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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

### PRAYER

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

Let us pray.

Eternal Spirit, today strengthen our Senators to do Your will on Earth, even as it is done in heaven. Give them the wisdom to put their trust in You, expecting You to shield them from danger and to lead them to a desired destination. May they find joy in obeying Your word.

Lord, let Your glorious Name be duly honored and loved by all who labor for liberty. Give us the humility to know that none of us has a monopoly on Your truth and that we all need one another to discover Your guidance together. You are the judge of all humanity. Look with favor upon us today and always.

We pray in Your Holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN 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 assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, June 8, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. SHAHEEN 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. Madam President, following leader remarks, the Senate will turn to the consideration of the House message to accompany H.R. 4213, the American Jobs and Closing Tax Loopholes Act. The Senate will recess from 12:30 p.m. to 2:15 p.m. for the weekly caucus luncheons. Rollcall votes are expected to occur throughout the day in relation to amendments to the tax extenders bill.

Chairman BAUCUS is here. As soon as the leader remarks are finished, he will lay down the amendment that is the substitute for the House message. I hope people will study this legislation and determine what, if any, amendments they wish to offer. We are going to have to work hard on this legislation. We will not be able to work late today because of some events that are taking place away from the Capitol tonight that involve both Democratic and Republican Senators.

On Thursday, we will deal with the Murkowski resolution. That is under a previous order that has been entered.

I hope that today and tomorrow, people will offer their amendments because we are going to have to wind this down as quickly as we can. I want to make sure people have the opportunity to offer amendments. It is pretty clear what is in it. There are relatively few

changes from what has been done in the House. The main change is the fact that we are adding to this money—I think most of us have received calls from our Governors—dealing with Medicare. That is a matter that is going to be laid down by the chairman of the Finance Committee.

### GULF OILSPILL

Mr. REID. Madam President, I had the good fortune of having been put on the Environment and Public Works Committee from the first day I came to the Senate. It has been a great experience to serve on that committee. I have served under Chairman Chafee, Chairman Moynihan, and Chairman BAUCUS. Some remember I gave up my chairmanship for Jim Jeffords from Vermont. The committee is terrific. I love the jurisdictional swing that committee has.

As a result of this background, I have watched the oilspill in the gulf very closely. But I say to everyone within the sound of my voice, you do not have to have longstanding experience on the Environment and Public Works Committee to understand how terrible this has been to the environment. We do not know the outcome of the degradation to our environment as a result of this tragedy, and that is what it is. The Coast Guard admiral who is in charge has indicated there is no longer a plume. There is oil going in different places. Remember, the oil well is a mile below the surface of the ocean. So there are tar balls, sheets of oil for hundreds and hundreds of miles. Sadly, the worst is probably yet to come.

The one thing we tend not to focus on very much is the loss of life. Of course, we see the dead animals, and that is tragic. It is so sad. A pelican is an animal. It is not on the endangered species list. We took it off that list in the last year or so. Now these animals are dying by the dozens every day.

What we do not focus on as a result of the negligence—gross negligence—

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



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perhaps criminal acts of BP is that 11 people are dead; 11 people were killed. That seems to be overshadowed a lot of times. Eleven people are dead. Brothers, fathers, and sons were killed on the night of that terrific explosion. I hope we do not, in spite of the horrible conditions that have been caused to our environment, lose track of the fact that this is a personal tragedy for lots of people. Eleven people were killed and many others were injured. The American people are going to have to not forget the personal tragedies of these people who were lost. I am sure they will not.

I thought it important this morning to remind everyone that this is certainly an environmental disaster. But for the persons involved as a result of the cutting of corners that BP did—it is not just me talking. We see it on TV shows and the evidence is coming in. I talked with one oil executive over the weekend, and he is flabbergasted. He is flabbergasted as to what had taken place. There was no redundancy. This company simply did not follow rules that are in place to prevent things like this from happening.

#### RECOGNITION OF THE MINORITY LEADER

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

#### HEALTH CARE

Mr. McCONNELL. Madam President, amid all the various crises Americans face at the moment, one of the most exasperating has to be the increasingly high cost of health care. The American people do not understand how an administration that devoted more than a year talking about health care could end up with a bill that actually raises the cost of care instead of lowering it.

Seniors are particularly upset about this legislation, and that is why the White House is staging an event today aimed at convincing them they are actually getting a good deal. But seniors are right to be skeptical. They were told this law would strengthen Medicare, when, in fact, it takes \$½ trillion out of Medicare to fund a new government program. They were also told that if they liked their plan, they could keep it. Yet now we hear that millions of seniors will lose their Medicare Advantage benefits they already have and like as a result of the Democratic health care bill.

The centerpiece of today's event is a \$250 rebate check the administration will pass out to the fraction—fraction—of seniors who qualify for it. I am sure anyone who gets these checks is happy to take that extra cash, especially in the current economy. What the administration, however, will not mention at today's event is that for every senior who gets a check, more than three other seniors will see an increase in their prescription drug insur-

ance premiums. In other words, behind every \$250 check is more than three seniors who will be paying more as a result of this bill. The reason for this is that the health care bill Democrats forced on Americans earlier this year requires higher government-mandated minimum standards for everyone. Those who opted for anything below that minimum will now see their premiums go up, and the number of seniors in this category far, far outnumber those getting a check. The administration can tout the check it is giving out to some seniors, but by failing to mention those seniors for whom it is causing rates to go up, it is hiding the whole truth.

That has been the story all along about this bill—a lot of promises that could not be kept. That is why the story now is not the bill itself but the administration's broken promises. Americans never wanted this bill. They never wanted it in the first place. And they are reminded every day why they opposed it.

Madam President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

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

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

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam 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.

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

Mr. BAUCUS. Madam President, I ask that the Chair lay before the Senate a message from the House with respect to H.R. 4213.

The Acting President pro tempore laid before the Senate the following message from the House of Representatives:

Resolved, That the House agrees to the amendment of the Senate to the bill (H.R. 4213) entitled "An Act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes," with the House amendment to the Senate amendment.

#### MOTION TO CONCUR WITH AMENDMENT NO. 4301

(Purpose: In the nature of a substitute)

Mr. BAUCUS. Madam President, I move to concur in the House amendment to the Senate amendment to the House bill with an amendment which I send to the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4301 to

the House amendment to the Senate amendment to H.R. 4213.

Mr. BAUCUS. Madam President, I ask unanimous consent that the reading of the amendment be waived.

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

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

Mr. BAUCUS. Madam President, a few moments ago, the Republican leader sought once again to throw mud at the new health care law that Congress enacted earlier this year. Let me take a moment to set the record straight.

The Republican leader said the premiums would go up for some Americans. What the Republican leader did not say is the nonpartisan Congressional Budget Office found that health care reform would lower premiums for the overwhelming majority of Americans. After taking into account the tax credits to help buy insurance, health insurance will cost less for 9 out of 10 Americans—no small amount.

The Republican leader mocked the new payments to seniors the President is highlighting today; that is, the \$250 for drug benefits. The President made the point that that is important for seniors. The truth is, seniors will welcome the help they will soon be receiving to pay for prescription drugs in their coverage gap, the so-called doughnut hole. Starting very soon seniors will receive \$250 to help pay for their prescriptions. By the time health care reform is fully phased in, we will have completely eliminated the doughnut hole. This is something seniors care about very much.

No longer will seniors have to choose between their rent and the prescriptions they need. No longer will seniors have to cut their pills in half just to get by. No longer will seniors live in unnecessary pain just because of drug costs. So the fact is, health care reform will help to control the costs in health care. Health care reform will reduce costs for the taxpayer over the decades to come. That is not my assertion, it is that of the Congressional Budget Office. Health care reform will increase access to lifesaving medical treatments for millions of Americans who all too often now must do without.

Madam President, on the matter before us today, 15 million Americans have lost their jobs during this great recession. Although the unemployment rate came down some last month, it remains near 10 percent. At the depth of the great recession, during the first months of last year, the economy lost an average of 750,000 jobs a month. That is practically the population of my State. We have come a long way since then. Even if we exclude temporary census jobs, in the first 5 months of this year the economy has created nearly half a million new jobs. But we still have a lot more to do. We have to get more Americans back to work.

We began doing just that with the Recovery Act. We enacted that as one

of the first things the new Congress did in February of last year. According to the nonpartisan Congressional Budget Office, the Recovery Act increased by between 1.2 million and 2.8 million the number of Americans employed.

We continued getting more Americans back to work with the Hiring Incentives Act that we enacted in March of this year. The HIRE Act should help to bolster job creation in coming months.

We are continuing again today with the American Jobs and Closing Tax Loopholes Act. This bill would create jobs by improving our Nation's infrastructure. It would reduce the cost to local governments to build roads, bridges, and water treatment facilities that would create jobs.

This bill would also extend provisions that expire at the end of May. These provisions would provide important relief for many Americans.

Americans who are out of work are depending on our job creation efforts. This bill extends the needed lifeline of unemployment benefits to more than 5 million Americans who would not be able to support themselves or their families without this help.

We are talking about people who have worked, want to work, and will work again. These are our neighbors. And they need our help.

In my home State of Montana, we have seen some promising signs of recovery. In Yellowstone County, unemployment is down from 6 percent in March to 5.2 percent in April. That is good news. But there still remain people who need our help.

Some counties in Montana have unemployment as high as 16.8 percent. In Montana, as with the rest of country, we have seen an increase in people looking for work.

Unemployment rates will continue to hover around 10 percent even as the economy improves. As the economy adds jobs, many unemployed people grow more hopeful and resume their search for work. That is one reason why economists call unemployment a lagging economic indicator.

The bill that we are considering today includes improvements to the unemployment insurance program. This bill would eliminate the penalty in unemployment insurance for getting part-time or temporary work. Under current law, if people who are unemployed take part-time or temporary jobs, and then lose that job, they receive lower benefits than people who did not take short-term work. This bill corrects that inequity.

This bill also expands the Trade Adjustment Assistance Community College and Career Training Program. The bill would broaden the program to include workers who are eligible for unemployment insurance. This will help more Americans who are looking for work to get the education and looking career training that they need.

If we do not pass this bill, doctors who see Medicare and TRICARE pa-

tients will take a 21 percent pay cut. More and more physicians are threatening to leave the Medicare and TRICARE programs if this happens. Seniors and military families could lose access to their doctors.

We cannot keep postponing this issue every month or two. Seniors worry they will lose their doctors. And physicians cannot run a business with this much uncertainty.

We need to pass a long-term reform. I would like to fix the problem permanently. But the votes are not there today. We will permanently reform Medicare's system to compensate doctors as soon as we can.

In the meantime, this bill provides security to doctors and the patients they see for the next year and a half through 2011. It provides a modest payment increase to physicians for the rest of this year and next year.

This multi-year provision would prevent the untenable cut in physician payments. And this bill would provide a pathway to a permanent change in how doctors are paid.

The budget rules have to score a permanent reform as a cost. But we all know that this is something that we have to do for America's seniors, military families, and doctors.

This bill would also provide tax relief for American families and businesses. This bill would help communities that have suffered a natural disaster. And this bill includes important tax incentives to improve America's energy independence.

For individuals and families, this bill provides much-needed tax relief in a time of economic uncertainty.

This bill would extend the teacher expense deduction for teachers who buy school supplies for their classrooms. And it would extend the qualified tuition deduction to help with college costs.

This bill would extend much-needed relief for communities that have suffered from natural disasters.

And it would extend important business tax provisions to help create jobs and make our companies competitive in a global economy.

The bill would extend the research and development credit to help businesses to continue to be on the cutting edge.

The bill would also extend important energy tax incentives. For example, the bill would extend the dollar-per-gallon credit for biodiesel and renewable diesel. And the bill would extend the manufacturer's credit for the construction of new energy-efficient homes.

In addition to these important provisions that provide direct assistance in job creation, the bill includes other proposals that will provide relief for businesses and individuals.

One such provision is pension funding relief.

With the weak economy, American employers are faced with the need to make higher pension contributions.

Several factors have combined to require these higher contributions.

There is the funding changes of the Pension Protection Act of 2006.

There is the slide in the stock market in 2008.

And then there is the ensuing great recession.

These requirements for higher contributions are coming upon employers just when they are facing lower asset values and lower cash flow. Meeting the new funding rules could divert resources that employers could use to keep workers on the payroll.

We addressed this bind temporarily in 2008. But employers are still facing the prospect of closing plants and stores. Employers are still faced with the possibility of letting workers go in order to make up for lost asset values.

This bill contains additional temporary, targeted, and appropriate relief for these employers. And at the same time, the bill still maintains the pension security system.

These tough economic times have hit the States hard, as well. In last month's employment report, for example, State and local governments cut 22,000 jobs.

So, included in the substitute amendment is a 6-month extension of the additional Federal financial assistance for State Medicaid programs. This would allow States to plan for their next fiscal year with the greater certainty.

Additional Federal Medicaid match money, known as FMAP, helps the economy grow. According to the economist Mark Zandi, this funding has a return on investment of about \$1.40 for every dollar invested.

The nation's governors have repeatedly asked for an extension of this Federal assistance. And this bill answers their pleas.

With so many Americans out of work, our country needs Congress to enact this legislation.

This bill continues valuable tax incentives to families and businesses that will help them in these difficult economic times. And the bill sustains vital safety-net programs that will also help foster economic growth.

This legislation is important to the American people. It would prevent millions of Americans from falling through the safety net. It would extend vital programs that are set to expire. It would put cash in the hands of Americans who would spend it quickly, boosting economic demand. And it would extend critical programs and tax incentives that create jobs.

And so, let us help America's businesses to create more jobs. Let us join together to work across the aisle on this common-sense legislation. Let us enact these tax incentives and safety-net provisions into law.

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

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

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam 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.

#### HEALTH CARE REFORM

Mr. ALEXANDER. Madam President, I get a fair amount of mail. I received the other day a nice envelope from the Department of Health and Human Services addressed to Andrew L. Alexander, Jr., in my Nashville residence, with a nice brochure here: Medicare and the New Health Care Law; What It Means to You.

I am one of those 40 million Americans who is 65 or older, so I am a part of Medicare. I was very interested to read the brochure, because I spent a lot of time, as did the Senator from New Hampshire, and the Senator from Montana probably spent even more, on the new health care law.

As I read through this brochure, it did not bear very much relationship to the way I understood the law I voted on Christmas Eve at the end of last year when we passed this health care law.

This brochure, which has been mailed at taxpayer expense to more than 40 million Americans, is an attempt by the administration to explain that the health care law does what it does not do or does not do what it does. Let me be specific about why I say that. Throughout the debate, those of us on the Republican side of the aisle said the health care law would cut Medicare, raise premiums, raise taxes, pass Medicaid costs on to States, and add to our national debt. Those on the other side said we were wrong. Since they had the votes, they passed the bill. It is now law. But let me take two or three examples from the mail I got the other day. The brochure claims, in the first paragraph, that the new health care law will result in "increased quality health care." Well, that would mean, to me, I would think, as I read that, that I, an individual on Medicare, or that any individual in the United States, would continue to have at least the coverage I am having today and hopefully more.

Yet Medicare's own Chief Actuary noted in an April 22 memorandum that without intervening legislation to correct a payment cut in the new law, some providers would "end their participation in the program"—that is Medicare—with the effect of "possibly jeopardizing access for beneficiaries."

It looks to me if you want to be accurate in writing 40 million Americans about what is happening with Medicare, you would add that in there and say there is another view by the Chief Actuary of Medicare in the Obama administration.

The Chief Actuary also concluded that 15 percent of Part A providers—we mean by that hospitals, skilled nursing facilities, hospices, home health agencies—may be unable to sustain their operation in the next 10 years as a result of drastic Medicare cuts in the new

law. That does not sound like "increased quality health care" to me.

No. 2, the second paragraph of the brochure says: The new health care law will keep Medicare strong and solvent.

Here is the truth, at least as we see it. The \$529 billion in cuts to Medicare—no one disputes that we have those—are being used to pay for a \$1 trillion—when fully implemented over 10 years—health care bill, not to shore up Medicare.

According to the same people who put out this brochure, the CMS Chief Actuary, you cannot double-count the Medicare cuts as both paying for expanding the health care delivery system and increasing the solvency of the program. I mean, common sense says if you take \$529 billion out of Medicare over the first 10 years, or \$1 trillion out of Medicare over 10 years, when it is fully implemented, and you spend almost all of that on something other than Medicare, that is not the way to make Medicare more solvent, even if it is a new Medicare Program. Any savings from Medicare, we believe, ought to be spent on Medicare, rather than running up the fiscal deficit in Medicare.

No. 3, on the second page, the brochure says if you are in a Medicare Advantage plan, you will still receive guaranteed Medicare benefits. This is one of the most disingenuous comments in the brochure. If you read that and are one of the more than 11 million people on Medicare Advantage, you would think: My Medicare Advantage must be OK. The truth is, Medicare Advantage plans will have less generous benefit packages, according to the CMS, the group that puts this out, according to the Chief Actuary. He says it will result in less generous benefit packages. The Congressional Budget Office Director Doug Elmendorf testified that fully half the benefits currently provided to seniors under Medicare Advantage would disappear under the proposal in the earlier bills offered by the Senator from Montana, which were virtually the same as this bill.

Here is the difference. They will come back and say: But we said "guaranteed benefits." They would be right about that. But guaranteed Medicare benefits are what everybody has. If one wants Medicare Advantage, which they pay a little more for to cover dental, vision, and hearing, or other extra benefits, that is why they buy Medicare Advantage. The truth is, the Medicare cuts in the health care law will limit plan choices and reduce benefits for almost 11 million seniors enrolled in Medicare Advantage on those extra benefits. That is relatively one-fourth of all seniors in Medicare, and there are 40 million of us in Medicare. In my State of Tennessee, there are nearly a quarter of a million on Medicare Advantage who will lose those benefits. So it is not true—or at least it is disingenuous—that benefits will not change. Guaranteed benefits won't, but extra benefits likely will.

Finally, it says the new law preserves and strengthens Medicare. That is also disingenuous, because the new law does not include paying doctors who serve Medicare patients proper compensation. We call this the sustainable growth rate, the SGR. Some people call it the doc-fix. One would think a comprehensive health care law would include proper compensation for doctors who serve Medicare patients, but it does not. Why? It would have, according to the President's budget, added \$371 billion to the cost of the bill and made it add to the debt, which we said it would.

So what did we do instead? We simply passed a health care law, the majority did, and claimed it doesn't add to the debt, expand the health care delivery system—which we all know costs too much already—and went on our way. And we still have with us the big cut in payments to doctors which will increasingly create, for those on Medicare, a sort of health care bridge to nowhere or to the emergency room, as we find Americans who are on the big government programs, Medicare and Medicaid, unable, in the case of Medicaid or Medicare, to find doctors who are willing to serve them at the lower rates and, in the case of those who go to Walgreens in Washington State, a drugstore company that won't fill present description drugs for Medicaid patients because of the low rates.

I am disappointed that the administration, in its effort to make the health care law sound better, would send out what amounts to propaganda. There is a Federal law against propaganda. It says annual appropriations can't be used for publicity or propaganda purposes within the United States. I know a little about that. When I was Education Secretary in 1991 and 1992, I sent out what I thought was a very carefully written article to teachers about President Bush's, the first, education program, and the Democrats in Congress hauled me up before the committee and had the General Accounting Office investigate me and castigated me for putting out publicity and propaganda in violation of the law. Some House Members have written the General Accounting Office and said this violates the law. I don't know whether it violates the law, but it doesn't tell the truth in the way we Medicare beneficiaries deserve to have the truth told to us about what the health care law does. I am disappointed in it. I hope the Center for Medicare and Medicaid Services will be more accurate in the future and present a more balanced characterization of the law. I am sure during the rest of this year there will be a great many Americans who will take a closer look at the law and agree with Republicans who said no to this because it will raise premiums, raise taxes, and it will send new costs to States and will cut Medicare.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Madam President, it is with interest that I listened to my colleague from Tennessee for several reasons. One, he is debating a law that has already passed. It is strange to me that he wants to relitigate health care reform. But it is not so strange because I know that that is the tack the other side is going to be taking for the rest of this year. At every opportunity, Senators on the other side of the aisle, all of whom voted against health care reform, will sow the seeds of doubt in the minds of the American people. They don't come up with constructive ideas on how to improve the work of something that has already passed into law. Rather, they stand on the law and tear down something that has passed, sowing the seeds of doubt with misinformation.

It is unfortunate, because it has caused the American people to wonder who they can trust, especially when one side only speaks ill of a major program such as health care rather than trying to come up with constructive ideas. That is what is happening right now. We heard a statement from a Senator who is trying to basically score points in the November elections by sowing the seeds of doubt and confusion over health care reform.

The truth is not what the Senator just said. The Senator from Tennessee takes issue with efforts of the government to explain the new health care law. He is implying that it is disingenuous, that it is not fair, that it is one-sided. I remind all my colleagues that when the drug benefit came out, proposed by the administration of a different political philosophy, they didn't pay for it—all unpaid for, every red cent. They put all kinds of literature out, all kinds of brochures to tout the drug benefit. There were some who thought it wasn't fair. There were some who thought it was biased. I will not litigate that issue, but I do know that charge was made many times when the administration of a different political persuasion was touting the drug benefit legislation that passed not too long ago.

I have spoken with this administration several times about getting the proper information out; that is, not to tilt, gild the lily, bias. At hearings I have made that clear to administration officials. I for one do not want this administration or any administration to be unfair in explaining the program to the American people. I think the brochure the Senator talks about is fair and straightforward. I just happened to pull up the Web site yesterday and looked at it to see what it said. I was impressed. There is a lot of information there I didn't know about. It didn't at all come across to me, trying to be objective and fair, as one-sided. It was an honest effort to explain to the American people what health care reform is.

The new law takes steps to improve the quality of health care. Let me go back to what the Senator said. No. 1,

he took issue with the paragraph that said the new law increases the quality of health care. Of course, the new law increases the quality of health care. The Senator from Tennessee is sowing the seeds of doubt as to whether this new law actually does increase the quality of health care. Let me explain how it does. First, there is delivery system reform. We get rid of a lot of the waste in the American health care system. It is paid on the basis of quality, not on the basis of quantity and volume. Every expert who has looked at the American health care system knows we have to move in this direction. This bill does that. It is going to reimburse doctors, hospitals, and health care providers more on the basis of quality outcomes than on the basis of the number of services provided or the quantity of services.

The doughnut hole will be filled. That will increase the quality of health care for seniors. The statement that the Senator refers to from the HHS Actuary actually says that health care reform will extend the life of the Medicare trust fund for another decade. I think that improves the quality of health care. Anyone who objectively has looked at the health care reform legislation and attempted to determine one issue; that is, the life of the Medicare trust fund, has concluded that the passage of health care reform will extend the life of the Medicare trust fund for 8 to 10 years. That clearly gives seniors a little peace of mind. It is going to be there. It gives peace of mind to people who are about to be seniors, that it is going to be there. That is a major improvement in quality.

It is true what the brochure says. It does increase the quality of health care. There is no doubt about it. Anyone who thinks otherwise should think through the entire legislation and be objective about it.

