for the applicable plan year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 of the Internal Revenue Code of 1986,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 430(k) of such Code, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c).

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as such Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable

plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an applicable plan year, the sum of—

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

''(II) CUMULATIVE LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(aa) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under subparagraph (D) with respect to the shortfall amortization base with respect to an applicable year, determined without regard to subparagraph (D) and this subparagraph, over

''(bb) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of subparagraph (D) (and in the case of any preceding plan year, after application of this subparagraph).

''(III) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(aa) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to subclause (II)) exceeds the limitation under subclause (II), then, subject to item (bb), such excess shall be treated as an installment acceleration amount for the succeeding plan year.

''(bb) CAP TO APPLY.—If any amount treated as an installment acceleration amount under item (aa) or this item with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to subclause (II)) with respect to the plan year, exceeds the limitation under subclause (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.

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after 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 subparagraph (D)(iii)).

''(dd) ORDERING RULES.—For purposes of applying item (bb), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under subclause (II) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

''(AA) 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

''(BB) $1,000,000, plus

''(bb) the amount of assets 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, during the calendar year 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.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, 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 the Internal Revenue Code of 1986 for the taxable year ending during such calendar year, and the term 'remuneration' shall include earned income of such an individual.

''(IV) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—There shall not be taken into account under subclause (I)(aa) any remuneration consisting of nonqualified deferred compensation, restricted stock (or restricted stock units), 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.

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) 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.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

''(bb) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 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 $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(IV) 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 subclause (I).

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 of the Internal Revenue Code of 1986 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(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 applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

''(bb) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the applicable plan year, the 5-year period beginning with such plan 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 subparagraph (D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this subparagraph 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 clause (i) (determined without regard to this subparagraph).

''(G) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of subparagraphs (D) and (F) in any case where there is a merger or acquisition involving a plan sponsor making the election under subparagraph (D).

''(H) REGULATIONS AND GUIDANCE.—The Secretary of the Treasury may prescribe such regulations and other guidance of general applicability as such Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

''(k) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 303(c)(2)(D) in connection with a single-employer plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A); and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 303(c)(2)(F)(iii)(I))—

''(i) an explanation of section 303(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f).

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant. The Secretary of the Treasury shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(4) EFFECT OF EGREGIOUS FAILURE.—

''(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any election, such election shall be treated as having not been made.

''(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is in the control of the plan sponsor and is—

''(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

''(ii) a failure to provide most of the participants and beneficiaries with most of the information they are entitled to receive under this subsection, or

''(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

''(5) USE OF NEW TECHNOLOGIES.—The Secretary of the Treasury may, in consultation with the Secretary, by regulations or other guidance of general applicability, allow any notice under this subsection to be provided using new technologies.''.

(C) SUBSEQUENT SUPPLEMENTAL NOTICES.—Section 101(f)(2)(C) of such Act (29 U.S.C. 1021(f)(2)(C)) is amended—

(i) by striking ''and'' at the end of clause (i);

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following new clause:

''(ii) any excess employee compensation amounts and any dividends and redemptions amounts determined under section 303(c)(2)(F) for the preceding plan year with respect to the plan, and''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 303(j)(3) of such Act (29 U.S.C. 1083(j)(3)) is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Section 303(c)(1) of such Act (29 U.S.C. 1083(c)(1)) is amended 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''.

(b) IRC AMENDMENTS.—

(1) IN GENERAL.—Section 430(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following subparagraphs:

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be determined without regard to this subparagraph.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments described in this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the applicable plan year, interest on the shortfall amortization base (determined by using the effective interest rate for the applicable plan year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 303(k) of the Employee Retirement Income Security Act of 1974, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c) of such Act.

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as the Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

''(I) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an applicable plan year, the sum of—

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

''(II) CUMULATIVE LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(aa) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under subparagraph (D) with respect to the shortfall amortization base with respect to an applicable year, determined without regard to subparagraph (D) and this subparagraph, over

''(bb) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of subparagraph (D) (and in the case of any preceding plan year, after application of this subparagraph).

''(III) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(aa) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to subclause (II)) exceeds the limitation under subclause (II), then, subject to item (bb), such excess shall be treated as an installment acceleration amount for the succeeding plan year.

''(bb) CAP TO APPLY.—If any amount treated as an installment acceleration amount under item (aa) or this item with respect any succeeding plan year, when added to other installment acceleration amounts (determined without regard to subclause (II)) with respect to the plan year, exceeds the limitation under subclause (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.

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after 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 subparagraph (D)(iii)).

''(dd) ORDERING RULES.—For purposes of applying item (bb), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under subclause (II) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

''(AA) the aggregate amount includible in income under chapter 1 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

''(BB) $1,000,000, plus

''(bb) the amount of assets 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, during the calendar year 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.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, 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 'remuneration' shall include earned income of such an individual.

''(IV) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—There shall not be taken into account under subclause (I) any remuneration consisting of nonqualified deferred compensation, restricted stock (or restricted stock units), 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.

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) 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.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i)) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

''(bb) 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 $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(IV) 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 subclause (I).

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) PLAN SPONSOR.—The term 'plan sponsor' includes any group of which the plan sponsor is a member and which is treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(II) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

''(bb) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the applicable plan year, the 5-year period beginning with such plan 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 subparagraph (D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this subparagraph 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 clause (i) (determined without regard to this subparagraph).

''(G) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of subparagraphs (D) and (F) in any case where there is a merger or acquisition involving a plan sponsor making the election under subparagraph (D).

''(H) REGULATIONS AND GUIDANCE.—The Secretary may prescribe such regulations and other guidance of general applicability as the Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 4980F of such Code is amended—

(i) by striking ''subsection (e)'' each place it appears in subsection (a) and paragraphs (1) and (3) of subsection (c) and inserting ''subsections (e) and (f)'';

(ii) by striking ''subsection (e)'' in subsection (c)(2)(A) and inserting ''subsection (e), (f), or both, as the case may be''; and

(iii) by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 430(c)(2)(D) in connection with a plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A) of the Employee Retirement Income Security Act of 1974; and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 430(c)(2)(F)(iii)(I))—

''(i) an explanation of section 430(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f) of the Employee Retirement Income Security Act of 1974.

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations or other guidance of general applicability prescribed by the Secretary) to allow plan participants and beneficiaries to understand the effect of the election. The Secretary shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.''.

(B) CONFORMING AMENDMENT.—Subsection (g) of section 4980F of such Code is amended by inserting ''or (f)'' after ''subsection (e)''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 430(j)(3) of such Code is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Paragraph (1) of section 430(c) of such Code is amended 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''.

(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 FUNDING RELIEF TO PLANS WITH DELAYED EFFECTIVE DATE.**

''(a) ALTERNATIVE ELECTIONS.—

''(1) IN GENERAL.—Subject to this section, a plan sponsor of a plan to which section 104, 105, or 106 of this Act applies may either elect the application of subsection (b) with respect to the plan for not more than 2 applicable plan years or elect the application of subsection (c) with respect to the plan for 1 applicable plan year.

''(2) ELIGIBILITY FOR ELECTIONS.—An election may be made by a plan sponsor under paragraph (1) with respect to a plan only if at the time of the election—

''(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(B) there are no accumulated funding deficiencies (as defined in section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the enactment of this Act) or in section 412(a) of the Internal Revenue Code of 1986 (as so in effect)) with respect to the plan,

''(C) there is no lien in favor of the plan under section 302(d) (as so in effect) or under section 412(n) of such Code (as so in effect), and

''(D) a distress termination has not been initiated for the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974.

''(b) ALTERNATIVE ADDITIONAL FUNDING CHARGE.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of the Internal Revenue Code of 1986 (as so in effect)—

''(1) the deficit reduction contribution under paragraph (2) of such section 302(d) and paragraph (2) of such section 412(l) for such plan for any applicable plan year, shall be zero, and

''(2) the additional funding charge under paragraph (1) of such section 302(d) and paragraph (1) of such section 412(l) for such plan for any applicable plan year shall be increased by an amount equal to the installment acceleration amount (as defined in sections 303(c)(2)(F)(iii)(I) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 430(c)(2)(F)(iii)(I) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined by treating the later of such plan year or the first plan year beginning after December 31, 2009, as the restriction period.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of such Act (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of such Code (as so in effect)—

''(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in paragraph (4)(C) of such section 302(d) and paragraph (4)(C) of such section 412(l) for any pre-effective date plan year beginning with or after the applicable plan year shall be the ratio of—

''(A) the annual installments payable in each plan year if the increased unfunded new liability for such plan year were amortized in equal installments over the period beginning with such plan year and ending with the last plan year in the period of 15 plan years beginning with the applicable plan year, 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,

''(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, and

''(3) the additional funding charge with respect to the plan for a plan year shall be increased by an amount equal to the installment acceleration amount (as defined in section 303(c)(2)(F)(iii) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010 and section 430(c)(2)(F)(iii) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined without regard to subclause (II) of such sections 303(c)(2)(F)(iii) and 430(c)(2)(F)(iii).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE PLAN YEAR.—

''(A) IN GENERAL.—The term 'applicable plan year' with respect to a plan means, subject to the election of the plan sponsor under subsection (a), a plan year beginning in 2009, 2010, or 2011.

''(B) ELECTION.—

''(i) IN GENERAL.—The election described in subsection (a) shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury.

''(ii) REDUCTION IN YEARS WHICH MAY BE ELECTED.—The number of applicable plan years for which an election may be made under section 303(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) or section 430(c)(2)(D) of the Internal Revenue Code of 1986 (as so amended) shall be reduced by the number of applicable plan years for which an election under this section is made.

''(C) ALLOCATION OF INSTALLMENT ACCELERATION AMOUNT FOR MULTIPLE PLAN ELECTION.—In the case of an election under this section with respect to 2 or more plans by the same plan sponsor, the installment acceleration amount shall be apportioned ratably with respect to such plans in proportion to the deficit reduction contributions of the plans determined without regard to subsection (b)(1).

''(2) PLAN SPONSOR.—The term 'plan sponsor' shall have the meaning provided such term in section 303(c)(2)(F)(vi)(I) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and section 430(c)(2)(F)(vi)(I) of the Internal Revenue Code of 1986 (as so amended).

''(3) 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.

''(4) 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 (as in effect before the amendments made by this subtitle and subtitle B) and section 412(c)(2) of such Code (as so in effect) 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 (as so in effect) and 412(l)(8)(B) of such Code (as so in effect)) of the plan for the second plan year preceding the first applicable plan year of such plan for which an election under this section is made.

''(5) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act (as so in effect) and section 412(l) of such Code (as so in effect).

''(6) ADDITIONAL FUNDING CHARGE INCREASE NOT TO EXCEED RELIEF.—

''(A) ELECTION UNDER SUBSECTION (B).—In the case of an election under subsection (b), an increase resulting from the application of subsection (b)(2) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the deficit reduction contribution under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for such plan year, determined as if the election had not been made, over

''(ii) the deficit reduction contribution under such sections for such plan (determined without regard to any increase under subsection (b)(2)).

''(B) ELECTION UNDER SUBSECTION (C).—An increase resulting from the application of subsection (c)(3) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the sum of the deficit reduction contributions under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for such plan for such plan year and for all preceding plan years beginning with or after the applicable plan year, determined as if the election had not been made, over

''(ii) the sum of the deficit reduction contributions under such sections for such plan years (determined without regard to any increase under subsection (c)(3)).

''(e) NOTICE.—Not later 30 days after the date of an election under subsection (a) in connection with a plan, the plan administrator shall provide notice pursuant to, and subject to, rules similar to the rules of sections 204(k) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 4980F(f) of the Internal Revenue Code of 1986 (as so amended).''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of such Act 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—

''(1) the plan is maintained by one or more employers employing employees who are accruing benefits based on service for the plan year,

''(2) such employees are employed in at least 20 States,

''(3) each such employee (other than a de minimis number of employees) is employed by an employer described in section 501(c)(3) of such Code and the primary exempt purpose of each such employer is to provide services with respect to children, and

''(4) the plan sponsor elects (at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury) to be so treated.

Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury.''.

(c) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of the amendments made by this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to plan years beginning on or after January 1, 2009.

(2) ELIGIBLE CHARITY PLANS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2009.

**SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.**

(a) LIMITATIONS ON BENEFIT ACCRUALS.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) is amended—

(1) by striking ''the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009'' and inserting ''any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011'';

(2) by striking ''substituting'' and all that follows through ''for such plan year'' and inserting ''substituting for such percentage the plan's adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,''; and

(3) by striking ''for the preceding plan year is greater'' and inserting ''for such last plan year is greater''.

(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

(1) ERISA AMENDMENT.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: ''For purposes of applying clause (i) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 204(b)(1)(G)).''.

(2) IRC AMENDMENT.—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to annuity payments the annuity starting date for which occurs on or after January 1, 2011.

(B) PERMITTED APPLICATION.—A plan shall not be treated as failing to meet the requirements of sections 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this subsection) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs on or after the date of the enactment of this Act and before January 1, 2011.

(c) APPLICATION OF CREDIT BALANCE WITH RESPECT TO LIMITATIONS ON SHUTDOWN BENEFITS AND UNPREDICTABLE CONTINGENT EVENT

BENEFITS.—With respect to plan years beginning on or before December 31, 2011, in applying paragraph (5)(C) of subsection (g) of section 206 of the Employee Retirement Income Security Act of 1974 and subsection (f)(3) of section 436 of the Internal Revenue Code of 1986 in the case of unpredictable contingent events (within the meaning of section 206(g)(1)(C) of such Act and section 436(b)(3) of such Code) occurring on or after January 1, 2010, the references, in clause (i) of such paragraph (5)(C) and subparagraph (A) of such subsection (f)(3), to paragraph (1)(B) of such subsection (g) and subsection (b)(2) of such section 436 shall be disregarded.

**SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE.**

(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 PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 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 June 30, 2007, and on or before June 30, 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 on or before December 31, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before July 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.''.

(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 PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 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 June 30, 2007, and on or before June 30, 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, 2008, and on or before December 31, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before July 1, 2007, as determined under rules prescribed by the Secretary.''.

**SEC. 305. INFORMATION REPORTING.**

(a) IN GENERAL.—Section 4010(b) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1) and inserting the following:

''(1) either of the following requirements are met:

''(A) the funding target attainment percentage (as defined in subsection (d)(2)(B)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent; or

''(B) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed $75,000,000 (disregarding plans with no unfunded vested benefits);''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after 2009.

**SEC. 306. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY.**

(a) GENERAL RULES.—

(1) ROLLOVER OF AIRLINE PAYMENT AMOUNT.—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a traditional IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a rollover contribution described in section 402(c) of the Internal Revenue Code of 1986. A qualified airline employee making such a transfer may exclude from gross income the amount transferred, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier.

(2) TRANSFER OF AMOUNTS ATTRIBUTABLE TO AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER TO ROTH IRA.—A qualified airline employee who has contributed an airline payment amount to a Roth IRA that is treated as a qualified rollover contribution pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008 may transfer to a traditional IRA, in a trustee-to-trustee transfer, all or any part of the contribution (together with any net income allocable to such contribution), and the transfer to the traditional IRA will be deemed to have been made at the time of the rollover to the Roth IRA, if such transfer is made within 180 days of the date of the enactment of this Act. A qualified airline employee making such a transfer may exclude from gross income the airline payment amount previously rolled over to the Roth IRA, to the extent an amount attributable to the previous rollover was transferred to a traditional IRA, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier. No amount so transferred to a traditional IRA may be treated as a qualified rollover contribution with respect to a Roth IRA within the 5-taxable year period beginning with the taxable year in which such transfer was made.

(3) EXTENSION OF TIME TO FILE CLAIM FOR REFUND.—A qualified airline employee who excludes an amount from gross income in a prior taxable year under paragraph (1) or (2) may reflect such exclusion in a claim for refund filed within the period of limitation under section 6511(a) (or, if later, April 15, 2011).

(b) TREATMENT OF AIRLINE PAYMENT AMOUNTS AND TRANSFERS FOR EMPLOYMENT TAXES.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, an airline payment amount shall not fail to be treated as a payment of wages by the commercial passenger airline carrier to the qualified airline employee in the taxable year of payment because such amount is excluded from the qualified airline employee's gross income under subsection (a).

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AIRLINE PAYMENT AMOUNT.—

(A) IN GENERAL.—The term ''airline payment amount'' means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007; and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE.—The term ''qualified airline employee'' means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code; and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) TRADITIONAL IRA.—The term ''traditional IRA'' means an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) which is not a Roth IRA.

(4) ROTH IRA.—The term ''Roth IRA'' has the meaning given such term by section 408A(b) of such Code.

(d) SURVIVING SPOUSE.—If a qualified airline employee died after receiving an airline payment amount, or if an airline payment amount was paid to the surviving spouse of a qualified airline employee in respect of the qualified airline employee, the surviving spouse of the qualified airline employee may take all actions permitted under section 125 of the Worker, Retiree and Employer Recovery Act of 2008, or under this section, to the same extent that the qualified airline employee could have done had the qualified airline employee survived.

(e) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

**Subtitle B—Multiemployer Plans**

**SEC. 311. OPTIONAL USE OF 30-YEAR AMORTIZATION PERIODS.**

(a) ELECTIVE SPECIAL RELIEF RULES.—

(1) ERISA AMENDMENT.—Section 304(b) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

''(8) ELECTIVE SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses or gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year following the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

''(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.

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

| **"Plan year after the plan year in which the net investment loss was incurred** | **Allocable portion of net investment loss** |
|---|---|
| 1st | ½ |
| 2nd | 0 |
| 3rd | ⅙ |
| 4th | ⅙ |
| 5th | ⅙ |

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.—For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 305(i)(2), except that the value of the plan's assets referred to in section 305(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 305, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 305(c) or under section 432(c) of the Internal Revenue Code of 1986 or rehabilitation plans adopted under section 305(e) or under section 432(e) of such Code, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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.

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary of the Treasury may prescribe.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such 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 Pension Benefit Guaranty Corporation may prescribe.''.

(2) IRC AMENDMENT.—Section 431(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(8) ELECTIVE SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses and gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year following the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) 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 plan year for which the election under this subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

''(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.

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

| "Plan year after the plan year in which the net investment loss was incurred | Allocable portion of net investment loss |
|---|---|
| 1st | ½ |
| 2nd | 0 |
| 3rd | ⅙ |
| 4th | ⅙ |
| 5th | ⅙ |

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.—For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 432(i)(2), except that the value of the plan's assets referred to in section 432(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 432, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 432(c) or under section 305(c) of the Employee Retirement Income Security Act of 1974 or rehabilitation plans adopted under section 432(e) or under section 305(e) of such Act, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date 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 election to have this paragraph apply to the plan, and

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date 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 or to comply with other applicable law.

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary may prescribe.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such 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 Pension Benefit Guaranty Corporation may prescribe.''.

(b) ASSET SMOOTHING FOR MULTIEMPLOYER PLANS.—

(1) ERISA AMENDMENT.—Section 304(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(c)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary of the Treasury shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(2) IRC AMENDMENT.—Section 431(c)(2) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the first day of the first plan year beginning after June 30, 2008, except that any election a plan sponsor makes pursuant to this section or the amendments made thereby that affects the plan's funding standard account for any plan year beginning before October 1, 2009, 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 that plan year.

(2) DEEMED APPROVAL FOR CERTAIN FUNDING METHOD CHANGES.—In the case of a multiemployer plan with respect to which an election has been made under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 (as amended by this section) or section 431(b)(8) of the Internal Revenue Code of 1986 (as so amended)—

(A) any change in the plan's funding method for a plan year beginning on or after July 1, 2008, and on or before December 31, 2010, from a method that does not establish a base for experience gains and losses to one that does establish such a base shall be treated as approved by the Secretary of the Treasury; and

(B) any resulting funding method change base shall be treated for purposes of amortization as a net experience loss or gain.

**SEC. 312. OPTIONAL LONGER RECOVERY PERIODS FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.**

(a) ERISA AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 305(c)(4) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary of the Treasury may prescribe.''.

(2) REHABILITATION PERIOD.—Section 305(e)(4) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary of the Treasury may prescribe.''.

(b) IRC AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 432(c)(4) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(2) REHABILITATION PERIOD.—Section 432(e)(4) of such Code is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funding improvement periods and rehabilitation periods in connection with funding improvement plans and rehabilitation plans adopted or updated on or after the date of the enactment of this Act.

**SEC. 313. MODIFICATION OF CERTAIN AMORTIZATION EXTENSIONS UNDER PRIOR LAW.**

(a) IN GENERAL.—In the case of an amortization extension that was granted to a multiemployer plan under the terms of section 304 of the Employee Retirement Income Security Act of 1974 (as in effect immediately prior to enactment of the Pension Protection Act of 2006) or section 412(e) of the Internal Revenue Code (as so in effect), the determination of whether any financial condition on the amortization extension is satisfied shall be made by assuming that for any plan year that contains some or all of the period beginning June 30, 2008, and ending October 31, 2008, the actual rate of return on the plan assets was equal to the interest rate used for purposes of charging or crediting the funding standard account in such plan year, unless the plan sponsor elects otherwise in such form and manner as shall be prescribed by the Secretary of Treasury.

(b) REVOCATION OF AMORTIZATION EXTENSIONS.—The plan sponsor of a multiemployer plan may, in such form and manner and after such notice as may be prescribed by the Secretary, revoke any amortization extension described in subsection (a), effective for plan years following the date of the revocation.

**SEC. 314. ALTERNATIVE DEFAULT SCHEDULE FOR PLANS IN ENDANGERED OR CRITICAL STATUS.**

(a) ERISA AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 305(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(c)(7)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 305(e)(3) of such Act (29 U.S.C. 1085(e)(3)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(b) INTERNAL REVENUE CODE AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 432(c)(7) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 432(e)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to designations of default schedules by plan sponsors on or after the date of the enactment of this Act.

(d) CROSS-REFERENCE.—For sunset of the amendments made by this section, see section 221(c) of the Pension Protection Act of 2006.

**SEC. 315. TRANSITION RULE FOR CERTIFICATIONS OF PLAN STATUS.**

(a) IN GENERAL.—A plan actuary shall not be treated as failing to meet the requirements of section 305(b)(3)(A) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3)(A) of the Internal Revenue Code of 1986 in connection with a certification required under such sections the deadline for which is after the date of the enactment of this Act if the plan actuary makes such certification at any time earlier than 75 days after the date of the enactment of this Act.

(b) REVISION OF PRIOR CERTIFICATION.—

(1) IN GENERAL.—If—

(A) a plan sponsor makes an election under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 and section 431(b)(8) of the Internal Revenue Code of 1986, or under section 304(c)(2)(B) of such Act and section 432(c)(2)(B) such Code, with respect to a plan for a plan year beginning on or after October 1, 2009; and

(B) the plan actuary's certification of the plan status for such plan year (hereinafter in this subsection referred to as ''original certification'') did not take into account any election so made,

then the plan sponsor may direct the plan actuary to make a new certification with respect to the plan for the plan year which takes into account such election (hereinafter in this subsection referred to as ''new certification'') if the plan's status under section 305 of such Act and section 432 of such Code would change as a result of such election. Any such new certification shall be treated as the most recent certification referred to in section 304(b)(3)(B)(iii) of such Act and section 431(b)(8)(B)(iii) of such Code.

(2) DUE DATE FOR NEW CERTIFICATION.—Any such new certification shall be made pursuant to section 305(b)(3) of such Act and section 432(b)(3) of such Code; except that any such new certification shall be made not later than 75 days after the date of the enactment of this Act.

(3) NOTICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any such new certification shall be treated as the original certification for purposes of section 305(b)(3)(D) of such Act and section 432(b)(3)(D) of such Code.

(B) NOTICE ALREADY PROVIDED.—In any case in which notice has been provided under such sections with respect to the original certification, not later than 30 days after the new certification is made, the plan sponsor shall provide notice of any change in status under rules similar to the rules such sections.

(4) EFFECT OF CHANGE IN STATUS.—If a plan ceases to be in critical status pursuant to the new certification, then the plan shall, not later than 30 days after the due date described in paragraph (2), cease any restriction of benefit payments, and imposition of contribution surcharges, under section 305 of such Act and section 432 of such Code by reason of the original certification.

## TITLE IV—REVENUE OFFSETS

### Subtitle A—Foreign Provisions

**SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS FROM THE INCOME TO WHICH THEY RELATE.**

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

**''SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RELATED INCOME TAKEN INTO ACCOUNT.**

''(a) IN GENERAL.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

''(b) SPECIAL RULES WITH RESPECT TO SECTION 902 CORPORATIONS.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

''(1) for purposes of section 902 or 960, or

''(2) for purposes of determining earnings and profits under section 964(a),

before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

''(c) SPECIAL RULES.—For purposes of this section—

''(1) APPLICATION TO PARTNERSHIPS, ETC.—In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

''(2) TREATMENT OF FOREIGN TAXES AFTER SUSPENSION.—In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be

so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

''(d) DEFINITIONS.—For purposes of this section—

''(1) FOREIGN TAX CREDIT SPLITTING EVENT.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

''(2) FOREIGN INCOME TAX.—The term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(3) RELATED INCOME.—The term 'related income' means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

''(4) COVERED PERSON.—The term 'covered person' means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the 'payor')—

''(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

''(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

''(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

''(D) any other person specified by the Secretary for purposes of this paragraph.

''(5) SECTION 902 CORPORATION.—The term 'section 902 corporation' means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

''(e) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

''(1) appropriate exceptions from the provisions of this section, and

''(2) for the proper application of this section with respect to hybrid instruments.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 909. Suspension of taxes and credits until related income taken into account.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued after May 20, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

**SEC. 402. DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.**

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.—

''(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

''(A) shall not be taken into account in determining the credit allowed under subsection (a), and

''(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

''(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term 'covered asset acquisition' means—

''(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

''(B) any transaction which—

''(i) is treated as an acquisition of assets for purposes of this chapter, and

''(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,

''(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and

''(D) to the extent provided by the Secretary, any other similar transaction.