No. 2, he refers to the assertion that it keeps Medicare strong and solvent and claims that is not true. The Actuary says that health care reform will extend the life of the Medicare trust fund for another decade. That is 100 percent refuted.

Third, the Senator from Tennessee quibbles with the assertion that Medicare Advantage beneficiaries will continue to receive their guaranteed benefits. The Senator at first admits this is true, but the larger point is that health care reform reduces overpayment to Medicare Advantage plans. And why should other beneficiaries pay extra for the overpayments made to some people who are beneficiaries of Medicare Advantage plans? I have talked to a lot of executives who work for Medicare Advantage plans in the last week or so. They are interested, and they like it. They like the change in the law. Why? Because they know they are going to be reimbursed now more on the basis of quality.

Medicare Advantage plans will be paid more if they can show better out-

comes, higher quality, not just the standard "you get the same rate" benchmark compared with fee for service and so forth. A CEO of a major Medicare Advantage plan said: Senator, we think that is good policy. We like that. We are ready. We are anxious. We want to do a real good job. We think that is a good change in the law. That is going to, frankly, help seniors—higher quality, better benefits under Medicare Advantage plans. That will help.

Essentially, I want to make it clear, the Senator from Tennessee complains the health care law did not correct for payment of doctors. Here is his opportunity. He could vote for this bill today. If he doesn't want doctors to take a 21-percent cut, if he doesn't want that, he should vote for this bill. This bill before us today would prevent that cut from taking place.

I very much look forward to seeing the Senator from Tennessee voting for this bill so that doctors do not get a cut in their payment. That would be the right thing to do, support this bill so doctors don't get cut.

Again, the Senator takes issue with the assertion that health care reform would help keep Medicare solvent. The fact is, the nonpartisan Medicare Actuary said health care reform will extend the life of the Medicare trust fund for a decade longer.

I return to my first point: The health care reform law has passed. The President signed it. My gosh, why don't we work together constructively, both sides, with good points, praise, criticism, both sides of the aisle, all constructively to help the American people? Why are we here? We are here to help the American people. We are not here to score political points. We are the hired hands. We are the employees. We work for the American people. The American people want good health care reform. They want costs lower, and they want higher quality care. So let us work together to help the American people get that. That is what we should be doing here, not trying to score political points and cause disruptions for the American people for the upcoming elections in November.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Florida is recognized.

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VENEZUELA

Mr. LEMIEUX. Mr. President, I am here again today to talk about my concerns that are emerging from the problems we are seeing in Venezuela.

Last May 25—just a couple weeks ago—I wrote a letter to the Secretary of State, Secretary Clinton, that was signed by 11 of my colleagues and myself. Senator ENSIGN from Nevada and I wrote this letter together, and we were

welcome to have 10 other Senators join in the letter to Secretary Clinton to speak about our concern—in fact, what we would call a gathering storm of concern—about the country of Venezuela.

The letter seeks to have a review by the Secretary of State and the Department of State as to whether Venezuela should be added to the list of states that we consider state sponsors of terror. The letter goes through a number of issues I have spoken about on the floor before concerning some very questionable behavior by Hugo Chavez and Venezuela.

One of the issues it talks about is the support of Venezuela for the narcoterrorists in Colombia, the FARC. Evidence has come forward that Venezuela's weapons have found their way into the hands of these narcoterrorists.

Another of the things we talk about in the letter is the concern with a plot that was revealed by a Spanish judge in March of this past year—a plot to assassinate President Uribe in Colombia, where the Spanish judge has accused Venezuela of being behind that plot, along with a Spanish terrorist group called the ETA.

The letter also speaks about Hezbollah's activities in Venezuela—Hezbollah, the Middle Eastern terrorist group, supported by Iran.

The letter also speaks of the troubling new information that for at least 3 years Venezuela and Iran have been putting factories together in remote areas of eastern Venezuela, which is the area believed to be rich in uranium.

In December of 2008, Turkish customs authorities caught one of these joint companies, literally called VenIran—“Ven” for Venezuela—a “tractor factory,” attempting to smuggle 22 containers of explosive materials labeled as “tractor parts.”

Since 2007, we have pointed out, there have been direct flights between Caracas, Venezuela, and Tehran, Iran, without proper controls or customs verifications.

We have also pointed out in the letter there are increasing paramilitary Iranian forces operating in Venezuela.

We know from recent reports from the IAEA, the International Atomic Energy Agency, that Iran now looks to have the nuclear fuel which will give them the capability to build nuclear weapons. We have had open testimony in front of the Armed Services Committee that within 3 to 5 years Iran may have the intercontinental ballistic capability to deliver those weapons across the ocean and put the United States in jeopardy.

But Venezuela is a lot closer. There is no need for an ICBM from Venezuela. In fact, a flight from Venezuela to Florida is about the same length in time as a flight from Florida to Washington, DC.

So we brought this letter to the attention of Secretary Clinton on May. We wrote this letter on May 25, 2010.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

U.S. SENATE,

Washington, DC, May 25, 2010.

Hon. HILLARY RODHAM CLINTON,  
Secretary of State, U.S. Department of State,  
Washington, DC.

DEAR SECRETARY CLINTON: We are deeply concerned about Venezuelan President Hugo Chávez' growing ties with U.S.-designated foreign terrorist organizations and state sponsors of terrorism. This letter is to present you with a number of questions that we believe should be thoroughly addressed within the Department of State's 2009 Country Report on Terrorism which was due to Congress on April 30, 2010. We realize that thorough answers to some of these questions may require a classified annex.

#### PRESIDENT CHÁVEZ' SUPPORT OF FARC

The Revolutionary Armed Forces of Colombia (FARC) is South America's oldest and best armed terrorist group. As pointed out in the 2008 Country Report on Terrorism, the FARC is notorious for carrying out a full range of terrorist activities to include kidnappings, murders, mortar attacks, hijackings, and bombings against Colombian political, military, and economic targets.

On March 1, 2008, a Colombian military strike against a FARC camp in Ecuadorian territory successfully killed senior FARC members, including Luis Edgar Devia Silva (aka Raúl Reyes). Silva was a known terrorist responsible for numerous atrocities within Colombia, and his death and the subsequent capture of his computer laptop provided a treasure trove of intelligence. Chávez mourned the loss of Reyes and eulogized this terrorist as a “good revolutionary” while amassing troops on the Colombian border in an attempt to intimidate his Latin American neighbor.

In light of what the U.S. government has discovered from the “Reyes” documents and other sources, we ask that the annual terrorism report provide attention to the following questions:

What does the information found on Reyes' computer reveal with regard to the depth of the relationship and support that the FARC receives from high-ranking officials in the Chávez government? Based on information gleaned from the laptop, what type of surface-to-air missiles or man-portable air defense systems (MANPADs) has Venezuela provided to the FARC or enabled the FARC to obtain, and what threat do those systems pose to Colombia and U.S. counterdrug efforts in the region?

In September 2008, the U.S. Department of the Treasury's Office of Foreign Assets Control designated two senior Venezuelan intelligence officials, Hugo Armando Carvajal Barrios and Henry de Jesus Rangel Silva, and one former senior security official, Ramon Rodriguez Chacin, for materially assisting the FARC's illicit activities.

What types of weapons have these three senior Venezuelan government officials enabled the FARC to acquire? To what extent does the FARC use proceeds from illicit drug trafficking to acquire weapons from the Venezuelan government?

In late July 2009, the government of Sweden requested an explanation from Venezuela about how the FARC obtained Swedish-made anti-tank rocket launchers that had been sold to Venezuela in the 1980s. Three of the launchers, matched by their serial numbers, were recovered from a captured FARC arms cache in October 2008.

Do we have the intelligence resources in place to properly monitor the flow of guns and money from Venezuela to the FARC? Are known FARC officials, such as Rodrigo

Granda, Marin Arango (aka Ivan Marquez), and Rodrigo London Echeverry (aka Timochenko or Timoleon Jimenez) able to operate and move freely within Venezuela?

Do you agree with Director of National Intelligence (DNI) Dennis Blair's March 2009 testimony before the Senate Armed Services Committee in which he stated that despite setbacks brought about by the Colombian government's tireless efforts “the FARC leadership has shown no signs it seeks to end hostilities or participate in serious peace talks” and further, that the FARC benefits from cross-border sanctuaries in Venezuela?

It is well known that cocaine trafficking funds FARC operations. The United Nations World Drug Report for 2009 revealed that nearly one-third of all cocaine produced in the Andean region passes through Venezuela. To what extent does the Venezuelan government's involvement in the international drug trade allow for millions of dollars to flow into the coffers of narco-terrorists?

Recently, the Treasury Department, in an unprecedented move, labeled an active foreign military official as an international drug “kingpin” for enabling massive shipments of cocaine from Venezuela into West Africa. Americans are now banned from doing business with Ibraima Pap Camara, the Air Force Chief of Staff in Guinea Bissau and the former head of Guinea-Bissau's Navy and Jose Americo Bubo Na Tchuto, and any assets the two might have had in the United States are now frozen.

To what extent are drugs from Venezuela flowing into West Africa, and what impact does that have on political corruption, drug smuggling, and terrorist operations in the region? Should President Chávez be held accountable under the Kingpin Act for his role in the flow of drugs to the rest of the world?

How much do terrorist groups such as Al-Qaida in the Islamic Maghreb (AQIM) profit from trafficking drugs that originate in or flow through Venezuela? What specific steps is the United States taking to cooperate effectively with countries in South America, North Africa, and the Sahel to blunt the trafficking of drugs across the Atlantic and into West Africa?

#### HEZBOLLAH'S ACTIVITIES IN VENEZUELA

Prior to September 11, 2001, no terrorist group had killed more Americans than Lebanon-based Hezbollah. On June 18, 2008, the U.S. Treasury Department's Office of Foreign Assets Control announced that it was freezing the U.S. assets of two Venezuelan based supporters of Hezbollah—Ghazi Nasr al Din (a Chávez employed “diplomat”) and Fawzi Kan'an for providing direct support to Hezbollah. According to the Department of Treasury, these two individuals were involved in the planning of Hezbollah operations, including terrorist attacks and kidnappings.

What is your assessment of the presence and activities of Hezbollah inside Venezuela? What is your assessment of the purpose and implications of a meeting in Beirut on or about February 1, 2010, between Adel El Zabayar and Imad Saab, deputies of the Venezuelan National Assembly, and Nawaf Musawi, director of international relations of Hezbollah?

On November 3, 2009, our Israeli allies stopped the cargo ship MV Francop before it could reach its destination in Syria, which is a state sponsor of terrorism. The Francop was loaded with 36 shipping containers holding 500 tons of Katyusha rockets, mortars, grenades, and a half-million rounds of small-arms ammunition suspected to be bound for Hezbollah.

Is there information confirming that the Francop had stopped in the Venezuelan port of Guanta before sailing for Syria and at the



same time that Venezuelan Foreign Minister Nicolas Maduro was in Damascus visiting with Syrian President Bashar Al-Assad? Are there any indications of a substantial Iranian security presence in Guanta?

PRESIDENT CHÁVEZ SUPPORT FOR STATE SPONSORS OF TERRORISM

In addition to his documented support for Hezbollah and the FARC, President Chávez has closely aligned himself with Cuba and Iran, both of which are already on the State Sponsors of Terrorism List.

Venezuela's financial support for state sponsors of terrorism is evident by Chávez's extensive support of the Castro regime in Cuba, which is calculated to amount to \$1 billion a year. To what extent does Venezuelan assistance to the Cuban regime facilitate the regime's ongoing repression of the pro-democracy movement and forestall a transition to democracy in Cuba? How deeply are Cuban advisors involved in the intelligence and security apparatus of the Venezuelan government?

What is your assessment of the role of long-term Castro confidant Ramiro Valdez as a special advisor to the government of Venezuela and the impact it will have on pro-democracy leaders and movements in Venezuela? What role, if any, did Valdez play in the recent purge of over 100 Venezuelan military officers?

With respect to Iran, President Chávez has repeatedly expressed support for that country's covert nuclear program and announced in September 2009 a plan for the construction of a "nuclear village" in Venezuela with Iranian assistance.

In your judgment, to what extent is Venezuela supporting Iran's covert nuclear enrichment program development? What is the current state of Venezuela's nuclear program, and to what extent is Iran providing nuclear knowhow to Venezuela? Under the present conditions, does Venezuelan-Iranian nuclear cooperation violate the Nuclear Non-Proliferation Treaty and United Nations International Atomic Energy Agency protocols?

We have seen reports of suspicious Venezuelan-Iranian companies sprouting in remote areas of Venezuela, including the VenIran "tractor factory." In December 2008, Turkish customs inspectors intercepted 22 shipping containers bound for VenIran that were labeled "tractor parts" but instead contained an "explosives lab" and chemicals that could be used to manufacture explosives. What is your assessment of the activities carried out by VenIran? Is it possible that its facilities are a front for illicit, possibly even nuclear, technology-related activities?

Congress is close to authorizing a comprehensive set of sanctions aimed at restricting Iranian access to refined fuels in a bid to stop Iran from acquiring nuclear weapons. At the same time, Iran has a growing financial presence in Venezuela, and President Chávez has pledged to provide Iran with 20,000 barrels of gasoline per day.

To what extent are Venezuela's financial institutions assisting the Iranian nuclear enrichment program? Are you concerned about the activities of the Venezuelan Banco Internacional de Desarrollo and the Banco Binacional Irani-Venezolano? To what extent could Venezuela's financial institutions and energy resources help Iran undermine bilateral or international sanctions designed to stop its covert nuclear program?

The 2008 Country Report on Terrorism confirmed that Iran and Venezuela continued weekly flights connecting Tehran, Syria, and Caracas and that passengers on these flights were only subject to " cursory immigration and customs controls." What is the U.S. gov-

ernment's understanding of the number of passengers and nature of their travel as well as the type of cargo transported on these flights? Is the Administration concerned that these flights are being used for nefarious purposes?

On April 21, the Secretary of Defense issued a report regarding the current and future military strategy of Iran. The report states that Iran's Islamic Revolutionary Guard Corps-Qods Force maintains worldwide operational capabilities and that "recent years have witnessed an increased presence in Latin America, particularly Venezuela."

What threat does the Islamic Revolutionary Guard Corps-Qods Force presence in Venezuela pose to the United States and our interests in Latin America? What if any measures is the Administration taking to verify the extent of terrorism activities in Venezuelan territory? How is the Administration ensuring that all appropriate branches of the U.S. government are aware of these key findings?

IMPLICATIONS OF ADDING VENEZUELA TO THE STATE SPONSORS OF TERRORISM LIST

The State Department currently designates four nations—Syria, Cuba, Sudan, and Iran—as state sponsors of terrorism. These countries provide ideological support and material assistance to terrorist groups. Once you consider the evidence behind Venezuela's substantial ties with U.S.-designated terrorist organizations and state sponsors of terrorism, we would like to know the strategic implications of designating Venezuela a state sponsor of terrorism. We would also like to know the implications for the integrity of this list if Venezuela continues to evade designation.

Looking into the future—and short of designating Venezuela a "State Sponsor of Terrorism"—what other concrete measures are available to curb President Chávez' threatening ties with terrorist groups and state sponsors of terrorism? Under what conditions would the Administration apply such measures? Does the U.S. government have a contingency plan to respond to a sudden and prolonged unavailability of Venezuelan oil exports to the United States?

Given that Chávez is expected to receive a \$20 billion loan from the Chinese Government and his government has just signed yet another multi-billion dollar arms deal with Russia for weapons that far exceed any rational analysis of Venezuela's national defense requirements—it is clear that this is the time to revisit our policies within the region. We encourage you to work with all appropriate federal agencies in obtaining thorough answers to these questions. We look forward to further discussions about what steps the Administration plans to take in order to address these disturbing developments within our hemisphere.

Sincerely,

John Ensign,  
George S. LEMIEUX,  
James M. Inhofe,  
Jon Kyl,  
John McCain,  
James E. Risch,  
Roger F. Wicker,  
Sam Brownback,  
Jim Bunning,  
Scott Brown,  
Robert F. Bennett,  
John Cornyn.

Mr. LEMIEUX. We hope to receive a response from the Department of State. I know firsthand that Secretary Clinton is focused on Latin America. I have spoken to her on several occasions. I know she knows we need to do

a better job promoting democracy in Latin America. She shares that concern. We have had those conversations.

For too long, Latin America has been neglected by the United States in our diplomatic relations. For a variety of reasons, some of them with good merit, we have been focusing to the east. But we cannot neglect our friends in Central and South America. We cannot neglect our friends in Colombia, for example, or in Panama. That is why I have come to the floor on several occasions and called for the ratification of the free-trade agreements between our country and those countries that only makes sense. It not only makes sense for jobs and commerce, but it also makes sense in terms of our good relations with our friends in the region. No better friend do we have than in Colombia, right next door to this very concerning state of Venezuela.

The reason I come to the floor specifically today is that when we sent this letter on May 25, we expected to receive a response. Yet just last Friday, Assistant Secretary Arturo Valenzuela, Assistant Secretary of State for Western Hemisphere Affairs, was asked about this letter because there was an upcoming trip by the Secretary of State to South America.

Secretary Valenzuela was asked why Secretary Clinton was not going to Venezuela, and he explained. Then the question of this letter came up, and his response was:

Oh, I don't—because I was traveling. I don't know anything about that letter, so I'd have to find out.

Now, I know they get a lot of letters over at the Department of State, but this letter is signed by 12 Senators. It has been widely covered in the media. It was relevant enough that someone would ask the question at a press conference. Yet Mr. Valenzuela, through some oversight, was unaware of the letter.

I look forward to getting a response from Secretary Clinton and Assistant Secretary Valenzuela to this letter. There is a gathering storm in Venezuela. As much as we have to look across the ocean to our fears about Iran, their development of nuclear weapons and what they are going to do with those nuclear weapons, there is a concern to our south, very close to our shores in Venezuela, and a dangerous combination which is occurring between Iran and Venezuela, Ahmadinejad and Hugo Chavez.

If we do not stay focused on it, mark my words, 3, 5 years from now we are going to be seeing all the same developments in Venezuela we have seen in Iran. We are going to see them starting to develop a nuclear presence for "peaceful" purposes. They are going to be playing from the same playbook Ahmadinejad has played from in Iran.

We have to take aggressive measures against Iran. I have called, as many Senators have, for this administration to get to work in a more expeditious way to impose those sanctions—meaningful, hard sanctions on Iran to stop

their nuclear program. We are reading in the newspaper today about Iran—all the circuitous efforts it takes to reflag ships, rename ships so they can get weapons back into Iran and avoid our sanctions. We have to crack down on that. That is the diplomatic and foreign affairs problem of today. But the diplomatic and foreign affairs problem of tomorrow is Venezuela, and steps should be taken right now to work ahead of that problem so that 3 to 5 years from now we are not having all the same troubles with Venezuela that we are now having with Iran. Yet they are far closer to the United States than Iran is.

So we sent this letter, and we look forward to the response. There are a lot of ramifications of declaring a country a state sponsor of terror. I am not asking that be done today. But I am asking it be seriously evaluated. That is why Senator ENSIGN and myself, along with 10 other of our colleagues, sent this letter, and we would like to hear a response. We would like it to be taken seriously. We would like this administration to focus on Venezuela before it is a problem that gets ahead of us, before it is a problem we do not have enough time to address in a proactive and thoughtful manner.

Little problems become big problems. This problem is already beyond being little. Let's get on top of it. Let's evaluate it. We hope we get a response to this letter as soon as possible, from the Secretary of State and the Assistant Secretary of State for Western Hemisphere Affairs.

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

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### GULF COAST OILSPILL

Mr. DORGAN. Mr. President, I wish to say a few words about the oilspill in the gulf and what has or has not been happening recently. I don't think there is an American citizen who can really avoid seeing on television or hearing on the radio or reading in the newspapers about the devastating consequences of the oilspill in the Gulf of Mexico.

The fact is, we have drilled for oil and have been producing oil in the gulf for a long time, dating back to the 1940s. I believe something like 50,000 wells have been dug offshore. So it is not a surprise that there has been oil development offshore in this country, and we have achieved drilling a fair amount of oil for the needs of this country. But it is also the case that deep well drilling—in this case, a well that is drilled into the ocean floor a full mile below the surface of the water and then down another 30,000 feet below that—is a very different situation.

It is also now clear that this company, the company that was engaged in drilling this well, did not have the wherewithal, the technical capability to decide: If something disastrous happens, we should be able to shut down the gusher of oil. I would have thought and would have expected that the company would have covered the worst possible circumstances. What if the worst thing happens? Do we have the capability to address it? The answer at this point is no.

This is the 50th day in which oil has been gushing out into the Gulf of Mexico from this oil rig blowup. It is pretty clear to everybody that, after trying a series of different things, the BP Corporation does not know how to address this gusher of oil into the gulf.

I was reading this morning another news story about this.

I confess to my colleagues that I don't live on the gulf. I am not from one of those States. They would, perhaps, know much more about it than I would. But most of us in this country are learning from the investigations that are being done, and we are learning more and more about not only what has happened, but what the consequences are.

The story this morning: "Rate of Oil Leak, Still Not Clear . . ." So 50 days later, we don't understand how much is coming out of the faucet, how much is spilling from this gusher into the Gulf of Mexico.

It is difficult or almost impossible to measure what has been the effect in recent days of some amount of containment that has been successful. We know they are not containing all of the oil, but they are gathering some of the oil. The question is, What amount? What percentage of the oil that is gushing into the gulf is being contained?

One of the things that bothered me a fair amount is I am quoting now from a New York Times piece:

On Sunday, engineers halted their efforts to close all four vents on the capping device, because even with one vent closed, the amount of oil being captured was approaching 15,000 barrels a day, the processing capacity of the collection ship on the surface.

If you are going to be able to collect more oil, why would you not have enough ships on the surface to be able to allow you to close more of those vents and to capture more oil and have the requisite number of ships on the surface to deal with it? I don't understand that at all. But it seems to me that every time we read something new about this, it is that somebody didn't plan properly to try to address this issue.

The story goes on to say:

Some scientists involved in the Flow Rate Technical Group say they would like to produce a better estimate, but they are frustrated by what they view as stonewalling on BP's part, including tardiness in producing high-resolution video that could be subjected to computer analysis, as well as the company's reluctance to produce a direct measurement of the flow rate.

Continuing to quote:

They said the installation of the new device and the rising flow of oil to the surface had only reinforced their conviction they did not have enough information.

A Dr. Leifer said:

It's apparent that BP is playing games with us, presumably under the advice of their legal team. It's six weeks that it's been dumping into the gulf, and still no measurements.

Again, that is a direct quote from Dr. Leifer in this article.

All of us understand that the consequences of this are devastating. We stand here and debate and talk and we go to hearings, yet there are people at the end of a dock in some small town who look out, and all of those fishing boats are idle, sitting at the dock, because it has destroyed the fishing in that area. The shrimpers who would normally be out dealing with the shrimp beds, their boats are idle, their nets are idle. Those are people who are losing money every day, the people who can't make a monthly payment on their boat that is sitting on the dock because they can't go out because their fishing industry is gone. Those people have to make payments at the end of the month. The person with the cafe or the restaurant on the dock that has very few people visiting these days is losing money hand over fist. You could go on and on about the consequences of what this has meant to the gulf—to the families, to small businesses, to the fishing industry, the shrimpers, and so on.

So it seems to me it is time now, after 50 days, to ask a couple of other questions, and I am going to make a suggestion. I asked at a hearing recently whether the BP commitment, which says: We will pay or reimburse for all "legitimate" costs—I asked the Justice Department in a hearing: Is this pledge by BP a binding commitment? Does it bind anybody? The answer by the Justice department representative is that, no, it is not binding. It is a pledge.

I think that is certainly better than not having a pledge—to have a company whose rig has caused this gusher of oil, this unbelievable spill into the Gulf of Mexico—if that company makes a pledge, it is better than having a company walk away. On the other hand, a pledge without a binding commitment doesn't mean very much.

What I suggest at this point is that we, after 50 days, decide to go beyond that pledge. I have seen people interviewed who have said: we have submitted to BP what is happening to our small business, our families, and our boats, and haven't gotten a response, or we got turned down, or this or that. It seems that we ought to understand the consequences of this, and the depth of the costs is going to require something very different.

What I propose is the following: I think on this 50th day of the spill, what I believe should happen is that the Justice Department should go to BP and



say: Let us formalize an agreement in which you put the first \$10 billion from BP into a gulf coast recovery program. That gulf coast recovery fund would be available and would be run by two interests. One would be a special master who would represent the public interest, and the second would be a counselor who would represent BP's interest, and they would jointly manage the \$10 billion gulf coast recovery funds—and it may need much more than that. At least the first step is that you have \$10 billion in a fund, and you have some public interest that is now involved in making judgments. Look, BP has its own interests at heart. I don't doubt that it wants this gusher stopped. I understand that. I don't doubt at all that BP wants to minimize the damage. I am not suggesting otherwise.

I am suggesting this: When presented with a range of alternatives, or of opportunities, or of actions, that a company will have to act in its best interest. That is the requirement for its shareholders. That may well not be in tandem or may not travel parallel with what is in the public's interest. That is why I think that it is now time to say to BP that you have made a pledge; is the pledge binding? Does it have real money behind it?

We read and see that they have spent \$1.5 billion at this point. This is a company that made \$150 billion in net profit in 10 years. That is \$15 billion a year. Again, what I suggest is a \$10 billion payment into a gulf coast recovery fund, which the company would have a part in the management of, and a special master representing the public interest would have the management of, and that we proceed from there and determine how much more is required.

Perhaps if the \$10 billion is not all required, the company gets reimbursed. My own expectation is that the cost of this spill will far exceed the \$10 billion when it is all done. This is going to last for years. We know that. This is not something that will be resolved in the next 6 months. I am talking now about the costs. Let us hope that finally, at long last, this spill, this gusher, gets shut down. But when that happens, there is so much more to do to try to understand what this means to the families who made their living on that coast. What does it mean to them? How do we go forward and recover? With what? That is why I think this gulf coast recovery fund, with BP's money and a special master involved in at least bringing the public interest into the discussion about what kind of outlays from that fund are made and to whom and for what purposes, is critical.

I am going to write to the Justice Department today suggesting that this is an approach that should be taken. Look, if BP is approached and BP says, you know what, we don't intend to put money into a fund, that tells us a little something, doesn't it? Is the money going to be there, or isn't it? That is a partial answer to that. If the company

says we don't intend to put money into a gulf coast recovery fund—if that is the case, then we have legislation on the floor with which we could address that issue. There are ways to address this with fees and other applications to the company that caused this damage. Better, it seems to me, to take the company at its word when it pledges that it will reimburse legitimate costs; but also say to them, as a result of that pledge, let's now make it binding and let's begin to put together this gulf coast recovery fund that represents a binding commitment from the company.

If the company ultimately doesn't pay these costs, we know what would happen. It will go on the backs of the American taxpayer. That is not a fair way to resolve this, and it is not acceptable. It is a very large company. It has made a substantial amount of money. It made \$6 billion, as reported, in the first quarter of this year alone. Surely a \$10 billion initial commitment into a gulf coast recovery fund is not too much to ask, to begin the construction of a fund that would merge both the public interest, which is important, with the private interest of BP, to make sure the funding is not only made available but that it is used in a way that addresses the significant costs that have been visited upon the people who live and work in that region.

I know there are many ideas that are being kicked around in the Congress and elsewhere to try to address a wide range of issues. Many of them have great merit. It seems to me that we need to do something for the family this morning who is wondering whether it is going to survive, whether its business can survive, whether it can make its boat payment on the fishing boat at the end of the month when there are no fish to catch. When the restaurant pulls the shades because it has no customers and it is right near the dock—all these folks, and so many others, who have lost their jobs and who confront this questions of: What about us? What are we going to do? Will there be recovery for us, for my family, and for our small town?

I think the best way for us to address this is to say let's make sure the pledge made by BP becomes a binding one. I think that can be done without legislation. It can be done by this administration and the Justice Department reaching out and signing an agreement creating such a fund, creating a special master with BP, having BP deposit the money so it could begin a robust, significant, and real recovery fund. If this company says that is not their intent, that they don't intend to do that, or they are not interested in doing that, then it seems to me a binding requirement is one we should take up here on the floor of the Senate, and very quickly. There are plenty of ways—and I will not go into them now—for us to address the question of whether the company that caused this

spill, this gusher of oil, which is certainly the most significant disaster in the gulf in the last century and perhaps more—if the company that caused that—whose rig caused that, says we don't intend to be a part of something like this, then there are approaches we can use here in the Senate to make that company responsible for it in a binding way.

Mr. President, with that, 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.

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

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

AMENDMENT NO. 4303 TO AMENDMENT NO. 4301

(Purpose: To establish 3 year discretionary spending caps)

Mr. SESSIONS. Mr. President, I call up the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. McCASKILL, proposes an amendment numbered 4303 to amendment 4301.

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

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

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

Mr. SESSIONS. Mr. President, Senator McCASKILL and I are again offering this amendment that would place a cap on discretionary spending in which we participate in every day but that tends to violate the budget.

Our budget is a critically important component of our financial management. I have been a member of the Budget Committee for a number of years, and it is very frustrating to see how it has gotten around the budget. The legislation that is before us is just another example of violating the budget in ways that are not responsible. For example, the unemployment compensation and the payments to physicians are not emergencies. They are just not. Any responsible household, any responsible city, county, or State government knows that. When those leaders deal with financial crises, they have to figure out how to handle them.

What we are doing with this legislation before us is borrowing money to pay a fundamental obligation of the United States of America, which is to pay doctors an adequate wage for doing Medicare work. They are already paid less for Medicare than private insurance pays them for doing the very same procedures, but we have another shortfall here. If Congress does not pass legislation, physicians will take a 21-percent cut in the amount of money they are paid. That cannot work because our physicians are already, in

many cases, losing money on Medicare treatment of our seniors. They cannot take a 21-percent cut. They will quit doing the work. This is not a matter of debate. It will collapse the Medicare system. We need to do this, but that is the kind of expenditure that is fundamental. It is part of the obligation we have had for many years to pay physicians to do Medicare work. They do not do it for nothing. It ought not to be paid for by borrowing the money on top of all the debt we are now running up in this country.

Our national debt just hit \$13 trillion. We will, in 5 years—now 4—double the national debt, and in 10 years we will triple the national debt. Why? Because we are taking items that are baseline requirements of this government and miraculously converting them to emergencies and then breaking the budget. If anybody objects, such as Senator BUNNING did on behalf of his 40-some-odd grandchildren, he is attacked as being against physicians or against the unemployed. Senator COBURN has raised these issues. I support both of them. They are both right.

If the American people understood how irresponsibly we are managing their money, they would be even more upset with us than they already are. The American people are right to be upset with us. We are converting fundamental governmental obligations to emergency spending. Why? Because we do not have to pay for it; we can just borrow it. That is not right.

Senator MCCASKILL, my Democratic colleague, is concerned about these issues. We have worked together to offer this amendment that would make it harder to violate the budget caps, to make it more difficult and to help us to be more responsible in our spending. Quite a number of my Democratic colleagues joined with us in this amendment and voted for it. Fifty-nine Senators voted for it on one of our previous votes. We were one short of what is necessary to make it law—just one vote short.

We are offering this amendment again. We have taken quite a number of steps to make this legislation palatable and to respond to concerns that some have raised, such as, would it impact the military? No. Would it impact legitimate emergency spending? No.

We have done some things that some may believe weaken the amendment a bit, but it still adds some real strength to it and real value. This kind of budget cap legislation is what allowed us to balance the budget in the late 1990s. I know President Clinton has touted that he balanced the budget. If I recall, Congress—which appropriates every dollar that is spent—shut the government down at one point to try to contain President Clinton's proposed spending, and succeeded in doing so. That eventually led to a balanced budget. The legislation that was in effect at that time, which was very similar to this proposal, expired, and this is one reason spending has surged.

I thank the Chair for the opportunity to offer this amendment. We will talk on it again later. I hope that we can enact these provisions into law and that we will get that one extra vote necessary to make a real bipartisan statement. We had bipartisan support for this amendment last time, and it would make a real bipartisan statement to the whole financial world that we are beginning to take seriously our responsibility to reduce this surging deficit. Only then will we begin to see the kind of stability in our economic markets that we must have.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, today, our body starts debate on expiring tax and health provisions. Around this Capitol building, the nickname of these items is called extenders. I wish to make a couple of points on the process before I get into the substance of the substitute. My first point will reflect on how much the Democratic leadership has avoided a simpler, clearer, bipartisan approach. My second point will consider all of the other time-sensitive, unfinished tax legislation that appears to be abandoned with only a few weeks left in this session.

My first point deals with a conscious decision to use a partisan process for bipartisan issues. What I find surprising is that we are taking up a package that, like the HIRE Act jobs bill of a few weeks ago, absolutely belongs to the bicameral House and Senate Democratic leadership. It was negotiated between House and Senate Democratic leaders, with some input from their tax-writing committees and staff. These discussions occurred entirely behind closed doors. As far as I know, it was a Democrats-only discussion. It is not a conference agreement, where things are worked out in a sophisticated conference committee made up of people from the House and Senate.

Then, in addition, at the very last minute, the compromise took on the properties of an amoeba. In that amoeba fashion, the House Rules Committee split the bill into two pieces, one dealing with the so-called Medicare doctor fix and the rest of the bill dealing with the balance of that package. Then, under the magic of the House Rules Committee, this amoeba-like bill was reconstituted into one legislative product, and that is the underlying bill Leader REID has brought before the Senate this very day.

I am relieved to see that it appears the Senate will process extenders in a way that is different from the way the HIRE Act jobs bill was handled. It looks as though we Senators will have a chance to represent our constituents and shape this bill, because Leader REID has not filled the amendment tree or filed cloture at the start of debate. That is a real relief around this body, where amendment trees have been filled and cloture has been filed.

Back home, folks wonder why it is taking Congress so long to deal with these routine extenders. As an example: As I left church Sunday in Cedar Falls, IA, a person who has investment in a biodiesel plant wants to know when we are going to pass the biodiesel tax credit bill. Most of the tax provisions expired almost a half a year ago, on December 31, 2009. Folks are angry that Congress seems to be dithering, among other things, on the '71 tax provisions. In my State, it is a biodiesel tax credit that always comes up, but people are wondering about the dithering generally. And, of course, we even have physicians across the country being frustrated that this Congress has allowed a 21-percent cut in payments to go into effect again this year. Payment cuts of this magnitude severely impact physicians and health care providers and practitioners throughout the country, and they significantly threaten beneficiary access to care.

Medicare beneficiaries' access to physicians and other needed medical care has been jeopardized this year as never before because Senate Democratic leadership has once again failed to pass an essential physician update in a timely manner. We could have wrapped up this time-sensitive legislative business 4 months ago. We could have taken up a bipartisan package that I put together with my friend, Finance Committee Chairman BAUCUS of Montana. To be sure, some of the structure in this package reflects the agreement that my friend and I reached. But this package, in terms of the impact on the deficit, is likely several times the size of the package we agreed upon. Virtually all of the additional cost is due to proposals I would not have agreed to in representing my Republican Conference.

I was under the impression that the Senate Democratic leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic leadership was highly involved in the development of a bipartisan bill, they arbitrarily decided to replace it with a bill that skews toward their liberal wing. That is why we are where we are this very day. There is a liberal agenda that exalts open-ended deficit hiking, spending, and tax increases, and doing it above everything else. Angry vocal members with that view seem to have dominated the decisionmaking of the Democratic leadership in resolving routine items.

The actions in the House a couple of weeks ago go on to further prove my point. The Senate Republican leaders backed the Baucus-Grassley compromise of last February. To them, it seemed to be a balanced package. It was largely offset, it was leaner than most Democrats wanted, but it was thicker than most Republicans wanted. Republicans preferred a fully offset package using spending cuts; Democrats resisted most spending cut offsets.

and wanted many multiples of the level of spending with which Republicans were comfortable. So it is ideal, because this is the way it works most of the time between Senator BAUCUS and me.

The Baucus-Grassley compromise was a genuine middle ground. But for the liberal core of the Democratic caucus, it was their way or the highway. Leader REID responded to that pressure and scuttled the Baucus-Grassley compromise. Ironically, almost 4 months later, it looks as though the Democratic caucus is moving closer to the structure of the Baucus-Grassley compromise of last February.

The Senate Republican Conference, seeing the alarming growth in deficits and debt in the intervening 4 months, will press hard for a fully offset package. For those in my conference, several fiscal events—and these all occurring in the intervening 4 months since the Baucus-Grassley bill was scuttled—have been compelling on my side of the aisle viewing this legislation a little bit differently.

The first event is the second opinions we are receiving on the fiscal impact of the health care bill. The Congressional Budget Office has revised the official spending upward.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of the CBO's May 11 letter to Congressman JERRY LEWIS. The letter is accompanied by two tables that identify explicit authorizations of discretionary funding. These tables are available along with the full text of the letter on the CBO's website at [www.cbo.gov](http://www.cbo.gov).

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, May 11, 2010.

Hon. JERRY LEWIS,  
Ranking Member, Committee on Appropriations,  
House of Representatives, Washington, DC.

DEAR CONGRESSMAN: As you requested, the Congressional Budget Office is providing additional information about the potential effects of H.R. 3590, the Patient Protection and Affordable Care Act (PPACA, Public Law 111-148), on discretionary spending. The following analysis updates and expands upon the analysis of potential discretionary spending under PPACA that CBO provided on March 13, 2010. In particular, it provides an update of the earlier tally of specified authorization amounts, as well as a list of programs or activities for which no specific funding levels are identified in the legislation but for which the act authorizes the appropriation of "such sums as may be necessary."

Potential discretionary costs under PPACA arise from the effects of the legislation on a variety of federal programs and agencies. The law establishes a number of new programs and activities, as well as authorizing new funding for existing programs. By their nature, however, all such potential effects on discretionary spending are subject to future appropriation actions, which could result in greater or smaller costs than the sums authorized by the legislation. Moreover, in many cases, the law authorizes future appropriations but does not specify a particular amount.

CBO does not have a comprehensive estimate of all of the potential discretionary costs associated with PPACA, but we can provide information on the major components of such costs. Those discretionary costs fall into three general categories:

The costs that will be incurred by federal agencies to implement the new policies established by PPACA, such as administrative expenses for the Department of Health and Human Services (HHS) and the Internal Revenue Service for carrying out key requirements of the legislation.

Explicit authorizations for a variety of grant and other program spending for which specified funding levels for one or more years are provided in the act. (Such cases include provisions where a specified funding level is authorized for an initial year along with the authorization of such sums as may be necessary for continued funding in subsequent years.)

Explicit authorizations for a variety of grant and other program spending for which no specific funding levels are identified in the legislation. That type of provision generally includes legislative language that authorizes the appropriation of "such sums as may be necessary," often for a particular period of time.

CBO estimates that total authorized costs in the first two categories probably exceed \$115 billion over the 2010-2019 period, as detailed below. We do not have an estimate of the potential costs of authorizations in the third category.

Implementation Costs for Federal Agencies—The administrative and other costs for federal agencies to implement the act's provisions will be funded through the appropriations process; sufficient discretionary funding will be essential to implement this legislation in the time frame called for. Major costs for such implementation activities will include:

Costs to the Internal Revenue Service (IRS) of implementing the eligibility determination, documentation, and verification processes for premium and cost-sharing credits. CBO expects that those costs will probably total between \$5 billion and \$10 billion over 10 years.

Costs to HHS, especially the Centers for Medicare and Medicaid Services, and the Office of Personnel Management for implementing the changes in Medicare, Medicaid, and the Children's Health Insurance Program, as well as certain reforms to the private insurance market. CBO expects that those costs will probably total at least \$5 billion to \$10 billion over 10 years.

Explicit Authorizations of Discretionary Funding—Explicit authorizations are identified in Tables 1 and 2. Table 1 presents a list of items for which PPACA specifies the authorized amount of funding for at least one year. It also includes items for which initial specified funding levels existed under prior law but for which PPACA extends the authority for continued spending. The specified and estimated amounts shown in Table 1 total about \$105 billion over the 2010-2019 period.

Table 1 differs from CBO's table of specified authorizations provided on March 13, 2010, in the following ways:

Certain provisions that extend (existing) authorizations with a specified level have been added. (In the previous version of that table, only new authorizations were included.) Also, provisions that provide mandatory grants for 2010 but authorize future spending of such sums as necessary (subject to appropriation) have been included. Those provisions are noted in the updated table.

Table 1 includes an estimate of the cost of section 10221 of PPACA, which incorporates the provisions of S. 1790, the Indian Health

Care Improvement Reauthorization and Extension Act by reference. (CBO had not completed an estimate of the Indian health provisions for the March 13 version of the authorization table.) Those provisions authorize the appropriation of such sums as are necessary for the Indian Health Service (IHS) for carrying out responsibilities broadly similar to those in law prior to enactment of PPACA. As a result, the amounts included in Table 1 reflect recent appropriations for those IHS programs, with adjustments for anticipated inflation in later years.

Table 1 also includes a few corrections to the table provided on March 13. For example, section 5207, which authorizes funding for the National Health Service Corps, was inadvertently left off the March 13 table but is included in Table 1.

Table 2 presents a list of new activities for which PPACA includes only a broad authorization for the appropriation of "such sums as may be necessary." For those activities, the lack of guidance in the legislation about how new activities should be conducted means that, in many cases, CBO does not have a sufficient basis for estimating what the "necessary" amounts might be over the 2010-2020 period.

Although Tables 1 and 2 provide more information about the discretionary costs associated with PPACA, they do not represent all of the potential budgetary implications of changes to existing discretionary programs—including both potential increases and decreases relative to recent appropriations. Some of those changes could affect spending under existing authorizations or may lead the Congress to consider making changes—up or down—in the funding for existing programs. Moreover, some of the potential new costs for individual provisions of the legislation may be covered by the broad estimate of \$5 billion to \$10 billion for administrative costs to HHS.

I hope you find this information useful. If you have any questions about this updated analysis of PPACA's implications for future discretionary appropriations, please contact me or CBO staff. The primary staff contacts for this analysis are Jean Hearne and Julie Lee.

Sincerely,

DOUGLAS W. ELMENDORF,  
Director.

Mr. GRASSLEY. That letter documents CBO's projections that health reform will result in at least \$115 billion in additional spending beyond what was previously included in the total of last March.

In addition, Douglas Elmendorf, Director of the Congressional Budget Office, recently indicated that the landmark health care reform bill would not accomplish its primary fiscal objective of reducing Federal health expenditures.

Dr. Elmendorf made this point in a presentation to the Institute of Medicine on May 26, of this year. The presentation is titled "Health Costs and the Federal Budget" and is available on the CBO website as well.

The second event is the record buildup of public debt. Last week, the Federal public debt passed \$13 trillion. On that monstrous number, \$1 trillion was added in the last year all by itself.

The third event is the continuous mounting of the cost of the stimulus bill. Recent Congressional Budget Office scoring shows that policy, instead

of being roughly \$800 billion, is now exceeding \$1 trillion.

The fourth event is the fiscal troubles in the country of Greece. Too much spending and public debt has put Greek public finance in a state of distress.

The fifth event is the troubling developments in States with large open-ended social spending programs and already very high income taxes. The people who send us here are also reading these reports and they are rightfully worried about these fiscal troubles. They are sending one message to Washington, and it is as clear as any bell. They are saying: Reverse course on deficits and debt. They say we in Congress ought to restrain ourselves and our policies; pull back on extra spending. Republicans heard that message a while ago, and it looks to me as though Democrats are hearing the same thing.

To sum up at this point, on the first point I have been speaking about—on process—the Democratic leadership, by avoiding a genuine bipartisan compromise, is continuing to take a very long path to resolving this overdue unfinished business. The bipartisan path to succeed was set forth almost 4 months ago—early February—and that was the Baucus-Grassley compromise.

Unfortunately, the tax offsets—largely noncontroversial—were lifted from that compromise and used for something totally unrelated, but to cover the bloated spending in the health care bill. To retain the spirit of that compromise, those offsets would need to be replaced by restraints on spending. Republicans, in our alternative, will show the way to achieve those savings.

As has been the case for the last year and a half, those who pay income tax and those who receive government checks aren't treated similarly.

Even with those revisions, keep in mind on net, the taxpayer is paying at least \$40 billion more in this bill. Spending constituents receive almost \$100 billion in new spending.

My second process point goes to time-sensitive legislative business that is yet unfinished in terms of revenue and taxpayers affected. The other unfinished tax legislative business dwarfs the measures in this bill now before the Senate.

There are three major policy areas that need to be addressed. I do not know when they are going to be addressed. These three issues are the death tax, the current alternative minimum tax fix—that is an annual process we go through—and, three, the bipartisan 2001 and 2003 tax relief plans. So I want to go into these in some detail.

I have a chart that shows the status of these three policy issues. Let's start with the death tax, or the estate tax, whatever you want to call it. Since the first of the year there has been no death tax. If you died, up to this point, presumably, your estate is going to be tax free. At the end of this year, the death tax then reappears, and not in a very friendly way.

After failing to act for almost 3 years in the majority, the House Democratic leadership put a death tax reform measure before the House last year at the same time it should have been discussed in the Senate. But the Senate has not acted on the House bill.

I might suggest to you that we had to act on that health care bill because it takes effect in 2014, but tax extenders and the estate tax that had to be settled in December were not even discussed.

In Iowa I can tell you that confusion and the anxiety over the uncertain state of the death tax comes up in my town meetings all the time. I would be surprised if other Senators are not hearing the same thing. I got a letter signed by 750 lawyers and accountants in my State saying: How do we advise our clients? What is the estate tax going to be for the future?

It is not a case of just what the tax law is, it is the case of millions of people wanting to plan estates and cannot do it. I refer again to my friend, Chairman BAUCUS, who was working on a compromise proposal with Senators LINCOLN, KYL, and myself.

Unfortunately, the liberal core of the Senate Democratic caucus seems to prefer no action at all. My friend, the junior Senator from Vermont, has been transparent about his desire to leave the law as it is; in other words, next year only have a million-dollar exemption.