''(3) DISQUALIFIED PORTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'disqualified portion' means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—

''(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by

''(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).

''(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

''(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

''(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

''(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

''(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.

''(C) BASIS DIFFERENCE.—

''(i) IN GENERAL.—The term 'basis difference' means, with respect to any relevant foreign asset, the excess of—

''(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

''(II) the adjusted basis of such asset immediately before the covered asset acquisition.

''(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

''(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).

''(4) RELEVANT FOREIGN ASSETS.—For purposes of this section, the term 'relevant foreign asset' means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

''(5) FOREIGN INCOME TAX.—For purposes of this section, the term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(6) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

''(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after—

(A) May 20, 2010, if the transferor and the transferee are related; and

(B) the date of the enactment of this Act in any other case.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

**SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES.**

(a) IN GENERAL.—Subsection (d) of section 904 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

''(A) IN GENERAL.—If—

''(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

''(ii) under a treaty obligation of the United States, such item would be treated as

arising from sources outside the United States, and

''(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each such item.

''(B) COORDINATION WITH OTHER PROVISIONS.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

''(C) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED PAID WITH RESPECT TO SECTION 956 INCLUSIONS.**

(a) IN GENERAL.—Section 960 is amended by adding at the end the following new subsection:

''(c) LIMITATION WITH RESPECT TO SECTION 956 INCLUSIONS.—

''(1) IN GENERAL.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

''(2) AUTHORITY TO PREVENT ABUSE.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use of the foreign corporation's foreign income taxes not deemed paid by reason of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions of United States property (as defined in section 956(c) of the Internal Revenue Code of 1986) after May 20, 2010.

**SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES.**

(a) IN GENERAL.—Paragraph (5) of section 304(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE IN CASE OF FOREIGN ACQUIRING CORPORATION.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A) shall not apply) if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would neither—

''(i) be subject to tax under this chapter for the taxable year in which the dividends arise, nor

''(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after May 20, 2010.

**SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE.**

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

''(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

''(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.**

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) is amended to read as follows:

''(B) The active foreign business percentage of—

''(i) any dividend paid by an existing 80/20 company, and

''(ii) any interest paid by an existing 80/20 company.''.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

''(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

''(1) EXISTING 80/20 COMPANY.—

''(A) IN GENERAL.—The term 'existing 80/20 company' means any corporation if—

''(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the date of the enactment of this subsection) for such corporation's last taxable year beginning before January 1, 2011,

''(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

''(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.

''(B) FOREIGN BUSINESS REQUIREMENTS.—

''(i) IN GENERAL.—Except as provided in clause (iv), a corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

''(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term 'active foreign business income' means gross income which—

''(I) is derived from sources outside the United States (as determined under this subchapter), and

''(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

''(iii) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3-year period ending with the close of the taxable year of the corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

''(iv) TRANSITION RULE.—In the case of a taxable year for which the testing period includes 1 or more taxable years beginning before January 1, 2011—

''(I) a corporation meets the 80-percent foreign business requirements of this subparagraph if and only if the weighted average of—

''(aa) the percentage of the corporation's gross income from all sources that is active foreign business income (as defined in subparagraph (B) of section 861(c)(1) (as in effect before the date of the enactment of this subsection)) for the portion of the testing period that includes taxable years beginning before January 1, 2011, and

''(bb) the percentage of the corporation's gross income from all sources that is active foreign business income (as defined in clause (ii) of this subparagraph) for the portion of the testing period, if any, that includes taxable years beginning on or after January 1, 2011,

is at least 80 percent, and

''(II) the active foreign business percentage for such taxable year shall equal the weighted average percentage determined under subclause (I).

''(2) ACTIVE FOREIGN BUSINESS PERCENTAGE.—Except as provided in paragraph (1)(B)(iv), the term 'active foreign business percentage' means, with respect to any existing 80/20 company, the percentage which—

''(A) the active foreign business income of such company for the testing period, is of

''(B) the gross income of such company for the testing period from all sources.

''(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraphs (A)(i) and (B)(iv) thereof) and paragraph (2)—

''(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation's subsidiaries shall be treated as one corporation.

''(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term 'subsidiary' means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears and without regard to section 1504(b)(3)).

''(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 861 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Paragraph (9) of section 904(h) is amended to read as follows:

''(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend

treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this subsection as a United States-owned foreign corporation.''.

(3) Subsection (c) of section 2104 is amended in the last sentence by striking ''or to a debt obligation of a domestic corporation'' and all that follows and inserting a period.

(d) 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, 2010.

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.

(B) EXCEPTION FOR RELATED PARTY DEBT.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) SIGNIFICANT MODIFICATIONS TREATED AS NEW ISSUES.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

**SEC. 408. SOURCE RULES FOR INCOME ON GUARANTEES.**

(a) AMOUNTS SOURCED WITHIN THE UNITED STATES.—Subsection (a) of section 861 is amended by adding at the end the following new paragraph:

''(9) GUARANTEES.—Amounts received, directly or indirectly, from—

''(A) a noncorporate resident or domestic corporation for the provision of a guarantee of any indebtedness of such resident or corporation, or

''(B) any foreign person for the provision of a guarantee of any indebtedness of such person, if such amount is connected with income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(b) AMOUNTS SOURCED WITHOUT THE UNITED STATES.—Subsection (a) of section 862 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding at the end the following new paragraph:

''(9) amounts received, directly or indirectly, from a foreign person for the provision of a guarantee of indebtedness of such person other than amounts which are derived from sources within the United States as provided in section 861(a)(9).''.

(c) CONFORMING AMENDMENT.—Clause (ii) of section 864(c)(4)(B) is amended by striking ''dividends or interest'' and inserting ''dividends, interest, or amounts received for the provision of guarantees of indebtedness''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued after the date of the enactment of this Act.

**SEC. 409. LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.**

(a) IN GENERAL.—Paragraph (8) of section 6501(c) is amended—

(1) by striking ''In the case of any information'' and inserting the following:

''(A) IN GENERAL.—In the case of any information''; and

(2) by adding at the end the following:

''(B) APPLICATION TO FAILURES DUE TO REASONABLE CAUSE.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

**Subtitle B—Personal Service Income Earned in Pass-thru Entities**

**SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.**

(a) MODIFICATION TO ELECTION TO INCLUDE PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF TRANSFER.—Subsection (c) of section 83 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

''(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

''(B) the person receiving such interest shall be treated as having made the election under subsection (b)(1) unless such person makes an election under this paragraph to have such subsection not apply.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 83(b) is amended by inserting ''or subsection (c)(4)(B)'' after ''paragraph (1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after the date of the enactment of this Act.

**SEC. 412. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.**

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

**''SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.**

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

''(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

''(2) TREATMENT OF LOSSES.—

''(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

''(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

''(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

''(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

''(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

''(D) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

''(3) NET INCOME AND LOSS.—For purposes of this section—

''(A) NET INCOME.—The term 'net income' means, with respect to any investment services partnership interest for any partnership taxable year, the excess (if any) of—

''(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

''(ii) all items of deduction and loss so taken into account.

''(B) NET LOSS.—The term 'net loss' means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

''(4) SPECIAL RULE FOR DIVIDENDS.—Any dividend taken into account in determining net income or net loss for purposes of paragraph (1) shall not be treated as qualified dividend income for purposes of section 1(h).

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be—

''(A) treated as ordinary income, and

''(B) recognized notwithstanding any other provision of this subtitle.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate net income with respect to such interest for all partnership taxable years to which this section applies, over

''(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2) for all partnership taxable years to which this section applies.

''(3) ELECTION WITH RESPECT TO CERTAIN EXCHANGES.—Paragraph (1)(B) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

''(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and

''(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

''(4) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

''(5) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

''(A) the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner's distributive share of the taxable income of the partnership (except to the

extent such excess is otherwise taken into account in determining the taxable income of the partnership),

''(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

''(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence. In the case of a taxpayer which satisfies requirements similar to the requirements of subparagraphs (A) and (B) of paragraph (3), this paragraph and paragraph (1)(B) shall not apply to the distribution of a partnership interest if such distribution is in connection with a contribution (or deemed contribution) of any property of the partnership to which section 721 applies pursuant to a transaction described in paragraph (1)(B) or (2) of section 708(b).

''(6) APPLICATION OF SECTION 751.—

''(A) IN GENERAL.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.

''(B) EXCEPTION FOR CERTAIN DISPOSITIONS OF INTERESTS IN A PUBLICLY TRADED PARTNERSHIP.—Except as provided by the Secretary, this paragraph shall not apply in the case of any (direct or indirect) disposition of an interest in a publicly traded partnership (as defined in section 7704) which is not an investment services partnership interest in the hands of the person disposing of such interest (or the hands of the person holding such interest indirectly).

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in a partnership which is held (directly or indirectly) by any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or, to the extent provided by the Secretary, indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

''(2) SPECIFIED ASSET.—The term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

''(3) EXCEPTION FOR FAMILY FARMS.—The term 'specified asset' shall not include any farm used for farming purposes if such farm is held by a partnership all of the interests in which are held (directly or indirectly) by members of the same family. Terms used in the preceding sentence which are also used in section 2032A shall have the same meaning as when used in such section.

''(4) EXCEPTION FOR PARTNERSHIPS WITH PRO RATA ALLOCATIONS BASED ON CAPITAL.—Except as provided by the Secretary, the term 'investment services partnership interest' shall not include any interest in a partnership if all distributions and all allocations of the partnership, and of any other partnership in which the partnership directly or indirectly holds an interest, are made pro rata on the basis of the capital contributions of each partner which constitute qualified capital interests under subsection (d).

''(5) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b).

''(d) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(1) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

''(A) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in subsection (c)(1) and who are not related to the partner holding the qualified capital interest, and

''(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

''(2) AUTHORITY TO PROVIDE EXCEPTIONS TO ALLOCATION REQUIREMENTS.—To the extent provided by the Secretary in regulations or other guidance—

''(A) ALLOCATIONS TO PORTION OF QUALIFIED CAPITAL INTEREST.—Paragraph (1) may be applied separately with respect to a portion of a qualified capital interest.

''(B) NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—In any case in which the requirements of paragraph (1)(B) are not satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

''(C) ALLOCATIONS TO SERVICE PROVIDERS' QUALIFIED CAPITAL INTERESTS WHICH ARE LESS THAN OTHER ALLOCATIONS.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.

''(3) SPECIAL RULE FOR CHANGES IN SERVICES.—In the case of an interest in a partnership which is not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership, would (without regard to the reasonable expectation exception of subsection (c)(1)) have become such an interest—

''(A) notwithstanding subsection (c)(1), such interest shall be treated as an investment services partnership interest as of the time of such change, and

''(B) for purposes of this subsection, the qualified capital interest of the holder of such partnership interest immediately after such change shall not be less than the fair market value of such interest (determined immediately before such change).

''(4) SPECIAL RULE FOR TIERED PARTNERSHIPS.—Except as otherwise provided by the Secretary, in the case of tiered partnerships, all items which are allocated in a manner which meets the requirements of paragraph (1) to qualified capital interests in a lower-tier partnership shall retain such character to the extent allocated on the basis of qualified capital interests in any upper-tier partnership.

''(5) EXCEPTION FOR NO-SELF-CHARGED CARRY AND MANAGEMENT FEE PROVISIONS.—Except as otherwise provided by the Secretary, an interest shall not fail to be treated as satisfying the requirement of paragraph (1)(A) merely because the allocations made by the partnership to such interest do not reflect the cost of services described in subsection (c)(1) which are provided (directly or indirectly) to the partnership by the holder of such interest (or a related person).

''(6) SPECIAL RULE FOR DISPOSITIONS.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

''(A) the distributive share of gain or loss that would have been allocated to the qualified capital interest (consistent with the requirements of paragraph (1)) if the partnership had sold all of its assets at fair market value immediately before the disposition, bears to

''(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

''(7) QUALIFIED CAPITAL INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified capital interest' means so much of a partner's interest in the capital of the partnership as is attributable to—

''(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)),

''(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

''(iii) the excess (if any) of—

''(I) any items of income and gain taken into account under section 702 with respect to such interest, over

''(II) any items of deduction and loss so taken into account.

''(B) ADJUSTMENT TO QUALIFIED CAPITAL INTEREST.—

''(i) DISTRIBUTIONS AND LOSSES.—The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest and by the excess (if any) of the amount described in subparagraph (A)(iii)(II) over the amount described in subparagraph (A)(iii)(I).

''(ii) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY.—In the case of any contribution of property described in subparagraph (A)(i) with respect to which the fair market value of such property is not equal to the adjusted basis of such property immediately before such contribution, proper adjustments shall be made to the qualified capital interest to take into account such difference consistent with such regulations or other guidance as the Secretary may provide.

''(8) TREATMENT OF CERTAIN LOANS.—

''(A) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS QUALIFIED CAPITAL INTEREST OF SERVICE PROVIDING PARTNERS.—For purposes of this subsection, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership). The preceding sentence shall not apply to the extent the loan or other advance is repaid before the date of the enactment of this section unless such repayment is made with the proceeds of a loan or other advance described in the preceding sentence.

''(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE-PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership

made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(1) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

''(e) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any entity,

''(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(4) and (d) shall apply for purposes of this subsection.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—

''(i) IN GENERAL.—The term 'disqualified interest' means, with respect to any entity—

''(I) any interest in such entity other than indebtedness,

''(II) convertible or contingent debt of such entity,

''(III) any option or other right to acquire property described in subclause (I) or (II), and

''(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) a partnership interest,

''(II) except as provided by the Secretary, any interest in a taxable corporation, and

''(III) except as provided by the Secretary, stock in an S corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation substantially all of the income of which is—

''(I) effectively connected with the conduct of a trade or business in the United States, or

''(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(1).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

''(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

''(2) prevent the avoidance of the purposes of this section, and

''(3) coordinate this section with the other provisions of this title.

''(g) SPECIAL RULES FOR INDIVIDUALS.—In the case of an individual—

''(1) IN GENERAL.—Subsection (a)(1) shall apply only to the applicable percentage of the net income or net loss referred to in such subsection.

''(2) DISPOSITIONS, ETC.—The amount which (but for this paragraph) would be treated as ordinary income by reason of subsection (b) or (e) shall be the applicable percentage of such amount.

''(3) PRO RATA ALLOCATION TO ITEMS.—For purposes of applying subsections (a) and (e), the aggregate amount treated as ordinary income for any such taxable year shall be allocated ratably among the items of income, gain, loss, and deduction taken into account in determining such amount.

''(4) SPECIAL RULE FOR RECOGNITION OF GAIN.—Gain which (but for this section) would not be recognized shall be recognized by reason of subsection (b) only to the extent that such gain is treated as ordinary income after application of paragraph (2).

''(5) COORDINATION WITH LIMITATION ON LOSSES.—For purposes of applying paragraph (2) of subsection (a) with respect to any net loss for any taxable year—

''(A) such paragraph shall only apply with respect to the applicable percentage of such net loss for such taxable year,

''(B) in the case of a prior partnership taxable year referred to in clause (i) or (ii) of subparagraph (A) of such paragraph, only the applicable percentage (as in effect for such prior taxable year) of net income or net loss for such prior partnership taxable year shall be taken into account, and

''(C) any net loss carried forward to the succeeding partnership taxable year under subparagraph (B) of such paragraph shall—

''(i) be taken into account in such succeeding year without reduction under this subsection, and

''(ii) in lieu of being taken into account as an item of loss in such succeeding year, shall be taken into account—

''(I) as an increase in net loss or as a reduction in net income (including below zero), as the case may be, and

''(II) after any reduction in the amount of such net loss or net income under this subsection.

A rule similar to the rule of the preceding sentence shall apply for purposes of subsection (b)(2)(A).

''(6) COORDINATION WITH TREATMENT OF DIVIDENDS.—Subsection (a)(4) shall only apply to the applicable percentage of dividends described therein.

''(7) APPLICABLE PERCENTAGE.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term 'applicable percentage' means 75 percent.

''(B) EXCEPTION FOR DISPOSITION OF ASSETS HELD BY INVESTMENT SERVICES PARTNERSHIPS AT LEAST 5 YEARS.—The applicable percentage shall be 50 percent with respect to any net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of any asset (other than an investment services partnership interest) which has been held by the investment services partnership for at least 5 years.

''(C) EXCEPTION FOR DISPOSITION OF INVESTMENT SERVICES PARTNERSHIP INTERESTS HELD AT LEAST 5 YEARS.—

''(i) IN GENERAL.—The applicable percentage shall be 50 percent with respect to—

''(I) net income or net loss under subsection (a)(1) which is properly allocable to gain or loss from the disposition (or a distribution under subsection (b)(5)) of an investment services partnership interest which has been held at least 5 years, and

''(II) gain or loss under subsection (b) on the disposition of an investment services partnership interest which has been held for at least 5 years,

but only to the extent such gain or loss is attributable to assets held by the investment services partnership for at least 5 years.

''(ii) APPLICATION IN THE CASE OF TIERED PARTNERSHIPS, ETC.—For purposes of determining whether the assets of the investment services partnership have been held for at least 5 years under clause (i), an investment services partnership shall be treated as owning its proportionate share of the property of any other partnership in which it has held an investment services partnership interest for at least 5 years.

''(iii) REGULATIONS.—The Secretary may by regulation or other guidance extend the application of clause (ii) to entities other than investment services partnerships if necessary to prevent the avoidance of the purposes of this subparagraph.

''(D) TREATMENT OF GOODWILL AND OTHER SECTION 197 INTANGIBLES.—For purposes of this paragraph, in the case of any section 197 intangible of an entity through which services described in subparagraphs (A) through (D) of subsection (c)(1) are directly or indirectly provided—

''(i) the holding period of such intangible shall not be less than the holding period of the investment services partnership interest in the partnership, and

''(ii) the value of such intangible shall be determined in a manner consistent with the regulations described in subparagraph (E).

''(E) VALUATION METHODS.—The Secretary shall prescribe regulations or guidance which provide—

''(i) the acceptable valuation methods for purposes of this subparagraph, except that such methods shall not include any valuation method which is inconsistent with the method used by the taxpayer for other purposes (including reporting asset valuations to partners or potential partners in the partnership or any related partnership) if such inconsistent valuation method would result in the treatment of a greater amount of gain as attributable to a section 197 intangible than would result under the valuation method used by the taxpayer for such other purposes,

''(ii) circumstances under which valuations are sufficiently independent to provide an accurate determination of fair market value, and

''(iii) any information required to be furnished to the Secretary by the parties to the disposition with respect to such valuation.

''(F) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) INVESTMENT SERVICES PARTNERSHIP.—The term 'investment services partnership' means, with respect to any investment services partnership interest, the entity in which such interest is held.

''(ii) SECTION 197 INTANGIBLE.—The term 'section 197 intangible' has the meaning given such term in section 197(d).

''(iii) APPLICATION TO DISQUALIFIED INTERESTS.—Rules similar to the rules of this paragraph shall apply with respect to income or gain with respect to a disqualified interest under subsection (e).

''(h) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) TREATMENT FOR PURPOSES OF SECTION 7704.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:

''(6) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT QUALIFIED.—

''(A) IN GENERAL.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership). The preceding sentence shall not apply to any item described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)).

''(B) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

''(i) CERTAIN PARTNERSHIPS OWNED BY REAL ESTATE INVESTMENT TRUSTS.—Subparagraph

(A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

''(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNERSHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

''(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

''(C) TRANSITIONAL RULE.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.''.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (7) the following new paragraph:

''(8) The application of subsection (e) of section 710, the regulations or other guidance prescribed under section 710(f) to prevent the avoidance of the purposes of section 710, or the regulations or other guidance prescribed under section 710(g)(7)(E).''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

''(k) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(8), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended by striking ''or (i)'' and inserting '', (i), or (k)''.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by striking ''paragraph (3)'' in paragraph (5)(A), as so redesignated, and inserting ''paragraph (4)''; and

(C) by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which section 6662 applies by reason of subsection (b)(8) unless—

''(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

''(ii) there is or was substantial authority for such treatment, and

''(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(B) RULES RELATING TO REASONABLE BELIEF.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).''.

(d) INCOME AND LOSS FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) INTERNAL REVENUE CODE.—Section 1402(a) is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ''; and'', and by inserting after paragraph (17) the following new paragraph:

''(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(2) SOCIAL SECURITY ACT.—Section 211(a) of the Social Security Act is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; and'', and by inserting after paragraph (16) the following new paragraph:

''(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(e) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' after ''to the extent otherwise provided by''.

(2) Section 741 is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnership)'' before the period at the end.

(3) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnership.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2010.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2010, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2010.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(e) of such Code (as added by this section) shall take effect on December 31, 2010.

**SEC. 413. EMPLOYMENT TAX TREATMENT OF PROFESSIONAL SERVICE BUSINESSES.**

(a) IN GENERAL.—Section 1402 is amended by adding at the end the following new subsection:

''(m) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary, the shareholder's pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1)) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(13) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.

''(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which prevent the avoidance of the purposes of this subsection through tiered entities or otherwise.

''(5) CROSS REFERENCE.—For employment tax treatment of wages paid to shareholders of S corporations, see subtitle C.''.

(b) CONFORMING AMENDMENT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

''(l) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 of the Internal Revenue Code of 1986 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary of the Treasury, the shareholder's pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(12) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.''.

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

### Subtitle C—Corporate Provisions

**SEC. 421. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.**

(a) IN GENERAL.—Section 361 (relating to nonrecognition of gain or loss to corporations; treatment of distributions) is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on March 15, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

**SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZATIONS.**

(a) IN GENERAL.—Paragraph (2) of section 356(a) is amended—

(1) by striking ''If an exchange'' and inserting ''Except as otherwise provided by the Secretary—

''(A) IN GENERAL.—If an exchange'';

(2) by striking ''then there shall be'' and all that follows through ''February 28, 1913'' and inserting ''then the amount of other property or money shall be treated as a dividend to the extent of the earnings and profits of the corporation''; and

(3) by adding at the end the following new subparagraph:

''(B) CERTAIN REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(D) to which section 354(b)(1) applies or any other reorganization specified by the Secretary, in applying subparagraph (A)—

''(i) the earnings and profits of each corporation which is a party to the reorganization shall be taken into account, and

''(ii) the amount which is a dividend (and source thereof) shall be determined under rules similar to the rules of paragraphs (2) and (5) of section 304(b).''.

(b) EARNINGS AND PROFITS.—Paragraph (7) of section 312(n) is amended by adding at the end the following: ''A similar rule shall apply to an exchange to which section 356(a)(1) applies.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 356(a) is amended by striking ''then the gain'' and inserting ''then (except as provided in paragraph (2)) the gain''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange between unrelated persons pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

### Subtitle D—Other Provisions

**SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.**

(a) EXTENSION OF APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4611(f) is amended by striking ''December 31, 2017'' and inserting ''December 31, 2020''.

(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) is amended to read as follows:

''(B) the Oil Spill Liability Trust Fund financing rate is 49 cents a barrel.''.

(c) INCREASE IN PER INCIDENT LIMITATIONS ON EXPENDITURES.—Subparagraph (A) of section 9509(c)(2) is amended—

(1) by striking ''$1,000,000,000'' in clause (i) and inserting ''$5,000,000,000'';

(2) by striking ''$500,000,000'' in clause (ii) and inserting ''$2,500,000,000''; and

(3) by striking ''$1,000,000,000 PER INCIDENT, ETC'' in the heading and inserting ''PER INCIDENT LIMITATIONS''.

(d) EFFECTIVE DATE.—

(1) EXTENSION OF FINANCING RATE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASE IN FINANCING RATE.—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

**SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

**SEC. 433. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.**

(a) DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(C) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

**''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.**

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred after December 31, 2011.

**SEC. 434. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.**

(a) IN GENERAL.—The following provisions are repealed:

(1) Section 3507.

(2) Subsection (g) of section 32.

(3) Paragraph (7) of section 6051(a).

(b) CONFORMING AMENDMENTS.—

(1) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 is amended by striking subsection (i).

(3) The table of sections for chapter 25 is amended by striking the item relating to section 3507.

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

## 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 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''.

(3) 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.

#### SEC. 503. EXTENSION OF THE EMERGENCY CONTINGENCY FUND.

(a) IN GENERAL.—Section 403(c) of the Social Security Act (42 U.S.C. 603(c)) is amended—

(1) in paragraph (2)(A), by inserting '', and for fiscal year 2011, $2,500,000,000'' before ''for payment'';

(2) by striking paragraph (2)(B) and inserting the following:

''(B) AVAILABILITY AND USE OF FUNDS.—

''(i) FISCAL YEARS 2009 AND 2010.—The amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2009 shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with paragraph (3), except that the amounts shall remain available through fiscal year 2011 to make grants and payments to States in accordance with paragraph (3)(C) to cover expenditures to subsidize employment positions held by individuals placed in the positions before fiscal year 2011.

''(ii) FISCAL YEAR 2011.—Subject to clause (iii), the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011 shall remain available through fiscal year 2012 and shall be used to make grants to States based on expenditures in fiscal year 2011 for benefits and services provided in fiscal year 2011 in accordance with the requirements of paragraph (3).