Others feel just as strongly, but perhaps are not as transparent as the junior Senator from Vermont. In any event, the effect of failing to reform current law will be to raise the number of people hit by the death tax by a factor of 10 times. What I am saying is, stalling out a bipartisan reform, which seems to be the liberal core's objective, will likely mean 10 times as many family farmers and small businesses will be hit with the death tax. A reform like the one envisioned by Senators LINCOLN and KYL will mean only the richest 10 percent of dead peoples' estate will face the death tax.

Now I would like to turn to a second major area of unfinished business; that is, the alternative minimum tax fix. This is one of those yearly or biannual things the Congress goes through so that middle-class Americans will not pay a tax that was meant just for the very wealthy. So we are talking about this year's tax fix already.

The law says 30 million Americans, or maybe more accurately 24 million Americans, ought to be paying this income tax right now. The trouble is they do not file until next year, so it gives us a chance to do something about it. But for those filing quarterly, if they are not taking that into consideration they are violating the law.

In the next week, on June 15, the second installment of this year's estimated income tax is due. Last year, 24 million middle-income families were spared from the unfair hit of the alternative minimum tax. The fix meant

\$2,300 per family. This year those figures are going to go up.

If the law is not changed, all those families will have to pay at least \$2,300 more per family. In my State of Iowa, it means at least 124,000 middle-income families will be paying additional income tax that was only meant for the very wealthy.

No bill has been marked up or passed in the House that deals with this problem. Under current law, some of these millions of families should be paying estimated tax next week, June 15.

Finally, let's take a look at the third major area of unfinished tax business. Here we have a chart, and I am referring to the widely applicable rate cuts in family tax relief from the 2001 and 2003 bipartisan tax relief plans.

Virtually every American who pays income tax, and millions more who do not under current law, will have a higher tax bill if we do not extend the 2001 and 2003 bipartisan tax relief bills. For years I have referred to the sunset of these plans as a tax wall. Middle-income families will run right into a very firm wall of tax increases.

For a family of four with an income of \$50,000, that tax wall is \$2,300. For a single mom with two kids earning \$30,000, that tax wall is \$1,100. No bill has been marked up or passed in the House that deals with this problem.

You may hear some on the other side say: Too bad about the sunset. They argue that the bipartisan group wrote the tax relief plans with a sunset. The sunset, therefore, is the responsibility of the bipartisan authors of these plans.

If that argument is advanced by members of the current majority, keeping in mind they have had control of Congress for 3½ years, I wait for that as an opportunity to quickly respond. My response will be to provide a citation of all of the filibusters led by the Democratic leadership on Republican attempts to make all three of these areas of bipartisan tax relief permanent law.

The bill before us has very timely and important measures. In nearly all instances, the expiring tax provisions are treated the same way as they were treated under the Baucus-Grassley agreement of almost 4 months ago, going back to early February.

I thank my friend, the chairman of the committee, Senator BAUCUS, and the Democratic leadership for holding on to those pieces of the Baucus-Grassley agreement. Especially important is an extension of the biodiesel tax credit because we have thousands of workers—and I have seen the figure of 23,000—who have been idled throughout 44 States of the United States as they have shut down the plants.

So if you really want a jobs bill, reinstate the biodiesel tax credit and you will put thousands of workers in Iowa back to work, and about 23,000 nationally.

Likewise, Iowa companies, such as Rockwell Collins in Cedar Rapids, IA,

have taken charges to earnings as the research and development credit has lapsed. Unfortunately, there are some notable deviations from the Baucus-Grassley agreement of last February. Two pieces of the Midwestern disaster relief package were dropped from the Baucus-Grassley agreement in the Senate bill. The alternative fuels credit was altered to remove coal-to-liquids and other promising cutting edge technologies.

The bill before us actually also leaves out some very important provisions of rural health care. These rural health care provisions were included in the Baucus-Grassley agreement of last February but have since been dropped by the Democratic leadership.

Here again we will have a Republican alternative that will show the way on including these important items and having them offset; in other words, they will be paid for. These important rural health care provisions would keep ambulances running in rural areas and improve Medicare payments for both urban and rural hospitals so they are able to keep their doors open.

There is also an important provision left off the bill that ensures that physicians in rural areas are paid fairly relative to urban States.

Is that such a hard thing to figure, that if you are under Medicare, a national program, you ought to be treated the same in rural areas as urban America?

The bill before us also fails to protect beneficiaries from having their physical and occupational therapy cut off. It also fails to extend the add-on payment for Medicare mental health services furnished by psychologists and mental health counselors.

This add-on has been critical in improving access to mental health care services for Medicare beneficiaries and even military personnel suffering from stress and other mental health issues. Again, the Republican alternative will afford these protections and offset the costs; in other words, it will be paid for.

The bill before us also fails to extend the Q-I program, which provides assistance to low-income beneficiaries. The Q-I program covers the Part B premium and out-of-pocket costs for seniors. Without it, many low-income seniors will be forced to decide between getting needed medical care and basic necessities such as food.

The bill before us misses the opportunity to fix the incredibly short-sighted policy in the health reform bill that created a Medicaid payment cliff for primary care providers.

Have we not learned anything from our Medicare provider payment problems? The Republican alternative converts the 2-years of additional payments to Medicare providers to a grant program to get States to increase payments to providers. The same dollars, but we do not end up having a cliff where there will have to be a lot of money made up at some future time.

On the offsets side, as I indicated above, revenue raisers that were non-controversial were lifted, and these were, in a sense, transferred for yet more spending in that bloated health care reform bill that passed in March.

This meant the bicameral Democratic leadership had to yet scrape deeper to this offset barrel. They pulled out a House-passed change on carried interest. They raided the international tax policy area. They moved revenue-raising ideas out of that area and used them to offset proposals like yet another expansion of the Build America Bonds. That is a program I have questioned in the past.

This transaction cannot bode well for efforts to reform our outdated and uncompetitive international tax titles.

It follows the destruction of the bipartisan tax policy reform of the worldwide interest allocation rules. The losers are U.S.-based companies and their workers. The net tax cost of doing business globally will rise for American-based firms. We already have a noncompetitive corporate tax system. Why would we want to make it more uncompetitive? Why would we want to transfer more jobs overseas? This won't rise for competing firms based in other countries. So Japan, the UK, Germany—name any country—those competing firms will have a leg up because of the tax policy in this bill.

Some characterized these generic tax increases as ending a tax incentive for shipping jobs overseas. As I have indicated, the opposite will occur. The embedded higher taxes burden only U.S.-based companies. In a globally competitive environment, with much of the growth in sales overseas, the impact of those taxes will have to be absorbed here in the United States. The after-tax rate of return on those U.S.-based business activities will decline. The costs will have to be cut elsewhere to pull the rate of return back up to a competitive level because, in this global economy, we have to compete. U.S.-based labor and other expenses will, as we might not be surprised, be cut.

As with the health care bill, the American people are sending a message to those of us representing them in the Congress. The message is this: Finish these time-sensitive matters and do it in a fiscally responsible manner. Of course, that is a message that has been ignored for several months.

Now we get to these tax extenders. They have been attacked as fat-cat tax breaks one week. Then a week later the same critics have labeled them as job incentives. They have been hijacked and manipulated for partisan purposes. That is why, 4 months after scuttling a bipartisan compromise on bipartisan policy, the Senate finds itself struggling to complete this bill. It could have been done so easily in February. This is somehow routine, unfinished business the American people rightly expect us to complete.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. CARDIN. Mr. President, I take this time to talk about amendment No. 4304, which I hope I will be able to get cleared by setting aside the pending amendment in order to offer it.

At this time, let me bring to the attention of my colleagues what the amendment would do. This amendment would affect the Federal employees' health benefit plans by allowing the administrator to change the current rules to enroll children up to the age of 26. Currently, the restriction for Federal employees is that they can only enroll unmarried children to age 22.

There are 8 million Federal employees and retirees covered under the Federal Employees Health Benefits Plan. As I am sure everyone is aware, under the law recently passed and signed by President Obama, we have now extended coverage for children up to the age of 26. However, that becomes effective under the law for plans entered into after September 23, 2010. For most plans, the requirement to include children being able to enroll up to age 26 would begin on January 1 of next year when the plan year begins.

Private insurance companies have responded. They understand that this is not really a cost issue and that it makes sense to allow the children of the plan holders up to the age of 26 to be enrolled immediately. Most of the private insurance companies have responded by opening enrollment now.

OPM Director John Berry would like to do the same. He has stated he would like to begin expanding coverage for enrollee adult children now, rather than wait until January to offer this cost-saving benefit. The problem is, current law prevents him from doing that because of the definition of a dependent child being an unmarried child, age 22.

The purpose of this amendment is to give OPM the authority to start to enroll now children who have not reached their 26th birthday. This is particularly important knowing we are in the graduation season. Many of us are very proud to attend our children's graduations. Many of these children would like to remain on their parents' policy now that they are no longer eligible for insurance at college. Unfortunately, without this change, they will have to wait until January of next year, which will cause a lapse in coverage.

The scoring of this is insignificant. We are not talking about a significant amount of additional cost. In fact, we believe it is really a cost-savings issue.

This amendment was offered as a bill and enjoys bipartisan support. Senators COLLINS, LIEBERMAN, AKAKA, ROCKEFELLER, MIKULSKI, BINGAMAN, JOHNSON, KAUFMAN, KERRY, LANDRIEU, STABENOW, WARNER, DODD, DORGAN, LEVIN, CANTWELL, CASEY, and HAGAN have joined in cosponsoring this legislation. It has the support of the National Active and Retired Federal Employees Association, the National Federation of Federal Employees, the American Federation of Government

Employees, the National Treasury Employees Union, and the list goes on.

This amendment makes abundant sense. Our clear intent is to allow those who are under Federal employees' health benefit plans to take advantage of enrolling their children now. This amendment basically clarifies that law so that OPM can move forward to enroll children up to the age of 26 immediately and not wait until January of next year, causing a lapse in coverage. It is a bipartisan amendment, insignificant cost. I hope it will be cleared so I may offer it, and hopefully we can act on it without too much time.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:38 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Mr. BEGICH).

#### AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

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

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

Mr. BAUCUS. Mr. President, the Senator from Alabama took issue with the use of an emergency designation in the substitute before us. Let me take a moment to explain why that use of the emergency designation is entirely appropriate.

First, the concluding section of the amendment designates two items as emergency items. Those items are unemployment insurance and additional payments to States under Medicaid. Both of these items are directly related to the economic emergency that we find ourselves in; namely, the great recession.

From the beginning of emergency designations, with the Budget Enforcement Act of 1990, Congress has recognized periods of recession as true emergencies, and that makes good economic sense as well. It makes good sense to allow automatic stabilizers such as unemployment insurance and Medicaid to spend more when the economy is in rough shape. Programs such as unemployment insurance and Medicaid help to cushion the blow for those hurt by bad economic times. Programs such as unemployment insurance and Medicaid help to increase economic demand, and that helps to keep the recession shorter than it otherwise would be.

That is why the old Gramm-Rudman-Hollings law provided for exceptions to

budget discipline in periods of recession. It is why the Budget Enforcement Act carried on that policy by allowing exceptions for budget emergencies, and budget resolutions have carried that policy further to the current day.

The Senator from Alabama also took issue with the budgetary treatment of payments to doctors under Medicare. That provision is in our amendment, paying doctors at the end of next year. In our amendment, the provision on doctors' payments simply says this provision will be accounted for as Congress provided in the Pay-As-You-Go Act. This provision does not evade the budget law. This provision merely provides for this bill's treatment in accordance with the budget law. So the budgetary treatment of this bill is consistent with the budget law and it is entirely appropriate.

The Senator from Alabama has once again offered his amendment to put caps on appropriated spending. That is basically the same amendment the Senate has repeatedly rejected. The Senator from Hawaii, the distinguished chairman of the Appropriations Committee, will no doubt have more to say about this in due course. At this point let me note the Sessions amendment violates the Congressional Budget Act and I expect a point of order to be raised against the Sessions amendment later today.

Mr. President, I now ask unanimous consent that the Sessions amendment be temporarily laid aside so the Senator from Maryland may offer an amendment.

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

The Senator from Maryland.

AMENDMENT NO. 4304 TO AMENDMENT NO. 4301

Mr. CARDIN. Mr. President, I call up my amendment No. 4304.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Mr. CARDIN] proposes an amendment numbered 4304 to amendment No. 4301.

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

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

The amendment is as follows:

(Purpose: To provide for the extension of dependent coverage under the Federal Employees Health Benefits Program)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . EXTENSION OF DEPENDENT COVERAGE UNDER FEHBP.

(a) SHORT TITLE.—This section may be cited as the "FEHBP Dependent Coverage Extension Act".

(b) IN GENERAL.—

(1) PROVISIONS RELATING TO AGE.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8901(5)—

(i) in the matter before subparagraph (A), by striking "22 years of age" and inserting "26 years of age"; and

(ii) in the matter after subparagraph (B), by striking "age 22" and inserting "age 26"; and

(B) in section 8905(c)(2)(B)—

(i) in clause (i), by striking "22 years of age" and inserting "26 years of age"; and

(ii) in clause (ii), by striking "age 22" and inserting "age 26".

(2) PROVISIONS RELATING TO MARITAL STATUS.—Chapter 89 of title 5, United States Code, is further amended—

(A) in section 8901(5) and subsections (b)(2)(A), (c)(2)(B), (e)(1)(B), and (e)(2)(A) of section 8905a, by striking "an unmarried dependent" each place it appears and inserting "a dependent"; and

(B) in section 8905(c)(2)(B), by striking "unmarried dependent" and inserting "dependent".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective as if included in the enactment of section 1001 of the Patient Protection and Affordable Care Act (Public Law 111-148), except that the Director of the Office of Personnel Management may implement such amendments for such periods before the effective date otherwise provided in section 1004(a) of such Act as the Director may specify.

Mr. CARDIN. Mr. President, I took the floor a little earlier today to explain that this amendment allows the members of the Federal Employees Health Benefits plan to be able to enroll their children up to age 26 immediately rather than waiting for the beginning of the year, which would effectively deny those who are graduating from college today, who may not qualify as being under 22 and single, to be able to stay or enroll on their parents' Federal Employee Benefits plan. This is an amendment that the OPM Director supports in that he would like to do this but can't do it under the current law. It has minimal cost.

Private insurance companies are allowing up to 26-year-olds to enroll on their parents' policies today. This allows the government workforce to have those same rights. It would normally take effect at the beginning of the year. It makes sense to do this now. It is bipartisan. It is supported by Democratic and Republican Senators. I urge my colleagues to support this amendment.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. KYL. Madam President, I rise to speak to the pending bill and a potential amendment Senator VITTER is preparing and hopes to offer, an amendment which would make sure that any increase in the trust fund for oilspills would be spent on cleaning up oilspills. That might seem rather obvious, but it turns out that the bill before us increases the required contribution of oil companies to this trust fund to clean up oilspills from 8 cents to 41 cents per barrel and then spends the money not to clean up oilspills but, rather, to pay for other items in the underlying legislation, the so-called extenders bill.



That is not right. If we are going to increase the money to pay for oil spills, we ought to spend the money to clean up oil spills.

What the Vitter amendment does is very simple. It says if that is what we are raising the money to do, then that is what we should spend it on. I will quote from the amendment:

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

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

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

It is fairly straightforward.

Why do we have to have this amendment? Because the underlying bill, the extenders bill, raises the required contribution to the trust fund and then spends that money not on cleaning up oil spills but to pay for the extension of benefits under the so-called extenders bill. It doesn't pay for anything in particular; it is simply used to offset the \$100-plus billion expenses in this legislation.

The particular provision in the underlying bill that raises the contribution of the oil companies from 8 cents a barrel excise oil tax to 41 cents is section 431. The House-passed extenders package increased it to 34 cents a barrel, and then, under the provisions of this legislation, it is increased to 41 cents a barrel.

Why is this being done? The reason this is being done is to offset part of the expense of the \$100-plus billion of this extenders bill. It doesn't offset all of the expenses, obviously.

If we are going to raid the oil trust fund, which otherwise would be used to clean up the oil spill, we better have a very good reason for doing so, especially since all attention is focused right now on the very difficult job of dealing with this big disaster. In fact, it has been described as the biggest disaster of its kind in all of history for the United States. We are going to need every dime we can get in order to pay for the oil spill.

What happens? About the time we seek to get the money to deal with this disaster, whoever is in charge of the money says: We are sorry. It is all gone. We spent it on the tax extenders bill.

We ask: What does the tax extenders bill have to do with the 41 cents per barrel collected from the oil companies?

Nothing. But we needed the money, so we spent it instead.

That reminds me of two other examples. We pay into the Social Security trust fund so that when we retire, the funds are there to pay us. It turns out that each year more money is paid into the fund than is necessary to pay out in benefits. As a result, we take that money and we put it away so we will have it in the future, right? Wrong. Congress spends it.

So when Social Security needs that money to pay seniors' retirement, it goes to the bank and says: We need some of that money now.

The bank says: We are sorry. Congress has already spent it all. You will have to raise taxes on the American public so there is enough money to pay seniors their retirement.

But didn't seniors already pay into the retirement?

Yes, they did.

What happened to the money?

Congress spent it.

A more recent example is the health care legislation. We decided—not we; the other side—it would be a good idea to save \$500 billion from Medicare; in other words, to reduce the expenses of Medicare by  $\$1\frac{1}{2}$  trillion over 10 years. Some of us thought it is certainly the case that the Medicare trust fund is in trouble. There isn't enough money in the Medicare trust fund to continue to pay benefits for seniors' health care. At least what they are trying to do will extend the life of Medicare. In fact, the claim was made by many on this side of the aisle: This is going to extend the life of Medicare, extend the trust fund's viability for 17 years. It was either 17 years or until the year 2017—I cannot remember.

Then the Actuary of CMS issued a report and said: Not so fast. It turns out that money is not going to be used to extend the viability of Medicare. We are going to spend it on new entitlements in the health care legislation.

I remember talking to the distinguished chairman of the Finance Committee at the time in the Chamber. Since the Actuary of CMS says we can't spend this money twice, we can't spend it both on the new entitlement in the health care legislation and still count it as preserving the viability of Medicare, which is it going to be? We never got an answer. In truth, I suspect it is going to be spent on the new entitlement and we will not be extending the viability of Medicare. You can't spend the same dollar twice. That is what the CMS Actuary pointed out.

Time and time again, when Congress is deceiving the American people by raising funds for something, a specific purpose—to clean up the oil spill, to save Medicare, to fund Social Security—we steal that money from the fund that was created for a specific purpose and spend it on other things. We should be honest with the American people.

The Vitter amendment will at least make clear that to the extent we raise money by raising the price per barrel oil companies must pay into the trust fund, to the extent we collect money from that, we have to spend it on cleaning up the oil spill, not on the other things in the bill that is pending.

I hope when the time comes we will be able to consider the Vitter amendment and we will be honest with the American people and say that one of the first things we have to do is to make sure we can clean up the oil spill.

And if we think it is a good idea to make the oil companies spend more money in order to do that, then that is where we ought to be spending the money, not taking that money and using it to pay for other things in this legislation. We have already done it with Social Security. We have already done it with health care. We have done it with a lot of other things.

The American people are getting sick and tired of this duplicity on the part of the Congress. All we do is spend around here. Then when it comes time to pay for it, we say: We are going to pay for it. We are not going to increase the deficit. We will pay for it by taking it from some other fund. The money was raised for some other purpose. That is how we will pay for it. That is as dishonest as not paying for it in the first instance and instead sending the bill to our kids and grandkids.

At some point, Congress has to start paying for what we are spending money on. If we really want to continue to increase spending—and this bill spends over \$100 billion—let's be honest and find sources of revenue that really reduce spending in some case so that we can then apply that funding here, or if the other side would like to raise taxes—and there are certainly a lot of taxes in this legislation, which I oppose—the other way we can do it is to raise taxes and hurt businesses so that we don't create as many jobs. That is a great thing to do in the middle of a recession, but that is another way to do it. Either reduce spending somewhere else or generate more revenue through taxes. But don't generate revenue for the oil spill trust fund and then immediately take that revenue and spend it on this bill. That is not an honest way to offset spending in the underlying legislation.

This is another example of why the American people are upset with the Congress.

I would hope that before this legislation is finally disposed of, we would either drop this provision from the bill, this section 431, or we would adopt the Vitter amendment which would ensure whatever funds are collected under that provision are used for the purposes for which they were collected; namely, to clean up the oil spill, and not to offset spending in other parts of the bill.

The PRESIDING OFFICER (Mr. KAUFMAN). The Senator from Minnesota.

AMENDMENT NO. 4311 TO AMENDMENT NO. 4301

Mr. FRANKEN. Mr. President, I ask unanimous consent that the pending amendment be set aside and that my amendment No. 4311 be called up.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota [Mr. FRANKEN], for himself, Ms. SNOWE, and Mrs. MURRAY, proposes an amendment numbered 4311 to amendment No. 4301.

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

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

The amendment is as follows:

(Purpose: To establish the Office of the Homeowner Advocate for purposes of addressing problems with the Home Affordable Modification Program)

At the appropriate place, insert the following:

**TITLE —OFFICE OF THE HOMEOWNER ADVOCATE**

**SEC. 01. 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. 02. 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) **LIMITATIONS ON FORECLOSURES.**—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) **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. 03. 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. 04. 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 Afford-

able 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. 05. 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.

Mr. FRANKEN. Mr. President, I rise today to speak about an issue I am very concerned about, and I know every Member of this body is concerned about: the number of families losing their homes to foreclosure.

When I go back to Minnesota, and I know when the Presiding Officer goes home to Delaware, we are bombarded by stories from folks in our States who have worked their entire lives to own a home but who may lose it. They want to know why this is happening to them after they have worked so hard and why the government is not doing more to help.

The reality is, the government has done something. The President created a program called HAMP, which incentivizes mortgage servicers to modify home loans to keep families in their houses. But while that program is a good step forward, it has also been plagued by mistakes. People are losing their homes just because of human error. Let me repeat that. People are losing their homes simply due to errors.

When I spoke about this previously on the Senate floor, I mentioned a homeowner named Barbara, who lives in Minneapolis. She fell behind in mortgage payments because her husband lost his job and her son got cancer. But when she tried to use the President's mortgage modification program, her mortgage servicer claimed she was not eligible for a mortgage modification, and he did so using incorrect information about her finances. When she pointed out the problem, they claimed there was nothing she could do because she had already been denied.

Take another woman from Minneapolis. Let's call her Susan. She did not want me to use her real name. After Susan fell behind in mortgage payments, she went through HAMP and paid all of her monthly payments on time. Her mortgage servicer, however, seems unwilling or unable to decide one way or another if she is eligible for a “final modification,” which would allow her to continue paying a lower amount on her mortgage and stay in her home.

In the meantime, the company continues to schedule sheriff sales for the property, which, in turn, increases the amount that Susan owes in fees. In other words, because HAMP is not working the way it should, Susan may owe more money than she would otherwise, and she may be even more at risk of losing her home.