''(iii) RESERVATION OF FUNDS.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011, $500,000 shall be placed in reserve for use in fiscal year 2012, and shall be used to award grants for any expenditures described in this subsection incurred by States after September 30, 2011.'';

(3) in paragraph (2)(C), by striking ''2010'' and inserting ''2012'';

(4) in paragraph (3)—

(A) in clause (i) of each of subparagraphs (A), (B), and (C)—

(i) by striking ''year 2009 or 2010'' and inserting ''years 2009 through 2011'';

(ii) by striking ''and'' at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ''; and''; and

(iv) by adding at the end the following:

''(III) if the quarter is in fiscal year 2011, has provided the Secretary with such information as the Secretary may find necessary in order to make the determinations, or take any other action, described in paragraph (5)(C).''; and

(B) in subparagraph (C), by adding at the end the following:

''(iv) LIMITATION ON EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—An expenditure for subsidized employment shall be taken into account under clause (ii) only if the expenditure is used to subsidize employment for—

''(I) a member of a needy family (without regard to whether the family is receiving assistance under the State program funded under this part); or

''(II) an individual who has exhausted (or, within 60 days, will exhaust) all rights to receive unemployment compensation under Federal and State law, and who is a member of a needy family.'';

(5) by striking paragraph (5) and inserting the following:

''(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT AUTHORITY.—

''(A) FISCAL YEARS 2009 AND 2010.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

''(B) FISCAL YEAR 2011.—Subject to subparagraph (C), the total amount payable to a single State under subsection (b) and this subsection for fiscal year 2011 shall not exceed 30 percent of the annual State family assistance grant.

''(C) ADJUSTMENT AUTHORITY.—If the Secretary determines that the Emergency Fund is at risk of being depleted before September 30, 2011, or that funds are available to accommodate additional State requests under this subsection, the Secretary may, through program instructions issued without regard to the requirements of section 553 of title 5, United States Code—

''(i) specify priority criteria for awarding grants to States during fiscal year 2011; and

''(ii) adjust the percentage limitation applicable under subparagraph (B) with respect to the total amount payable to a single State for fiscal year 2011.''; and

(6) in paragraph (6), by inserting ''or for expenditures described in paragraph (3)(C)(iv)'' before the period.

(b) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(2)—

(A) by striking ''2010'' and inserting ''2011''; and

(B) by striking all that follows ''repealed'' and inserting a period; and

(2) in subsection (d)(1), by striking ''2010'' and inserting ''2011''.

(c) PROGRAM GUIDANCE.—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section to a jurisdiction for subsidized employment do not support any subsidized employment position the annual salary of which is greater than, at State option—

(1) 200 percent of the poverty line (within the meaning of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section 673(2)) for a family of 4; or

(2) the median wage in the jurisdiction.

**SEC. 504. REQUIRING STATES TO NOT REDUCE REGULAR COMPENSATION IN ORDER TO BE ELIGIBLE FOR FUNDS UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.**

Section 4001 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 new subsection:

''(g) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

''(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) 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)), will be less than

''(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on June 2, 2010.''.

**Subtitle B—Health Provisions**

**SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.**

(a) IN GENERAL.—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 Public Law 111–148, is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173)), is amended by inserting ''in fiscal years 2008 and 2009'' after ''For purposes of implementation of this subsection''.

**SEC. 512. REPEAL OF DELAY OF RUG-IV.**

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

**SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.**

Section 3122 of Public Law 111–148 is repealed and the provision of law amended by such section is restored as if such section had not been enacted.

**SEC. 514. 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.

**SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.**

(a) REPEAL OF EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM MEDICAID.—Section 6502 of Public Law 111–148 is repealed and the provisions of law amended by such section are restored as if such section had never been enacted. Nothing in the previous sentence shall affect the execution or placement of the insertion made by section 6503 of such Act.

(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Effective as if included in the enactment of Public Law 111–148, section 2001(a)(5)(B) of such Act is amended by striking all that follows ''is amended'' and inserting the following: ''by inserting after '100 percent' the following: '(or, beginning January 1, 2014, 133 percent)'.''.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: ''The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.''.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking ''PER PERSON'' in the heading; and

(B) by striking ''each employee'' and inserting ''employees''; and

(2) in subparagraph (C), by striking '', on a case-by-case basis,''.

(e) ELECTRONIC HEALTH RECORDS.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking ''reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)'' and inserting ''reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis for such classes or types of providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government)''; and

(2) in paragraph (6)(B), by inserting before the period the following: ''and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost''.

(f) CORRECTIONS OF DESIGNATIONS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking ''and'' before ''(XVI) the medical'' and by striking ''(XVI) if'' and inserting ''(XVII) if''; and

(B) in subsection (ii)(2), by striking ''(XV)'' and inserting ''(XVI)''.

(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

**SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PROGRAM TO 340B DRUG DISCOUNT PROGRAM.**

(a) ADDITION OF INPATIENT DRUG DISCOUNT.—Title III of the Public Health Service Act is amended by inserting after section 340B (42 U.S.C. 256b) the following:

**''SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVIDUALS WITHOUT PRESCRIPTION DRUG COVERAGE.**

''(a) REQUIREMENTS FOR AGREEMENTS WITH THE SECRETARY.—

''(1) IN GENERAL.—

''(A) AGREEMENT.—The Secretary shall enter into an agreement with each manufacturer of covered inpatient drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered inpatient drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after January 1, 2011, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2). For a covered inpatient drug that also is a covered outpatient drug under section 340B, the amount required to be paid under the preceding sentence shall be equal to the amount required to be paid under section 340B(a)(1) for such drug. The agreement with a manufacturer under this subparagraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B.

''(B) CEILING PRICE.—Each such agreement shall require that the manufacturer furnish the Secretary with reports, on a quarterly basis, of the price for each covered inpatient drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the 'ceiling price'), and shall require that the manufacturer offer each covered entity covered inpatient drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.

''(C) ALLOCATION METHOD.—Each such agreement shall require that, if the supply of a covered inpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section.

''(2) REBATE PERCENTAGE DEFINED.—

''(A) IN GENERAL.—For a covered inpatient drug purchased in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

''(i) the average total rebate required under section 1927(c) of the Social Security Act (or the average total rebate that would be required if the drug were a covered outpatient drug under such section) with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

''(ii) the average manufacturer price for such a unit of the drug during such quarter.

''(B) OVER THE COUNTER DRUGS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the 'rebate percentage' shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(3) of such Act.

''(ii) DEFINITION.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

''(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

''(4) REQUIREMENTS FOR COVERED ENTITIES.—

''(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

''(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a covered inpatient drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

''(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism under the previous sentence within 12 months of the enactment of this section, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

''(iii) PROHIBITING DISCLOSURE TO GROUP PURCHASING ORGANIZATIONS.—In the event that a covered entity is a member of a group purchasing organization, such entity shall not disclose the price or any other information pertaining to any purchases under this section directly or indirectly to such group purchasing organization.

''(B) PROHIBITING RESALE, DISPENSING, OR ADMINISTRATION OF DRUGS EXCEPT TO CERTAIN PATIENTS.—With respect to any covered inpatient drug that is subject to an agreement under this subsection, a covered entity shall not dispense, administer, resell, or otherwise transfer the covered inpatient drug to a person unless—

''(i) such person is an inpatient of the entity; and

''(ii) such person does not have health plan coverage (as defined in subsection (c)(3)) that provides prescription drug coverage in the inpatient setting with respect to such covered inpatient drug.

For purposes of clause (ii), a person shall be treated as having health plan coverage (as defined in subsection (c)(3)) with respect to a covered inpatient drug if benefits are not payable under such coverage with respect to such drug for reasons such as the application of a deductible or cost sharing or the use of utilization management.

''(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered inpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraph (A) or (B) with respect to drugs of the manufacturer. The use or disclosure of information for performance of such an audit shall be treated as a use or disclosure required by law for purposes of section 164.512(a) of title 45, Code of Federal Regulations.

''(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraph (A) or (B), the covered entity shall be liable to the manufacturer of the covered inpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the Secretary and the manufacturer under this subsection.

''(E) MAINTENANCE OF RECORDS.—

''(i) IN GENERAL.—A covered entity shall establish and maintain an effective record-keeping system to comply with this section and shall certify to the Secretary that such entity is in compliance with subparagraphs (A) and (B). The Secretary shall require that hospitals that purchase covered inpatient drugs for inpatient dispensing or administration under this subsection appropriately segregate inventory of such covered inpatient drugs, either physically or electronically, from drugs for outpatient use, as well as from drugs for inpatient dispensing or administration to individuals who have (for purposes of subparagraph (B)) health plan coverage described in clause (ii) of such subparagraph.

''(ii) CERTIFICATION OF NO THIRD-PARTY PAYER.—A covered entity shall maintain records that contain certification by the covered entity that no third party payment was received for any covered inpatient drug that is subject to an agreement under this subsection and that was dispensed to an inpatient.

''(5) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the distinct part of the hospital shall not be considered a covered entity under this subsection unless the hospital is otherwise a covered entity under this subsection.

''(6) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered inpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this subsection, and of entities that no longer meet the requirements of paragraph (4), by means of timely updates of the Internet website supported by the Department of Health and Human Services relating to this section.

''(7) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

''(b) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that meets the requirements described in subsection (a)(4) that has applied for and enrolled in the program described under this section and is one of the following:

''(1) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

''(A) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private nonprofit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan for medical assistance under title XIX of such Act; and

''(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined using the methodology under section 1886(d)(5)(F) of the Social Security Act as in effect on the date of enactment of this section) greater than 20.20 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act (as so in effect on the date of enactment of this section).

''(2) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(3) A free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(4) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of paragraph (1)(A).

''(5) An entity that is a rural referral center, as defined by section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of paragraph (1)(A) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.

''(c) OTHER DEFINITIONS.—In this section:

''(1) AVERAGE MANUFACTURER PRICE.—

''(A) IN GENERAL.—The term 'average manufacturer price'—

''(i) has the meaning given such term in section 1927(k) of the Social Security Act, except that such term shall be applied under this section with respect to covered inpatient drugs in the same manner (as applicable) as such term is applied under such section 1927(k) with respect to covered outpatient drugs (as defined in such section); and

''(ii) with respect to a covered inpatient drug for which there is no average manufacturer price (as defined in clause (i)), shall be the amount determined under regulations promulgated by the Secretary under subparagraph (B).

''(B) RULEMAKING.—The Secretary shall by regulation, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, establish a method for determining the average manufacturer price for covered inpatient drugs for which there is no average manufacturer price (as defined in subparagraph (A)(i)). Regulations promulgated with respect to covered inpatient drugs under the preceding sentence shall provide for the application of methods for determining the average manufacturer price that are the same as the methods used to determine such price in calculating rebates required for such drugs under an agreement between a manufacturer and a State that satisfies the requirements of section 1927(b) of the Social Security Act, as applicable.

''(2) COVERED INPATIENT DRUG.—The term 'covered inpatient drug' means a drug—

''(A) that is described in section 1927(k)(2) of the Social Security Act;

''(B) that, notwithstanding paragraph (3)(A) of section 1927(k) of such Act, is used in connection with an inpatient service provided by a covered entity that is enrolled to participate in the drug discount program under this section; and

''(C) that is not purchased by the covered entity through or under contract with a group purchasing organization.

''(3) HEALTH PLAN COVERAGE.—The term 'health plan coverage' means—

''(A) health insurance coverage (as defined in section 2791, and including coverage under a State health benefits risk pool);

''(B) coverage under a group health plan (as defined in such section, and including coverage under a church plan, a governmental plan, or a collectively bargained plan);

''(C) coverage under a Federal health care program (as defined by section 1128B(f) of the Social Security Act); or

''(D) such other health benefits coverage as the Secretary recognizes for purposes of this section.

''(4) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in section 1927(k) of the Social Security Act.

''(d) PROGRAM INTEGRITY.—

''(1) MANUFACTURER COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The establishment of a process to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

''(I) Developing and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices under such subsection.

''(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

''(III) Conducting periodic monitoring of sales transactions by covered entities.

''(IV) Inquiring into any discrepancies between ceiling prices and manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

''(ii) The establishment of procedures for manufacturers to issue refunds to covered entities in the event that there is an overcharge by the manufacturers, including the following:

''(I) Providing the Secretary with an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

''(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time.

''(iii) The provision of access through the Internet website supported by the Department of Health and Human Services to the applicable ceiling prices for covered inpatient drugs as calculated and verified by the Secretary in accordance with this section, in a manner (such as through the use of password protection) that limits such access to covered entities and adequately assures security and protection of privileged pricing data from unauthorized re-disclosure.

''(iv) The development of a mechanism by which—

''(I) rebates, discounts, or other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered inpatient drugs to covered entities are reported to the Secretary; and

''(II) appropriate credits and refunds are issued to covered entities if such discounts, rebates, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

''(v) Selective auditing of manufacturers and wholesalers to ensure the integrity of the drug discount program under this section.

''(vi) The establishment of a requirement that manufacturers and wholesalers use the identification system developed by the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(vii) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations to be promulgated by the Secretary not later than January 1, 2011;

''(II) shall not exceed $10,000 per single dosage form of a covered inpatient drug purchased by a covered entity where a manufacturer knowingly charges such covered entity a price for such drug that exceeds the ceiling price under subsection (a)(1); and

''(III) shall not exceed $100,000 for each instance where a manufacturer withholds or provides materially false information to the Secretary or to covered entities under this section or knowingly violates any provision of this section (other than subsection (a)(1)).

''(2) COVERED ENTITY COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements specified under subsection (a)(4).

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The development of procedures to enable and require covered entities to update at least annually the information on the Internet website supported by the Department of Health and Human Services relating to this section.

''(ii) The development of procedures for the Secretary to verify the accuracy of information regarding covered entities that is listed on the website described in clause (i).

''(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered inpatient drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(4)(A).

''(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site and each covered entity's purchasing status under sections 340B and this section can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(v) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations promulgated by the Secretary; and

''(II) shall not exceed $10,000 for each instance where a covered entity knowingly violates subsection (a)(4)(B) or knowingly violates any other provision of this section.

''(vi) The termination of a covered entity's participation in the program under this section, for a period of time to be determined by the Secretary, in cases in which the Secretary determines, in accordance with standards and procedures established by regulation, that—

''(I) the violation by a covered entity of a requirement of this section was repeated and knowing; and

''(II) imposition of a monetary penalty would be insufficient to reasonably ensure compliance with the requirements of this section.

''(vii) The referral of matters, as appropriate, to the Food and Drug Administration, the Office of the Inspector General of the Department of Health and Human Services, or other Federal or State agencies.

''(3) ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.—From amounts appropriated under subsection (f), the Secretary may establish and implement an administrative process for the resolution of the following:

''(A) Claims by covered entities that manufacturers have violated the terms of their agreement with the Secretary under subsection (a)(1).

''(B) Claims by manufacturers that covered entities have violated subsection (a)(4)(A) or (a)(4)(B).

''(e) AUDIT AND SANCTIONS.—

''(1) AUDIT.—From amounts appropriated under subsection (f), the Inspector General of the Department of Health and Human Services (referred to in this subsection as the 'Inspector General') shall audit covered entities under this section to verify compliance with criteria for eligibility and participation under this section, including the antidiversion prohibitions under subsection (a)(4)(B), and take enforcement action or provide information to the Secretary who shall take action to ensure program compliance, as appropriate. A covered entity shall provide to the Inspector General, upon request, records relevant to such audits.

''(2) REPORT.—For each audit conducted under paragraph (1), the Inspector General shall prepare and publish in a timely manner a report which shall include findings and recommendations regarding—

''(A) the appropriateness of covered entity eligibility determinations and, as applicable, certifications;

''(B) the effectiveness of antidiversion prohibitions; and

''(C) the effectiveness of restrictions on inpatient dispensing and administration.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2011 and each succeeding fiscal year.''.

(b) RULEMAKING.—Not later than January 1, 2011, the Secretary shall promulgate regulations implementing section 340B–1 of the Public Health Service Act (as added by subsection (a)).

(c) CONFORMING AMENDMENT TO SECTION 340B.—Paragraph (1) of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) is amended by adding at the end the following: ''Such agreement shall further require that, if the supply of a covered outpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section. The agreement with a manufacturer under this paragraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B–1.''.

(d) CONFORMING AMENDMENTS TO MEDICAID.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence, by striking ''and paragraph (6)'' and inserting '', paragraph (6), and paragraph (8)''; and

(B) by adding at the end the following new paragraph:

''(8) LIMITATION ON PRICES OF DRUGS PURCHASED BY 340B–1-COVERED ENTITIES.—

''(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B–1 of the Public Health Service Act with respect to covered inpatient drugs (as defined in such section) purchased by a 340B–1-covered entity on or after January 1, 2011.

''(B) 340B–1-COVERED ENTITY DEFINED.—In this subsection, the term '340B–1-covered entity' means an entity described in section 340B–1(b) of the Public Health Service Act.''; and

(2) in subsection (c)(1)(C)(i)(I)—

(A) by striking ''or'' before ''a covered entity''; and

(B) by inserting before the semicolon the following: '', or a covered entity for a covered inpatient drug (as such terms are defined in section 340B–1 of the Public Health Service Act)''.

**SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN'S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.**

(a) DEFINITION OF COVERED OUTPATIENT DRUG.—

(1) AMENDMENT.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking ''covered entities described in subparagraph (M)''and inserting ''covered entities described in subparagraph (M) (other than a children's hospital described in subparagraph (M))''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking ''and a children's hospital'' and all that follows through the end of the subparagraph and inserting a period.

**SEC. 518. CONFORMING AMENDMENT RELATED TO WAIVER OF COINSURANCE FOR PREVENTIVE SERVICES.**

Effective as if included in section 10501(i)(2)(A) of Public Law 111–148, section 1833(a)(3)(A) of the Social Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by striking ''section 1861(s)(10)(A)'' and inserting ''section 1861(ddd)(3)''.

**SEC. 519. 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 and as redesignated by section 1304 of Public Law 111–152, 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. 520. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.**

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made after the date of the enactment of this Act.''.

**SEC. 521. PHYSICIAN PAYMENT UPDATE.**

Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (10), in the heading, by striking ''PORTION'' and inserting ''JANUARY THROUGH MAY ''; and

(2) by adding at the end the following new paragraph:

''(11) UPDATE FOR JUNE THROUGH NOVEMBER OF 2010.—

''(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 for 2010 for the period beginning on June 1, 2010, and ending on November 30, 2010, the update to the single conversion factor shall be 2.2 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR REMAINING PORTION OF 2010 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for the period beginning on December 1, 2010, and ending on December 31, 2010, and for 2011 and subsequent years as if subparagraph (A) had never applied.''.

**SEC. 522. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.**

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C.1395w–4(e)) is amended by adding at the end the following new paragraph:

''(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

''(A) IN GENERAL.—

''(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2012, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

''(I) The Secretary shall configure the physician fee schedule areas using the Metropolitan Statistical Areas (each in this paragraph referred to as an 'MSA'), as defined by the Director of the Office of Management and Budget as of the date of the enactment of this paragraph, as the basis for the fee schedule areas.

''(II) For purposes of this clause, the Secretary shall treat all areas not included in an MSA as a single rest-of-State MSA and any reference in this paragraph to an MSA shall be deemed to include a reference to such rest-of-State MSA.

''(III) The Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a 'GAF') in descending order.

''(IV) In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of all the remaining MSAs in the State. If the ratio of the GAF of the highest cost MSA to the weighted-average of the GAF of remaining lower cost MSAs is 1.05 or greater, the highest cost MSA shall be a separate fee schedule area.

''(V) In the next iteration, the Secretary shall compare the GAF of the MSA with the second-highest GAF to the weighted-average GAF of the all the remaining MSAs (excluding MSAs that become separate fee schedule areas). If the ratio of the second-highest MSA's GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA shall be a separate fee schedule area.

''(VI) The iterative process shall continue until the ratio of the GAF of the MSA with

highest remaining GAF to the weighted-average of the remaining MSAs with lower GAFs is less than 1.05, and the remaining group of MSAs with lower GAFs shall be treated as a single rest-of-State fee schedule area.

''(VII) For purposes of the iterative process described in this clause, if two MSAs have identical GAFs, they shall be combined.

''(ii) TRANSITION.—For services furnished on or after January 1, 2012, and before January 1, 2017, in the State of California, after calculating the work, practice expense, and malpractice geographic indices that would otherwise be determined under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index that would otherwise be in effect for such county, the Secretary shall instead apply the index that would otherwise be in effect for such county.

''(B) SUBSEQUENT REVISIONS.—After the transition described in subparagraph (A)(ii), not less than every 3 years the Secretary shall review and update the fee schedule areas using the methodology described in subparagraph (A)(i) and any updated MSAs as defined by the Director of the Office of Management and Budget. The Secretary shall review and make any changes pursuant to such reviews concurrent with the application of the periodic review of the adjustment factors required under paragraph (1)(C) for California.

''(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2012, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to a fee schedule area established in accordance with this paragraph.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking ''The term'' and inserting ''Except as provided in subsection (e)(6)(C), the term''.

**SEC. 523. CLARIFICATION OF 3-DAY PAYMENT WINDOW.**

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) by adding at the end of subsection (a)(4) the following new sentence: ''In applying the first sentence of this paragraph, the term 'other services related to the admission' includes all services that are not diagnostic services (other than ambulance and maintenance renal dialysis services) for which payment may be made under this title that are provided by a hospital (or an entity wholly owned or operated by the hospital) to a patient—

''(A) on the date of the patient's inpatient admission; or

''(B) during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of such admission unless the hospital demonstrates (in a form and manner, and at a time, specified by the Secretary) that such services are not related (as determined by the Secretary) to such admission.''; and

(2) in subsection (d)(7)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(C) the determination of whether services provided prior to a patient's inpatient admission are related to the admission (as described in subsection (a)(4)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

(c) NO REOPENING OF PREVIOUSLY BUNDLED CLAIMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not reopen a claim, adjust a claim, or make a payment pursuant to any request for payment under title XVIII of the Social Security Act, submitted by an entity (including a hospital or an entity wholly owned or operated by the hospital) for services described in paragraph (2) for purposes of treating, as unrelated to a patient's inpatient admission, services provided during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of the patient's inpatient admission.

(2) SERVICES DESCRIBED.—For purposes of paragraph (1), the services described in this paragraph are other services related to the admission (as described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by subsection (a)) which were previously included on a claim or request for payment submitted under part A of title XVIII of such Act for which a reopening, adjustment, or request for payment under part B of such title, was not submitted prior to the date of the enactment of this Act.

(d) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of this section (and amendments made by this section) by program instruction or otherwise.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as changing the policy described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as applied by the Secretary of Health and Human Services before the date of the enactment of this Act, with respect to diagnostic services.

**SEC. 524. EXTENSION OF ARRA INCREASE IN FMAP.**

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(3), by striking ''first calendar quarter'' and inserting ''first 3 calendar quarters'';

(2) in subsection (b)—

(A) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)''; and

(B) by adding at the end the following:

''(3) PHASE-DOWN OF GENERAL INCREASE.—

''(A) SECOND QUARTER OF FISCAL YEAR 2011.—For each State, for the second quarter of fiscal year 2011, the FMAP for the State shall be increased under paragraph (1) or (2) (as applicable) by 3.2 percentage points.

''(B) THIRD QUARTER OF FISCAL YEAR 2011.—For each State, for the third quarter of fiscal year 2011, the FMAP for the State shall be increased under paragraph (1) or (2) (as applicable) by 1.2 percentage points.'';

(3) in subsection (c)—

(A) in paragraph (2)(B), by striking ''July 1, 2010'' and inserting ''January 1, 2011'';

(B) in paragraph (3)(B)(i), by striking ''July 1, 2010'' and inserting ''January 1, 2011'' each place it appears; and

(C) in paragraph (4)(C)(ii), by striking ''the 3-consecutive-month period beginning with January 2010'' and inserting ''any 3-consecutive-month period that begins after December 2009 and ends before January 2011'';

(4) in subsection (e), by adding at the end the following:

''Notwithstanding paragraph (5), effective for payments made on or after January 1, 2010, the increases in the FMAP for a State under this section shall apply to payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to nonpregnant childless adults made eligible under a State plan under such title (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) who would have been eligible for child health assistance or other health benefits under eligibility standards in effect as of December 31, 2009, of a waiver of the State child health plan under the title XXI of such Act.'';

(5) in subsection (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2), by inserting ''of such Act'' after ''1923''; and

(C) by adding at the end the following:

''(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.''; and

(6) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

**SEC. 525. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.**

Effective as if included in the enactment of section 5503(a) of Public Law 111–148, section 1886(h)(8) of the Social Security Act (42 U.S.C. 1395ww(h)(8)), as added by such section 5503(a), is amended by adding at the end the following new subparagraph:

''(I) AFFILIATION.—The provisions of this paragraph shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) and the reference resident level for each such hospital shall be the reference resident level with respect to the cost reporting period that results in the smallest difference between the reference resident level and the otherwise applicable resident limit.''.

**SEC. 526. TREATMENT OF CERTAIN DRUGS FOR COMPUTATION OF MEDICAID AMP.**

Effective as if included in the enactment of Public Law 111–148, section 1927(k)(1)(B)(i)(IV) of the Social Security Act (42 U.S.C. 1396r–8(k)(1)(B)(i)(IV)), as amended by section 2503(a)(2)(B) of Public Law 111–148 and section 1101(c)(2) of Public Law 111–152, is amended by adding at the end the following: '', unless the drug is an inhalation, infusion, or injectable drug that is not dispensed through a retail community pharmacy; and''.

## TITLE VI—OTHER PROVISIONS

### Subtitle A—General 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. ALLOCATION OF GEOTHERMAL RECEIPTS.**

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to

States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

**SEC. 603. 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. 604. EMERGENCY AGRICULTURAL DISASTER ASSISTANCE.**

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced specialty crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than specialty crops or crops intended for grazing) suffer at least a 5-percent crop loss on a farm due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received direct payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

(B) ADMINISTRATIVE COSTS.—State Secretary of Agriculture may not use more than five percent of the funds provided for costs associated with the administration of the grants provided in paragraph (1).

(C) ADMINISTRATION OF GRANTS.—State Secretary of Agriculture may enter into a contract with the Department of Agriculture to administer the grants provided in paragraph (1).