This is not the way the government is supposed to work. If we are going to have a government program, let's make sure it operates effectively. I think we can all agree on that. Let's have good governance. People should not be losing their homes just because we cannot get all our ducks in a row.

Today, Senator SNOWE and I are offering an amendment to fix the HAMP appeals process so that homeowners have a place to turn when the system fails. This amendment would create an Office of the Homeowner Advocate within Treasury, modeled after the very successful Office of the Taxpayer Advocate at the IRS, which has worked wonderfully. Homeowners would be able to call this Treasury office and know that someone has their back—someone with the authority to actually fix the problem.

Staff at the Office of the Homeowner Advocate would have two important powers. First, they could make sure servicers actually follow the rules of the program or suffer the consequences. Secondly, they would be able to temporarily delay a servicer's ability to sell a person's home, giving the office time to resolve the problem before it is too late.

The office would be temporary, lasting only as long as HAMP does. While it lasts, though, it would make sure that government actually works the way it is supposed to work. If we are going to set up a program to help keep people in their homes, let's actually make sure it keeps people in their homes.

Significantly, this amendment does not authorize any additional appropriations. Let me repeat that. There are no additional appropriations. It would be funded by existing HAMP administrative funds.

Our amendment is supported by a large number of national groups, including the Center for Responsible Lending, the National Consumer Law Center, the Leadership Conference on Civil and Human Rights, the Consumers Union, the Consumer Federation of America, the Service Employees International Union, and the National Council of La Raza. I am happy to say the amendment is supported by over a dozen groups in Minnesota.

Senator SNOWE and I first proposed this amendment during the Wall Street reform debate. The amendment was supported by the Treasury Department and made the White House's list of the top 10 amendments that would improve the bill. But it never received a vote.

Now we are putting it to the Senate again. Let's have an actual vote on this issue on whether to fix this foreclosure

program we have created. Homeowners in all our States deserve that much.

Mr. President, I yield the floor.

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

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

#### GULF OILSPILL

Mr. VITTER. Mr. President, I come to the floor to talk about the ongoing oil disaster in the gulf. Being from Louisiana, we view this, correctly, as an ongoing disaster. This is not history. This is not a past event. This is not just some issue to debate in Washington. It is an ongoing crisis, an ongoing oil flow that continues to pollute the gulf and continues to devastate the region economically.

So in that context, there is, perhaps, only one thing that is more frustrating than an inadequate response from BP or an inadequate Federal response. The only thing more frustrating than that—in fact, more infuriating—is when this ongoing crisis and disaster is used and abused politically for other purposes.

I think that is exactly what is going on in this extenders bill. Because in this bill there is a huge increase in taxes that go to the Oil Pollution Act trust fund, but that money is not going to oil cleanup in the gulf. It is primarily being used to go into the trust fund to be stolen from it for unrelated spending to mask the deficit spending in this bill. Quite frankly, when we are going through an ongoing crisis in the gulf, that is not frustrating, it is outrageous.

What am I talking about exactly? This is what I am talking about: Right now, under Federal law, there is a tax levied on petroleum products of 8 cents per barrel. That funds the Oil Pollution Act trust fund. In this extenders bill, that tax is proposed to be increased by the majority side from 8 cents to 41 cents—over a fivefold increase.

If that were necessary and crucial to fund cleanup operations in the gulf, I would be completely open to it. We need to do whatever it takes. But that is not how that money is being used. It is being used as a cover to increase taxes and to offset other unrelated spending. Because in this bill that tax is increased from 8 cents to 41 cents, and then, just as quickly, that money is stolen from the trust fund to pay for other unrelated items in the bill.

Put another way, it is double counted. It is used as an offset on other spending items in the bill that have nothing to do with the oil disaster, nothing to do with the cleanup. It is double counting. It is an unfair offset. It is stealing from the trust fund to mask other spending. Unfortunately, I think this is a classic example of the old Rahm Emanuel quote from early on

during this administration. Around February of 2009, Rahm Emanuel, the White House Chief of Staff, said: We are not going to let a good crisis go to waste. At the time, he was talking about the financial crisis and harnessing that to push forward the Obama administration's unrelated, left-leaning agenda.

Tragically, exactly the same thing is going on here: We are not going to let a good crisis go to waste. They are going to use the ongoing oil disaster in the gulf to help mask runaway Federal spending. Because, again, they are proposing to increase this tax from 8 cents to 41 cents—over a fivefold increase—but it does not go for gulf cleanup. It is stolen from there just as quickly as it is levied to pay for unrelated spending. It is double counted to mask the runaway spending also in the bill.

Again, that is not just frustrating; as a Member from Louisiana, that is downright offensive. This is an ongoing crisis. It is an ongoing challenge and we need to meet it. We need to focus on it. We need to deal with it. We do not need to use it and abuse it politically to push forward a preexisting, leftist agenda up here to pay for runaway and unrelated Federal Government spending.

I will have an amendment on the floor in this debate to address this issue. I will formally offer it and make it pending tomorrow. But my amendment, which will be cosponsored by Senator JUDD GREGG, the ranking member of the Budget Committee, is real simple. It is going to say that whatever Congress does with this new revenue into the OPA trust fund, it cannot steal that revenue for unrelated spending. It cannot use that revenue, double count that revenue to mask other unrelated runaway deficit spending. That is what my amendment is going to say and that is what my amendment is going to do.

We have a crisis in the gulf. It is ongoing. It is not over yet, unfortunately, by a long shot, because the flow is ongoing, the pollution is ongoing, and it is getting worse and worse. We need to meet that crisis. We need to meet that challenge and do whatever it takes. We don't need to use and abuse that crisis to push forward other unrelated agendas here in Washington, DC.

This provision in the extenders package is doing just that. It is using and abusing that crisis to put money in the OPA trust fund just to take it out, to steal it for unrelated programs, to double count it, to mask runaway deficit spending completely unrelated to the oil disaster. As a Senator from Louisiana, I am crying foul. I am saying that is not only wrong, it is offensive. We shouldn't use and abuse an ongoing crisis in the gulf for other unrelated political purposes.

So, again, I will have a very clear amendment. It will say whatever we do with the OPA trust fund, that money can't be stolen from the trust fund and used for unrelated purposes. That

money can't be double counted to help mask runaway government spending having nothing to do with the ongoing crisis in the gulf. If it is a trust fund, let's treat it as a trust fund, and that means we take the revenue and we truly preserve it for that use and that use alone and it can't be stolen for anything else, and it can't be double counted to mask other deficit spending.

I think it comes down to a pretty fundamental decision: Are we here in the Senate going to meet the ongoing crisis in the gulf? Are we going to meet that challenge? Are we going to come together across party lines and do the right thing? Or, are some folks here going to use it and abuse it to advance an unrelated political agenda; to steal that money for unrelated spending; to double count it and help mask unrelated, runaway Federal Government spending? We shouldn't do that. That is rubbing salt in the wound of gulf coast residents. That is truly offensive and truly wrong.

I urge all of my colleagues, Democrats and Republicans, to support this amendment. I will formally introduce it and make it pending tomorrow. Again, the idea is very simple. Whatever we do with the OPA trust fund, it should be to deal with the crisis in the gulf. It should be to preserve that and protect that in a true trust fund; not to steal it out of the trust fund to pay for unrelated spending; not to double count it to mask soaring Federal Government deficits having nothing to do with our response in the gulf.

Thank you, Mr. President. I look forward to continuing this debate. I look forward to filing, introducing, and making this amendment pending tomorrow, and I look forward to a positive vote.

With that, 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.

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

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

Mrs. SHAHEEN. Mr. President, I am here to speak to this bill we are considering, the American Jobs and Closing Tax Loopholes Act. Too many people in New Hampshire and across this country are still struggling. I wish to talk today about some of the provisions that are in the legislation before us, provisions that will create jobs, grow small businesses, and help unemployed Americans who are still struggling to get back to work.

As you know, Mr. President, we have been here before. On March 10 of this year, almost 3 months ago, the Senate took up and passed a bill that contained most of the provisions we are considering today. That day, the Senate voted, with bipartisan support, to stand with working families and extend

the safety net legislation and investment incentives that are helping us get through and out of this recession.

Unfortunately, we have not yet been able to send this bill to President Obama for his signature. For the last 3 months, we have had almost weekly standoffs on temporary measures to do what we already voted to do back in March, which is help people throughout this country get back to work. This delay has had real consequences. Over the last 6 months, the Federal unemployment program has expired four times—most recently, over Memorial Day.

Mr. President, you and I know the American people deserve better. The legislation before us will create jobs, it will increase demand for goods and services, and it will provide stability for Americans who have lost their jobs during this recession. In addition to extending unemployment benefits through November, the bill also renews a tax credit to support research and development; it waives the fees on business owners who take out Small Business Administration loans; it helps municipalities make critical infrastructure improvements; and it funds a much needed summer youth jobs program.

I know there are some people who think we have done all we should do. I, too, believe we must get back on a path to a balanced budget, but the best way to do that is to get this economy moving again. The latest jobs report from last Friday showed that we still have a lot of ground to make up. During these very difficult economic times, it is still necessary for the Federal Government to step up and help stimulate job creation through investments and tax cuts.

The national unemployment rate is still over 9 percent. In many communities, it is much higher than that. What is more, nearly 7 million people—nearly half of all Americans collecting unemployment benefits—have been out of work for 6 months or longer. They have run out of the benefits provided by their States. These are the workers who are collecting Federal unemployment benefits, which they are using to pay the rent, make mortgage payments, buy groceries, and put gas in their cars to go out and look for the next job. This legislation extends this vital program until the end of November.

Another group of Americans who are helped by this legislation and who are hurting right now are teenagers. These young people have an unemployment rate that is more than double the national average. In fact, right now young people are having a harder time finding jobs than at any time since World War II.

Last week, I visited Nashua, NH, and Dover High School in Dover, NH, where I used to teach school. A lot of the students in both of those communities are pretty excited about summer beginning. Many of those students want to

work this summer. Many of them need to work to help save for college, to help their families. Unfortunately, because of the recession, it is more difficult for a teenager to get a job today than it has been in a very long time. High unemployment has forced more adults to compete for every job, and they are often filling jobs that once went to young people. That is a problem for young people, and it is a threat to the future of the economy.

Last year, Congress stepped in and created a summer jobs program to employ tens of thousands of teens, which included over 500 young people in New Hampshire.

I got to meet two of those students last week. Dawn White, who will be a senior at Dover High School this fall, talked to me about her "life-changing summer job experience" that she had last summer as a result of the dollars we put in to help fund summer jobs. She worked setting up exhibits at a local children's museum. Dawn told me that having that summer job built her confidence and helped her identify a new goal for the future to work with children. In Nashua, I met Elizabeth Madol, a senior at Trinity High School in Manchester. She worked at the public library in Manchester and helped young children with summer reading and other activities. She told me that this had been her first job and that because of it she now has the skills and work experience she needs to get another job this year. Those are just two stories out of hundreds of young people in New Hampshire and all across this country. Those are young people who, because of those summer jobs, have had phenomenal results.

An independent study showed that young people were excited by the skills they gained through summer work and they left better prepared to join the workforce. They were exposed to new careers and new opportunities. They learned about responsibility and developed professional relationships. Many even left with job offers for after they graduated. This is particularly important for us because many of these young people are young people who, without those summer jobs, would never have a chance to enter the workforce or they would enter at a time that would leave them behind for years to come.

The legislation before us contains \$1 billion to extend the summer jobs program for another year, creating tens of thousands of jobs and giving hundreds more young people in New Hampshire and hundreds of thousands more across this country the chance to work. We can't build a 21st-century economy unless we start building our young workforce. We need workers with all kinds of skills and interests. By giving teenagers a foot in the door today, they will give back to our economy in the future. That is the power of what the funds in this legislation for summer jobs can do.

Finally, the legislation we are considering takes away tax breaks that reward corporations for sending jobs overseas, and it gives tax incentives to small businesses to create jobs right here in America.

This is a good bill. It is legislation that will make a real difference in our communities by creating jobs and helping struggling families. It is an investment in our present, and it is an investment in our future. I urge my colleagues to once again support the American Jobs and Closing Tax Loopholes Act.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

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

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

#### HEALTH CARE REFORM

Mr. BARRASSO. Mr. President, I come to the floor today because the President of the United States earlier today had a townhall meeting to talk about the new health care law, the law he has promoted and talked about and which has been a major point of discussion, debate, and then vote in this Chamber over the last year.

I come as someone who has practiced medicine in Casper, WY, since 1983, as an orthopedic surgeon, taking care of families all around the State of Wyoming, and working on prevention, working on early detection of medical problems through what is called Wyoming Health Fairs.

I come to the floor today, having watched and read the comments by the President, to take a look at some of those comments and see what the American people heard from the President and what I see as my doctor's second opinion about this health care law. It is a law that I believe is bad for patients, bad for payers—the American taxpayers—and bad for our medical providers—our nurses and our doctors—who take care of those patients. Like most Americans, I believe this is going to, unfortunately, raise the cost of care for American families and lower the availability and quality of that care.

I wish to point out a few of the comments the President of the United States said today, and I want to do that from my perspective as someone who goes home to Wyoming on weekends and visits with patients. Just a few minutes ago, earlier today, I visited with a patient, someone I had operated on, done surgery on her knee about 10 years ago.

One of the things the President talked about today was Medicare Advantage. Medicare Advantage, in my opinion, is a program that has a lot of advantages. That is why one out of four Americans on Medicare signs up for Medicare Advantage. It deals with preventive care. It deals with coordinating care, so care is coordinated in a way that patients get better care.

The President said Medicare Advantage benefits will not change. He said:

First and foremost, what you need to know is that the guaranteed Medicare benefits that you've earned will not change, regardless of whether you receive them through Medicare or Medicare Advantage.

Seniors who know a lot about Medicare Advantage know that is not the case. You do not have to go very far back to find it. Yesterday's Wall Street Journal talked about Medicare, and specifically Medicare Advantage. I will quote from this article. It says:

Dozens of Medicare Advantage providers—

These are the insurance companies that help with Medicare Advantage—plan to cut back vision, dental and prescription benefits.

“Plan to cut back vision, dental and prescription benefits.”

Some plans are eliminating free teeth cleanings and gym memberships, and raising fees for hearing aides, eye glasses and emergency-room visits.

Wait a second. The President of the United States said Medicare Advantage benefits will not change. This says there are a couple of reasons why he is wrong. One of the reasons is that the rate the government will pay private insurers to run the plan is frozen. It is frozen in 2011 at the 2010 levels, while medical costs are expected to increase an average of at least 6 percent.

I thought we went into this whole health care debate and discussion with the idea of getting the costs down. Now what we are seeing is, no, costs are going to go up in spite of, or perhaps because of, this legislation. “Such price increases and benefit cuts will help” the companies “recoup that difference . . .”—the losses.

Medicare Advantage benefits are certainly going to change, and they are going to change in a way that is detrimental to the seniors of the country regardless of what the President said today in his townhall meeting.

Then he went on and said the health bill “will actually reduce the deficit, reduce costs.” That is what the President said today at his townhall meeting in Maryland.

It is astonishing because I do not believe any person in this Chamber believes that. I do not think anyone listening at home or at the townhall meeting believed it. And the President's Chief Actuary does not believe it. Actually, the Chief Actuary a month or so after the bill was passed, after it was signed into law, released projections that said the health care overhaul will likely cost about \$115 billion more—more—in spending over the next 10 years than the original cost projections, taking the total estimated costs to above \$1 trillion.

The President says this will actually reduce the deficit and reduce costs. This is at a time of record deficits, when the American people are very concerned about the deficits and the incredible debt.

From the transcript of the President's speech, as he goes through, he says:

And finally, we're going to reduce by half the amount of waste, fraud and abuse in the Medicare system. . . .

That is an admirable goal. There is significant waste, fraud, and abuse in the Medicare system. How much waste, fraud, and abuse is there? I am not sure anyone knows for sure exactly how much there is, but the Associated Press, with a lot of study, has said it is about \$47 billion a year—\$47 billion a year.

What do the budget people who looked at this health care law say about how good is it going to be, how effective? The President is talking about cutting it in half from \$47 billion. If you can save \$23 billion a year, that is an accomplishment. The Congressional Budget Office estimated that Medicare, Medicaid, and the Children's Health Program, with the integrity provisions—those are the provisions aimed at waste, fraud, and abuse—they are thinking that over the next 4 years, they will save about \$2.2 billion and over the next 10 years, they will save almost \$7 billion.

Savings are good, but they are going to save \$7 billion over 10 years when, according to the Associated Press, we are losing almost \$500 billion over 10 years to waste, fraud, and abuse.

The savings, according to the Congressional Budget Office, are minuscule, but yet the President today, talking to this crowd, said we are going to reduce it by half.

I don't know, maybe he is talking about introducing a new law because it sure is not in the health care bill that was signed into law and passed with 60 votes in this body.

After the President went through all of these, he then said:

So that's what the law does. Now, having said that, there—some of the folks who were against health reform in Congress—

I don't think anybody is actually against health reform. But I will say there are a lot of people who are against this bill. He said:

In fact, you have an entire party out there that's running on a platform of repeal.

It is not a party. Sixty percent of the American people are saying we should repeal and replace this health care law.

The President had this meeting, but there are a lot of things the President of the United States did not tell the American people. It is those things—that is the reason 60 percent of the American people are opposed to this new law.

He did not mention that Medicare cuts will be \$550 billion, and those are cuts to hospitals, cuts to nursing homes, cuts to home health agencies, cuts to hospice to help people in the final days and hours of their lives. He did not mention that at all.

He did not mention that the new Medicare Director—someone he recently named—loves the British health care system and says we are going to need to ration care. The new Director of Medicare is planning to ration care. We did not hear that mentioned to the seniors today.

We did not hear him mention the fact that up to \$18 million has been spent

on a mailer about the new health care law that many have referred to as propaganda because it fails to clearly and honestly express what is going to happen to people on Medicare as they cut \$550 billion from their health care over the next years.

I do not think he mentioned that one in six hospitals is going to find they are in the red living under the new system. That is what the Chief Actuary has said.

I don't think he mentioned the \$25 million plan that was mentioned yesterday in the New York Times: "White House and Allies Set to Build Up Health Law and Democrats Who Backed It." It said:

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

That is what we hear. We now have a health care law that, as NANCY PELOSI said, you have to pass before you get to find out what is in it. The American people are finding out what is in it. Week after week, they are finding some new unintended consequence, something they do not want, something they do not think is good for them. That is why week after week I come back to the floor to talk about a health care law that failed to pay for doctors who take care of patients, failed to pay to train doctors, and failed to deal with lawsuit abuse.

It did have money for a lot of new IRS agents to try to enforce the law that is mandating everyone to buy insurance. But I think if you talk with people in any of our home States, they are going to say: We need more new doctors; we don't need more IRS agents.

That is why I come to the floor with my second opinion, an opinion which says it is time to repeal the legislation and replace it with legislation that is really a health care system and program that is patient centered, that will allow Americans to buy insurance across State lines, that will provide the same tax relief for individuals who buy their health insurance personally—they would get the same tax relief that the big companies get—that would provide individual incentives, such as premium breaks, to encourage healthy behavior, that would deal with lawsuit abuse, and would allow small businesses to join together to provide less expensive health insurance for their employees.

That is why today I offer my second opinion that it is time to repeal and replace this bill and get patient-centered care for the American people.

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

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4302 TO AMENDMENT NO. 4301

Mr. CORNYN. Madam President, I ask unanimous consent to set aside the pending amendment and call up my amendment No. 4302.

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

The clerk will report.

The assistant editor of the Daily Digest read as follows:

The Senator from Texas [Mr. CORNYN], for himself and Mr. KYL, proposes an amendment numbered 4302 to amendment No. 4301.

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

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

The amendment is as follows:

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

At the appropriate place, add the following:

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

**SEC. 01. SHORT TITLE.**

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

**SEC. 02. DEFINITIONS.**

In this title:

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

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

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

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

**SEC. 03. SENSE OF CONGRESS.**

It is the sense of Congress that—

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

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

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

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

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

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

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

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

**SEC. 04. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.**

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

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

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

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

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

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

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

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

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

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

**SEC. 05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.**

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

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

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

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

(3) If the determination under paragraph (2) is that the levels of risk are



unsustainable, specific recommendations for reducing the levels of risk to sustainable levels, in a manner that results in a reduction in Federal spending.

**SEC. 06. CORRECTIVE ACTION TO ADDRESS UN-ACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.**

In any case in which the President determines under section 04(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, or the Comptroller General of the United States makes a determination under section 5(b)(3), 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.

Mr. CORNYN. Madam President, I won't detain the Senate long, but I did want to call up this important amendment early on in considering this underlying legislation.

This amendment would improve transparency in reporting of foreign holdings of our debt, providing taxpayers with more information about which countries are financing our deficit spending. This amendment is based on legislation Senator KYL and I introduced in April called the Foreign-Held Debt Transparency and Threat Assessment Act. This legislation would require the President to provide Congress with quarterly risk assessments on the national security and economic hazards posed by current levels of foreign holdings of our debt. It would require the President, in the event that risk level was too high, to submit a plan of action to the Congress to bring down the risk in a way that reduces Federal spending.

Regarding the national debt itself, the bill instructs the GAO to provide Congress with an annual risk assessment on national security and economic hazards posed by the national debt as well as recommendations for reducing Federal spending.

We know the President's budget puts this Nation on a roadmap for doubling the national debt in 5 years and tripling it in 10 years. The interest payments alone will reach \$900 billion in 10 years, which is more than the United States currently spends on education and national defense combined. In addition, according to the nonpartisan Congressional Budget Office, the pending legislation will add almost \$80 billion to the deficit.

While the President likes to say he inherited the Nation's debt from his predecessor, the fact is, from the day President Obama took office until the last day of fiscal year 2010, the debt

held by the public will have grown by \$2.3 trillion, according to the White House Office of Management and Budget.

It is important to note that the explosion in the Nation's debt is being financed by foreign investors who, unsurprisingly, may not always have our best interests at heart. The more we need to borrow from foreign investors, concerns about our Nation's fiscal health increase.

The chairman of the Budget Committee noted at a hearing last February that last year, 68 percent of the new debt financing came from abroad, with China now the biggest funder of the United States. We have had the Chinese warn us publicly and privately that they are increasingly reluctant to finance that debt.

In fact, it is worse than that. Chinese Government officials have threatened to use their debt holdings to retaliate against U.S. policies they oppose. In a recent response to a U.S. decision to sell defensive weapons to Taiwan, an official of China's People's Liberation Army warned that China might sanction the United States by dumping U.S. Government bonds.

Many believe a rapid Chinese divestment of U.S. debt holdings would have a destabilizing effect on the U.S. economy.

For all these reasons, I ask my colleagues to support this amendment.

I yield the floor and 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. BAUCUS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BAUCUS. Madam President, we are on the jobs and tax bill, but we seem not to be making a lot of progress tonight. Senators are under no constraint to come to the floor and say what is on their minds about any subject under the Sun.

I wish to address a couple remarks given by Senators recently.

Most recently, I share the concerns of the Senator from Texas about the debt that is owned by lots of different folks, not just Americans but owned by foreigners. He made special reference to China. I think it would be better if the United States could avoid borrowing so much. It is unfortunate the United States has borrowed a lot to run its affairs.