(D) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(E) MAXIMUM GRANT.—The maximum amount of a grant made to a State for counties described in paragraph (1)(B) may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to issue payments to eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(D) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109–234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) PAYMENT RATE.—The payment rate shall be equal to the quotient obtained by dividing—

(A) the total funds made available to carry out this subsection; by

(B) the sum of the county-eligible production, as determined under paragraph (5).

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first handlers;

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2009 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible aquaculture producers;

(B) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided per species of aquaculture; and

(iii) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(5) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

(6) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (4)(C).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

(2) PAYMENTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) DROUGHT INTENSITY.—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection shall be in an amount equal to 1 monthly payment using the monthly payment rate under section 531(d)(3)(B) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) LOANS.—

(A) IN GENERAL.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender for the purchase, improvement, or operation of the poultry farm.

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(i) STATE AND LOCAL GOVERNMENTS.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (f)(6)—

(A) in subparagraph (A), by inserting ''and subparagraph (C)'' after ''subsection (d)''; and

(B) by adding at the end the following:

''(C) CONSERVATION RESERVE PROGRAM.—Subparagraph (A) shall not apply to payments under the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII if—

''(i) except as otherwise provided in this paragraph or section 1234(f)(4), the payments are generally subject to the same limits applicable to other payees;

''(ii) the payments, and any payments made under other programs to a State under subsection (g), are not subject to limits on adjusted gross income under section 1001D;

''(iii) the Secretary establishes an exemption to the limitation on the payments that is similar to the public school land exception under subsection (g) except that under this subparagraph, all States may receive the unlimited school land exemption as applicable without regard to the size of the population of the State; and

''(iv) for purposes of the payments, a State and any political subdivisions and agencies of the State shall be treated as 1 entity.''; and

(2) in subsection (g), by adding at the end the following:

''(3) EXCEPTION FOR ADJUSTED GROSS INCOME LIMITATION.—The limitations described in section 1001D shall not apply to this subsection.''.

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section and the amendment made by this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section and the amendment made by this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

**SEC. 605. 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. 606. HOUSING TRUST FUND.**

(a) FUNDING.—There is hereby appropriated for the Housing Trust Fund established pursuant to section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568), $1,065,000,000, for use under such section: *Provided*, That of the total amount provided under this heading, $65,000,000 shall be available to the Secretary of Housing and Urban Development only for incremental project-based voucher assistance to be allocated to States to be used solely in conjunction with grant funds awarded under such section 1338, pursuant to the formula established under section 1338 and taking into account different per unit subsidy needs among states, as determined by the Secretary.

(b) AMENDMENTS.—Section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) is amended—

(1) in subsection (c)—

(A) in paragraph (4)(A) by inserting after the period at the end the following: ''Notwithstanding any other provision of law, for the fiscal year following enactment of this sentence and thereafter, the Secretary may make such notice available only on the Internet at the appropriate government website or websites or through other electronic media, as determined by the Secretary.'';

(B) in paragraph (5)(C), by striking ''(8)'' and inserting ''(9)''; and

(C) in paragraph (7)(A)—

(i) by striking ''section 1335(a)(2)(B)'' and inserting ''section 1335(a)(1)(B)''; and

(ii) by inserting ''the units funded under'' after ''75 percent of''; and

(2) by adding at the end the following new subsection:

''(k) ENVIRONMENTAL REVIEW.—For the purpose of environmental compliance review, funds awarded under this section shall be subject to section 288 of the HOME Investment Partnerships Act (12 U.S.C. 12838) and shall be treated as funds under the program established by such Act.''.

**SEC. 607. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT ACT OF 2010.**

(a) SHORT TITLE.—This section may be cited as the ''Individual Indian Money Account Litigation Settlement Act of 2010''.

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term ''Amended Complaint'' means the Amended Complaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The term ''Land Consolidation Program'' means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractional interests in trust or restricted land.

(3) LITIGATION.—The term ''Litigation'' means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term ''Plaintiff'' means a member of any class certified in the Litigation.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT.—The term ''Settlement'' means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(7) TRUST ADMINISTRATION CLASS.—The term ''Trust Administration Class'' means the Trust Administration Class as defined in the Settlement.

(c) PURPOSE.—The purpose of this section is to authorize the Settlement.

(d) AUTHORIZATION.—The Settlement is authorized, ratified, and confirmed.

(e) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation of jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

(B) TREATMENT.—On certification under subparagraph (A), the Trust Administration Class shall be treated as a class under Federal Rule of Civil Procedure 23(b)(3) for purposes of the Settlement.

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Trust Land Consolidation Fund''.

(B) AVAILABILITY OF AMOUNTS.—Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—

(i) to conduct the Land Consolidation Program; and

(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Indian Education Scholarship Holding Fund''.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(3) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(g) TAXATION AND OTHER BENEFITS.—

(1) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement—

(A) shall not be included in gross income; and

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code of 1986 that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

(A) as income for the month during which the amounts were received; or

(B) as a resource.

**SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.**

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in *In re Black Farmers Discrimination Litigation*, No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).

(2) PIGFORD CLAIM.—The term ''Pigford claim'' has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2210).

(b) APPROPRIATION OF FUNDS.—There is hereby appropriated to the Secretary of Agriculture $1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable. The funds appropriated by this subsection are in addition to the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) USE OF FUNDS.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

(d) TREATMENT OF REMAINING FUNDS.—If any of the funds appropriated by subsection (b) are not obligated and expended to carry out the Settlement Agreement, the Secretary of Agriculture shall return the unused funds to the Treasury and may not make the unused funds available for any purpose related to section 14012 of the Food, Conservation, and Energy Act of 2008, for any other settlement agreement executed in *In re Black Farmers Discrimination Litigation*, No. 08–511 (D.D.C.), or for any other purpose.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into the Settlement Agreement or any other settlement agreement. Nothing in this section shall be construed as creating the basis for a Pigford claim.

(f) CONFORMING AMENDMENTS.—Section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) is amended—

(1) in subsection (c)(1)—

(A) by striking ''subsection (h)'' and inserting ''subsection (g)''; and

(B) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(2) by striking subsection (e);

(3) in subsection (g), by striking ''subsection (f)'' and inserting ''subsection (e)'';

(4) in subsection (i)—

(A) by striking ''(1) IN GENERAL.—Of the funds'' and inserting ''Of the funds''; and

(B) by striking paragraph (2);

(5) by striking subsection (j); and

(6) by redesignating subsections (f), (g), (h), (i), and (k) as subsections (e), (f), (g), (h), and (i), respectively.

**SEC. 609. 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. 610. 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. 611. 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. 612. STATE COURT IMPROVEMENT PROGRAM.**

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

**SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.**

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) MARKET-RELATED CONTRACT EXTENSION OPTION.—Upon a timber purchaser's written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) REPORTING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(d) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(e) NO SURRENDER OF CLAIMS.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

**SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.**

(a) MODIFICATION OF ALLOCATION RULES.—Section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 80) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)''; and

(3) by adding at the end the following:

''(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAMS.—

''(A) REDISTRIBUTION AMONG STATES.—Notwithstanding sections 1301(m) and 1302(e) of SAFETEA–LU (119 Stat. 1202 and 1205), the Secretary shall apportion funds authorized to be appropriated under subsection (b) for the projects of national and regional significance program and the national corridor infrastructure improvement program among all States such that each State's share of the funds so apportioned is equal to the State's share for fiscal year 2009 of funds apportioned or allocated for the programs specified in section 105(a)(2) of title 23, United States Code.

''(B) DISTRIBUTION AMONG PROGRAMS.—Funds apportioned to a State pursuant to subparagraph (A) shall be—

''(i) made available to the State for the programs specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program), and in the same proportion for each such program that—

''(I) the amount apportioned to the State for that program for fiscal year 2009; bears to

''(II) the amount apportioned to the State for fiscal year 2009 for all such programs; and

''(ii) administered in the same manner and with the same period of availability as funding is administered under programs identified in clause (i).''.

(b) EXPENDITURE AUTHORITY FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2010'' and inserting ''American Jobs and Closing Tax Loopholes Act of 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be treated as being included in that Act at the time of the enactment of that Act.

(d) SAVINGS CLAUSE.—

(1) IN GENERAL.—For fiscal year 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, the amount of funds apportioned to each State under section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147) that is determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out the projects of national and regional significance program and national corridor infrastructure improvement program shall be the greater of—

(A) the amount that the State was authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program according to the provisions of that Act, as in effect on the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program pursuant to the provisions of that Act, as amended by the amendments made by this section.

(2) OBLIGATION AUTHORITY.—For fiscal year 2010, the amount of obligation authority distributed to each State shall be the greater of—

(A) the amount that the State was authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the date of enactment of this Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection.

(4) INCREASE IN OBLIGATION LIMITATION.—The limitation under the heading ''Federal-aid Highways (Limitation on Obligations) (Highway Trust Fund)'' in Public Law 111–117 is increased by such sums as may be necessary to carry out this subsection.

(5) CONTRACT AUTHORITY.—Funds made available to carry out this subsection shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(6) AMOUNTS.—The dollar amount specified in section 105(d)(1) of title 23, United States Code, the dollar amount specified in section 120(a)(4)(B) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117), and the dollar amount specified in section 120(b)(10) of such title shall each be increased as necessary to carry out this subsection.

**SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.**

(a) IN GENERAL.—Section 278(a) of the Trade Act of 1974 (19 U.S.C. 2372(a)) is amended by adding at the end the following:

''(3) RULE OF CONSTRUCTION.—For purposes of this section, any reference to 'workers', 'workers eligible for training under section 236', or any other reference to workers under this section shall be deemed to include individuals who are, or are likely to become, eligible for unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, or who remain unemployed after exhausting all rights to such compensation.''.

(b) DEFINITION OF ELIGIBLE INSTITUTION.—Section 278(b)(1) of the Trade Act of 1974 (19 U.S.C. 2372(b)(1)) is amended—

(1) by striking ''section 102'' and inserting ''section 101(a)''; and

(2) by striking ''1002'' and inserting ''1001(a)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is amended—

(1) in subsection (a), by striking the last sentence; and

(2) by adding at the end the following:

''(c) ADMINISTRATIVE AND RELATED COSTS.—The Secretary may retain not more than 5 percent of the funds appropriated under subsection (b) for each fiscal year to administer, evaluate, and establish reporting systems for the Community College and Career Training Grant program under section 278.

''(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under subsection (b) shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

''(e) AVAILABILITY.—Funds appropriated under subsection (b) shall remain available for the fiscal year for which the funds are appropriated and the subsequent fiscal year.''.

**SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.**

(a) EXTENSIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective date column and inserting ''12/31/2013'':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).

(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''amounts determined by the Secretary'' and all that follows through ''5208.59.80'' and inserting ''amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208''; and

(B) in paragraph (2), by striking ''October 1, 2008'' and inserting ''December 31, 2013'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''imported cotton fabric''; and

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''United States''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

**SEC. 617. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.**

(a) IN GENERAL.—Section 4002(c)(2)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking ''chapter 51'' and inserting ''chapter 62''.

(b) FULL RESTORATION OF PAYMENT LEVELS IN FISCAL YEAR 2010.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 62 of the Harmonized Tariff Schedule of the United States, subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

**SEC. 618. DEPARTMENT OF COMMERCE STUDY.**

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall report to Congress detailing—

(1) the pattern of job loss in the New England, Mid-Atlantic, and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

**SEC. 619. 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.''.

**SEC. 620. AMENDMENT OF TRAVEL PROMOTION ACT OF 2009.**

(a) TRAVEL PROMOTION FUND FEES.—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended—

(1) by striking ''subsection (d) of section 11 of the Travel Promotion Act of 2009.'' in clause (ii) and inserting ''subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)).''; and

(2) by striking ''September 30, 2014.'' in clause (iii) and inserting ''September 30, 2015.''.

(b) IMPLEMENTATION BEGINNING IN FISCAL YEAR 2011.—Subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)) is amended—

(1) by striking ''For fiscal year 2010, the'' in paragraph (2)(A) and inserting ''The'';

(2) by striking ''quarterly, beginning on January 1, 2010,'' in paragraph (2)(A) and inserting ''monthly, immediately following the collection of fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I),'';

(3) by striking ''fiscal years 2011 through 2014,'' in paragraph (2)(B) and inserting ''fiscal years 2012 through 2015,'';

(4) by striking ''fiscal year 2010,'' in paragraph (3)(A) and inserting ''fiscal year 2011,'';

(5) by striking ''fiscal year 2011,'' each place it appears in paragraph (3)(A) and inserting ''fiscal year 2012,''; and

(6) by striking ''fiscal year 2010, 2011, 2012, 2013, or 2014'' in paragraph (4)(B) and inserting ''fiscal year 2011, 2012, 2013, 2014, or 2015''.

**SEC. 621. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.**

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

''(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

''(A) in the case of a listed transaction, $200,000 ($100,000 in the case of a natural person), or

''(B) in the case of any other reportable transaction, $50,000 ($10,000 in the case of a natural person).

''(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than $10,000 ($5,000 in the case of a natural person).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

**SEC. 622. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.**

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.

**Subtitle B—Additional Provisions**

**SEC. 631. SUNSET OF TEMPORARY INCREASE IN BENEFITS UNDER THE SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.**

Section 101(a) of title I of division A of Public Law 111-5 (123 Stat. 120) is amended—

(1) in paragraph (1), by inserting before the period, '', if the value of such benefits and block grants would thereby be greater than in the absence of this subsection''; and

(2) by striking paragraph (2) and inserting the following:

''(2) TERMINATION.—The authority provided by this subsection shall terminate after May 31, 2014.''.

**SEC. 632. RESCISSIONS.**

(a) ARRA RESCISSIONS.—There are hereby rescinded the following amounts from the specified accounts:

(1) $300,000,000, from unobligated balances under the heading ''DISTANCE LEARNING, TELEMEDICINE, AND BROADBAND PROGRAM'' under the heading ''RURAL UTILITIES SERVICE'' under the heading ''DEPARTMENT OF AGRICULTURE'' in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 118).

(2) $300,000,000, from unobligated balances under the heading ''BROADBAND TECHNOLOGY OPPORTUNITIES PROGRAM'' under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'' under the heading ''DEPARTMENT OF COMMERCE'' in title II of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 128).

(3) $55,000,000 from unobligated balances under the heading ''OPERATION AND MAINTENANCE, ARMY'' under the heading ''OPERATION AND MAINTENANCE'' in title III of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 132).

(4) $55,000,000 from unobligated balances under the heading ''OPERATION AND MAINTENANCE, NAVY'' under the heading ''OPERATION AND MAINTENANCE'' in title III of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 132).

(5) $15,000,000 from unobligated balances under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'' under the heading ''OPERATION AND MAINTENANCE'' in title III of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 132).

(6) $12,000,000 from unobligated balances under the heading ''OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD'' under the heading ''OPERATION AND MAINTENANCE'' in title III of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 133).

(7) $25,000,000 from unobligated balances under the heading ''DEFENSE HEALTH PROGRAM'' under the heading ''OTHER DEPARTMENT OF DEFENSE PROGRAMS'' in title III of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 134).

(8) $98,000,000 from unobligated balances, other than those of the Energy Conservation Investment Program, under the heading ''MILITARY CONSTRUCTION, DEFENSE-WIDE'' under the heading ''DEPARTMENT OF DEFENSE'' in title X of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 192).

(b) ADDITIONAL RESCISSIONS.—

(1) Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

''Other Procurement, Army, 2008/2010'', $75,000,000.

''Aircraft Procurement, Navy, 2008/2010'', $150,000,000.

''Aircraft Procurement, Air Force, 2008/2010'', $100,000,000.

''Other Procurement, Air Force, 2008/2010'', $50,000,000.

''Research, Development, Test and Evaluation, Army, 2009/2010'', $75,000,000.

''Research, Development, Test and Evaluation, Air Force, 2009/2010'', $150,000,000.

''Research, Development, Test and Evaluation, Defense-Wide, 2009/2010'', $125,000,000.

(2) Of the funds appropriated under the heading ''PROCUREMENT, MARINE CORPS'' under the heading ''PROCUREMENT'' in title IX of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 122 Stat. 2401) $100,000,000 are hereby rescinded.

(3) Of the funds appropriated under the heading ''PROCUREMENT, MARINE CORPS'' under the heading ''PROCUREMENT'' in title III of the Supplemental Appropriations Act, 2009 (Public Law 111–32; 123 Stat. 1866) $75,000,000 are hereby rescinded.

**TITLE VII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT**

**SEC. 701. SHORT TITLE.**

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

**SEC. 702. 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. 703. 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. 704. 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. 705. 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. 706. 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 704(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.

## TITLE VIII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

**SEC. 801. SHORT TITLE.**

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

**SEC. 802. 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. 803. 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. 804. 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. 805. 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. 806. 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.

## TITLE IX—OFFICE OF THE HOMEOWNER ADVOCATE

**SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.**

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this title referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this title referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United

States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

**SEC. 902. FUNCTIONS OF THE OFFICE.**

(a) IN GENERAL.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this title referred to as the ''Home Affordable Modification Program'')

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, to propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) to identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) to implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this title, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

**SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.**

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

**SEC. 904. RULE OF CONSTRUCTION.**

Nothing in this section shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this section may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

**SEC. 905. REPORTS TO CONGRESS.**

(a) TESTIMONY.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

**SEC. 906. FUNDING.**

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

**SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.**

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act. This section shall not apply to any refinancing or modifications made under the ''FHA Program Adjustments to Support Refinancings for Underwater Homeowners,'' announced by the Department of the Treasury and the Department of Housing and Urban Development on March 26, 2010, as long as the program continues to be structured so that borrowers participating in the FHA refinance program cannot be in default on their primary mortgage at the time of refinance and their eligibility in the program is not helped if they are in default on their second mortgage, and thus lack a strategic reason to go into default on either their first or second mortgage to participate in the program.

**SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.**

(a) PUBLIC AVAILABILITY OF DATA.—The Secretary of the Treasury shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), to establish that the data collected by the Secretary of the Treasury from each mortgage servicer and lender participating in the Program is made public in accordance with subsection (b).

(b) CONTENT.—Not more than 60 days after each monthly deadline for submission of data by mortgage servicers and lender participating in the program, the Treasury shall make all data tables available to the public at the individual record level. This data shall include but not be limited to—

(1) higher risk loans, including loans made in connection with any program to provide expanded loan approvals, shall be reported separately;

(2) disclose—

(A) the rate or pace at which such mortgages are becoming seriously delinquent;

(B) whether such rate or pace is increasing or decreasing;

(C) if there are certain subsets within the loans covered by this section that have greater or lesser rates or paces of delinquency; and

(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—

(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and

(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;

(C) the loan-to-value ratio and combined loan-to-value ratio, both at origination and currently, and the number of liens on the property;

(D) the property valuation at the time of origination of the loan, and all subsequent property valuations and the date of each valuation;

(E) each relevant credit score of each borrower obtained at any time in connection with the loan, with the date of the credit score, to the extent allowed by existing law;

(F) whether the loan has any mortgage or other credit insurance or guarantee;
(G) the current interest rate on such loan;
(H) any rate caps and floors if the loan is an adjustable rate mortgage loan;
(I) the adjustable rate mortgage index or indices for such loan;
(J) whether the loan is currently past due, and if so how many days such loan is past due;
(K) the total number of days the loan has been past due at any time;
(L) whether the loan is subject to a balloon payment;
(M) the date of each modification of the loan;
(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;
(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;
(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;
(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;
(R) whether the loan term was modified, and if so, whether it was extended or shortened, and by what amount of time;
(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and
(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.
(c) GUIDELINES AND REGULATIONS.—The Secretary of the Treasury shall establish guidelines and regulations necessary—
(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;
(2) to make the data reported under this subsection available on a public website with no cost to access the data, in a consistent format;
(3) to update the data no less frequently than monthly;
(4) to establish procedures for disclosing such data to the public on a public website with no cost to access the data; and
(5) to allow the Secretary to make such deletions as the Secretary may determine to be appropriate to protect any privacy interest of any loan modification applicant, including the deletion or alteration of the applicant's name and identification number.
(d) EXCEPTION.—No data shall have to be disclosed if it voids or violates existing contracts between the Secretary of Treasury and mortgage servicers as part of the Making Home Affordable Program.

**TITLE X—BUDGETARY PROVISIONS**

**SEC. 1001. BUDGETARY PROVISIONS.**

(a) STATUTORY PAYGO.—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, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.
(b) EMERGENCY DESIGNATIONS.—Section 501—
(1) 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));
(2) in the House of Representatives, is designated as an emergency for purposes of pay-as-you-go principles; and
(3) in the Senate, 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.

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**SA 4387.** Mr. REID (for Mr. BAUCUS) proposed an amendment to amendment SA 4386 proposed by Mr. REID (for 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; as follows:

At the end of the amendment, insert the following:
The provisions of this Act shall become effective 3 days after enactment.

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**SA 4388.** Mr. REID proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end, insert the following:
The Committee on Finance is requested to study the economic impact of the delay in implementing the provisions of the Act on jobs creation on a national and regional level.

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**SA 4389.** Mr. REID proposed an amendment to amendment SA 4388 proposed by Mr. REID to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end, insert the following:
''And include statistical data on the specific service related positions created.''

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**SA 4390.** Mr. REID proposed an amendment to amendment SA 4389 proposed by Mr. REID to the amendment SA 4388 proposed by Mr. REID to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end, insert the following:
''And the impact on the local economy.''

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**SA 4391.** Mr. DURBIN (for Mr. DORGAN (for himself, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Ms. CANTWELL, Mr. KYL, Mr. MCCAIN, Mr. TESTER, Mr. THUNE, Mr. UDALL of New Mexico, and Mr. UDALL of Colorado)) proposed an amendment to the bill H.R. 725, to protect Indian arts and crafts through the improvement of applicable criminal proceedings, and for other purposes; as follows:

At the end, add the following:

**DIVISION B—TRIBAL LAW AND ORDER**

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Tribal Law and Order Act of 2010''.
(b) TABLE OF CONTENTS.—The table of contents of this division is as follows:



**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds that—
(1) the United States has distinct legal, treaty, and trust obligations to provide for the public safety of Indian country;
(2) Congress and the President have acknowledged that—
(A) tribal law enforcement officers are often the first responders to crimes on Indian reservations; and
(B) tribal justice systems are often the most appropriate institutions for maintaining law and order in Indian country;
(3) less than 3,000 tribal and Federal law enforcement officers patrol more than 56,000,000 acres of Indian country, which reflects less than ½ of the law enforcement presence in comparable rural communities nationwide;
(4) the complicated jurisdictional scheme that exists in Indian country—
(A) has a significant negative impact on the ability to provide public safety to Indian communities;
(B) has been increasingly exploited by criminals; and
(C) requires a high degree of commitment and cooperation among tribal, Federal, and State law enforcement officials;

(5)(A) domestic and sexual violence against American Indian and Alaska Native women has reached epidemic proportions;

(B) 34 percent of American Indian and Alaska Native women will be raped in their lifetimes; and

(C) 39 percent of American Indian and Alaska Native women will be subject to domestic violence;

(6) Indian tribes have faced significant increases in instances of domestic violence, burglary, assault, and child abuse as a direct result of increased methamphetamine use on Indian reservations; and

(7) crime data is a fundamental tool of law enforcement, but for decades the Bureau of Indian Affairs and the Department of Justice have not been able to coordinate or consistently report crime and prosecution rates in tribal communities.

(b) PURPOSES.—The purposes of this division are—

(1) to clarify the responsibilities of Federal, State, tribal, and local governments with respect to crimes committed in Indian country;

(2) to increase coordination and communication among Federal, State, tribal, and local law enforcement agencies;

(3) to empower tribal governments with the authority, resources, and information necessary to safely and effectively provide public safety in Indian country;

(4) to reduce the prevalence of violent crime in Indian country and to combat sexual and domestic violence against American Indian and Alaska Native women;

(5) to prevent drug trafficking and reduce rates of alcohol and drug addiction in Indian country; and

(6) to increase and standardize the collection of criminal data and the sharing of criminal history information among Federal, State, and tribal officials responsible for responding to and investigating crimes in Indian country.

**SEC. 3. DEFINITIONS.**

(a) IN GENERAL.—In this division:

(1) INDIAN COUNTRY.—The term ''Indian country'' has the meaning given the term in section 1151 of title 18, United States Code.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(4) TRIBAL GOVERNMENT.—The term ''tribal government'' means the governing body of a federally recognized Indian tribe.

(b) INDIAN LAW ENFORCEMENT REFORM ACT.—Section 2 of the Indian Law Enforcement Reform Act (25 U.S.C. 2801) is amended by adding at the end the following:

''(10) The term 'tribal justice official' means—

''(A) a tribal prosecutor;

''(B) a tribal law enforcement officer; or

''(C) any other person responsible for investigating or prosecuting an alleged criminal offense in tribal court.''.

**SEC. 4. SEVERABILITY.**

If any provision of this division, an amendment made by this division, or the application of such a provision or amendment to any individual, entity, or circumstance, is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this division, the remaining amendments made by this division, and the application of those provisions and amendments to individuals, entities, or circumstances other than the affected individual, entity, or circumstance shall not be affected.

**SEC. 5. JURISDICTION OF THE STATE OF ALASKA.**

Nothing in this Act limits, alters, expands, or diminishes the civil or criminal jurisdiction of the State of Alaska, any subdivision of the State of Alaska, or any Indian tribe in that State.

**SEC. 6. EFFECT.**

Nothing in this Act confers on an Indian tribe criminal jurisdiction over non-Indians.

## TITLE I—FEDERAL ACCOUNTABILITY AND COORDINATION

**SEC. 101. OFFICE OF JUSTICE SERVICES RESPONSIBILITIES.**

(a) DEFINITIONS.—Section 2 of the Indian Law Enforcement Reform Act (25 U.S.C. 2801) is amended—

(1) by striking paragraph (8);

(2) by redesignating paragraphs (1) through (7) as paragraphs (2) through (8), respectively;

(3) by redesignating paragraph (9) as paragraph (1) and moving the paragraphs so as to appear in numerical order; and

(4) in paragraph (1) (as redesignated by paragraph (3)), by striking ''Division of Law Enforcement Services'' and inserting ''Office of Justice Services''.

(b) ADDITIONAL RESPONSIBILITIES OF OFFICE.—Section 3 of the Indian Law Enforcement Reform Act (25 U.S.C. 2802) is amended—

(1) in subsection (b), by striking ''(b) There is hereby established within the Bureau a Division of Law Enforcement Services which'' and inserting the following:

''(b) OFFICE OF JUSTICE SERVICES.—There is established in the Bureau an office, to be known as the 'Office of Justice Services', that'';

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''Division of Law Enforcement Services'' and inserting ''Office of Justice Services'';

(B) in paragraph (8), by striking ''and'' at the end;

(C) in paragraph (9), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(10) the development and provision of dispatch and emergency and E–911 services;

''(11) communicating with tribal leaders, tribal community and victims' advocates, tribal justice officials, indigent defense representatives, and residents of Indian country on a regular basis regarding public safety and justice concerns facing tribal communities;

''(12) conducting meaningful and timely consultation with tribal leaders and tribal justice officials in the development of regulatory policies and other actions that affect public safety and justice in Indian country;

''(13) providing technical assistance and training to tribal law enforcement officials to gain access and input authority to utilize the National Criminal Information Center and other national crime information databases pursuant to section 534 of title 28, United States Code;

''(14) in coordination with the Attorney General pursuant to subsection (g) of section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732), collecting, analyzing, and reporting data regarding Indian country crimes on an annual basis;

''(15) on an annual basis, sharing with the Department of Justice all relevant crime data, including Uniform Crime Reports, that the Office of Justice Services prepares and receives from tribal law enforcement agencies on a tribe-by-tribe basis to ensure that individual tribal governments providing data are eligible for programs offered by the Department of Justice;

''(16) submitting to the appropriate committees of Congress, for each fiscal year, a detailed spending report regarding tribal public safety and justice programs that includes—

''(A)(i) the number of full-time employees of the Bureau and tribal governments who serve as—

''(I) criminal investigators;

''(II) uniform police;

''(III) police and emergency dispatchers;

''(IV) detention officers;

''(V) executive personnel, including special agents in charge, and directors and deputies of various offices in the Office of Justice Services; and

''(VI) tribal court judges, prosecutors, public defenders, appointed defense counsel, or related staff; and

''(ii) the amount of appropriations obligated for each category described in clause (i) for each fiscal year;

''(B) a list of amounts dedicated to law enforcement and corrections, vehicles, related transportation costs, equipment, inmate transportation costs, inmate transfer costs, replacement, improvement, and repair of facilities, personnel transfers, detailees and costs related to their details, emergency events, public safety and justice communications and technology costs, and tribal court personnel, facilities, indigent defense, and related program costs;

''(C) a list of the unmet staffing needs of law enforcement, corrections, and court personnel (including indigent defense and prosecution staff) at tribal and Bureau of Indian Affairs justice agencies, the replacement and repair needs of tribal and Bureau corrections facilities, needs for tribal police and court facilities, and public safety and emergency communications and technology needs; and

''(D) the formula, priority list or other methodology used to determine the method of disbursement of funds for the public safety and justice programs administered by the Office of Justice Services;

''(17) submitting to the appropriate committees of Congress, for each fiscal year, a report summarizing the technical assistance, training, and other support provided to tribal law enforcement and corrections agencies that operate relevant programs pursuant to self-determination contracts or self-governance compacts with the Secretary; and

''(18) promulgating regulations to carry out this Act, and routinely reviewing and updating, as necessary, the regulations contained in subchapter B of title 25, Code of Federal Regulations (or successor regulations).'';

(3) in subsection (d)—

(A) in paragraph (1), by striking ''Division of Law Enforcement Services'' and inserting ''Office of Justice Services''; and

(B) in paragraph (4)(i), in the first sentence, by striking ''Division'' and inserting ''Office of Justice Services'';

(4) in subsection (e), by striking ''Division of Law Enforcement Services'' each place it appears and inserting ''Office of Justice Services''; and

(5) by adding at the end the following:

''(f) LONG-TERM PLAN FOR TRIBAL DETENTION PROGRAMS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, acting through the Bureau, in coordination with the Department of Justice and in consultation with tribal leaders, tribal courts, tribal law enforcement officers, and tribal corrections officials, shall submit to Congress a long-term plan to address incarceration in Indian country, including—

''(1) a description of proposed activities for—

''(A) the construction, operation, and maintenance of juvenile (in accordance with section 4220(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2453(a)(3)) and adult detention facilities (including regional facilities) in Indian country;

''(B) contracting with State and local detention centers, upon approval of affected tribal governments; and

''(C) alternatives to incarceration, developed in cooperation with tribal court systems;

''(2) an assessment and consideration of the construction of Federal detention facilities in Indian country; and

''(3) any other alternatives as the Secretary, in coordination with the Attorney General and in consultation with Indian tribes, determines to be necessary.''.

(c) LAW ENFORCEMENT AUTHORITY.—Section 4 of the Indian Law Enforcement Reform Act (25 U.S.C. 2803) is amended—

(1) in paragraph (2)(A), by striking ''), or'' and inserting ''or offenses processed by the Central Violations Bureau); or''; and

(2) in paragraph (3)—

(A) in subparagraph (B), by striking '', or'' at the end and inserting a semicolon;

(B) in subparagraphs (B) and (C), by striking ''reasonable grounds'' each place it appears and inserting ''probable cause'';

(C) in subparagraph (C), by adding ''or'' at the end; and

(D) by adding at the end the following:

''(D)(i) the offense involves—

''(I) a misdemeanor controlled substance offense in violation of—

''(aa) the Controlled Substances Act (21 U.S.C. 801 et seq.);

''(bb) title IX of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (21 U.S.C. 862a et seq.); or

''(cc) section 731 of the USA PATRIOT Improvement and Reauthorization Act of 2005 (21 U.S.C. 865);

''(II) a misdemeanor firearms offense in violation of chapter 44 of title 18, United States Code;

''(III) a misdemeanor assault in violation of chapter 7 of title 18, United States Code; or

''(IV) a misdemeanor liquor trafficking offense in violation of chapter 59 of title 18, United States Code; and

''(ii) the employee has probable cause to believe that the individual to be arrested has committed, or is committing, the crime;''.

**SEC. 102. DISPOSITION REPORTS.**

Section 10 of the Indian Law Enforcement Reform Act (25 U.S.C. 2809) is amended by striking subsections (a) through (d) and inserting the following:

''(a) COORDINATION AND DATA COLLECTION.—

''(1) INVESTIGATIVE COORDINATION.—Subject to subsection (c), if a law enforcement officer or employee of any Federal department or agency terminates an investigation of an alleged violation of Federal criminal law in Indian country without referral for prosecution, the officer or employee shall coordinate with the appropriate tribal law enforcement officials regarding the status of the investigation and the use of evidence relevant to the case in a tribal court with authority over the crime alleged.

''(2) INVESTIGATION DATA.—The Federal Bureau of Investigation shall compile, on an annual basis and by Field Division, information regarding decisions not to refer to an appropriate prosecuting authority cases in which investigations had been opened into an alleged crime in Indian country, including—

''(A) the types of crimes alleged;

''(B) the statuses of the accused as Indians or non-Indians;

''(C) the statuses of the victims as Indians or non-Indians; and

''(D) the reasons for deciding against referring the investigation for prosecution.

''(3) PROSECUTORIAL COORDINATION.—Subject to subsection (c), if a United States Attorney declines to prosecute, or acts to terminate prosecution of, an alleged violation of Federal criminal law in Indian country, the United States Attorney shall coordinate with the appropriate tribal justice officials regarding the status of the investigation and the use of evidence relevant to the case in a tribal court with authority over the crime alleged.

''(4) PROSECUTION DATA.—The United States Attorney shall submit to the Native American Issues Coordinator to compile, on an annual basis and by Federal judicial district, information regarding all declinations of alleged violations of Federal criminal law that occurred in Indian country that were referred for prosecution by law enforcement agencies, including—

''(A) the types of crimes alleged;

''(B) the statuses of the accused as Indians or non-Indians;

''(C) the statuses of the victims as Indians or non-Indians; and

''(D) the reasons for deciding to decline or terminate the prosecutions.

''(b) ANNUAL REPORTS.—The Attorney General shall submit to Congress annual reports containing, with respect to the applicable calendar year, the information compiled under paragraphs (2) and (4) of subsection (a)—

''(1) organized—

''(A) in the aggregate; and

''(B)(i) for the Federal Bureau of Investigation, by Field Division; and

''(ii) for United States Attorneys, by Federal judicial district; and

''(2) including any relevant explanatory statements.

''(c) EFFECT OF SECTION.—

''(1) IN GENERAL.—Nothing in this section requires any Federal agency or official to transfer or disclose any confidential, privileged, or statutorily protected communication, information, or source to an official of any Indian tribe.

''(2) FEDERAL RULES OF CRIMINAL PROCEDURE.—Nothing in this section affects or limits the requirements of Rule 6 of the Federal Rules of Criminal Procedure.

''(3) REGULATIONS.—The Attorney General shall establish, by regulation, standards for the protection of the confidential or privileged communications, information, and sources described in this section.''.

**SEC. 103. PROSECUTION OF CRIMES IN INDIAN COUNTRY.**

(a) APPOINTMENT OF SPECIAL PROSECUTORS.—

(1) IN GENERAL.—Section 543 of title 28, United States Code, is amended—

(A) in subsection (a), by inserting before the period at the end the following: '', including the appointment of qualified tribal prosecutors and other qualified attorneys to assist in prosecuting Federal offenses committed in Indian country''; and

(B) by adding at the end the following:

''(c) INDIAN COUNTRY.—In this section, the term 'Indian country' has the meaning given that term in section 1151 of title 18.''.

(2) SENSE OF CONGRESS REGARDING CONSULTATION.—It is the sense of Congress that, in appointing attorneys under section 543 of title 28, United States Code, to serve as special prosecutors in Indian country, the Attorney General should consult with tribal justice officials of each Indian tribe that would be affected by the appointment.

(b) TRIBAL LIAISONS.—

(1) IN GENERAL.—The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) is amended by adding at the end the following:

**''SEC. 13. ASSISTANT UNITED STATES ATTORNEY TRIBAL LIAISONS.**

''(a) APPOINTMENT.—The United States Attorney for each district that includes Indian country shall appoint not less than 1 assistant United States Attorney to serve as a tribal liaison for the district.

''(b) DUTIES.—The duties of a tribal liaison shall include the following:

''(1) Coordinating the prosecution of Federal crimes that occur in Indian country.

''(2) Developing multidisciplinary teams to combat child abuse and domestic and sexual violence offenses against Indians.

''(3) Consulting and coordinating with tribal justice officials and victims' advocates to address any backlog in the prosecution of major crimes in Indian country in the district.

''(4) Developing working relationships and maintaining communication with tribal leaders, tribal community and victims' advocates, and tribal justice officials to gather information from, and share appropriate information with, tribal justice officials.

''(5) Coordinating with tribal prosecutors in cases in which a tribal government has concurrent jurisdiction over an alleged crime, in advance of the expiration of any applicable statute of limitation.

''(6) Providing technical assistance and training regarding evidence gathering techniques and strategies to address victim and witness protection to tribal justice officials and other individuals and entities that are instrumental to responding to Indian country crimes.

''(7) Conducting training sessions and seminars to certify special law enforcement commissions to tribal justice officials and other individuals and entities responsible for responding to Indian country crimes.

''(8) Coordinating with the Office of Tribal Justice, as necessary.

''(9) Conducting such other activities to address and prevent violent crime in Indian country as the applicable United States Attorney determines to be appropriate.

''(c) EFFECT OF SECTION.—Nothing in this section limits the authority of any United States Attorney to determine the duties of a tribal liaison officer to meet the needs of the Indian tribes located within the relevant Federal district.

''(d) ENHANCED PROSECUTION OF MINOR CRIMES.—

''(1) IN GENERAL.—Each United States Attorney serving a district that includes Indian country is authorized and encouraged—

''(A) to appoint Special Assistant United States Attorneys pursuant to section 543(a) of title 28, United States Code, to prosecute crimes in Indian country as necessary to improve the administration of justice, and particularly when—

''(i) the crime rate exceeds the national average crime rate; or

''(ii) the rate at which criminal offenses are declined to be prosecuted exceeds the national average declination rate;

''(B) to coordinate with applicable United States district courts regarding scheduling of Indian country matters and holding trials or other proceedings in Indian country, as appropriate;

''(C) to provide to appointed Special Assistant United States Attorneys appropriate training, supervision, and staff support; and

''(D) to provide technical and other assistance to tribal governments and tribal court systems to ensure that the goals of this subsection are achieved.

''(2) SENSE OF CONGRESS REGARDING CONSULTATION.—It is the sense of Congress that, in appointing Special Assistant United States Attorneys under this subsection, a United States Attorney should consult with tribal justice officials of each Indian tribe that would be affected by the appointment.''.

(2) SENSE OF CONGRESS REGARDING EVALUATIONS OF TRIBAL LIAISONS.—

(A) FINDINGS.—Congress finds that—

(i) many residents of Indian country rely solely on United States Attorneys offices to prosecute felony and misdemeanor crimes occurring on Indian land; and

(ii) tribal liaisons have dual obligations of—

(I) coordinating prosecutions of Indian country crime; and

(II) developing relationships with residents of Indian country and serving as a link between Indian country residents and the Federal justice process.

(B) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General should—

(i) take all appropriate actions to encourage the aggressive prosecution of all Federal crimes committed in Indian country; and

(ii) when appropriate, take into consideration the dual responsibilities of tribal liaisons described in subparagraph (A)(ii) in evaluating the performance of the tribal liaisons.

**SEC. 104. ADMINISTRATION.**

(a) OFFICE OF TRIBAL JUSTICE.—

(1) DEFINITIONS.—Section 4 of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3653) is amended—

(A) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(B) by inserting after paragraph (1) the following:

''(2) DIRECTOR.—The term 'Director' means the Director of the Office of Tribal Justice.''.

(2) STATUS.—Title I of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 is amended—

(A) by redesignating section 106 (25 U.S.C. 3666) as section 107; and

(B) by inserting after section 105 (25 U.S.C. 3665) the following:

**''SEC. 106. OFFICE OF TRIBAL JUSTICE.**

''(a) IN GENERAL.—Not later than 90 days after the date of enactment of the Tribal Law and Order Act of 2010, the Attorney General shall establish the Office of Tribal Justice as a component of the Department.

''(b) PERSONNEL AND FUNDING.—The Attorney General shall provide to the Office of Tribal Justice such personnel and funds as are necessary to establish the Office of Tribal Justice as a component of the Department under subsection (a).

''(c) DUTIES.—The Office of Tribal Justice shall—

''(1) serve as the program and legal policy advisor to the Attorney General with respect to the treaty and trust relationship between the United States and Indian tribes;

''(2) serve as the point of contact for federally recognized tribal governments and tribal organizations with respect to questions and comments regarding policies and programs of the Department and issues relating to public safety and justice in Indian country; and

''(3) coordinate with other bureaus, agencies, offices, and divisions within the Department of Justice to ensure that each component has an accountable process to ensure meaningful and timely consultation with tribal leaders in the development of regulatory policies and other actions that affect—

''(A) the trust responsibility of the United States to Indian tribes;

''(B) any tribal treaty provision;

''(C) the status of Indian tribes as sovereign governments; or

''(D) any other tribal interest.''.

(b) NATIVE AMERICAN ISSUES COORDINATOR.—The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) (as amended by section 103(b)) is amended by adding at the end the following:

**''SEC. 14. NATIVE AMERICAN ISSUES COORDINATOR.**

''(a) ESTABLISHMENT.—There is established in the Executive Office for United States Attorneys of the Department of Justice a position to be known as the 'Native American Issues Coordinator'.

''(b) DUTIES.—The Native American Issues Coordinator shall—

''(1) coordinate with the United States Attorneys that have authority to prosecute crimes in Indian country;

''(2) coordinate prosecutions of crimes of national significance in Indian country, as determined by the Attorney General;

''(3) coordinate as necessary with other components of the Department of Justice and any relevant advisory groups to the Attorney General or the Deputy Attorney General; and

''(4) carry out such other duties as the Attorney General may prescribe.''.

## TITLE II—STATE ACCOUNTABILITY AND COORDINATION

**SEC. 201. STATE CRIMINAL JURISDICTION AND RESOURCES.**

(a) CONCURRENT AUTHORITY OF UNITED STATES.—Section 401(a) of the Indian Civil Rights Act of 1968 (25 U.S.C. 1321(a)) is amended—

(1) by striking the section designation and heading and all that follows through ''The consent of the United States'' and inserting the following:

**''SEC. 401. ASSUMPTION BY STATE OF CRIMINAL JURISDICTION.**

''(a) CONSENT OF UNITED STATES.—

''(1) IN GENERAL.—The consent of the United States''; and

(2) by adding at the end the following:

''(2) CONCURRENT JURISDICTION.—At the request of an Indian tribe, and after consultation with and consent by the Attorney General, the United States shall accept concurrent jurisdiction to prosecute violations of sections 1152 and 1153 of title 18, United States Code, within the Indian country of the Indian tribe.''.

(b) APPLICABLE LAW.—Section 1162 of title 18, United States Code, is amended by adding at the end the following:

''(d) Notwithstanding subsection (c), at the request of an Indian tribe, and after consultation with and consent by the Attorney General—

''(1) sections 1152 and 1153 shall apply in the areas of the Indian country of the Indian tribe; and

''(2) jurisdiction over those areas shall be concurrent among the Federal Government, State governments, and, where applicable, tribal governments.''.

**SEC. 202. STATE, TRIBAL, AND LOCAL LAW ENFORCEMENT COOPERATION.**

The Attorney General may provide technical and other assistance to State, tribal, and local governments that enter into cooperative agreements, including agreements relating to mutual aid, hot pursuit of suspects, and cross-deputization for the purposes of—

(1) improving law enforcement effectiveness;

(2) reducing crime in Indian country and nearby communities; and

(3) developing successful cooperative relationships that effectively combat crime in Indian country and nearby communities.

## TITLE III—EMPOWERING TRIBAL LAW ENFORCEMENT AGENCIES AND TRIBAL GOVERNMENTS

**SEC. 301. TRIBAL POLICE OFFICERS.**

(a) FLEXIBILITY IN TRAINING LAW ENFORCEMENT OFFICERS SERVING INDIAN COUNTRY.—Section 3(e) of the Indian Law Enforcement Reform Act (25 U.S.C. 2802(e)) (as amended by section 101(b)(4)) is amended—

(1) in paragraph (1)—

(A) by striking ''(e)(1) The Secretary'' and inserting the following:

''(e) STANDARDS OF EDUCATION AND EXPERIENCE AND CLASSIFICATION OF POSITIONS.—

''(1) STANDARDS OF EDUCATION AND EXPERIENCE.—

''(A) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(B) REQUIREMENTS FOR TRAINING.—The training standards established under subparagraph (A)—

''(i) shall be consistent with standards accepted by the Federal Law Enforcement Training Accreditation commission for law enforcement officers attending similar programs; and

''(ii) shall include, or be supplemented by, instruction regarding Federal sources of authority and jurisdiction, Federal crimes, Federal rules of criminal procedure, and constitutional law to bridge the gap between State training and Federal requirements.

''(C) TRAINING AT STATE, TRIBAL, AND LOCAL ACADEMIES.—Law enforcement personnel of the Office of Justice Services or an Indian tribe may satisfy the training standards established under subparagraph (A) through training at a State or tribal police academy, a State, regional, local, or tribal college or university, or other training academy (including any program at a State, regional, local, or tribal college or university) that meets the appropriate Peace Officer Standards of Training.

''(D) MAXIMUM AGE REQUIREMENT.—Pursuant to section 3307(e) of title 5, United States Code, the Secretary may employ as a law enforcement officer under section 4 any individual under the age of 47, if the individual meets all other applicable hiring requirements for the applicable law enforcement position.'';

(2) in paragraph (3), by striking ''Agencies'' and inserting ''agencies''; and

(3) by adding at the end the following:

''(4) BACKGROUND CHECKS FOR TRIBAL JUSTICE OFFICIALS.—

''(A) IN GENERAL.—The Office of Justice Services shall develop standards and deadlines for the provision of background checks to tribal law enforcement and corrections officials.

''(B) TIMING.—If a request for a background check is made by an Indian tribe that has contracted or entered into a compact for law enforcement or corrections services with the Bureau of Indian Affairs pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Office of Justice Services shall complete the check not later than 60 days after the date of receipt of the request, unless an adequate reason for failure to respond by that date is provided to the Indian tribe in writing.''.

(b) SPECIAL LAW ENFORCEMENT COMMISSIONS.—Section 5 of the Indian Law Enforcement Reform Act (25 U.S.C. 2804) is amended—

(1) by striking ''(a) The Secretary may enter into an agreement'' and inserting the following:

''(a) AGREEMENTS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Tribal Law and Order Act of 2010, the Secretary shall establish procedures to enter into memoranda of agreement'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(2) CERTAIN ACTIVITIES.—The Secretary''; and

(3) by adding at the end the following:

''(3) PROGRAM ENHANCEMENT.—

''(A) TRAINING SESSIONS IN INDIAN COUNTRY.—

''(i) IN GENERAL.—The procedures described in paragraph (1) shall include the development of a plan to enhance the certification and provision of special law enforcement commissions to tribal law enforcement officials, and, subject to subsection (d), State and local law enforcement officials, pursuant to this section.

''(ii) INCLUSIONS.—The plan under clause (i) shall include the hosting of regional training sessions in Indian country, not less frequently than biannually, to educate and certify candidates for the special law enforcement commissions.

''(B) MEMORANDA OF AGREEMENT.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of the Tribal Law and Order Act of 2010, the Secretary, in consultation with Indian tribes and tribal law enforcement agencies, shall develop minimum requirements to be included in special law enforcement commission agreements pursuant to this section.

''(ii) SUBSTANCE OF AGREEMENTS.—Each agreement entered into pursuant to this section shall reflect the status of the applicable certified individual as a Federal law enforcement officer under subsection (f), acting within the scope of the duties described in section 3(c).

''(iii) AGREEMENT.—Not later than 60 days after the date on which the Secretary determines that all applicable requirements under clause (i) are met, the Secretary shall offer to enter into a special law enforcement commission agreement with the Indian tribe.''.

(c) INDIAN LAW ENFORCEMENT FOUNDATION.—The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following:

**''TITLE VII—INDIAN LAW ENFORCEMENT FOUNDATION**

**''SEC. 701. DEFINITIONS.**

''In this title:

''(1) BOARD.—The term 'Board' means the Board of Directors of the Foundation.

''(2) BUREAU.—The term 'Bureau' means the Office of Justice Services of the Bureau of Indian Affairs.

''(3) COMMITTEE.—The term 'Committee' means the Committee for the Establishment of the Indian Law Enforcement Foundation established under section 702(e)(1).

''(4) FOUNDATION.—The term 'Foundation' means the Indian Law Enforcement Foundation established under section 702.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.

**''SEC. 702. INDIAN LAW ENFORCEMENT FOUNDATION.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this title, a foundation, to be known as the 'Indian Law Enforcement Foundation'.

''(2) FUNDING DETERMINATIONS.—No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

''(A) be taken into consideration for purposes of determining Federal appropriations relating to the provision of public safety or justice services to Indians; or

''(B) otherwise limit, diminish, or affect the Federal responsibility for the provision of public safety or justice services to Indians.

''(b) NATURE OF CORPORATION.—The Foundation—

''(1) shall be a charitable and nonprofit federally chartered corporation; and

''(2) shall not be an agency or instrumentality of the United States.

''(c) PLACE OF INCORPORATION AND DOMICILE.—The Foundation shall be incorporated and domiciled in the District of Columbia.

''(d) DUTIES.—The Foundation shall—

''(1) encourage, accept, and administer, in accordance with the terms of each donation, private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, public safety and justice services in American Indian and Alaska Native communities; and

''(2) assist the Office of Justice Services of the Bureau of Indian Affairs and Indian tribal governments in funding and conducting activities and providing education to advance and support the provision of public safety and justice services in American Indian and Alaska Native communities.

''(e) COMMITTEE FOR THE ESTABLISHMENT OF THE INDIAN LAW ENFORCEMENT FOUNDATION.—

''(1) IN GENERAL.—The Secretary shall establish a committee, to be known as the 'Committee for the Establishment of the Indian Law Enforcement Foundation', to assist the Secretary in establishing the Foundation.

''(2) DUTIES.—Not later than 180 days after the date of enactment of this section, the Committee shall—

''(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

''(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the date on which the Board is established;

''(C) establish the constitution and initial bylaws of the Foundation;

''(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

''(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

''(f) BOARD OF DIRECTORS.—

''(1) IN GENERAL.—The Board of Directors shall be the governing body of the Foundation.

''(2) POWERS.—The Board may exercise, or provide for the exercise of, the powers of the Foundation.

''(3) SELECTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

''(B) REQUIREMENTS.—

''(i) NUMBER OF MEMBERS.—The Board shall be composed of not less than 7 members.

''(ii) INITIAL VOTING MEMBERS.—The initial voting members of the Board—

''(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

''(II) shall serve for staggered terms.

''(iii) QUALIFICATION.—The members of the Board shall be United States citizens with knowledge or experience regarding public safety and justice in Indian and Alaska Native communities.

''(C) COMPENSATION.—A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

''(g) OFFICERS.—

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a Secretary, elected from among the members of the Board; and

''(B) any other officers provided for in the constitution and bylaws of the Foundation.

''(2) CHIEF OPERATING OFFICER.—

''(A) SECRETARY.—Subject to subparagraph (B), the Secretary of the Foundation may serve, at the direction of the Board, as the chief operating officer of the Foundation.