So have other countries, I might add. It is not just the United States. There are many countries, regrettably, that have overborrowed. Greece comes to mind, as do other European countries: Spain, Portugal, perhaps even Hungary. It is becoming quite a concern worldwide. It is one reason we have the Deficit Reduction Commission set up to figure out the proper way to reduce our deficits, which by definition would

mean that other countries would be borrowing less from other countries.

But I also think we need to act responsibly. The Senator from Texas sent a resolution—I think it is a resolution—which was pretty strongly worded in its implied criticism of China. It somewhat reminds me of the Pogo cartoon: We have met the enemy, and he is us. But, in any regard, we need to avoid taking actions that might unsettle bond markets in these very uncertain times. The markets are jittery right now. So I look forward to working with the Senator from Texas to improve his amendment. We have to be very responsible on this subject and not cause a greater problem by acting too precipitously.

On another matter, Madam President, just prior to the Senator from Texas speaking, the Senator from Wyoming addressed the Senate, and he delivered a full-throated diatribe against health care reform. He called his attack “a second opinion.” But instead of offering a second opinion, which he did not do at all, he delivered, frankly, the same old negative criticisms that many on his side of the aisle have been delivering since enactment of health care reform. Not one Republican voted for health care reform—not one—and that bill passed. We do live in a democracy. The majority vote rules. The President signed the bill. I would think that issue has been settled. Health care reform has been enacted into law, signed by the President. So I am a little confused as to why he still wants to criticize this bill so much, except he does say: Well, gee, it should be repealed.

The Senator from Wyoming, for example, derided the antifraud provisions in the health care reform bill. He called them “miniscule.” But I might say, as a matter of fact, we advanced every antifraud provision we could possibly find. In the meantime, working with the Senator from Florida, Mr. LEMIEUX, we are also looking to find other antifraud provisions to cut back waste and get rid of the waste in our health care system.

But we needed the health care reform law to pass so we can weed out that waste, get rid of that waste, and to pass these antifraud provisions. If the Senator has another health care fraud measure, I sure would like to hear it. It reminds me of that phrase: Where's the beef. He keeps criticizing, but I hear no solutions. I hear no alternatives. I am a little surprised at that because he is my neighbor. We in Montana know a lot of folks in Wyoming, and we like to think we are people who do not just bellyache and complain but we are, rather, people who come up with positive solutions, constructive solutions, as good neighbors do.

The Senator from Wyoming goes on further to say that the President's nominee to head CMS “plans to ration care.” This is simply a libel, Madam President. If the Senator were not protected by the speech and debate clause,

he would be subject to a suit for slander. Certainly truth would not be a defense. The Senator from Wyoming uttered a slanderous statement. He is protected by the speech and debate clause of the Constitution of the United States, and that is about the only place he could make slanderous statements like that with impunity.

The Senator from Wyoming says his "second opinion" is that Congress should repeal the new health care law—just repeal it. But by calling for repeal of health care reform, the Senator from Wyoming apparently seeks to repeal one of the biggest budget reduction measures in the decade. I say that because the nonpartisan Congressional Budget Office tells us that health care reform will reduce the Federal deficit by one-half of 1 percent of GDP in its second decade. It will reduce the deficit.

I would think the Senator from Wyoming would like to reduce the Federal budget deficit. I am quite certain he wants to reduce the Federal budget deficit. But if he asks for repeal of health care reform, I guess he no longer cares about reducing our Federal budget deficit.

By calling for repeal of health care reform, the Senator from Wyoming seeks to repeal the law that reins in insurance companies. Boy, in the private market there is just so much abuse of individuals by insurance companies. By calling for the repeal of health care reform, apparently the Senator from Wyoming wants to bring back the ability of insurance companies to discriminate against people who have preexisting conditions, to discriminate against Americans who are denied insurance based upon some health care status or to go back and deal with the rating provisions of States where the States, unfortunately, allowed insurance companies to take advantage of certain groups of people.

By calling for repeal of health care reform, apparently he seeks to bring back the doughnut hole and preserve it in the future. He seeks to continue hardships for seniors who need help paying for their prescriptions.

Madam President, this health care reform bill closes the doughnut hole. What is the doughnut hole? That is the dollar amounts above which and under which people have to pay all their prescription drug benefits. When they get up to the doughnut hole, they get a certain break. When they get above the doughnut hole, I guess 90 percent of their drugs are paid for—something like that.

But within the doughnut hole, if you are a senior, you do not get any help. Apparently, the Senator from Wyoming says: Oh, that is fine. Those people don't deserve to get any breaks in their prescription drug benefits. He wants to repeal health care reform, so the effect of that would be: Seniors, you are not going to get any help. Sorry. No help in the doughnut hole.

By calling for repeal of health care reform, the Senator from Wyoming

seeks to eliminate the tax credits that the new law will give Americans to help them buy insurance. I guess he does not care about that, the Senator from Wyoming. He does not want to give people tax credits. He does not want to give people tax credits to help them buy insurance.

And by calling for repeal of health care reform, the Senator seeks nothing less than the continuation of a system where millions of Americans struggle, struggle by, struggle without health insurance, struggle without quality health care. They struggle because of greater pain and discomfort and greater risk of early death.

I could go on and on and on and on as to the reasons the Senator from Wyoming's so-called second opinion is defective, to say the least. I know some on the other side oppose health care reform. But this is, as I mentioned earlier, a democracy. In our country, the majority generally determines whether a law passes. Congress and the President enacted health care reform, and I wish my colleagues on the other side of the aisle would just stop fighting the last war—stop fighting the last war. Rather, let us try to find opportunities to work together to improve the law together. Let's leave behind the politics of destruction. Let's work together to build a better health care system for America because, after all, we are here to help the people who sent us here. The people who sent us here want a better health care system than they now have.

So let's work together to find that better solution. Let's not forget that health care is basically indiscriminate. Poor people, wealthy people get cancer. Women, men get cancer. Cancer strikes anybody. It does not make a difference whether you are a Republican or a Democrat. The same thing is true with any other health discomfort or condition.

So I am just beside myself in trying to figure out why it is that the other side of the aisle just keeps attacking health care reform. The only conclusion I can come up with is they just want to stir up things. They want to cast all kinds of doubt and confusion in the minds of Americans, with respect to perhaps these elections coming up this next November. That is a conclusion I do not like to reach but, logically, it is the only one I can possibly come up with.

I will say something else. This health care reform is going to be relitigated again when we in the Finance Committee take up the nomination of Don Berwick to be the new CMS Director. I know, as sure as I am standing here, those who voted against health care reform—and they all happen to be Republicans—are going to be just relitigating health care reform. They are going to accuse this administration of about anything under the Sun, including Don Berwick. It is going to be very unfortunate. It is my job—it is going to have to be as chairman of the committee—to

try to keep the debate, if you will—it will not even be a debate; in part, it will be a diatribe in certain circumstances—to just keep the discussion, the debate on a constructive level so we can serve our country and serve our people. But I felt compelled to speak in the wake of the remarks by the Senator from Wyoming because they deserved a response.

Madam President, 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.

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

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

Mr. BAUCUS. Mr. President, we have had an interesting start today on the jobs-tax bill, but it has been fruitful and productive. We have four amendments pending. That is progress. Tomorrow, I want to move ahead and clear out the underbrush, if you will, to get those amendments disposed of. I have spoken with the leader, and we have agreed that it makes good sense to get those four amendments processed tomorrow morning before we do much else and that we go to other amendments subsequent to that. I hope we can get those amendments processed so that we can proceed.

#### MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### JOSH MILLER HEARTS ACT

Mr. BROWN of Ohio. Mr. President, half of heart-related deaths in the United States are caused by a hard-to-diagnose condition called sudden cardiac arrest, SCA. Different from a heart attack, SCAs are caused by an electrical problem in the heart that, once triggered, requires immediate treatment: survival rates plummet 7 to 10 percent with every minute that passes. Each year, only 8 percent of the 295,000 people who suffer an SCA outside of a hospital survive. A few years ago, June 1–June 7 was designated as CPR/AED Awareness Week to share these startling statistics and to begin to change them. By educating and encouraging communities to establish organized programs that could provide CPR and AED training to the public, lives have already been saved. Anyone can suffer a sudden cardiac arrest, no matter one's age or gender. In fact, many victims appear healthy, not having a known heart disease or any other risk factors. For example, student athletes with no previous heart ailments

have been stricken with SCA in the middle of practice or during games.

Josh Miller was one such student athlete. The act that bears his name—the Josh Miller HEARTS, Helping Everyone Access Responsible Treatment in Schools, Act—creates a grant program through the Department of Education for public and private schools to purchase automated external defibrillators, AEDs, and to train staff in the use of CPR and defibrillation within the context of a coordinated emergency response plan. Josh was a 15-year-old high school honor student from Barberton, OH, who suffered sudden cardiac arrest during a high school football game. Though Josh had never previously demonstrated symptoms of a heart problem, he passed away before paramedics arrived at the scene. There were no AEDs on site that might have been used to save Josh's life.

The U.S. House of Representatives passed the Josh Miller HEARTS Act on June 2, 2009, and Senator GEORGE VOINOVICH and I introduced the bill in the Senate on June 8, 2009. Currently, the legislation has seven cosponsors and is pending before the Committee on Health, Education, Labor, and Pensions.

The combination of early, immediate CPR and defibrillation helps restore normal heart rhythm before emergency personnel arrive and increases a victim's chances of survival. Tragically, lives are lost every day because there are not enough AEDs and persons trained in using the devices and performing CPR to provide this life-saving treatment. On average, response times for emergency medical teams run approximately 6 to 12 minutes. Yet according to the American Heart Association, the chance of survival of sudden cardiac arrest decreases by 7 to 10 percent with every passing minute.

In order to have a strong emergency response system, communities need the resources to help save lives. I encourage my colleagues to follow the House's lead and take up and pass the Josh Miller HEART Act as soon as possible.

#### MEMORIAL DAY 2010

Mr. BEGICH. Mr. President, the English author Albert Pine wrote: "What we have done for ourselves alone, dies with us; what we have done for others and the world remains and is immortal." On Memorial Day we come together to recognize and honor those who have truly "done for others and the world" and to ensure their service and sacrifice remains immortal.

Each year since 1868 we have paused to pay tribute to those who have made the ultimate sacrifice for our freedom and democracy. This freedom we cherish is not free and comes at a horrific price, a price borne by our veterans, both past and present. Our veterans never fought for empires or dominance but, rather, for a cause bigger than any one individual. That cause is freedom

and democracy, something many of them would sadly never live to see.

There is no greater service to one's country and no greater act of heroism than to stand between our Nation and those who would do us harm. So it is today, Memorial Day 2010, we again come together as a nation recognizing and honoring the valor and courage of the men and women who have given so much—warriors who paved the road of freedom with their service and sacrifices.

Alaska has a proud tradition of military service. During World War II, long before Alaska's statehood, the Alaska Territorial Guard stepped up and played a key role in defending Alaska and protecting America's interests. Today Alaska is home to more than 28,000 Active-Duty men and women, many of whom have served multiple tours of duty in the wars in Iraq and Afghanistan. The Alaska Army and Air National Guard is also playing a key role in these conflicts by deploying hundreds of Alaskans to combat duty.

It is all of our Active-Duty men and women—and their families—whom we should also thank and honor today. To the veterans among us—thank you for your service. We also remember warriors still missing and unaccounted for and continue our commitment to provide the fullest possible accounting and to return them home.

#### THE RELEVANCE AND IMPORTANCE OF NATIONAL SERVICE

Ms. MIKULSKI. Mr. President, I ask unanimous consent to have the following statement by Patrick Corvington, chief executive officer of the Corporation for National and Community Service, printed in the RECORD.

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

Patrick Corvington, CEO, Corporation for National and Community Service In School and On Track

CITY YEAR NATIONAL LEADERSHIP SUMMIT ON SERVICE AND EDUCATION

(Los Angeles, CA, May 18, 2010)

Thank you, Michael for that gracious introduction. And thank you for the opportunity to join with City Year as well as the Entertainment Industry Foundation as we shine a spotlight on the essential role of national service in solving America's drop-out crisis.

I want to begin by congratulating Michael and City Year for your visionary leadership in this work. We often hear many stories about young college roommates starting new companies from their dorm rooms and becoming billionaires. Michael and Alan had a different idea. In 1988, these two Harvard Law School roommates enriched us all by acting on their belief in the power of citizen service by creating City Year.

And now as a key member of the AmeriCorps network, City Year and its growing cadre of diverse and talented corps members has become a model for service in America. Thank you, Michael for this gift to the nation.

I also want to thank Lisa Paulsen, President and CEO of the Entertainment Industry

Foundation for co-sponsoring this summit and for adding the drop-out crisis to your growing portfolio of service campaigns. Lisa has been a good friend to me and to the Corporation. Last year, under her leadership, EIF launched iParticipate. As part of that effort, last October, more than 100 TV shows focused their programming and storylines on service. EIF has also been a supporter of City Year, ServiceNation and a number of other service organizations. Thank you, Lisa, for inviting Hollywood into our service family.

As many of you know, I was confirmed as CEO of the Corporation for National and Community Service on February 18th, so today marks my third month on the job. I've been out on the road to see the impact that our programs, members and partners are having across the country.

A couple of weeks ago, I was in San Antonio delivering the commencement address at the University of Texas and had the pleasure of seeing the Diplomas Now collaborative in action during a visit to McAuliffe Middle School. One of the most illuminating aspects of that visit was when the school principal told me that City Year and Communities in Schools had been working in McAuliffe for some time. But it was when they chose to partner and focus single-mindedly on helping students that he began to see remarkable progress.

Los Angeles is also a place where Diplomas Now is making a real difference. Early results from two of LA's toughest middle schools—Leichth and Hollenbeck—show remarkable progress: a 40 percent decrease in students failing math and a 43 percent decrease in students failing English.

I remember coming to this country as an immigrant and hearing from my high school counselor, as he looked across the table with earnest concern, that I wasn't college material and that I should go to trade school—I ended up going to night school and working my way through college. After seeing Diplomas Now in action, I wonder how different my journey would have been had I been surrounded by young people in red jackets who were more interested in seeing me succeed than in telling me that I couldn't.

Your red jackets have become a symbol of hope for a whole generation of young people who might otherwise be shackled with the chains of low expectations.

It is fitting that this summit has brought us here to Los Angeles—a city of many community challenges but also of tremendous assets and wealth. A place where diversity and disparity live side by side.

City Year is changing lives here in LA, in Chicago, Philadelphia, New Orleans and throughout this nation. The results you are achieving show us we have the power to beat back the drop-out crisis, and that service has a central role to play in this effort. Education is the engine that drives our nation's progress. But more than that, it is the gateway to a life of purpose and meaning.

In this global economy, education will be the fault line between success and failure, not only for our young people, but for our country.

Ben Franklin said, "An investment in knowledge always pays the best dividends."

There is nothing more critical to the future of this nation than making sure that every school . . . in every community . . . is equipped to give every young person in America the knowledge and the skills . . . to build lives of meaning . . . and to compete and win in the global economy.

But make no mistake—this is an unforgiving competition—one in which there are no excuses for failure and few second chances.

Since our inception, education has been one of our top priorities at the Corporation.

We understand that closing the achievement gap and reducing the drop-out rate requires not only government action, but also the involvement of families and communities. In the past 15 years, we have supported a number of education programs throughout the country.

For example, right here in Los Angeles, through their work with the National Farm Workers Service Center, AmeriCorps members are achieving remarkable results. They are raising reading and math scores for children of families living 60 percent below the poverty line. Families that are too often overlooked and left behind.

I believe one of the significant challenges we face in service today is how we build communities from the inside out while also ensuring that they have access to the best national resource like City Year. That is where success lies. We cannot continue to believe that we can change lives, change communities but leave them out of the change process. We need to do a better job of aligning our resources in communities, engage stake holders, and demonstrate the power of service.

You know, many of us think of ourselves as organizers—movement builders. If we are to use the rhetoric of grass roots organizing, then it should be grass roots and it should be organized.

Only by bringing together national leaders and communities can we demonstrate the power of service in solving problems.

I saw this very thing yesterday when I visited Hope for the Homeless here in L.A. This program is changing the face of AmeriCorps. They have recruited AmeriCorps members who have lived the very lives they are trying to change.

Sitting before me in their blue shirts, they talked about leading lives of purpose, about leading lives of meaning, about realizing what it means to have people depend on them, believe in them.

Some have spent the better parts of their lives in prison, others on the streets, but all in the crippling prison of despair. But all of them—every single one of them, has been transformed by AmeriCorps, by service.

I was struck. Not just by their stories, but also by how similar those stories were to those I've heard from other AmeriCorps members—from NCCC members in Colorado, from VISTA Volunteers in West Virginia, and from City Year members in Texas.

No matter where they come from, no matter what their experience—blue shirts or red jackets, the transformation is real, it is tangible, it is profound.

Transformation is not easy. If it were, we'd have it done by now. It takes courage. The courage to cross boundaries, the courage to reach out of our comfort zones, most of all the courage of humility. But if the AmeriCorps members at Hope for the Homeless have the courage to change their lives, and the City Year Corps members have the courage to go into some of the toughest schools in the toughest communities, then surely we have the courage to be bold.

That's really why all of us are here today. This is not about feeling good and good intentions—it is about the kind of future we are creating for ourselves, our children.

This is an exciting time to be in what I like to call the solutions business. We now have a President and a First Lady who understand something we've known for a very long time—service is not secondary to solving the drop-out crisis and other pressing problems—it is essential to solving them. President Obama has issued a challenge that every American become engaged in some way in their community.

Every American, everyone, has a role, and service can illuminate that path, can help people find themselves in the solution.

Last year, with the help of many of you in this room, the President signed into law the Serve America Act, the most sweeping expansion of national service in a generation.

The Act challenges us to do a better job of demonstrating and measuring our effectiveness in solving problems.

Undergirding that mandate are four major goals: First, to fulfill the promise to make service a solution for big national problems. Second, to expand opportunities for more Americans of all ages and backgrounds to serve. With new and diverse voices come new and innovative ways to approach and solve problems. So we need to embrace innovation by expanding proven programs and seeding promising emerging ones and finally we need to build the capacity of individuals, organizations and communities by giving them the tools they need to succeed.

City Year, with its laser focus on solving the drop-out crisis is a case-study in the fulfillment of all these goals. You are making service a solution. You are expanding opportunities for young people from diverse communities to serve.

And you're building the capacity of teachers, administrators and communities to turnaround failing schools but most of all you are giving students who need it most, the help they need to succeed. The entire service community has much to learn from you.

While Congress has expanded our mandate and given us more resources, the American people now expect us to use this opportunity to take service to the next level.

That means more of a focus on measuring outcomes to ensure that our efforts are making a difference.

At the end of the day, it won't mean a thing if we increase the number of volunteers and a million kids are still dropping out of school. It won't mean a thing if 15 million people are still out of work. It won't mean a thing if our communities continue to decline.

For too long, too many of us have been satisfied with saying that "we tried." That's no longer good enough. We must not only try, we must succeed. But the only way we will be successful, the only way we will win, is if we have the courage to plant a stake in the ground, draw a line in the sand and say that we are willing to be measured, to be judged, to be held to account.

At a time of great need, Americans are responding to President Obama's challenge.

But, to fulfill this new vision for service, we need a stronger investment from every sector. We don't only need more volunteers; we need them focused, like City Year, on solving specific problems. We don't just need more volunteer hours; we need to make sure those hours add up to results.

In order to do this, we need full funding of the President's budget request for the Corporation and its programs. The President's 2011 budget request of \$1.4 billion will strengthen our nation's civil society, foster innovation and civic engagement, and engage more than 6 million Americans in solving problems through service. If we make these needed investments. If we face the future with the courage to change. Then, and only then, will we fulfill our commitment to the American people.

So, let me say again, thank you to City Year for showing us the way. Thank you to the young AmeriCorps and City Year members who go into classrooms everyday to mentor, teach, and inspire struggling students. And thank you to everyone in this room who is a part of making service a solution.

The great American educator, Mary McLeod Bethune once said, "We have a powerful potential in our youth, and we must

have the courage to change old ideas and practices so that we may direct their power towards good ends."

What I've seen City Year do in classrooms throughout this country is give young people the hope for a better tomorrow . . . the support they need to overcome the odds . . . the strength and the courage to dream big dreams. And so, I want to say to Michael and the City Year corps members here today, when someone asks you 20 years from now where did you stand when more than half of young people in some of our largest cities were not finishing high school . . . Where did you stand when more than 12 million children were living in poverty . . . where did you stand when we were struggling to lift up students whose dreams were crumbling as fast as the schools around them . . . you can proudly say, I stood with City Year. I stood with AmeriCorps. I stood with service.

Thank you.

## ADDITIONAL STATEMENTS

### 2010 NEW HAMPSHIRE EXCELLENCE IN EDUCATION AWARD

● Mrs. SHAHEEN. Mr. President, today I congratulate the recipients of the 2010 New Hampshire Excellence in Education Award. The New Hampshire Excellence in Education Awards, or "ED"ies, honor the best and the brightest among New Hampshire's educators and schools.

For the past 17 years, the "ED"ies have been presented to teachers, administrators, schools, and school boards who demonstrate the highest level of excellence in education. Outstanding individuals have been compared against criteria set by others in their discipline through their sponsoring organization. Experienced educators and community leaders select outstanding elementary, middle, and secondary schools based upon guidelines established by the New Hampshire Excellence in Education Board of Directors.

It is very important that our children receive a high quality education so that they can succeed in today's global economy. I am proud to recognize this year's recipients who will receive this prestigious award on June 12, 2010, for the positive examples they provide for their peers and the lasting impacts they have made on our future workforce.

The names of the 2010 New Hampshire Excellence in Education Award winners are as follows:

Shelia Adams, Susan Janosz Technology Impact Award.

David April, Meritorious Achievement Award.

Gerard Bastien, Distinguished Music Educator of the Year.

Barbara Belak, Elementary School Counselor of the Year.

Celeste Best, Pat Keyes Technology Award.

Catherine Bond, High School Counselor of the Year.

Daniel J. Clary, Assistant Principal of the Year.

Kathleen Conlin, Special Education Director of the Year.

Andrew Corey, Middle School Principal of the Year.

Anna Marie Davis, School Nurse of the Year.

Moirra DeBois, School Psychologist of the Year.

James Dowding, Business Education Achievement Award.

Julia M. Dutton, World Language Teacher of the Year.

Paul Flynn, Outstanding Service Award.

Duane Ford, School Business Administrator of the Year.

Terri Forsten, Supervision and Curriculum Development Award.

Pamela Harland, School Librarian of the Year.

Christine Haswell, Outstanding Community/Business/School Partnership.

Kenneth Heuser, EdD, The Dennise Maslakowski PDK Education Award.

Shea Higley, Family and Consumer Sciences Teacher of the Year.

Michael R. Jette, Secondary School Principal of the Year.

Jennifer Lemoine, D.A.R.E. Officer of the Year.

Robert Mailloux, Middle School Counselor of the Year.