''(B) APPOINTMENT.—The Board may appoint a chief operating officer in lieu of the Secretary of the Foundation under subparagraph (A), who shall serve at the direction of the Board.

''(3) ELECTION.—The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

''(h) POWERS.—The Foundation—

''(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

''(2) may adopt and alter a corporate seal;

''(3) may enter into contracts;

''(4) may acquire (through gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;

''(5) may sue and be sued; and

''(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

''(i) PRINCIPAL OFFICE.—

''(1) IN GENERAL.—The principal office of the Foundation shall be located in the District of Columbia.

''(2) ACTIVITIES; OFFICES.—The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

''(j) SERVICE OF PROCESS.—The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

''(k) LIABILITY OF OFFICERS, EMPLOYEES, AND AGENTS.—

''(1) IN GENERAL.—The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of the authority of the officers, employees, and agents.

''(2) PERSONAL LIABILITY.—A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

''(l) RESTRICTIONS.—

''(1) LIMITATION ON SPENDING.—Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed the percentage described in paragraph (2) of the sum of—

''(A) the amounts transferred to the Foundation under subsection (n) during the preceding fiscal year; and

''(B) donations received from private sources during the preceding fiscal year.

''(2) PERCENTAGES.—The percentages referred to in paragraph (1) are—

''(A) for the first 2 fiscal years described in that paragraph, 25 percent;

''(B) for the following fiscal year, 20 percent; and

''(C) for each fiscal year thereafter, 15 percent.

''(3) APPOINTMENT AND HIRING.—The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

''(4) STATUS.—A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be considered to be an officer, employee, or agent of the United States.

''(m) AUDITS.—The Foundation shall comply with section 10101 of title 36, United

States Code, as if the Foundation were a corporation under part B of subtitle II of that title.

''(n) FUNDING.—For each of fiscal years 2011 through 2015, out of any unobligated amounts available to the Secretary, the Secretary may use to carry out this section not more than $500,000.

**''SEC. 703. ADMINISTRATIVE SERVICES AND SUPPORT.**

''(a) PROVISION OF SUPPORT BY SECRETARY.—Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

''(1) may provide personnel, facilities, and other administrative support services to the Foundation;

''(2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and

''(3) shall require and accept reimbursements from the Foundation for—

''(A) services provided under paragraph (1); and

''(B) funds provided under paragraph (2).

''(b) REIMBURSEMENT.—Reimbursements accepted under subsection (a)(3)—

''(1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and

''(2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

''(c) CONTINUATION OF CERTAIN SERVICES.—The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services are—

''(1) available; and

''(2) provided on reimbursable cost basis.''.

(d) TECHNICAL AMENDMENTS.—The Indian Self-Determination and Education Assistance Act is amended—

(1) by redesignating title V (25 U.S.C. 458bbb et seq.) as title VIII and moving the title so as to appear at the end of the Act;

(2) by redesignating sections 501, 502, and 503 (25 U.S.C. 458bbb, 458bbb–1, 458bbb–2) as sections 801, 802, and 803, respectively; and

(3) in subsection (a)(2) of section 802 and paragraph (2) of section 803 (as redesignated by paragraph (2)), by striking ''section 501'' and inserting ''section 801''.

(e) ACCEPTANCE AND ASSISTANCE.—Section 5 of the Indian Law Enforcement Reform Act (25 U.S.C. 2804) is amended by adding at the end the following:

''(g) ACCEPTANCE OF ASSISTANCE.—The Bureau may accept reimbursement, resources, assistance, or funding from—

''(1) a Federal, tribal, State, or other government agency; or

''(2) the Indian Law Enforcement Foundation established under section 701(a) of the Indian Self-Determination and Education Assistance Act.''.

**SEC. 302. DRUG ENFORCEMENT IN INDIAN COUNTRY.**

(a) EDUCATION AND RESEARCH PROGRAMS.—Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended in subsections (a)(1) and (c), by inserting '' tribal,'' after ''State,'' each place it appears.

(b) PUBLIC-PRIVATE EDUCATION PROGRAM.—Section 503 of the Comprehensive Methamphetamine Control Act of 1996 (21 U.S.C. 872a) is amended—

(1) in subsection (a), by inserting ''tribal,'' after ''State,''; and

(2) in subsection (b)(2), by inserting '', tribal,'' after ''State''.

(c) COOPERATIVE ARRANGEMENTS.—Section 503 of the Controlled Substances Act (21 U.S.C. 873) is amended—

(1) in subsection (a)—

(A) by inserting ''tribal,'' after ''State,'' each place it appears; and

(B) in paragraphs (6) and (7), by inserting '', tribal,'' after ''State'' each place it appears; and

(2) in subsection (d)(1), by inserting '', tribal,'' after ''State''.

(d) POWERS OF ENFORCEMENT PERSONNEL.—Section 508(a) of the Controlled Substances Act (21 U.S.C. 878(a)) is amended in the matter preceding paragraph (1) by inserting '', tribal,'' after ''State''.

(e) EFFECT OF GRANTS.—Nothing in this section or any amendment made by this section—

(1) allows the grant to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or

(2) has any effect other than to authorize, award, or deny a grant of funds to a federally recognized Indian tribe for the purposes described in the relevant grant program.

**SEC. 303. ACCESS TO NATIONAL CRIMINAL INFORMATION DATABASES.**

(a) ACCESS TO NATIONAL CRIMINAL INFORMATION DATABASES.—Section 534 of title 28, United States Code, is amended—

(1) in subsection (a)(4), by inserting ''Indian tribes,'' after ''the States,'';

(2) by striking subsection (d) and inserting the following:

''(d) INDIAN LAW ENFORCEMENT AGENCIES.—The Attorney General shall permit tribal and Bureau of Indian Affairs law enforcement agencies—

''(1) to access and enter information into Federal criminal information databases; and

''(2) to obtain information from the databases.'';

(3) by redesignating the second subsection (e) as subsection (f); and

(4) in paragraph (2) of subsection (f) (as redesignated by paragraph (3)), in the matter preceding subparagraph (A), by inserting '', tribal,'' after ''Federal''.

(b) REQUIREMENT.—

(1) IN GENERAL.—The Attorney General shall ensure that tribal law enforcement officials that meet applicable Federal or State requirements be permitted access to national crime information databases.

(2) SANCTIONS.—For purpose of sanctions for noncompliance with requirements of, or misuse of, national crime information databases and information obtained from those databases, a tribal law enforcement agency or official shall be treated as Federal law enforcement agency or official.

(3) NCIC.—Each tribal justice official serving an Indian tribe with criminal jurisdiction over Indian country shall be considered to be an authorized law enforcement official for purposes of access to the National Crime Information Center of the Federal Bureau of Investigation.

**SEC. 304. TRIBAL COURT SENTENCING AUTHORITY.**

(a) INDIVIDUAL RIGHTS.—Section 202 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1302), is amended—

(1) in the matter preceding paragraph (1), by striking ''No Indian tribe'' and inserting the following:

''(a) IN GENERAL.—No Indian tribe'';

(2) in subsection (a) (as designated by paragraph (1))—

(A) in paragraph (6) by inserting ''(except as provided in subsection (b)) after ''assistance of counsel for his defense''; and

(B) by striking paragraph (7) and inserting the following:

''(7)(A) require excessive bail, impose excessive fines, or inflict cruel and unusual punishments;

''(B) except as provided in subparagraph (C), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 1 year or a fine of $5,000, or both;

''(C) subject to subsection (b), impose for conviction of any 1 offense any penalty or punishment greater than imprisonment for a term of 3 years or a fine of $15,000, or both; or

''(D) impose on a person in a criminal proceeding a total penalty or punishment greater than imprisonment for a term of 9 years;''; and

(3) by adding at the end the following:

''(b) OFFENSES SUBJECT TO GREATER THAN 1-YEAR IMPRISONMENT OR A FINE GREATER THAN $5,000.—A tribal court may subject a defendant to a term of imprisonment greater than 1 year but not to exceed 3 years for any 1 offense, or a fine greater than $5,000 but not to exceed $15,000, or both, if the defendant is a person accused of a criminal offense who—

''(1) has been previously convicted of the same or a comparable offense by any jurisdiction in the United States; or

''(2) is being prosecuted for an offense comparable to an offense that would be punishable by more than 1 year of imprisonment if prosecuted by the United States or any of the States.

''(c) RIGHTS OF DEFENDANTS.—In a criminal proceeding in which an Indian tribe, in exercising powers of self-government, imposes a total term of imprisonment of more than 1 year on a defendant, the Indian tribe shall—

''(1) provide to the defendant the right to effective assistance of counsel at least equal to that guaranteed by the United States Constitution; and

''(2) at the expense of the tribal government, provide an indigent defendant the assistance of a defense attorney licensed to practice law by any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys;

''(3) require that the judge presiding over the criminal proceeding—

''(A) has sufficient legal training to preside over criminal proceedings; and

''(B) is licensed to practice law by any jurisdiction in the United States;

''(4) prior to charging the defendant, make publicly available the criminal laws (including regulations and interpretative documents), rules of evidence, and rules of criminal procedure (including rules governing the recusal of judges in appropriate circumstances) of the tribal government; and

''(5) maintain a record of the criminal proceeding, including an audio or other recording of the trial proceeding.

''(d) SENTENCES.—In the case of a defendant sentenced in accordance with subsections (b) and (c), a tribal court may require the defendant—

''(1) to serve the sentence—

''(A) in a tribal correctional center that has been approved by the Bureau of Indian Affairs for long-term incarceration, in accordance with guidelines to be developed by the Bureau of Indian Affairs (in consultation with Indian tribes) not later than 180 days after the date of enactment of the Tribal Law and Order Act of 2010;

''(B) in the nearest appropriate Federal facility, at the expense of the United States pursuant to the Bureau of Prisons tribal prisoner pilot program described in section 304(c) of the Tribal Law and Order Act of 2010;

''(C) in a State or local government-approved detention or correctional center pursuant to an agreement between the Indian tribe and the State or local government; or

''(D) in an alternative rehabilitation center of an Indian tribe; or

''(2) to serve another alternative form of punishment, as determined by the tribal court judge pursuant to tribal law.

''(e) DEFINITION OF OFFENSE.—In this section, the term 'offense' means a violation of a criminal law.

''(f) EFFECT OF SECTION.—Nothing in this section affects the obligation of the United States, or any State government that has been delegated authority by the United States, to investigate and prosecute any criminal violation in Indian country.''.

(b) REPORT.—Not later than 4 years after the date of enactment of this Act, the Attorney General, in coordination with the Secretary of the Interior, shall submit a report to the appropriate committees of Congress that includes—

(1) a description of the effectiveness of enhanced tribal court sentencing authority in curtailing violence and improving the administration of justice on Indian lands; and

(2) a recommendation of whether enhanced sentencing authority should be discontinued, enhanced, or maintained at the level authorized under this division.

(c) BUREAU OF PRISONS TRIBAL PRISONER PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this division, the Director of the Bureau of Prisons shall establish a pilot program under which the Bureau of Prisons shall accept offenders convicted in tribal court pursuant to section 202 of the Indian Civil Rights Act of 1968 (25 U.S.C. 1302) (as amended by this section), subject to the conditions described in paragraph (2).

(2) CONDITIONS.—

(A) IN GENERAL.—As a condition of participation in the pilot program described in paragraph (1), the tribal court shall submit to the Attorney General a request for confinement of the offender, for approval by the Attorney General (or a designee) by not later than 30 days after the date of submission.

(B) LIMITATIONS.—Requests for confinement shall be limited to offenders convicted of a violent crime (comparable to the violent crimes described in section 1153(a) of title 18, United States Code) for which the sentence includes a term of imprisonment of 2 or more years.

(C) CUSTODY CONDITIONS.—The imprisonment by the Bureau of Prisons shall be subject to the conditions described in section 5003 of title 18, United States Code, regarding the custody of State offenders, except that the offender shall be placed in the nearest available and appropriate Federal facility, and imprisoned at the expense of the United States.

(D) CAP.—The Bureau of Prisons shall confine not more than 100 tribal offenders at any time.

(3) RESCINDING REQUESTS.—

(A) IN GENERAL.—The applicable tribal government shall retain the authority to rescind the request for confinement of a tribal offender by the Bureau of Prisons under this paragraph at any time during the sentence of the offender.

(B) RETURN TO TRIBAL CUSTODY.—On rescission of a request under subparagraph (A), a tribal offender shall be returned to tribal custody.

(4) REASSESSMENT.—If tribal court demand for participation in this pilot program exceeds 100 tribal offenders, a representative of the Bureau of Prisons shall notify Congress.

(5) REPORT.—Not later than 3 years after the date of establishment of the pilot program, the Attorney General shall submit to Congress a report describing the status of the program, including recommendations regarding the future of the program, if any.

(6) TERMINATION.—Except as otherwise provided by an Act of Congress, the pilot program under this paragraph shall expire on the date that is 4 years after the date on which the program is established.

(d) GRANTS AND CONTRACTS.—Section 1007(b) of the Economic Opportunity Act of 1964 (42 U.S.C. 2996f(b)) is amended by striking paragraph (2) and inserting the following:

''(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with an offense in an Indian tribal court;''.

**SEC. 305. INDIAN LAW AND ORDER COMMISSION.**

The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) (as amended by section 104(b)) is amended by adding at the end the following:

**''SEC. 15. INDIAN LAW AND ORDER COMMISSION.**

''(a) ESTABLISHMENT.—There is established a commission to be known as the Indian Law and Order Commission (referred to in this section as the 'Commission').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Commission shall be composed of 9 members, of whom—

''(A) 3 shall be appointed by the President, in consultation with—

''(i) the Attorney General; and

''(ii) the Secretary;

''(B) 2 shall be appointed by the Majority Leader of the Senate, in consultation with the Chairpersons of the Committees on Indian Affairs and the Judiciary of the Senate;

''(C) 1 shall be appointed by the Minority Leader of the Senate, in consultation with the Vice Chairperson and Ranking Member of the Committees on Indian Affairs and the Judiciary of the Senate;

''(D) 2 shall be appointed by the Speaker of the House of Representatives, in consultation with the Chairpersons of the Committees on the Judiciary and Natural Resources of the House of Representatives; and

''(E) 1 shall be appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Members of the Committees on the Judiciary and Natural Resources of the House of Representatives.

''(2) REQUIREMENTS FOR ELIGIBILITY.—Each member of the Commission shall have significant experience and expertise in—

''(A) the Indian country criminal justice system; and

''(B) matters to be studied by the Commission.

''(3) CONSULTATION REQUIRED.—The President, the Speaker and Minority Leader of the House of Representatives, and the Majority Leader and Minority Leader of the Senate shall consult before the appointment of members of the Commission under paragraph (1) to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

''(4) TERM.—Each member shall be appointed for the life of the Commission.

''(5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the members of the Commission shall be made not later than 60 days after the date of enactment of this Act.

''(6) VACANCIES.—A vacancy in the Commission shall be filled—

''(A) in the same manner in which the original appointment was made; and

''(B) not later than 60 days after the date on which the vacancy occurred.

''(c) OPERATION.—

''(1) CHAIRPERSON.—Not later than 15 days after the date on which all members of the Commission have been appointed, the Commission shall select 1 member to serve as Chairperson of the Commission.

''(2) MEETINGS.—

''(A) IN GENERAL.—The Commission shall meet at the call of the Chairperson.

''(B) INITIAL MEETING.—The initial meeting shall take place not later than 30 days after the date described in paragraph (1).

''(3) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

''(4) RULES.—The Commission may establish, by majority vote, any rules for the conduct of Commission business, in accordance with this Act and other applicable law.

''(d) COMPREHENSIVE STUDY OF CRIMINAL JUSTICE SYSTEM RELATING TO INDIAN COUNTRY.—The Commission shall conduct a comprehensive study of law enforcement and criminal justice in tribal communities, including—

''(1) jurisdiction over crimes committed in Indian country and the impact of that jurisdiction on—

''(A) the investigation and prosecution of Indian country crimes; and

''(B) residents of Indian land;

''(2) the tribal jail and Federal prisons systems and the effect of those systems with respect to—

''(A) reducing Indian country crime; and

''(B) rehabilitation of offenders;

''(3)(A) tribal juvenile justice systems and the Federal juvenile justice system as relating to Indian country; and

''(B) the effect of those systems and related programs in preventing juvenile crime, rehabilitating Indian youth in custody, and reducing recidivism among Indian youth;

''(4) the impact of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) on—

''(A) the authority of Indian tribes;

''(B) the rights of defendants subject to tribal government authority; and

''(C) the fairness and effectiveness of tribal criminal systems; and

''(5) studies of such other subjects as the Commission determines relevant to achieve the purposes of the Tribal Law and Order Act of 2010.

''(e) RECOMMENDATIONS.—Taking into consideration the results of the study under paragraph (1), the Commission shall develop recommendations on necessary modifications and improvements to justice systems at the tribal, Federal, and State levels, including consideration of—

''(1) simplifying jurisdiction in Indian country;

''(2) improving services and programs—

''(A) to prevent juvenile crime on Indian land;

''(B) to rehabilitate Indian youth in custody; and

''(C) to reduce recidivism among Indian youth;

''(3) adjustments to the penal authority of tribal courts and exploring alternatives to incarceration;

''(4) the enhanced use of chapter 43 of title 28, United States Code (commonly known as 'the Federal Magistrates Act') in Indian country;

''(5) effective means of protecting the rights of victims and defendants in tribal criminal justice systems (including defendants incarcerated for a period of less than 1 year);

''(6) changes to the tribal jails and Federal prison systems; and

''(7) other issues that, as determined by the Commission, would reduce violent crime in Indian country.

''(f) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the President and Congress a report that contains—

''(1) a detailed statement of the findings and conclusions of the Commission; and

''(2) the recommendations of the Commission for such legislative and administrative

actions as the Commission considers to be appropriate.

''(g) POWERS.—

''(1) HEARINGS.—

''(A) IN GENERAL.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers to be advisable to carry out the duties of the Commission under this section.

''(B) PUBLIC REQUIREMENT.—The hearings of the Commission under this paragraph shall be open to the public.

''(2) WITNESS EXPENSES.—

''(A) IN GENERAL.—A witness requested to appear before the Commission shall be paid the same fees and allowances as are paid to witnesses under section 1821 of title 28, United States Code.

''(B) PER DIEM AND MILEAGE.—The fees and allowances for a witness shall be paid from funds made available to the Commission.

''(3) INFORMATION FROM FEDERAL, TRIBAL, AND STATE AGENCIES.—

''(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers to be necessary to carry out this section.

''(B) TRIBAL AND STATE AGENCIES.—The Commission may request the head of any tribal or State agency to provide to the Commission such information as the Commission considers to be necessary to carry out this section.

''(4) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

''(5) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

''(h) COMMISSION PERSONNEL MATTERS.—

''(1) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

''(2) DETAIL OF FEDERAL EMPLOYEES.—On the affirmative vote of ⅔ of the members of the Commission and the approval of the appropriate Federal agency head, an employee of the Federal Government may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status, benefits, or privileges.

''(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—On request of the Commission, the Attorney General shall provide to the Commission, on a reimbursable basis, reasonable and appropriate office space, supplies, and administrative assistance.

''(i) CONTRACTS FOR RESEARCH.—

''(1) RESEARCHERS AND EXPERTS.—

''(A) IN GENERAL.—On an affirmative vote of ⅔ of the members of the Commission, the Commission may select nongovernmental researchers and experts to assist the Commission in carrying out the duties of the Commission under this section.

''(B) NATIONAL INSTITUTE OF JUSTICE.—The National Institute of Justice may enter into a contract with the researchers and experts selected by the Commission under subparagraph (A) to provide funding in exchange for the services of the researchers and experts.

''(2) OTHER ORGANIZATIONS.—Nothing in this subsection limits the ability of the Commission to enter into contracts with any other entity or organization to carry out research necessary to carry out the duties of the Commission under this section.

''(j) TRIBAL ADVISORY COMMITTEE.—

''(1) ESTABLISHMENT.—The Commission shall establish a committee, to be known as the 'Tribal Advisory Committee'.

''(2) MEMBERSHIP.—

''(A) COMPOSITION.—The Tribal Advisory Committee shall consist of 2 representatives of Indian tribes from each region of the Bureau of Indian Affairs.

''(B) QUALIFICATIONS.—Each member of the Tribal Advisory Committee shall have experience relating to—

''(i) justice systems;

''(ii) crime prevention; or

''(iii) victim services.

''(3) DUTIES.—The Tribal Advisory Committee shall—

''(A) serve as an advisory body to the Commission; and

''(B) provide to the Commission advice and recommendations, submit materials, documents, testimony, and such other information as the Commission determines to be necessary to carry out the duties of the Commission under this section.

''(k) FUNDING.—For the fiscal year after the date of enactment of the Tribal Law and Order Act of 2010, out of any unobligated amounts available to the Secretary of the Interior or the Attorney General, the Secretary or the Attorney General may use to carry out this section not more than $2,000,000.

''(l) TERMINATION OF COMMISSION.—The Commission shall terminate 90 days after the date on which the Commission submits the report of the Commission under subsection (f).

''(m) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.''.

**SEC. 306. EXEMPTION FOR TRIBAL DISPLAY MATERIALS.**

(a) IN GENERAL.—Section 845(a) of title 18, United States Code is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''and''; and

(3) by adding at the end the following:

''(7) the transportation, shipment, receipt, or importation of display fireworks materials for delivery to a federally recognized Indian tribe or tribal agency.''.

(b) DEFINITION OF INDIAN TRIBE.—Section 841 of title 18, United States Code is amended by adding at the end the following:

''(t) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a)).''.

(c) TECHNICAL AMENDMENTS.—Section 845 of title 18, United States Code is amended—

(1) in subsection (a), by striking ''subsections'' in the first place it appears and inserting ''subsection''; and

(2) in subsection (b), by striking ''Secretary'' each place it appears and inserting ''Attorney General''.

## TITLE IV—TRIBAL JUSTICE SYSTEMS

**SEC. 401. INDIAN ALCOHOL AND SUBSTANCE ABUSE.**

(a) CORRECTION OF REFERENCES.—

(1) INTER-DEPARTMENTAL MEMORANDUM OF AGREEMENT.—Section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) is amended—

(A) in subsection (a)—

(i) in the matter preceding paragraph (1)—

(I) by striking ''Not later than 120 days after the date of enactment of this subtitle'' and inserting ''Not later than 1 year after the date of enactment of the Tribal Law and Order Act of 2010''; and

(II) by inserting '', the Attorney General,'' after ''Secretary of the Interior'';

(ii) in paragraph (2)(A), by inserting '', Office of Justice Programs, Substance Abuse and Mental Health Services Administration,'' after ''Bureau of Indian Affairs,'';

(iii) in paragraph (4), by inserting '', Department of Justice, Substance Abuse and Mental Health Services Administration,'' after ''Bureau of Indian Affairs'';

(iv) in paragraph (5), by inserting '', Department of Justice, Substance Abuse and Mental Health Services Administration,'' after ''Bureau of Indian Affairs'';

(v) in paragraph (7), by inserting '', the Attorney General,'' after ''Secretary of the Interior'';

(B) in subsection (c), by inserting '', the Attorney General,'' after ''Secretary of the Interior''; and

(C) in subsection (d), by striking ''the date of enactment of this subtitle'' and inserting ''the date of enactment of the Tribal Law and Order Act of 2010''.

(2) TRIBAL ACTION PLANS.—Section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2412) is amended—

(A) in subsection (b), in the first sentence, by inserting '', the Office of Justice Programs, the Substance Abuse and Mental Health Services Administration,'' before ''and the Indian Health Service service unit'';

(B) in subsection (c)(1)(A)(i), by inserting '', the Office of Justice Programs, the Substance Abuse and Mental Health Services Administration,'' before ''and the Indian Health Service service unit'';

(C) in subsection (d)(2), by striking ''fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''the period of fiscal years 2011 through 2015'';

(D) in subsection (e), in the first sentence, by inserting '', the Attorney General,'' after ''the Secretary of the Interior''; and

(E) in subsection (f)(3), by striking ''fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000'' and inserting ''fiscal years 2011 through 2015''.

(3) DEPARTMENTAL RESPONSIBILITY.—Section 4207 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2413) is amended—

(A) in subsection (a), by inserting '', the Attorney General'' after ''Bureau of Indian Affairs'';

(B) in subsection (b)—

(i) by striking paragraph (1) and inserting the following:

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—To improve coordination among the Federal agencies and departments carrying out this subtitle, there is established within the Substance Abuse and Mental Health Services Administration an office, to be known as the 'Office of Indian Alcohol and Substance Abuse' (referred to in this section as the 'Office').

''(B) DIRECTOR.—The director of the Office shall be appointed by the Administrator of the Substance Abuse and Mental Health Services Administration—

''(i) on a permanent basis; and

''(ii) at a grade of not less than GS–15 of the General Schedule.'';

(ii) in paragraph (2)—

(I) by striking ''(2) In addition'' and inserting the following:

''(2) RESPONSIBILITIES OF OFFICE.—In addition'';

(II) by striking subparagraph (A) and inserting the following:

''(A) coordinating with other agencies to monitor the performance and compliance of the relevant Federal programs in achieving the goals and purposes of this subtitle and the Memorandum of Agreement entered into under section 4205;'';

(III) in subparagraph (B)—

(aa) by striking ''within the Bureau of Indian Affairs''; and

(bb) by striking the period at the end and inserting ''; and''; and

(IV) by adding at the end the following:

''(C) not later than 1 year after the date of enactment of the Tribal Law and Order Act of 2010, developing, in coordination and consultation with tribal governments, a framework for interagency and tribal coordination that—

''(i) establish the goals and other desired outcomes of this Act;

''(ii) prioritizes outcomes that are aligned with the purposes of affected agencies;

''(iii) provides guidelines for resource and information sharing;

''(iv) provides technical assistance to the affected agencies to establish effective and permanent interagency communication and coordination; and

''(v) determines whether collaboration is feasible, cost-effective, and within agency capability.''; and

(iii) by striking paragraph (3) and inserting the following:

''(3) APPOINTMENT OF EMPLOYEES.—The Administrator of the Substance Abuse and Mental Health Services Administration shall appoint such employees to work in the Office, and shall provide such funding, services, and equipment, as may be necessary to enable the Office to carry out the responsibilities under this subsection.''; and

(C) in subsection (c)—

(i) by striking ''of Alcohol and Substance Abuse'' each place it appears;

(ii) in paragraph (1), in the second sentence, by striking ''The Assistant Secretary of the Interior for Indian Affairs'' and inserting ''The Administrator of the Substance Abuse and Mental Health Services Administration''; and

(iii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by striking ''Youth'' and inserting ''youth''; and

(II) by striking ''programs of the Bureau of Indian Affairs'' and inserting ''the applicable Federal programs''.