Dr. Michael J. Martin, Superintendent of the Year.

Greta S. Mills, Christa McAuliffe Sabatinal Award.

Teresa Minogue, Presidential Award for Excellence in Math and Science Teaching.

Teresa Morris, Educator of the Gifted Award.

Edward R. Murdough, Alexander J. Blastos Distinguished Service Award.

Eric Nash, Teacher of the Year.

Katy O'Gorman Rhodebeck, Art Educator of the Year.

Joan Ostrowski, Elementary School Principal of the Year.

Janet Prior, English/Language Arts Teacher of the Year.

Julie Ramsey, Educator of the Gifted Award.

Joan Rees, Special Educator of the Year.

Christine Roderick, Reading Teacher of the Year.

Matthew Siranian, Technology Education Teacher of the Year.

Thomas Starratt, Middle School Principal of the Year.

Amy Vandersall, Social Studies Teacher of the Year.

Mascenic Regional School Board, School Board of the Year.

Milan Village School, Elementary School of the Year.

Timberlane Regional Middle School, Middle School of the Year.

Newfound Regional High School, High School of the Year.●

#### MESSAGES FROM THE PRESIDENT

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

#### EXECUTIVE MESSAGES REFERRED

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

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

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13405 OF JUNE 16, 2006, WITH RESPECT TO BELARUS—PM 59

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency and related measures blocking the property of certain persons undermining democratic processes or institutions in Belarus are to continue in effect beyond June 16, 2010.

Despite the release of internationally recognized political prisoners in the fall of 2008 and our continuing efforts to press for further reforms related to democracy, human rights, and the rule of law in Belarus, serious challenges remain. The actions and policies of certain members of the Government of Belarus and other persons to undermine Belarus democratic processes or institutions, to commit human rights abuses related to political repression, and to engage in public corruption pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency declared to deal with this threat and the related measures blocking the property of certain persons.

BARACK OBAMA.

THE WHITE HOUSE, June 8, 2010.

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY THAT WAS ORIGINALLY DECLARED IN EXECUTIVE ORDER 13219 OF JUNE 26, 2001, WITH RESPECT TO THE WESTERN BALKANS—PM 60

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the

President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the Western Balkans emergency is to continue in effect beyond June 26, 2010.

The crisis constituted by the actions of the persons engaged in, or assisting, sponsoring, or supporting (i) extremist violence in the Republic of Macedonia and elsewhere in the Western Balkans region, or (ii) acts obstructing implementation of the Dayton Accords in Bosnia, United Nations Security Council Resolution 1244 of June 10, 1999, in Kosovo, or the Ohrid Framework Agreement of 2001 in Macedonia, that led to the declaration of a national emergency on June 26, 2001, in Executive Order 13219, and to amendment of that order in Executive Order 13304 of May 28, 2003, has not been resolved. The acts of extremist violence and obstructionist activity outlined in Executive Order 13219, as amended, are hostile to U.S. interests and pose a continuing unusual and extraordinary threat to the national security and foreign policy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to the Western Balkans and maintain in force the sanctions to respond to this threat.

BARACK OBAMA.

THE WHITE HOUSE, June 8, 2010.

#### MESSAGE FROM THE HOUSE

At 10:04 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; with an amendment to the Senate amendment to the bill, in which it requests concurrence of the Senate.

#### 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-6037. A communication from the Acting Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Value-Added Producer Grant Program" (RIN0570-AA79) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6038. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2-Propenoic acid polymer, with 1,3-butadiene and ethenylbenzene; Tolerance Exemption" (FRL No. 8827-4) received during

adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6039. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Trifloxystrobin; Pesticide Tolerances" (FRL No. 8829-2) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6040. A communication from the Director of the Legislative Affairs Division, Natural Resources Conservation Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Conservation Stewardship Program" (RIN0578-AA43) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC-6041. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Finland-Public Interest Exception to the Buy American Act" (DFARS Case 2009-D022) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Armed Services.

EC-6042. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral Harold D. Starling II, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC-6043. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Lieutenant General David P. Valcourt, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-6044. A communication from the Assistant Secretary of Defense (Logistics and Material Readiness), transmitting, pursuant to law, a report relative to the destruction of a commercial helicopter under contract with the Department of Defense by hostile fire; to the Committee on Armed Services.

EC-6045. A communication from the Under Secretary of Defense (Logistics and Material Readiness), transmitting, pursuant to law, the Defense Environmental Programs report for fiscal year 2009; to the Committee on Armed Services.

EC-6046. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the restructured DDG 1000 Zumwalt Class Destroyer program; to the Committee on Armed Services.

EC-6047. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the restructured Remote Minehunting System (RMS) program; to the Committee on Armed Services.

EC-6048. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the restructured Wideband Global SATCOM (WGS) program; to the Committee on Armed Services.

EC-6049. A communication from the Assistant Secretary (Reserve Affairs), Department of Defense, transmitting, pursuant to law, the annual National Guard and Reserve Equipment Report for fiscal year 2011; to the Committee on Armed Services.

EC-6050. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Lieutenant General David A. Deptula, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-6051. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, a report entitled "96th Annual Report of the Board of Governors of the Federal Reserve System"; to the Committee on Banking, Housing, and Urban Affairs.

EC-6052. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility (75 FR 14356)" ((44 CFR Part 64)(Docket No. FEMA-2010-000)) received during adjournment of the Senate in the Office of the President of the Senate on June 3, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6053. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Final Flood Elevation Determinations (75 FR 18088)" ((44 CFR Part 65)(Docket No. FEMA-2010-000)) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6054. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Final Flood Elevation Determinations (75 FR 18070)" ((44 CFR Part 65)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6055. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Final Flood Elevation Determinations (75 FR 29199)" ((44 CFR Part 65)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6056. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Flood Elevation Determinations" ((44 CFR Part 65)(Docket No. FEMA-2010-0003)) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6057. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Changes in Final Flood Elevation Determinations (75 FR 18076)" ((44 CFR Part 65)(Docket No. FEMA-2010-0003)) received during adjournment of the Senate in the Office of the President of the Senate on June 3, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6058. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Singapore; to the Committee on Banking, Housing, and Urban Affairs.

EC-6059. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Kingdom of Saudi Arabia; to

the Committee on Banking, Housing, and Urban Affairs.

EC-6060. A communication from the Secretary, Division of Trading and Markets, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Municipal Securities Disclosure" (RIN3235-AJ66) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6061. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Export Administration Regulations: Technical Corrections" (RIN0694-AE69) received in the Office of the President of the Senate on May 26, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6062. A communication from the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Implementation Changes from the 2009 Annual Review of the Entity List" (RIN0694-AE88) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC-6063. A communication from the Senior Vice President and Chief Financial Officer, Federal Home Loan Bank of New York, transmitting, pursuant to law, the Bank's 2009 Management Report; to the Committee on Banking, Housing, and Urban Affairs.

EC-6064. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the California State Implementation Plan, South Coast Air Quality Management District" (FRL No. 9139-7) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Environment and Public Works.

EC-6065. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonable Further Progress Plan, 2002 Base Year Emission Inventory, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Philadelphia 1997 8-Hour Moderate Ozone Nonattainment Area" (FRL No. 9160-3) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Environment and Public Works.

EC-6066. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; New Mexico; Interstate Transport of Pollution" (FRL No. 9160-2) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Environment and Public Works.

EC-6067. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Technical Corrections and Clarifications Rule" (FRL No. 9158-5) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Environment and Public Works.



EC-6068. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Paints and Allied Products Manufacturing; Amendments" (FRL No. 9158-1) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Environment and Public Works.

EC-6069. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Determination of Attainment of the 1997 Ozone Standard" (FRL No. 9157-4) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Environment and Public Works.

EC-6070. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Reasonable Further Progress Plan, 2002 Base Year Emission Inventory, Contingency Measures, Reasonably Available Control Measures, and Transportation Conformity Budgets for the Baltimore 1997 8-Hour Moderate Ozone Nonattainment Area" (FRL No. 9158-4) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Environment and Public Works.

EC-6071. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Control of Nitrogen Oxide Emissions from Industrial Boilers and Process Heaters at Petroleum Refineries" (FRL No. 9158-3) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Environment and Public Works.

EC-6072. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Particulate Matter Standards; Withdrawal of Direct Final Rule" (FRL No. 9157-9) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Environment and Public Works.

EC-6073. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Finding of Failure to Submit Section 110 State Implementation Plans for Interstate Transport for the 2006 National Ambient Air Quality Standards for Fine Particulate Matter" (FRL No. 9159-5) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Environment and Public Works.

EC-6074. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Assistance from the Environmental

Protection Agency" (FRL No. 9158-9) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Environment and Public Works.

EC-6075. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Status of State Small Business Compliance Assistance Programs for 2007-2008; to the Committee on Environment and Public Works.

EC-6076. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Procedure: United States and Area Median Gross Income Figures" (Rev. Proc. 2010-23) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Finance.

EC-6077. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Modification of Rev. Proc. 2009-50" (Rev. Proc. 2010-24) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Finance.

EC-6078. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Prevention of Over-Withholding and U.S. Tax Avoidance with Respect to Certain Substitute Dividend Payments" (Notice No. 2010-46) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Finance.

EC-6079. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Health Savings Accounts Inflation Adjustments for 2011" (Rev. Proc. 2010-22) received in the Office of the President of the Senate on June 7, 2010; to the Committee on Finance.

EC-6080. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and Fiscal Year 2010 Rates and to the Long Term Care Hospital Prospective Payment System and Rate Year 2010 Rates: Final Fiscal Year 2010 Wage Indices and Payment Rates Implementing the Affordable Care Act" (RIN0938-AQ03) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Finance.

EC-6081. A communication from the Office Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicaid Program; Premiums and Cost Sharing (CMS-2244-FC)" (RIN0938-AP73) received in the Office of the President of the Senate on May 28, 2010; to the Committee on Finance.

EC-6082. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of technical data, defense services, and hardware to support the Proton launch of the Yamal 401 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-6083. A communication from the Assistant Secretary, Bureau of Legislative Affairs,

Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of technical data, defense services, and hardware to support the Proton launch of the Intelsat 23 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-6084. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of technical data, defense services, and hardware to support the Proton launch of the Yamal 402 Commercial Communication Satellite from the Baikonur Cosmodrome in Kazakhstan in the amount of \$50,000,000 or more; to the Committee on Foreign Relations.

EC-6085. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of technical data, defense services, and hardware to support the NIMIQ 6 Commercial Communications Satellite Program of Canada in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-6086. A communication from the Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed technical assistance agreement for the transfer of technical data, defense services, and hardware to support the HYLAS 2 Commercial Communications Satellite Program of the United Kingdom in the amount of \$100,000,000 or more; to the Committee on Foreign Relations.

EC-6087. A communication from the Executive Analyst, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of General Counsel of the Department of Health and Human Services, received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Health, Education, Labor, and Pensions.

EC-6088. A communication from the Secretary of the Department of Health and Human Services, transmitting, pursuant to law, a report relative to animal drug user fees and related expenses for Fiscal Year 2009; to the Committee on Health, Education, Labor, and Pensions.

EC-6089. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Auditor's Certification of the District Department of Transportation's Fiscal Year 2008 Performance Accountability Report"; to the Committee on Homeland Security and Governmental Affairs.

EC-6090. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-413, "Master Public Facilities Plan Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6091. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-416, "Old Naval Hospital Community Obligation Requirements Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6092. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18-417, "Medicaid Resource

Maximization Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6093. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18—418, "Withholding of Tax on Lottery Winnings Temporary Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6094. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18—419, "Third and H Streets, N.E., Economic Development Technical Clarification Temporary Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6095. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18—429, "Legalization of Marijuana for Medical Treatment Amendment Act of 2010"; to the Committee on Homeland Security and Governmental Affairs.

EC-6096. A communication from the Secretary of the Department of Agriculture, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6097. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the Inspector General's Compendium of Unimplemented Recommendations; to the Committee on Homeland Security and Governmental Affairs.

EC-6098. A communication from the Administrator of the Agency for International Development (USAID), transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6099. A communication from the Secretary of the Department of the Treasury, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the Semi-Annual Report of the Treasury Inspector General for Tax Administration; to the Committee on Homeland Security and Governmental Affairs.

EC-6100. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6101. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the Management Report and the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6102. A communication from the Chairman of the National Endowment for the Arts, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the Chairman's Semi-Annual Report on Final Action Resulting from Audit Reports, Inspection Reports, and Evaluation Reports; to the Committee on Homeland Security and Governmental Affairs.

EC-6103. A communication from the Secretary of the Interior, transmitting, pursu-

ant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6104. A communication from the Secretary of the Department of Energy, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6105. A communication from the Secretary of the Department of Veterans Affairs, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6106. A communication from the Chairman of the Railroad Retirement Board, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6107. A communication from the Director, Congressional Affairs, Federal Election Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6108. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6109. A communication from the Chair of the U.S. Equal Employment Opportunity Commission, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the Semi-Annual Management Report for the period ending March 31, 2010; to the Committee on Homeland Security and Governmental Affairs.

EC-6110. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Semi-Annual Report of the Inspector General for the period from October 1, 2009 through March 31, 2010 and the Attorney General's Semi-Annual Management Report; to the Committee on Homeland Security and Governmental Affairs.

EC-6111. A communication from the Section Chief, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled "FBI Records Management Division National Name Check Section User Fees" (RIN1110-AA29) received in the Office of the President of the Senate on May 28, 2010; to the Committee on the Judiciary.

EC-6112. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Automatic Dependent Surveillance—Broadcast (ADS-B) Equipage Mandate to Support Air Traffic Control Service" ((RIN2120-AI92)(Docket No. FAA-2007-29305)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6113. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report relative to the Credit Card Accountability Responsibility and Disclosure Act of

2009; to the Committee on Commerce, Science, and Transportation.

EC-6114. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Fees for the Unified Carrier Registration Plan and Agreement" (RIN2126-AB19) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6115. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Lake Champlain Bridge Construction Zone, NY and VT" ((RIN1625-AA11)(Docket No. USG-2010-0176)) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6116. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to Emergency Fisheries Closure in the Gulf of Mexico Due to the Deepwater Horizon Oil Spill" (RIN0648-AY87) received during adjournment of the Senate in the Office of the President of the Senate on June 2, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6117. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Jet Route J-120; Alaska" ((RIN2120-AA66)(Docket No. FAA-2009-0007)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6118. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Marion, IL" ((RIN2120-AA66)(Docket No. FAA-2009-1154)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6119. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Claremore, OK" ((RIN2120-AA66)(Docket No. FAA-2009-0538)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6120. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbomeca Arriel 1B, 1D, 1DI, and 1SI Turbo-shaft Engines" ((RIN2120-AA64)(Docket No. FAA 05-21242)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6121. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky)

Model S-92A Helicopters” ((RIN2120-AA64)(Docket No. FAA-2010-0060)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6122. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; McDonnell-Douglas Corporation Model DC-9-30, DC-9-40, and DC-9-50 Series Airplanes” ((RIN2120-AA64)(Docket No. FAA-2009-0685)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6123. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Hawker Beechcraft Corporation (Type Certificate No. A00010WI Previously Held by Raytheon Aircraft Company) Model 390 Airplanes” ((RIN2120-AA64)(Docket No. FAA-2010-0158)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6124. A communication from the Paralegal Specialist, 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-135 and 145, 145ER, 145MR, 145LR, 145XR, 145MP, and 145EP Airplanes” ((RIN2120-AA64)(Docket No. FAA-2009-0714)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6125. A communication from the Paralegal Specialist, 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-2009-0792)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6126. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; The Boeing Company Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-300, 747SR, and 747SP Series Airplanes” ((RIN2120-AA64)(Docket No. FAA-2009-1066)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6127. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Bombardier, Inc. Model BD-100-1A10 (Challenger 300) Airplanes” ((RIN2120-AA64)(Docket No. FAA-2010-0475)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6128. A communication from the Paralegal Specialist, 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 and Avro 146-RJ70A, 146-RJ85A, and 146-RJ100A Airplanes” ((RIN2120-AA64)(Docket No. FAA-2009-1254)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6129. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A, B, and C Helicopters” ((RIN2120-AA64)(Docket No. FAA-2006-24587)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6130. A communication from the Paralegal Specialist, 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 and Model ERJ 190 Airplanes” ((RIN2120-AA64)(Docket No. FAA-2009-0614)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6131. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Airbus Model A340-200 and A340-300 Series Airplanes” ((RIN2120-AA64)(Docket No. FAA-20-0476)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6132. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Special Issuance of Airman Medical Certificates to Applicants Being Treated with Certain Antidepressant Medications; Re-Opening of Comment Period” ((RIN2120-AJ37)(Docket No. FAA-2009-0773)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6133. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Civil Penalty Inflation Adjustment for Commercial Space Adjudications” ((RIN2120-AJ63)(Docket No. FAA-2009-1240)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6134. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Clarification of Parachute Packing Authorization” ((RIN2120-AJ08)(Docket No. FAA-2007-28518)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6135. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Marianna, AR” ((RIN2120-AA66)(Docket No. FAA-2009-1167)) received during adjournment

of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6136. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Manila, AR” ((RIN2120-AA66)(Docket No. FAA-2009-1184)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6137. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Mountain View, AR” ((RIN2120-AA66)(Docket No. FAA-2009-1181)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6138. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Batesville, AR” ((RIN2120-AA66)(Docket No. FAA-2009-1177)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6139. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Class E Airspace; Beatrice, NE” ((RIN2120-AA66)(Docket No. FAA-2009-0697)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6140. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Restricted Area R-2502A; Fort Irwin, CA” ((RIN2120-AA66)(Docket No. FAA-2010-0471)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6141. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment of Area Navigation Route Q-15; California” ((RIN2120-AA66)(Docket No. FAA-2010-0028)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6142. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment and Establishment of Restricted Areas and Other Special Use Airspace, Avon Park Air Force Range; FL” ((RIN2120-AA66)(Docket No. FAA-2008-1261)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6143. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Teledyne Continental Motors (TCM) 240, 346, 360, 470,

520, and 550 Series and Rolls-Royce Motors, Ltd. (R-RM) IO-240-A Reciprocating Engines" ((RIN2120-AA64)(Docket No. FAA-2009-1156)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6144. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France (ECF) Model AS332L1 and AS332L2 Helicopters" ((RIN2120-AA64)(Docket No. FAA-2010-0489)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6145. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS332L2 Helicopters" ((RIN2120-AA64)(Docket No. FAA-2010-0491)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

EC-6146. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bell Helicopter Textron (Bell) Model 205A, 205A-1, 205B, 212, 412, 412EP, and 412CF and Agusta S.p.A. (Agusta) Model AB412, AB412EP Helicopters" ((RIN2120-AA64)(Docket No. FAA-2010-0487)) received during adjournment of the Senate in the Office of the President of the Senate on June 4, 2010; to the Committee on Commerce, Science, and Transportation.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 554. A bill to improve the safety of motorcoaches, and for other purposes (Rept. No. 111-202).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. Res. 339. A resolution to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings.

S. 446. A bill to permit the televising of Supreme Court proceedings.

#### EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Ms. LANDRIEU for the Committee on Small Business and Entrepreneurship.

\*Marie Collins Johns, of the District of Columbia, to be Deputy Administrator of the Small Business Administration.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mrs. SHAHEEN (for herself, Mrs. MURRAY, Mr. MENENDEZ, Mrs. GILLIBRAND, Mr. KERRY, Ms. KLOBUCHAR, Ms. LANDRIEU, Mr. BEGICH, Mr. CASEY, Mr. DORGAN, Mr. BENNET, Mr. SCHUMER, Mr. FRANKEN, Mrs. FEINSTEIN, Mr. KAUFMAN, and Mr. WHITEHOUSE):

S. 3462. A bill to provide subpoena power to the National Commission on the British Petroleum Oil Spill in the Gulf of Mexico, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. DURBIN, and Mr. WHITEHOUSE):

S. 3463. A bill to amend chapter 303 of title 46, United States Code, to provide fair treatment for the families of those killed on the high seas; to the Committee on Commerce, Science, and Transportation.

#### ADDITIONAL COSPONSORS

S. 504

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

S. 732

At the request of Mr. AKAKA, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 732, a bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams.

S. 1011

At the request of Mr. AKAKA, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1011, a bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

S. 1204

At the request of Mrs. MURRAY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1204, a bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers, and for other purposes.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1619

At the request of Mr. DODD, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1619, a bill to establish the Office of Sustainable Housing and Communities,

to establish the Interagency Council on Sustainable Communities, to establish a comprehensive planning grant program, to establish a sustainability challenge grant program, and for other purposes.

S. 1836

At the request of Mr. MCCAIN, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1836, a bill to prohibit the Federal Communications Commission from further regulating the Internet.

S. 1966

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1966, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 2765

At the request of Mr. KERRY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2765, a bill to amend the Small Business Act to authorize loan guarantees for health information technology.

S. 3112

At the request of Ms. KLOBUCHAR, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 3112, a bill to remove obstacles to legal sales of United States agricultural commodities to Cuba and to end certain travel restrictions to Cuba.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from Maine (Ms. SNOWE) 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. 3235

At the request of Mr. DORGAN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 3235, a bill to amend the Act titled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955, to provide for Indian tribes to enter into certain leases without prior express approval from the Secretary of the Interior.

S. 3246

At the request of Mr. WYDEN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3246, a bill to exclude from consideration as income under the Native American Housing Assistance and Self-Determination Act of 1996 amounts received by a family from the Department of Veterans Affairs for service-related disabilities of a member of the family.

S. 3266

At the request of Mr. BENNET, the name of the Senator from Arkansas

(Mr. PRYOR) was added as a cosponsor of S. 3266, a bill to ensure the availability of loan guarantees for rural homeowners.

S. 3278

At the request of Mr. BENNET, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3278, a bill to establish the Meth Project Prevention Campaign Grant Program.

S. 3324

At the request of Mr. BROWN of Ohio, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3324, a bill to amend the Internal Revenue Code of 1986 to extend the qualifying advanced energy project credit.

S. 3326

At the request of Ms. CANTWELL, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3326, a bill to provide grants to States for low-income housing projects in lieu of low-income housing credits, and to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of the low-income housing credit, and for other purposes.

S. 3339

At the request of Mr. KERRY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 3339, a bill to amend the Internal Revenue Code of 1986 to provide a reduced rate of excise tax on beer produced domestically by certain small producers.

S. 3341

At the request of Mr. CARDIN, the names of the Senator from Pennsylvania (Mr. CASEY), the Senator from Alaska (Mr. BEGICH) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 3341, a bill to amend title 5, United States Code, to extend eligibility for coverage under the Federal Employees Health Benefits Program with respect to certain adult dependents of Federal employees and annuitants, in conformance with amendments made by the Patient Protection and Affordable Care Act.

S. 3419

At the request of Mr. MERKLEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3419, a bill to exclude from consumer credit reports medical debt that has been in collection and has been fully paid or settled, and for other purposes.

S. 3434

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S.J. RES. 29

At the request of Mr. MCCONNELL, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S.J. Res. 29, a joint resolution approving the renewal of import restric-

tions contained in the Burmese Freedom and Democracy Act of 2003.