(4) REVIEW OF PROGRAMS.—Section 4208a(a) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2414a(a)) is amended in the matter preceding paragraph (1) by inserting '', the Attorney General,'' after ''the Secretary of the Interior''.

(5) FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT.—Section 4209 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2415) is amended—

(A) in subsection (a), by inserting '', the Attorney General,'' after ''the Secretary of the Interior'';

(B) in subsection (b)—

(i) in the first sentence, by inserting '', the Attorney General,'' after ''the Secretary of the Interior'';

(ii) in the second sentence, by inserting '', nor the Attorney General,'' after ''the Secretary of the Interior''; and

(iii) in the third sentence, by inserting '', the Department of Justice,'' after ''the Department of the Interior''; and

(C) in subsection (c)(1), by inserting '', the Attorney General,'' after ''the Secretary of the Interior''.

(6) REVIEW.—Section 4211(a) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2431(a)) is amended in the matter preceding paragraph (1) by inserting '', the Attorney General,'' after ''the Secretary of the Interior''.

(b) INDIAN EDUCATION PROGRAMS.—Section 4212 of the Indian Alcohol and Substance Abuse Prevention Act of 1986 (25 U.S.C. 2432) is amended by striking subsection (a) and inserting the following:

''(a) SUMMER YOUTH PROGRAMS.—

''(1) IN GENERAL.—The head of the Indian Alcohol and Substance Abuse Program, in coordination with the Assistant Secretary for Indian Affairs, shall develop and implement programs in tribal schools and schools funded by the Bureau of Indian Education (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in advancing the purposes and goals of this Act.

''(2) COSTS.—The head of the Indian Alcohol and Substance Abuse Program and the Assistant Secretary shall defray all costs associated with the actual operation and support of the summer youth programs in a school from funds appropriated to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the programs under this subsection $5,000,000 for each of fiscal years 2011 through 2015.''.

(c) EMERGENCY SHELTERS.—Section 4213(e) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433(e)) is amended—

(1) in paragraph (1), by striking ''fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.'' and inserting ''each of fiscal years 2011 through 2015.'';

(2) in paragraph (2), by striking ''each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.'' and inserting ''each of fiscal years 2011 through 2015.''; and

(3) by indenting paragraphs (4) and (5) appropriately.

(d) REVIEW OF PROGRAMS.—Section 4215(a) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2441(a)) is amended by inserting '', the Attorney General,'' after ''the Secretary of the Interior''.

(e) ILLEGAL NARCOTICS TRAFFICKING; SOURCE ERADICATION.—Section 4216 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2442) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking the comma at the end and inserting a semicolon;

(ii) in subparagraph (B), by striking '', and'' at the end and inserting a semicolon;

(iii) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(D) the Blackfeet Nation of Montana for the investigation and control of illegal narcotics traffic on the Blackfeet Indian Reservation along the border with Canada.'';

(B) in paragraph (2), by striking ''United States Custom Service'' and inserting ''United States Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, and the Drug Enforcement Administration''; and

(C) by striking paragraph (3) and inserting the following:

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for each of fiscal years 2011 through 2015.''; and

(2) in subsection (b)(2), by striking ''for the fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000'' and ''for each of fiscal years 2011 through 2015.''.

(f) LAW ENFORCEMENT AND JUDICIAL TRAINING.—Section 4218 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2451) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) TRAINING PROGRAMS.—

''(1) IN GENERAL.—The Secretary of the Interior, in coordination with the Attorney General, the Administrator of the Drug Enforcement Administration, and the Director of the Federal Bureau of Investigation, shall ensure, through the establishment of a new training program or by supplementing existing training programs, that all Bureau of Indian Affairs and tribal law enforcement and judicial personnel have access to training regarding—

''(A) the investigation and prosecution of offenses relating to illegal narcotics; and

''(B) alcohol and substance abuse prevention and treatment.

''(2) YOUTH-RELATED TRAINING.—Any training provided to Bureau of Indian Affairs or tribal law enforcement or judicial personnel under paragraph (1) shall include training in issues relating to youth alcohol and substance abuse prevention and treatment.''; and

(2) in subsection (b), by striking ''as may be necessary'' and all that follows through the end of the subsection and inserting ''as are necessary for each of fiscal years 2011 through 2015.''.

(g) JUVENILE DETENTION CENTERS.—Section 4220 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2453) is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary'' the first place it appears and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(B) in the second sentence, by striking ''The Secretary shall'' and inserting the following:

''(2) CONSTRUCTION AND OPERATION.—The Secretary shall''; and

(C) by adding at the end the following:

''(3) DEVELOPMENT OF PLAN.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary and the Attorney General, in consultation with tribal leaders and tribal justice officials, shall develop a long-term plan for the construction, renovation, and operation of Indian juvenile detention and treatment centers and alternatives to detention for juvenile offenders.

''(B) COORDINATION.—The plan under subparagraph (A) shall require the Bureau of Indian Education and the Indian Health Service to coordinate with tribal and Bureau of Indian Affairs juvenile detention centers to provide services to those centers.''; and

(2) in paragraphs (1) and (2) of subsection (b)—

(A) by striking ''for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000'' each place it appears and inserting ''for each of fiscal years 2011 through 2015''; and

(B) by indenting paragraph (2) appropriately.

**SEC. 402. INDIAN TRIBAL JUSTICE; TECHNICAL AND LEGAL ASSISTANCE.**

(a) INDIAN TRIBAL JUSTICE.—

(1) BASE SUPPORT FUNDING.—Section 103(b) of the Indian Tribal Justice Act (25 U.S.C. 3613(b)) is amended by striking paragraph (2) and inserting the following:

''(2) the employment of tribal court personnel, including tribal court judges, prosecutors, public defenders, appointed defense counsel, guardians ad litem, and court-appointed special advocates for children and juveniles;''.

(2) TRIBAL JUSTICE SYSTEMS.—Section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) is amended—

(A) in subsection (a)—

(i) by striking ''the provisions of sections 101 and 102 of this Act'' and inserting ''sections 101 and 102''; and

(ii) by striking ''the fiscal years 2000 through 2007'' and inserting ''fiscal years 2011 through 2015'';

(B) in subsection (b)—

(i) by striking ''the provisions of section 103 of this Act'' and inserting ''section 103''; and

(ii) by striking ''the fiscal years 2000 through 2007'' and inserting ''fiscal years 2011 through 2015'';

(C) in subsection (c), by striking ''the fiscal years 2000 through 2007'' and inserting ''fiscal years 2011 through 2015''; and

(D) in subsection (d), by striking ''the fiscal years 2000 through 2007'' and inserting ''fiscal years 2011 through 2015''.

(b) TECHNICAL AND LEGAL ASSISTANCE.—

(1) TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.—Section 102 of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3662) is amended by inserting ''(including guardians ad litem and court-appointed special advocates for children and juveniles)'' after ''civil legal assistance''.

(2) TRIBAL CRIMINAL LEGAL ASSISTANCE GRANTS.—Section 103 of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3663) is amended by striking ''criminal legal assistance to members of Indian tribes and tribal justice systems'' and inserting ''defense counsel services to all defendants in tribal court criminal proceedings and prosecution and judicial services for tribal courts''.

(3) FUNDING.—The Indian Tribal Justice Technical and Legal Assistance Act of 2000 is amended—

(A) in section 107 (as redesignated by section 104(a)(2)(A)), by striking ''2000 through 2004'' and inserting ''2011 through 2015''; and

(B) in section 201(d) (25 U.S.C. 3681(d)), by striking ''2000 through 2004'' and inserting ''2011 through 2015''.

**SEC. 403. TRIBAL RESOURCES GRANT PROGRAM.**

Section 1701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended—

(1) in subsection (b)—

(A) in each of paragraphs (1) through (4) and (6) through (17), by inserting ''to'' after the paragraph designation;

(B) in paragraph (1), by striking ''State and'' and inserting ''State, tribal, or'';

(C) in paragraphs (9) and (10), by inserting '', tribal,'' after ''State'' each place it appears;

(D) in paragraph (15)—

(i) by striking ''a State in'' and inserting ''a State or Indian tribe in'';

(ii) by striking ''the State which'' and inserting ''the State or tribal community that''; and

(iii) by striking ''a State or'' and inserting ''a State, tribal, or'';

(E) in paragraph (16), by striking ''and'' at the end

(F) in paragraph (17), by striking the period at the end and inserting ''; and'';

(G) by redesignating paragraphs (6) through (17) as paragraphs (5) through (16), respectively; and

(H) by adding at the end the following:

''(17) to permit tribal governments receiving direct law enforcement services from the Bureau of Indian Affairs to access the program under this section for use in accordance with paragraphs (1) through (16).''.

(2) in subsection (i), by striking ''The authority'' and inserting ''Except as provided in subsection (j), the authority''; and

(3) by adding at the end the following:

''(j) GRANTS TO INDIAN TRIBES.—

''(1) IN GENERAL.—Notwithstanding subsection (i) and section 1703, and in acknowledgment of the Federal nexus and distinct Federal responsibility to address and prevent crime in Indian country, the Attorney General shall provide grants under this section to Indian tribal governments, for fiscal year 2011 and any fiscal year thereafter, for such period as the Attorney General determines to be appropriate to assist the Indian tribal governments in carrying out the purposes described in subsection (b).

''(2) PRIORITY OF FUNDING.—In providing grants to Indian tribal governments under this subsection, the Attorney General shall take into consideration reservation crime rates and tribal law enforcement staffing needs of each Indian tribal government.

''(3) FEDERAL SHARE.—Because of the Federal nature and responsibility for providing public safety on Indian land, the Federal share of the cost of any activity carried out using a grant under this subsection—

''(A) shall be 100 percent; and

''(B) may be used to cover indirect costs.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $40,000,000 for each of fiscal years 2011 through 2015.

''(k) REPORT.—Not later than 180 days after the date of enactment of this subsection, the Attorney General shall submit to Congress a report describing the extent and effectiveness of the Community Oriented Policing (COPS) initiative as applied in Indian country, including particular references to—

''(1) the problem of intermittent funding;

''(2) the integration of COPS personnel with existing law enforcement authorities; and

''(3) an explanation of how the practice of community policing and the broken windows theory can most effectively be applied in remote tribal locations.''.

**SEC. 404. TRIBAL JAILS PROGRAM.**

(a) IN GENERAL.—Section 20109 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709) is amended by striking subsection (a) and inserting the following:

''(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this part, of amounts made available to the Attorney General to carry out programs relating to offender incarceration, the Attorney General shall reserve $35,000,000 for each of fiscal years 2011 through 2015 to carry out this section.''.

(b) REGIONAL DETENTION CENTERS.—

(1) IN GENERAL.—Section 20109 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709) is amended by striking subsection (b) and inserting the following:

''(b) GRANTS TO INDIAN TRIBES.—

''(1) IN GENERAL.—From the amounts reserved under subsection (a), the Attorney General shall provide grants—

''(A) to Indian tribes for purposes of—

''(i) construction and maintenance of jails on Indian land for the incarceration of offenders subject to tribal jurisdiction;

''(ii) entering into contracts with private entities to increase the efficiency of the construction of tribal jails; and

''(iii) developing and implementing alternatives to incarceration in tribal jails;

''(B) to Indian tribes for the construction of tribal justice centers that combine tribal police, courts, and corrections services to address violations of tribal civil and criminal laws;

''(C) to consortia of Indian tribes for purposes of constructing and operating regional detention centers on Indian land for long-term incarceration of offenders subject to tribal jurisdiction, as the applicable consortium determines to be appropriate.

''(2) PRIORITY OF FUNDING.—in providing grants under this subsection, the Attorney General shall take into consideration applicable—

''(A) reservation crime rates;

''(B) annual tribal court convictions; and

''(C) bed space needs.

''(3) FEDERAL SHARE.—Because of the Federal nature and responsibility for providing public safety on Indian land, the Federal share of the cost of any activity carried out using a grant under this subsection shall be 100 percent.''.

(2) CONFORMING AMENDMENT.—Section 20109(c) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709(c)) is amended by inserting ''or consortium of Indian tribes, as applicable,'' after ''Indian tribe''.

(3) LONG-TERM PLAN.—Section 20109 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13709) is amended by adding at the end the following:

''(d) LONG-TERM PLAN.—Not later than 1 year after the date of enactment of this subsection, the Attorney General, in coordination with the Bureau of Indian Affairs and in consultation with tribal leaders, tribal law enforcement officers, and tribal corrections officials, shall submit to Congress a long-term plan to address incarceration in Indian country, including—

''(1) a description of proposed activities for—

''(A) construction, operation, and maintenance of juvenile (in accordance with section 4220(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2453(a)(3)) and adult detention facilities (including regional facilities) in Indian country;

''(B) contracting with State and local detention centers, on approval of the affected tribal governments; and

''(C) alternatives to incarceration, developed in cooperation with tribal court systems;

''(2) an assessment and consideration of the construction of Federal detention facilities in Indian country; and

''(3) any other alternatives as the Attorney General, in coordination with the Bureau of Indian Affairs and in consultation with Indian tribes, determines to be necessary.''.

**SEC. 405. TRIBAL PROBATION OFFICE LIAISON PROGRAM.**

Title II of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3681 et seq.) is amended by adding at the end the following:

**''SEC. 203. ASSISTANT PROBATION OFFICERS.**

''To the maximum extent practicable, the chief judge or chief probation or pretrial services officer of each judicial district, in coordination with the Office of Tribal Justice and the Office of Justice Services, shall—

''(1) appoint individuals residing in Indian country to serve as probation or pretrial services officers or assistants for purposes of monitoring and providing services to Federal prisoners residing in Indian country; and

''(2) provide substance abuse, mental health, and other related treatment services to offenders residing on Indian land.''.

**SEC. 406. TRIBAL YOUTH PROGRAM.**

(a) INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.—Section 504 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5783) is amended—

(1) in subsection (a), by inserting '', or to federally recognized Indian tribe or consortia of federally recognized Indian tribes under subsection (d)'' after ''subsection (b)''; and

(2) by adding at the end the following:

''(d) GRANTS FOR TRIBAL DELINQUENCY PREVENTION AND RESPONSE PROGRAMS.—

''(1) IN GENERAL.—The Administrator shall make grants under this section, on a competitive basis, to eligible Indian tribes or

consortia of Indian tribes, as described in paragraph (2)—

''(A) to support and enhance—

''(i) tribal juvenile delinquency prevention services; and

''(ii) the ability of Indian tribes to respond to, and care for, juvenile offenders; and

''(B) to encourage accountability of Indian tribal governments with respect to preventing juvenile delinquency and responding to, and caring for, juvenile offenders.

''(2) ELIGIBLE INDIAN TRIBES.—To be eligible to receive a grant under this subsection, an Indian tribe or consortium of Indian tribes shall submit to the Administrator an application in such form and containing such information as the Administrator may require.

''(3) CONSIDERATIONS.—In providing grants under this subsection, the Administrator shall take into consideration, with respect to the Indian tribe to be served, the—

''(A) juvenile crime rates;

''(B) dropout rates; and

''(C) number of at-risk youth.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $25,000,000 for each of fiscal years 2011 through 2015.''.

(b) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206(a)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(2)) is amended—

(1) in subparagraph (A), by striking ''Nine'' and inserting ''Ten''; and

(2) in subparagraph (B), by adding at the end the following:

''(iv) One member shall be appointed by the Chairman of the Committee on Indian Affairs of the Senate, in consultation with the Vice Chairman of that Committee and the Chairman and Ranking Member of the Committee on Natural Resources of the House of Representatives.''.

**SEC. 407. IMPROVING PUBLIC SAFETY PRESENCE IN RURAL ALASKA.**

(a) DEFINITIONS.—In this section:

(1) STATE.—

(A) IN GENERAL.—The term ''State'' means the State of Alaska.

(B) INCLUSION.—The term ''State'' includes any political subdivision of the State of Alaska.

(2) VILLAGE PUBLIC SAFETY OFFICER.—The term ''village public safety officer'' means an individual employed as a village public safety officer under the program established by the State pursuant to Alaska Statute 18.65.670.

(3) TRIBAL ORGANIZATION.—The term ''tribal organization'' has the meaning given that term in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450b(l)).

(b) COPS GRANTS.—The State and any Indian tribe or tribal organization in the State that employs a village public safety officer shall be eligible to apply for a grant under section 1701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) (provided that only an Indian tribe or tribal organization may receive a grant under the tribal resources grant program under subsection (j) of that section) on an equal basis with other eligible applicants for funding under that section.

(c) STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE GRANTS.—The State and any Indian tribe or tribal organization in the State that employs a village public safety officer shall be eligible to apply for a grant under the Staffing for Adequate Fire and Emergency Response program under section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a) on an equal basis with other eligible applicants for funding under that program.

(d) TRAINING FOR VILLAGE PUBLIC SAFETY OFFICERS AND TRIBAL LAW ENFORCEMENT POSITIONS FUNDED UNDER COPS PROGRAM.—

(1) IN GENERAL.—Any village public safety officer or tribal law enforcement officer in the State shall be eligible to participate in any training program offered at the Indian Police Academy of the Federal Law Enforcement Training Center.

(2) FUNDING.—Funding received pursuant to grants approved under section 1701 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) may be used for training of officers at programs described in paragraph (1) or at a police academy in the State certified by the Alaska Police Standards Council.

(e) FUNDS FOR COURTS OF LAW ENFORCEMENT OFFICERS.—Section 112(a) of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 62) is amended—

(1) by striking paragraph (1);

(2) by redesignating subparagraphs (A) and (B) of paragraph (2) as paragraphs (1) and (2), respectively, and indenting appropriately; and

(3) by redesignating clauses (i) through (iv) of paragraph (2) (as so redesignated) as subparagraphs (A) through (D), respectively, and indenting appropriately.

## TITLE V—INDIAN COUNTRY CRIME DATA COLLECTION AND INFORMATION SHARING

**SEC. 501. TRACKING OF CRIMES COMMITTED IN INDIAN COUNTRY.**

(a) GANG VIOLENCE.—Section 1107 of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (28 U.S.C. 534 note; Public Law 109–162) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (8) through (12) as paragraphs (9) through (13), respectively;

(B) by inserting after paragraph (7) the following:

''(8) the Office of Justice Services of the Bureau of Indian Affairs;'';

(C) in paragraph (9) (as redesignated by subparagraph (A)), by striking ''State'' and inserting ''tribal, State,''; and

(D) in paragraphs (10) through (12) (as redesignated by subparagraph (A)), by inserting ''tribal,'' before ''State,'' each place it appears; and

(2) in subsection (b), by inserting ''tribal,'' before ''State,'' each place it appears.

(b) BUREAU OF JUSTICE STATISTICS.—Section 302 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (c)—

(A) in each of paragraphs (3) through (6), by inserting ''tribal,'' after ''State,'' each place it appears;

(B) in paragraph (7), by inserting ''and in Indian country'' after ''States'';

(C) in paragraph (9), by striking ''Federal and State Governments'' and inserting ''Federal Government and State and tribal governments'';

(D) in each of paragraphs (10) and (11), by inserting '', tribal,'' after ''State'' each place it appears;

(E) in paragraph (13), by inserting '', Indian tribes,'' after ''States'';

(F) in paragraph (17)—

(i) by striking ''State and local'' and inserting ''State, tribal, and local''; and

(ii) by striking ''State, and local'' and inserting ''State, tribal, and local'';

(G) in paragraph (18), by striking ''State and local'' and inserting ''State, tribal, and local'';

(H) in paragraph (19), by inserting ''and tribal'' after ''State'' each place it appears;

(I) in paragraph (20), by inserting '', tribal,'' after ''State''; and

(J) in paragraph (22), by inserting '', tribal,'' after ''Federal'';

(2) in subsection (d)—

(A) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively, and indenting the subparagraphs appropriately;

(B) by striking ''To insure'' and inserting the following:

''(1) IN GENERAL.—To ensure''; and

(C) by adding at the end the following:

''(2) CONSULTATION WITH INDIAN TRIBES.—The Director, acting jointly with the Assistant Secretary for Indian Affairs (acting through the Office of Justice Services) and the Director of the Federal Bureau of Investigation, shall work with Indian tribes and tribal law enforcement agencies to establish and implement such tribal data collection systems as the Director determines to be necessary to achieve the purposes of this section.'';

(3) in subsection (e), by striking ''subsection (d)(3)'' and inserting ''subsection (d)(1)(C)'';

(4) in subsection (f)—

(A) in the subsection heading, by inserting '', Tribal,'' after ''State''; and

(B) by inserting '', tribal,'' after ''State''; and

(5) by adding at the end the following:

''(g) REPORTS.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Director shall submit to Congress a report describing the data collected and analyzed under this section relating to crimes in Indian country.''.

(c) EFFECT OF GRANTS.—Nothing in this section or any amendment made by this section—

(1) allows the grant to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or

(2) has any effect other than to authorize, award, or deny a grant of funds to a federally recognized Indian tribe for the purposes described in the relevant grant program.

**SEC. 502. CRIMINAL HISTORY RECORD IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—Section 1301(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796h(a)) is amended by inserting '', tribal,'' after ''State''.

(b) EFFECT OF GRANTS.—Nothing in this section or any amendment made by this section—

(1) allows the grant to be made to, or used by, an entity for law enforcement activities that the entity lacks jurisdiction to perform; or

(2) has any effect other than to authorize, award, or deny a grant of funds to a federally recognized Indian tribe for the purposes described in the relevant grant program.

## TITLE VI—DOMESTIC VIOLENCE AND SEXUAL ASSAULT PROSECUTION AND PREVENTION

**SEC. 601. PRISONER RELEASE AND REENTRY.**

(a) DUTIES OF BUREAU OF PRISONS.—Section 4042 of title 18, United States Code, is amended—

(1) in subsection (a)(4), by inserting '', tribal,'' after ''State'';

(2) in subsection (b)(1), in the first sentence, by striking ''officer of the State and of the local jurisdiction'' and inserting ''officers of each State, tribal, and local jurisdiction''; and

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''officer of the State and of the local jurisdiction'' and inserting ''officer of each State, tribal, and local jurisdiction''; and

(B) in subparagraph (B), by inserting '', tribal,'' after ''State'' each place it appears.

(b) AUTHORITY OF INSTITUTE; TIME; RECORDS OF RECIPIENTS; ACCESS; SCOPE OF

SECTION.—Section 4352(a) of title 18, United States Code, is amended—

(1) in paragraphs (1), (3), (4), and (8), by inserting ''tribal,'' after ''State,'' each place it appears;

(2) in paragraph (6)—

(A) by inserting ''and tribal communities,'' after ''States''; and

(B) by inserting '', tribal,'' after ''State''; and

(3) in paragraph (12) by inserting '', tribal,'' after ''State''.

**SEC. 602. DOMESTIC AND SEXUAL VIOLENCE OFFENSE TRAINING.**

Section 3(c)(9) of the Indian Law Enforcement Reform Act (25 U.S.C. 2802(c)(9)) (as amended by section 101(a)(2)) is amended by inserting before the semicolon at the end the following: '', including training to properly interview victims of domestic and sexual violence and to collect, preserve, and present evidence to Federal and tribal prosecutors to increase the conviction rate for domestic and sexual violence offenses for purposes of addressing and preventing domestic and sexual violent offenses''.

**SEC. 603. TESTIMONY BY FEDERAL EMPLOYEES.**

The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) (as amended by section 305) is amended by adding at the end the following:

**''SEC. 16. TESTIMONY BY FEDERAL EMPLOYEES.**

''(a) APPROVAL OF EMPLOYEE TESTIMONY OR DOCUMENTS.—

''(1) IN GENERAL.—The Director of the Office of Justice Services or the Director of the Indian Health Service, as appropriate (referred to in this section as the 'Director concerned'), shall approve or disapprove, in writing, any request or subpoena from a tribal or State court for a law enforcement officer, sexual assault nurse examiner, or other employee under the supervision of the Director concerned to provide documents or testimony in a deposition, trial, or other similar criminal proceeding regarding information obtained in carrying out the official duties of the employee.

''(2) DEADLINE.—The court issuing a subpoena under paragraph (1) shall provide to the appropriate Federal employee (or agency in the case of a document request) notice regarding the request to provide testimony (or release a document) by not less than 30 days before the date on which the testimony will be provided.

''(b) APPROVAL.—

''(1) IN GENERAL.—The Director concerned shall approve a request or subpoena under subsection (a) if the request or subpoena does not violate the policy of the Department to maintain impartiality.

''(2) FAILURE TO APPROVE.—If the Director concerned fails to approve or disapprove a request or subpoena for testimony or release of a document by the date that is 30 days after the date of receipt of notice of the request or subpoena, the request or subpoena shall be considered to be approved for purposes of this section.''.

**SEC. 604. COORDINATION OF FEDERAL AGENCIES.**

Any report of the Secretary of Health and Human Services to Congress on the development of Indian victim services and victim advocate training programs shall include any recommendations that the Secretary determines to be necessary to prevent the sex trafficking of Indian women.

**SEC. 605. SEXUAL ASSAULT PROTOCOL.**

The Indian Law Enforcement Reform Act (25 U.S.C. 2801 et seq.) (as amended by section 603) is amended by adding at the end the following:

**''SEC. 17. POLICIES AND PROTOCOL.**

''The Director of the Indian Health Service, in coordination with the Director of the Office of Justice Services and the Director of the Office on Violence Against Women of the Department of Justice, in consultation with Indian Tribes and Tribal Organizations, and in conference with Urban Indian Organizations, shall develop standardized sexual assault policies and protocol for the facilities of the Service, based on similar protocol that has been established by the Department of Justice.''.

**SEC. 606. STUDY OF IHS SEXUAL ASSAULT AND DOMESTIC VIOLENCE RESPONSE CAPABILITIES.**

(a) STUDY.—The Comptroller General of the United States shall—

(1) conduct a study of the capability of Indian Health Service facilities in remote Indian reservations and Alaska Native villages, including facilities operated pursuant to contracts or compacts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), to collect, maintain, and secure evidence of sexual assaults and domestic violence incidents required for criminal prosecution; and

(2) develop recommendations for improving those capabilities.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Indian Affairs of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the results of the study under subsection (a), including the recommendations developed under that subsection, if any.

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**SA 4392.** Mr. DURBIN (for Mr. CARPER) proposed an amendment to the bill S. 1508, to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Improper Payments Elimination and Recovery Act of 2010''.

**SEC. 2. IMPROPER PAYMENTS ELIMINATION AND RECOVERY.**

(a) SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (a) and inserting the following:

''(a) IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.—

''(1) IN GENERAL.—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, periodically review all programs and activities that the relevant agency head administers and identify all programs and activities that may be susceptible to significant improper payments.

''(2) FREQUENCY.—Reviews under paragraph (1) shall be performed for each program and activity that the relevant agency head administers during the year after which the Improper Payments Elimination and Recovery Act of 2010 is enacted and at least once every 3 fiscal years thereafter. For those agencies already performing a risk assessment every 3 years, agencies may apply to the Director of the Office of Management and Budget for a waiver from the requirement of the preceding sentence and continue their 3-year risk assessment cycle.

''(3) RISK ASSESSMENTS.—

''(A) DEFINITION.—In this subsection the term 'significant' means—

''(i) except as provided under clause (ii), that improper payments in the program or activity in the preceding fiscal year may have exceeded—

''(I) $10,000,000 of all program or activity payments made during that fiscal year reported and 2.5 percent of program outlays; or

''(II) $100,000,000; and

''(ii) with respect to fiscal years following September 30th of a fiscal year beginning before fiscal year 2013 as determined by the Office of Management and Budget, that improper payments in the program or activity in the preceding fiscal year may have exceeded—

''(I) $10,000,000 of all program or activity payments made during that fiscal year reported and 1.5 percent of program outlays; or

''(II) $100,000,000.

''(B) SCOPE.—In conducting the reviews under paragraph (1), the head of each agency shall take into account those risk factors that are likely to contribute to a susceptibility to significant improper payments, such as—

''(i) whether the program or activity reviewed is new to the agency;

''(ii) the complexity of the program or activity reviewed;

''(iii) the volume of payments made through the program or activity reviewed;

''(iv) whether payments or payment eligibility decisions are made outside of the agency, such as by a State or local government;

''(v) recent major changes in program funding, authorities, practices, or procedures;

''(vi) the level, experience, and quality of training for personnel responsible for making program eligibility determinations or certifying that payments are accurate; and

''(vii) significant deficiencies in the audit report of the agency or other relevant management findings that might hinder accurate payment certification.''.

(b) ESTIMATION OF IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (b) and inserting the following:

''(b) ESTIMATION OF IMPROPER PAYMENTS.—With respect to each program and activity identified under subsection (a), the head of the relevant agency shall—

''(1) produce a statistically valid estimate, or an estimate that is otherwise appropriate using a methodology approved by the Director of the Office of Management and Budget, of the improper payments made by each program and activity; and

''(2) include those estimates in the accompanying materials to the annual financial statement of the agency required under section 3515 of title 31, United States Code, or similar provision of law and applicable guidance of the Office of Management and Budget.''.

(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (c) and inserting the following:

''(c) REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.—With respect to any program or activity of an agency with estimated improper payments under subsection (b), the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce improper payments, including—

''(1) a description of the causes of the improper payments, actions planned or taken to correct those causes, and the planned or actual completion date of the actions taken to address those causes;

''(2) in order to reduce improper payments to a level below which further expenditures to reduce improper payments would cost more than the amount such expenditures would save in prevented or recovered improper payments, a statement of whether the agency has what is needed with respect to—

''(A) internal controls;

''(B) human capital; and

''(C) information systems and other infrastructure;

''(3) if the agency does not have sufficient resources to establish and maintain effective internal controls under paragraph (2)(A), a description of the resources the agency has requested in its budget submission to establish and maintain such internal controls;

''(4) program-specific and activity-specific improper payments reduction targets that have been approved by the Director of the Office of Management and Budget; and

''(5) a description of the steps the agency has taken to ensure that agency managers, programs, and, where appropriate, States and localities are held accountable through annual performance appraisal criteria for—

''(A) meeting applicable improper payments reduction targets; and

''(B) establishing and maintaining sufficient internal controls, including an appropriate control environment, that effectively—

''(i) prevent improper payments from being made; and

''(ii) promptly detect and recover improper payments that are made.''.

(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (d) and (f) as subsections (f) and (g), respectively; and

(3) by inserting after subsection (c) the following:

''(d) REPORTS ON ACTIONS TO RECOVER IMPROPER PAYMENTS.—With respect to any improper payments identified in recovery audits conducted under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note), the head of the agency shall provide with the estimate under subsection (b) a report on all actions the agency is taking to recover improper payments, including—

''(1) a discussion of the methods used by the agency to recover overpayments;

''(2) the amounts recovered, outstanding, and determined to not be collectable, including the percent such amounts represent of the total overpayments of the agency;

''(3) if a determination has been made that certain overpayments are not collectable, a justification of that determination;

''(4) an aging schedule of the amounts outstanding;

''(5) a summary of how recovered amounts have been disposed of;

''(6) a discussion of any conditions giving rise to improper payments and how those conditions are being resolved; and

''(7) if the agency has determined under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note) that performing recovery audits for any applicable program or activity is not cost-effective, a justification for that determination.

''(e) GOVERNMENTWIDE REPORTING OF IMPROPER PAYMENTS AND ACTIONS TO RECOVER IMPROPER PAYMENTS.—

''(1) REPORT.—Each fiscal year the Director of the Office of Management and Budget shall submit a report with respect to the preceding fiscal year on actions agencies have taken to report information regarding improper payments and actions to recover improper overpayments to—

''(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(B) the Committee on Oversight and Government Reform of the House of Representatives.

''(2) CONTENTS.—Each report under this subsection shall include—

''(A) a summary of the reports of each agency on improper payments and recovery actions submitted under this section;

''(B) an identification of the compliance status of each agency to which this Act applies;

''(C) governmentwide improper payment reduction targets; and

''(D) a discussion of progress made towards meeting governmentwide improper payment reduction targets.''.

(e) DEFINITIONS.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsections (f) (as redesignated by this section) and inserting the following:

''(f) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means an executive agency, as that term is defined in section 102 of title 31, United States Code.

''(2) IMPROPER PAYMENT.—The term 'improper payment'—

''(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

''(B) includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts.

''(3) PAYMENT.—The term 'payment' means any transfer or commitment for future transfer of Federal funds such as cash, securities, loans, loan guarantees, and insurance subsidies to any non-Federal person or entity, that is made by a Federal agency, a Federal contractor, a Federal grantee, or a governmental or other organization administering a Federal program or activity.

''(4) PAYMENT FOR AN INELIGIBLE GOOD OR SERVICE.—The term 'payment for an ineligible good or service' shall include a payment for any good or service that is rejected under any provision of any contract, grant, lease, cooperative agreement, or any other funding mechanism.''.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Section 2 of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) is amended by striking subsection (g) (as redesignated by this section) and inserting the following:

''(g) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of the Improper Payments Elimination and Recovery Act of 2010, the Director of the Office of Management and Budget shall prescribe guidance for agencies to implement the requirements of this section. The guidance shall not include any exemptions to such requirements not specifically authorized by this section.

''(2) CONTENTS.—The guidance under paragraph (1) shall prescribe—

''(A) the form of the reports on actions to reduce improper payments, recovery actions, and governmentwide reporting; and

''(B) strategies for addressing risks and establishing appropriate prepayment and postpayment internal controls.''.

(g) DETERMINATIONS OF AGENCY READINESS FOR OPINION ON INTERNAL CONTROL.—Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget shall develop—

(1) specific criteria as to when an agency should initially be required to obtain an opinion on internal control over improper payments; and

(2) criteria for an agency that has demonstrated a stabilized, effective system of internal control over improper payments, whereby the agency would qualify for a multiyear cycle for obtaining an audit opinion on internal control over improper payments, rather than an annual cycle.

(h) RECOVERY AUDITS.—

(1) DEFINITION.—In this subsection, the term ''agency'' has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) as redesignated by this Act.

(2) IN GENERAL.—

(A) CONDUCT OF AUDITS.—Except as provided under paragraph (4) and if not prohibited under any other provision of law, the head of each agency shall conduct recovery audits with respect to each program and activity of the agency that expends $1,000,000 or more annually if conducting such audits would be cost-effective.

(B) PROCEDURES.—In conducting recovery audits under this subsection, the head of an agency—

(i) shall give priority to the most recent payments and to payments made in any program or programs identified as susceptible to significant improper payments under section 2(a) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note);

(ii) shall implement this subsection in a manner designed to ensure the greatest financial benefit to the Government; and

(iii) may conduct recovery audits directly, by using other departments and agencies of the United States, or by procuring performance of recovery audits by private sector sources by contract (subject to the availability of appropriations), or by any combination thereof.

(C) RECOVERY AUDIT CONTRACTS.—With respect to recovery audits procured by an agency by contract—

(i) subject to subparagraph (B)(iii), and except to the extent such actions are outside the agency's authority, as defined by section 605(a) of the Contract Disputes Act of 1978 (41 U.S.C. 605(a)), the head of the agency may authorize the contractor to notify entities (including persons) of potential overpayments made to such entities, respond to questions concerning potential overpayments, and take other administrative actions with respect to overpayment claims made or to be made by the agency; and

(ii) such contractor shall have no authority to make final determinations relating to whether any overpayment occurred and whether to compromise, settle, or terminate overpayment claims.

(D) CONTRACT TERMS AND CONDITIONS.—

(i) IN GENERAL.—The agency shall include in each contract for procurement of performance of a recovery audit a requirement that the contractor shall—

(I) provide to the agency periodic reports on conditions giving rise to overpayments identified by the contractor and any recommendations on how to mitigate such conditions;

(II) notify the agency of any overpayments identified by the contractor pertaining to the agency or to any other agency or agencies that are beyond the scope of the contract; and

(III) report to the agency credible evidence of fraud or vulnerabilities to fraud, and conduct appropriate training of personnel of the contractor on identification of fraud.

(ii) REPORTS ON ACTIONS TAKEN .—Not later than November 1 of each year, each agency shall submit a report on actions taken by the agency during the preceding fiscal year to address the recommendations described under clause (i)(I) to—

(I) the Office of Management and Budget; and

(II) Congress.

(E) AGENCY ACTION FOLLOWING NOTIFICATION.—An agency shall take prompt and appropriate action in response to a report or notification by a contractor under subparagraph (D)(i)(I) or (II), to collect overpayments and shall forward to other agencies any information that applies to such agencies.

(3) DISPOSITION OF AMOUNTS RECOVERED.—

(A) IN GENERAL.—Amounts collected by agencies each fiscal year through recovery audits conducted under this subsection shall be treated in accordance with this paragraph. The agency head shall determine the distribution of collected amounts, less amounts needed to fulfill the purposes of section 3562(a) of title 31, United States Code, in accordance with subparagraphs (B), (C), and (D).

(B) USE FOR FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—Not more than 25 percent of the amounts collected by an agency through recovery audits—

(i) shall be available to the head of the agency to carry out the financial management improvement program of the agency under paragraph (4);

(ii) may be credited, if applicable, for that purpose by the head of an agency to any agency appropriations and funds that are available for obligation at the time of collection; and

(iii) shall be used to supplement and not supplant any other amounts available for that purpose and shall remain available until expended.

(C) USE FOR ORIGINAL PURPOSE.—Not more than 25 percent of the amounts collected by an agency—

(i) shall be credited to the appropriation or fund, if any, available for obligation at the time of collection for the same general purposes as the appropriation or fund from which the overpayment was made;

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited; and

(iii) if the appropriation from which the overpayment was made has expired, shall be newly available for the same time period as the funds were originally available for obligation, except that any amounts that are recovered more than five fiscal years from the last fiscal year in which the funds were available for obligation shall be deposited in the Treasury as miscellaneous receipts, except that in the case of recoveries of overpayments that are made from trust or special fund accounts, such amounts shall revert to those accounts.

(D) USE FOR INSPECTOR GENERAL ACTIVITIES.—Not more than 5 percent of the amounts collected by an agency shall be available to the Inspector General of that agency—

(i) for—

(I) the Inspector General to carry out this Act; or

(II) any other activities of the Inspector General relating to investigating improper payments or auditing internal controls associated with payments; and

(ii) shall remain available for the same period and purposes as the appropriation or fund to which credited.

(E) REMAINDER.—Amounts collected that are not applied in accordance with subparagraph (A), (B), (C), or (D) shall be deposited in the Treasury as miscellaneous receipts, except that in the case of recoveries of overpayments that are made from trust or special fund accounts, such amounts shall revert to those accounts.

(F) DISCRETIONARY AMOUNTS.—This paragraph shall apply only to recoveries of overpayments that are made from discretionary appropriations (as that term is defined by paragraph 7 of section 250 of the Balanced Budget and Emergency Deficit Control Act of 1985) and shall not apply to recoveries of overpayments that are made from discretionary amounts that were appropriated prior to enactment of this Act.

(G) APPLICATION.—This paragraph shall not apply to recoveries of overpayments if the appropriation from which the overpayment was made has not expired.

(4) FINANCIAL MANAGEMENT IMPROVEMENT PROGRAM.—

(A) REQUIREMENT.—The head of each agency shall conduct a financial management improvement program, consistent with rules prescribed by the Director of the Office of Management and Budget.

(B) PROGRAM FEATURES.—In conducting the program, the head of the agency—

(i) shall, as the first priority of the program, address problems that contribute directly to agency improper payments; and

(ii) may seek to reduce errors and waste in other agency programs and operations.

(5) PRIVACY PROTECTIONS.—Any nongovernmental entity that, in the course of recovery auditing or recovery activity under this subsection, obtains information that identifies an individual or with respect to which there is a reasonable basis to believe that the information can be used to identify an individual, may not disclose the information for any purpose other than such recovery auditing or recovery activity and governmental oversight of such activity, unless disclosure for that other purpose is authorized by the individual to the executive agency that contracted for the performance of the recovery auditing or recovery activity.

(6) OTHER RECOVERY AUDIT REQUIREMENTS.—

(A) IN GENERAL.—(i) Except as provided in clause (ii), subchapter VI of chapter 35 of title 31, United States Code, is repealed.

(ii) Section 3562(a) of title 31, United States Code, shall continue in effect, except that references in such section 3562(a) to programs carried out under section 3561 of such title, shall be interpreted to mean programs carried out under section 2(h) of this Act.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

(i) TABLE OF SECTIONS.—The table of sections for chapter 35 of title 31, United States Code, is amended by striking the matter relating to subchapter VI.

(ii) DEFINITION.—Section 3501 of title 31, United States Code, is amended by striking ''and subchapter VI of this title''.

(iii) HOMELAND SECURITY GRANTS.—Section 2022(a)(6) of the Homeland Security Act of 2002 (6 U.S.C. 612(a)(6)) is amended by striking ''(as that term is defined by the Director of the Office of Management and Budget under section 3561 of title 31, United States Code)'' and inserting ''under section 2(h) of the Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note)''.

(7) RULE OF CONSTRUCTION.—Except as provided under paragraph (5), nothing in this section shall be construed as terminating or in any way limiting authorities that are otherwise available to agencies under existing provisions of law to recover improper payments and use recovered amounts.

(i) REPORT ON RECOVERY AUDITING.—Not later than 2 years after the date of the enactment of this Act, the Chief Financial Officers Council established under section 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note), in consultation with the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409) and recovery audit experts, shall conduct a study of—

(1) the implementation of subsection (h);

(2) the costs and benefits of agency recovery audit activities, including—

(A) those activities under subsection (h); and

(B) the effectiveness of using the services of—

(i) private contractors;

(ii) agency employees;

(iii) cross-servicing from other agencies; or

(iv) any combination of the provision of services described under clauses (i) through (iii); and

(3) submit a report on the results of the study to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(C) the Comptroller General.

**SEC. 3. COMPLIANCE.**

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given under section 2(f) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) as redesignated by this Act.

(2) ANNUAL FINANCIAL STATEMENT.—The term ''annual financial statement'' means the annual financial statement required under section 3515 of title 31, United States Code, or similar provision of law.

(3) COMPLIANCE.—The term ''compliance'' means that the agency—

(A) has published an annual financial statement for the most recent fiscal year and posted that report and any accompanying materials required under guidance of the Office of Management and Budget on the agency website;

(B) if required, has conducted a program specific risk assessment for each program or activity that conforms with section 2(a) the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note); and

(C) if required, publishes improper payments estimates for all programs and activities identified under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in the accompanying materials to the annual financial statement;

(D) publishes programmatic corrective action plans prepared under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may have in the accompanying materials to the annual financial statement;

(E) publishes improper payments reduction targets established under section 2(c) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) that the agency may have in the accompanying materials to the annual financial statement for each program assessed to be at risk, and is meeting such targets; and

(F) has reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

(b) ANNUAL COMPLIANCE REPORT BY INSPECTORS GENERAL OF AGENCIES.—Each fiscal year, the Inspector General of each agency shall determine whether the agency is in compliance and submit a report on that determination to—

(1) the head of the agency;

(2) the Committee on Homeland Security and Governmental Affairs of the Senate;

(3) the Committee on Oversight and Governmental Reform of the House of Representatives; and

(4) the Comptroller General.

(c) REMEDIATION.—

(1) NONCOMPLIANCE.—

(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) in a fiscal year, the head of the agency shall submit a plan to Congress describing

the actions that the agency will take to come into compliance.

(B) PLAN.—The plan described under subparagraph (A) shall include—

(i) measurable milestones to be accomplished in order to achieve compliance for each program or activity;

(ii) the designation of a senior agency official who shall be accountable for the progress of the agency in coming into compliance for each program or activity; and

(iii) the establishment of an accountability mechanism, such as a performance agreement, with appropriate incentives and consequences tied to the success of the official designated under clause (ii) in leading the efforts of the agency to come into compliance for each program and activity.

(2) NONCOMPLIANCE FOR 2 FISCAL YEARS.—

(A) IN GENERAL.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for 2 consecutive fiscal years for the same program or activity, and the Director of the Office of Management and Budget determines that additional funding would help the agency come into compliance, the head of the agency shall obligate additional funding, in an amount determined by the Director, to intensified compliance efforts.

(B) FUNDING.—In providing additional funding described under subparagraph (A), the head of an agency shall use any reprogramming or transfer authority available to the agency. If after exercising that reprogramming or transfer authority additional funding is necessary to obligate the full level of funding determined by the Director of the Office of Management and Budget under subparagraph (A), the agency shall submit a request to Congress for additional reprogramming or transfer authority.

(3) REAUTHORIZATION AND STATUTORY PROPOSALS.—If an agency is determined by the Inspector General of that agency not to be in compliance under subsection (b) for more than 3 consecutive fiscal years for the same program or activity, the head of the agency shall, not later than 30 days after such determination, submit to Congress—

(A) reauthorization proposals for each program or activity that has not been in compliance for 3 or more consecutive fiscal years; or

(B) proposed statutory changes necessary to bring the program or activity into compliance.

(d) COMPLIANCE ENFORCEMENT PILOT PROGRAMS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget may establish 1 or more pilot programs which shall test potential accountability mechanisms with appropriate incentives and consequences tied to success in ensuring compliance with this Act and eliminating improper payments.

(2) REPORT.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit a report to Congress on the findings associated with any pilot programs conducted under paragraph (1). The report shall include any legislative or other recommendations that the Director determines necessary.

(e) REPORT ON CHIEF FINANCIAL OFFICERS ACT OF 1990.—Not later than 1 year after the date of the enactment of this Act, the Chief Financial Officers Council established under section 302 of the Chief Financial Officers Act of 1990 (31 U.S.C. 901 note) and the Council of Inspectors General on Integrity and Efficiency established under section 7 of the Inspector General Reform Act of 2009 (Public Law 110–409), in consultation with a broad cross-section of experts and stakeholders in Government accounting and financial management shall—

(1) jointly examine the lessons learned during the first 20 years of implementing the Chief Financial Officers Act of 1990 (31 U.S.C. 901) and identify reforms or improvements, if any, to the legislative and regulatory compliance framework for Federal financial management that will optimize Federal agency efforts to—

(A) publish relevant, timely, and reliable reports on Government finances; and

(B) implement internal controls that mitigate the risk for fraud, waste, and error in Government programs; and

(2) jointly submit a report on the results of the examination to—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on Oversight and Government Reform of the House of Representatives; and

(C) the Comptroller General.

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**SA 4393.** Mr. DURBIN (for Mr. CONRAD) proposed an amendment to the resolution S. Res. 541, designating June 27, 2010, as ''National Post-Traumatic Stress Disorder Awareness Day''; as follows:

Strike the preamble and insert the following:

Whereas the brave men and women of the United States Armed Forces, who proudly serve the United States, risk their lives to protect the freedom of the United States and deserve the investment of every reasonable resource to ensure their lasting physical, mental, and emotional well-being;

Whereas up to 15 percent of Operation Iraqi Freedom and Operation Enduring Freedom veterans, 10 percent of Operation Desert Storm veterans, 30 percent of Vietnam veterans, and 8 percent of the general population of the United States suffer or have suffered from Post Traumatic Stress Disorder (referred to in this preamble as ''PTSD'');

Whereas the incidence of PTSD in members of the military is rising as the United States Armed Forces conducts 2 wars, exposing hundreds of thousands of soldiers to traumatic life-threatening events;

Whereas from 2000 to 2009, approximately 76,000 Department of Defense patients were diagnosed with PTSD;

Whereas the Department of Defense patients—

(1) were hospitalized more than 5,300 times with a primary diagnosis of PTSD; and

(2) had more than 578,000 outpatient visits in which PTSD was the primary diagnosis;

Whereas PTSD significantly increases the risk of depression, suicide, and drug and alcohol related disorders and deaths;

Whereas the Departments of Defense and Veterans Affairs have made significant advances in the prevention, diagnosis, and treatment of PTSD and the symptoms of PTSD, but many challenges remain; and

Whereas the establishment of a National Post-Traumatic Stress Disorder Awareness Day will raise public awareness about issues related to PTSD: Now, therefore, be it

## NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, June 30, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building to conduct a business meeting on pending committee issues to be followed immediately by an oversight hearing entitled ''A Way Out of the diabetes Crisis in Indian Country and Beyond.''

Those wishing additional information may contact the Indian Affairs Committee at (202) 224–2251.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 23, 2010, at 2:30 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The U.S.-China Trade Relationship: Finding a New Path Forward.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 23, 2010, at 2:30 p.m., to conduct a hearing entitled ''Finding Common Ground with a Rising China.''

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

COMMITTEE ON THE JUDICIARY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on The Judiciary be authorized to meet during the session of the Senate on June 23, 2010, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Office of the Intellectual Property Enforcement Coordinator.''

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on June 23, 2010, at 10 a.m., to conduct a hearing entitled ''Examining the Filibuster: Silent Filibusters, Holds and the Senate Confirmation Process.''

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on June 23, 2010, at 2:30 p.m., to conduct a hearing entitled ''Having Their Say: Customer and Employee Views on the Future of the U.S. Postal Service.''

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Laura Cilek and Marshall Fisher of my staff be granted the privilege of the floor for the duration of the day's proceedings.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Kevin Wenderoth and Leah Paisner of my office be granted the privilege of the floor for today, June 23.

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

Mr. CARDIN. Mr. President, I ask unanimous consent that privileges of the floor be granted to Scott Glick, a Department of Justice detailee to the Judiciary Committee assigned to my staff, during today's session.

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

## ORDERS FOR THURSDAY, JUNE 24, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until 9:30 a.m. on Thursday, June 24; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each during that time, with the majority controlling the first 30 minutes and the Republicans controlling the final 30 minutes; and that following morning business, the Senate resume the House message to accompany H.R. 4213.

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

## PROGRAM

Mr. REID. Mr. President, I tell everyone that tomorrow we hope to reach an agreement to consider the Iran sanctions conference report. Senators should expect rollcall votes throughout the day.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 9:15 p.m., adjourned until Thursday, June 24, 2010, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate, Wednesday, June 23, 2010:

DEPARTMENT OF TRANSPORTATION

MICHAEL PETER HUERTA, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION.

ENVIRONMENTAL PROTECTION AGENCY

MALCOLM D. JACKSON, OF ILLINOIS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

DELTA REGIONAL AUTHORITY

CHRISTOPHER A. MASINGILL, OF ARKANSAS, TO BE FEDERAL COCHAIRPERSON, DELTA REGIONAL AUTHORITY.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

RAFAEL MOURE-ERASO, OF MASSACHUSETTS, TO BE CHAIRPERSON OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

MARK A. GRIFFON, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

RAFAEL MOURE-ERASO, OF MASSACHUSETTS, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.