At the request of Mrs. FEINSTEIN, the names of the Senator from Colorado (Mr. BENNET), the Senator from Pennsylvania (Mr. CASEY), the Senator from Vermont (Mr. LEAHY) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S.J. Res. 29, *supra*.

S. RES. 519

At the request of Mr. DEMINT, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Res. 519, a resolution expressing the sense of the Senate that the primary safeguard for the well-being and protection of children is the family, and that the primary safeguards for the legal rights of children in the United States are the Constitutions of the United States and the several States, and that, because the use of international treaties to govern policy in the United States on families and children is contrary to principles of self-government and federalism, and that, because the United Nations Convention on the Rights of the Child undermines traditional principles of law in the United States regarding parents and children, the President should not transmit the Convention to the Senate for its advice and consent.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. DURBIN, and Mr. WHITEHOUSE):

S. 3463. A bill to amend chapter 303 of title 46, United States Code, to provide fair treatment for the families of those killed on the high seas; to the Committee on Commerce, Science, and Transportation.

Mr. LEAHY. Mr. President, today I introduce the Survivors Equality Act to ensure that everyone is treated equally under the Death on the High Seas Act. I thank Senator WHITEHOUSE for joining me in this important effort to provide justice for victims. Earlier today, the Senate Judiciary Committee held a hearing to examine liability issues related to the British Petroleum, BP, oil spill disaster in the Gulf of Mexico. The testimony received at this hearing made it clear that several of our laws need updating.

As a result of the BP oil spill, countless Americans in the Gulf Region have been devastated. Waters, fisheries, wetlands, and coastlines, and the wildlife that enriches those environments, have been injured profoundly. Their livelihoods and way of life will take years of hard work to reclaim.

Among the victims of the explosion that led to the oil spill are 11 men who lost their lives on the Deepwater Horizon oil rig. Their families, including more than a dozen children, have experienced a terrible loss. As Congress responds to the needs of the Gulf Region, these men and the families who lost them must have justice. The legislation I introduce today is a step toward that goal.

The Death on the High Seas Act is one of few Federal remedies for the survivors of those who were killed on the Deepwater Horizon. The families of these men cannot seek justice under the laws of their states.

In 2000, in response to a tragic airline crash, Congress amended the Death on the High Seas Act to permit recovery of non-pecuniary losses for the surviving family members of air crash victims. While this was the right thing to do, it did not go far enough. Though well-intentioned, this amendment resulted in an inequity based solely on the manner in which a victim was killed. Congress made some strides in modernizing this law then. Now it must finish the job.

Current law provides greater protection to a person killed in an aircraft disaster over international waters than it does for a person killed in a boat or other ocean vessel such as an oil drilling rig. Under the Act today, the surviving family members of a person wrongfully killed in international waters in a boat or other ocean vessel may only recover pecuniary damages. This means they can only seek the lost income of their loved one, and what that person provided to the family in monetary terms.

Not only is this law internally inconsistent, it is out of the legal mainstream. Families who lose a loved one in a workplace accident on land are eligible for more compensation. For example, the families of the 15 employees who were killed in a 2005 BP Texas City refinery explosion had a full range of legal remedies simply because the facility was on dry land. It is unfair that the men on the Deepwater Horizon are afforded less protection because that facility was at sea. Their jobs were no less dangerous, and their losses no less tragic.

In the Judiciary Committee this morning, Senators heard testimony from Christopher Jones. Mr. Jones' brother, Gordon Jones, was among the 11 men who perished on the Deepwater Horizon rig. He died while working to support his young family. Yet simply because of where he was working, his family has less protection under the law than the survivors of a person who loses their life in an aircraft. This is nonsensical and wrong.

Where Federal law provides an exclusive remedy to those who lose their lives in international waters, it should not be unfair. In the law, as in society, great value is placed on the bonds that hold together families. The destruction of those bonds through the misconduct of another is a loss that is recognized by the law. Today, the Death on the High Seas Act fails to recognize universally what it means to a child who will no longer have the guidance of a loving father or a spouse who will no longer have the care and comfort of a devoted wife or husband. It is time for Congress to finish the work that was started a decade ago and make this law fair for all to whom it applies.



As Congress moves forward to address the terrible tragedy that has occurred in the Gulf of Mexico, I urge all Senators to join me in support of this legislation to help the families of the 11 hardworking Americans who were killed during the explosion.

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. 3463

*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 “Survivors Equality Act of 2010”.

#### SEC. 2. FAIR TREATMENT FOR THE FAMILIES OF THOSE KILLED ON THE HIGH SEAS.

Chapter 303 of title 46, United States Code, is amended by striking section 30303 and inserting the following:

##### “§30303. Amount and apportionment of recovery

“(a) DEFINITION.—In this section, the term ‘nonpecuniary loss’ means loss of care, comfort, and companionship.

“(b) RECOVERY.—The recovery in an action under this chapter shall be a fair compensation for the pecuniary and nonpecuniary loss sustained by the individuals for whose benefit the action is brought. The individuals for whose benefit the action is brought may also recover damages for the decedent’s pre-death pain and suffering.”.

#### SEC. 3. EFFECTIVE DATE.

The amendment made by this Act shall take effect on the date of enactment of this Act and apply to any civil action filed on or after that date.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4301. 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 4302. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4303. Mr. SESSIONS (for himself and Mrs. MCCASKILL) proposed an amendment to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4304. Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. CASEY, Mr. KAUFMAN, Mrs. HAGAN, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4305. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4306. Mr. WICKER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4307. Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4308. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4309. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4310. Mr. SCHUMER (for himself, Ms. STABENOW, Mr. LEVIN, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4311. Mr. FRANKEN (for himself, Ms. SNOWE, and Mrs. MURRAY) proposed an amendment to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 4312. Mr. VITTER (for himself, Mr. GREGG, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4313. Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4314. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4315. Mr. SESSIONS (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4316. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4317. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

**SA 4301.** 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 by the amendment of the House, 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:

Sec. 1. Short title; amendment of 1986 Code; table of contents.

##### TITLE I—INFRASTRUCTURE INCENTIVES

Sec. 101. Extension of Build America Bonds.  
Sec. 102. Exempt-facility bonds for sewage and water supply facilities.

Sec. 103. Extension of exemption from alternative minimum tax treatment for certain tax-exempt bonds.

Sec. 104. Extension and additional allocations of recovery zone bond authority.

Sec. 105. Allowance of new markets tax credit against alternative minimum tax.

Sec. 106. Extension of tax-exempt eligibility for loans guaranteed by Federal home loan banks.

Sec. 107. Extension of temporary small issuer rules for allocation of tax-exempt interest expense by financial institutions.

##### 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.

Sec. 202. Incentives for biodiesel and renewable diesel.

Sec. 203. Credit for electricity produced at certain open-loop biomass facilities.

Sec. 204. Extension and modification of credit for steel industry fuel.

Sec. 205. Credit for producing fuel from coke or coke gas.

Sec. 206. New energy efficient home credit.

Sec. 207. Excise tax credits and outlay payments for alternative fuel and alternative fuel mixtures.

Sec. 208. Special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.

Sec. 209. Suspension of limitation on percentage depletion for oil and gas from marginal wells.

Sec. 210. Direct payment of energy efficient appliances tax credit.

Sec. 211. Modification of standards for windows, doors, and skylights with respect to the credit for non-business energy property.

###### Subtitle B—Individual Tax Relief

##### PART I—MISCELLANEOUS PROVISIONS

Sec. 221. Deduction for certain expenses of elementary and secondary school teachers.

Sec. 222. Additional standard deduction for State and local real property taxes.

Sec. 223. Deduction of State and local sales taxes.

Sec. 224. Contributions of capital gain real property made for conservation purposes.

Sec. 225. Above-the-line deduction for qualified tuition and related expenses.

Sec. 226. Tax-free distributions from individual retirement plans for charitable purposes.

Sec. 227. Look-thru of certain regulated investment company stock in determining gross estate of non-residents.

##### PART II—LOW-INCOME HOUSING CREDITS

Sec. 231. Election for direct payment of low-income housing credit for 2010.

###### Subtitle C—Business Tax Relief

Sec. 241. Research credit.

Sec. 242. Indian employment tax credit.

Sec. 243. New markets tax credit.

Sec. 244. Railroad track maintenance credit.

Sec. 245. Mine rescue team training credit.

Sec. 246. Employer wage credit for employees who are active duty members of the uniformed services.

Sec. 247. 5-year depreciation for farming business machinery and equipment.

Sec. 248. 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.



Sec. 249. 7-year recovery period for motor-sports entertainment complexes.

Sec. 250. Accelerated depreciation for business property on an Indian reservation.

Sec. 251. Enhanced charitable deduction for contributions of food inventory.

Sec. 252. Enhanced charitable deduction for contributions of book inventories to public schools.

Sec. 253. Enhanced charitable deduction for corporate contributions of computer inventory for educational purposes.

Sec. 254. Election to expense mine safety equipment.

Sec. 255. Special expensing rules for certain film and television productions.

Sec. 256. Expensing of environmental remediation costs.

Sec. 257. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.

Sec. 258. Modification of tax treatment of certain payments to controlling exempt organizations.

Sec. 259. Exclusion of gain or loss on sale or exchange of certain brownfield sites from unrelated business income.

Sec. 260. Timber REIT modernization.

Sec. 261. Treatment of certain dividends of regulated investment companies.

Sec. 262. RIC qualified investment entity treatment under FIRPTA.

Sec. 263. Exceptions for active financing income.

Sec. 264. Look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.

Sec. 265. Basis adjustment to stock of S corps making charitable contributions of property.

Sec. 266. Empowerment zone tax incentives.

Sec. 267. Tax incentives for investment in the District of Columbia.

Sec. 268. Renewal community tax incentives.

Sec. 269. Temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.

Sec. 270. Payment to American Samoa in lieu of extension of economic development credit.

Sec. 271. Election to temporarily utilize unused AMT credits determined by domestic investment.

Sec. 272. Study of extended tax expenditures.

#### Subtitle D—Temporary Disaster Relief Provisions

##### PART I—NATIONAL DISASTER RELIEF

Sec. 281. Waiver of certain mortgage revenue bond requirements.

Sec. 282. Losses attributable to federally declared disasters.

Sec. 283. Special depreciation allowance for qualified disaster property.

Sec. 284. Net operating losses attributable to federally declared disasters.

Sec. 285. Expensing of qualified disaster expenses.

##### PART II—REGIONAL PROVISIONS

###### SUBPART A—NEW YORK LIBERTY ZONE

Sec. 291. Special depreciation allowance for nonresidential and residential real property.

Sec. 292. Tax-exempt bond financing.

###### SUBPART B—GO ZONE

Sec. 295. Increase in rehabilitation credit.

Sec. 296. Work opportunity tax credit with respect to certain individuals affected by Hurricane Katrina for employers inside disaster areas.

Sec. 297. Extension of low-income housing credit rules for buildings in GO zones.

#### 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.

Sec. 302. Application of extended amortization period to plans subject to prior law funding rules.

Sec. 303. Suspension of certain funding level limitations.

Sec. 304. Lookback for credit balance rule.

Sec. 305. Information reporting.

Sec. 306. Rollover of amounts received in airline carrier bankruptcy.

##### Subtitle B—Multiemployer Plans

Sec. 311. Optional use of 30-year amortization periods.

Sec. 312. Optional longer recovery periods for multiemployer plans in endangered or critical status.

Sec. 313. Modification of certain amortization extensions under prior law.

Sec. 314. Alternative default schedule for plans in endangered or critical status.

Sec. 315. Transition rule for certifications of plan status.

#### TITLE IV—REVENUE OFFSETS

##### Subtitle A—Foreign Provisions

Sec. 401. Rules to prevent splitting foreign tax credits from the income to which they relate.

Sec. 402. Denial of foreign tax credit with respect to foreign income not subject to United States taxation by reason of covered asset acquisitions.

Sec. 403. Separate application of foreign tax credit limitation, etc., to items resourced under treaties.

Sec. 404. Limitation on the amount of foreign taxes deemed paid with respect to section 956 inclusions.

Sec. 405. Special rule with respect to certain redemptions by foreign subsidiaries.

Sec. 406. Modification of affiliation rules for purposes of rules allocating interest expense.

Sec. 407. Termination of special rules for interest and dividends received from persons meeting the 80-percent foreign business requirements.

Sec. 408. Source rules for income on guarantees.

Sec. 409. Limitation on extension of statute of limitations for failure to notify Secretary of certain foreign transfers.

##### Subtitle B—Personal Service Income Earned in Pass-thru Entities

Sec. 411. Partnership interests transferred in connection with performance of services.

Sec. 412. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Sec. 413. Employment tax treatment of professional service businesses.

##### Subtitle C—Corporate Provisions

Sec. 421. Treatment of securities of a controlled corporation exchanged for assets in certain reorganizations.

Sec. 422. Taxation of boot received in reorganizations.

##### Subtitle D—Other Provisions

Sec. 431. Modifications with respect to Oil Spill Liability Trust Fund.

Sec. 432. Time for payment of corporate estimated taxes.

#### TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

##### Subtitle A—Unemployment Insurance and Other Assistance

Sec. 501. Extension of unemployment insurance provisions.

Sec. 502. Coordination of emergency unemployment compensation with regular compensation.

Sec. 503. Extension of the Emergency Contingency Fund.

##### Subtitle B—Health Provisions

Sec. 511. Extension of section 508 reclassifications.

Sec. 512. Repeal of delay of RUG-IV.

Sec. 513. Limitation on reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.

Sec. 514. Funding for claims reprocessing.

Sec. 515. Medicaid and CHIP technical corrections.

Sec. 516. Addition of inpatient drug discount program to 340B drug discount program.

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.

Sec. 518. Conforming amendment related to waiver of coinsurance for preventive services.

Sec. 519. Establish a CMS-IRS data match to identify fraudulent providers.

Sec. 520. Clarification of effective date of part B special enrollment period for disabled TRICARE beneficiaries.

Sec. 521. Physician payment update.

Sec. 522. Adjustment to Medicare payment localities.

Sec. 523. Clarification of 3-day payment window.

Sec. 524. Extension of ARRA increase in FMAP.

#### TITLE VI—OTHER PROVISIONS

Sec. 601. Extension of national flood insurance program.

Sec. 602. Allocation of geothermal receipts.

Sec. 603. Small business loan guarantee enhancement extensions.

Sec. 604. Emergency agricultural disaster assistance.

Sec. 605. Summer employment for youth.

Sec. 606. Housing Trust Fund.

Sec. 607. The Individual Indian Money Account Litigation Settlement Act of 2010.

Sec. 608. Appropriation of funds for final settlement of claims from In re Black Farmers Discrimination Litigation.

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.

Sec. 610. Extension of use of 2009 poverty guidelines.

Sec. 611. Refunds disregarded in the administration of Federal programs and federally assisted programs.

Sec. 612. State court improvement program.  
 Sec. 613. Qualifying timber contract options.  
 Sec. 614. Extension and flexibility for certain allocated surface transportation programs.  
 Sec. 615. Community College and Career Training Grant Program.  
 Sec. 616. Extensions of duty suspensions on cotton shirting fabrics and related provisions.  
 Sec. 617. Modification of Wool Apparel Manufacturers Trust Fund.  
 Sec. 618. Department of Commerce Study.  
 Sec. 619. ARRA planning and reporting.  
 Sec. 620. Amendment of Travel Promotion Act of 2009.

#### TITLE VII—BUDGETARY PROVISIONS

Sec. 701. Budgetary provisions.

#### 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)”;

(2) by inserting “or after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010 and before January 1, 2011,” after “2010”.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting “, a blend of coal and petroleum coke, or other coke feedstock” after “on coal”.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

“With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person’s rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.”.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

“(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.”.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting “(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))” after “service”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

**SEC. 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.

#### 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), and

“(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

“(B) 10.

“(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

“(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

“(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting ‘January 1, 2012’ for ‘January 1, 2011’.”.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting “42(n),” after “36C.”.

#### Subtitle C—Business Tax Relief

#### SEC. 241. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

#### SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

#### SEC. 243. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting “and 2010” after “2009”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking “2014” and inserting “2015”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

#### SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

#### SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking “December 31, 2009” and inserting “December 31, 2010”.

(b) CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 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)(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 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 share-

holders 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 SHORT-FALL 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 applica-

tion 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:

| <b>Plan year after the plan year in which the net investment loss was incurred</b> | <b>Allocable portion of net investment loss</b> |
|--|---|
| 1st .....  | 1/2   |
| 2nd .....  | 0   |
| 3rd .....  | 1/6   |
| 4th .....  | 1/6   |
| 5th .....  | 1/6   |

“(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 fol-

lowing the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining 1/2 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 .....   | 1/2                                      |
| 2nd .....   | 0  |
| 3rd .....   | 1/6                                      |
| 4th .....   | 1/6                                      |
| 5th .....   | 1/6                                      |

“(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 1/2 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 not—

“(i) be subject to tax under this chapter for the taxable year in which the dividends arise, or

“(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 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.—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.

“(i) **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.

“(2) **ACTIVE FOREIGN BUSINESS PERCENTAGE.**—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 subparagraph (A)(i) 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—

“(A) received with respect to a guarantee of an obligation of a noncorporate resident or domestic corporation, and

“(B) paid by any foreign person with respect to guarantees 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 with respect to guarantees other than those 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 with respect to guarantees”.

(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) EXCEPTION FOR CERTAIN DISPOSITIONS OF INTERESTS IN A PUBLICLY TRADED PARTNERSHIP.—

“(A) IN GENERAL.—Paragraphs (1), (2), and (7) shall not apply in the case of an applicable disposition of an investment services partnership interest which is an interest in a publicly traded partnership (as defined in section 7704) if—

“(i) in the case of a disposition described in subparagraph (C)(i), neither the individual nor any member of such individual's family (within the meaning of section 318(a)(1)), or

“(ii) in the case of a disposition described in subparagraph (C)(ii), neither the regulated investment company or real estate investment trust (nor any person related (within the meaning of section 267(b)) to such company),

has (at any time) provided (directly or indirectly through a partnership, S corporation, estate or trust) any of the services described in subsection (c)(1) with respect to assets held (directly or indirectly) by such publicly traded partnership.

“(B) LIMITATION ON APPLICATION OF SECTION.—This paragraph shall apply to an interest in a publicly traded partnership (as defined in section 7704) only if substantially all of such partnership's gross income consists of those items described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)) of section 7704.

“(C) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term ‘applicable disposition’ means a disposition (directly or indirectly through a partnership, S corporation, estate or trust) by—

“(i) an individual, or

“(ii) either—

“(I) a regulated investment company other than a regulated investment company treated as closely held (within the meaning of section 856(h)(1)), or

“(II) except as provided by the Secretary, a real estate investment trust.

“(4) 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.

“(5) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an invest-

ment 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.

“(6) 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 (4), 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).

“(7) APPLICATION OF SECTION 751.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.

“(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 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) 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).

“(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NON-SERVICE 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 subparagraph (B), the term ‘applicable percentage’ means 65 percent (50 percent in the case of any taxable year beginning before January 1, 2013).

“(B) EXCEPTIONS FOR SALES OF ASSETS HELD AT LEAST 7 YEARS.—In the case of any taxable year beginning after December 31, 2012, the applicable percentage shall be 55 percent with respect to any net income or net loss under subsection (a)(1), or any income or gain under subsection (e), which is properly allocable to gain or loss from the sale or exchange of any asset which is held at least 7 years.

“(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 or the regulations prescribed under section 710(f) to prevent the avoidance of the purposes of section 710.”.

(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)”;

(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 this section 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 the principal asset of such business is the reputation and skill of 3 or fewer employees.

“(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 if substantially all of the activities of such trade or business involve 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:

“(1) 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 the principal asset of such business is the reputation and skill of 3 or fewer employees.

“(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 if substantially all of the activities of such trade or business involve 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”;

(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 41 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.

#### TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

##### Subtitle A—Unemployment Insurance and Other Assistance

#### SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(A) by striking “June 2, 2010” each place it appears and inserting “November 30, 2010”;

(B) in the heading for subsection (b)(2), by striking “JUNE 2, 2010” and inserting “NOVEMBER 30, 2010”; and

(C) in subsection (b)(3), by striking “November 6, 2010” and inserting “April 30, 2011”.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking “June 2, 2010” and inserting “November 30, 2010”;

(B) in the heading for paragraph (2), by striking “JUNE 2, 2010” and inserting “NOVEMBER 30, 2010”; and

(C) in paragraph (3), by striking “December 7, 2010” and inserting “May 1, 2011”.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111-5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking “June 2, 2010” each place it appears and inserting “December 1, 2010”; and

(B) in subsection (c), by striking “November 6, 2010” and inserting “May 1, 2011”.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110-449; 26 U.S.C. 3304 note) is amended by striking “November 6, 2010” and inserting “April 30, 2011”.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (D), by striking “and” at the end; and

(2) by inserting after subparagraph (E) the following:

“(F) the amendments made by section 501(a)(1) of the American Jobs and Closing Tax Loopholes Act of 2010; and”.

(c) CONDITIONS FOR RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before “shall apply” the following: “(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111-157).

#### SEC. 502. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REASON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

“(g) COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.—

“(1) If—

“(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year, “(B) that benefit year has expired,

“(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

“(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either \$100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A), then the State shall determine eligibility for compensation as provided in paragraph (2).

“(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

“(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

“(B) The State shall, if permitted by State law, defer the establishment of a new benefit year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

“(C) The State shall pay, if permitted by State law—

“(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

“(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

“(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110-252; 26 U.S.C. 3304 note), as amended by this section, expire after the date of enactment of this Act.

#### **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 employ-

ment 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).”.

(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 (i) 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.”.

(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.

#### **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 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 a patient 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) 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 ‘In-

spector 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)(5) of the Social Security Act (42 U.S.C. 1395cc(j)(5)), as inserted by section 6401(a) of Public Law 111-148, is amended—

(1) in the paragraph heading, by striking “PAST-DUE” and inserting “MEDICARE”;

(2) in subparagraph (A), by striking “past-due obligations described in subparagraph (B)(ii) of an” and inserting “amount described in subparagraph (B)(ii) due from such”; and

(3) in subparagraph (B)(ii), by striking “a past-due obligation” and inserting “an amount that is more than the amount required to be paid”.

#### **SEC. 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.**

(a) IN GENERAL.—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 “THE FIRST 5 MONTHS”; and

(2) by adding at the end the following new paragraphs:

“(11) UPDATE FOR THE LAST 7 MONTHS 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 December 31, 2010, the update to the single conversion factor shall be 2.2 percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2011 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under para-

graph (1)(A) for 2011 and subsequent years as if subparagraph (A) had never applied.

“(12) UPDATE FOR 2011.—

“(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 1.0 percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 and subsequent years as if subparagraph (A) had never applied.”.

(b) 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.

#### **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 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 (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”;

(3) 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.”;

(4) 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

(5) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.

### TITLE VI—OTHER PROVISIONS

#### SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111-68), as amended by section 7(a) of Public Law 111-157, is amended by striking “by substituting” and all that follows through the period at the end, and inserting “by substituting December 31, 2010, for the date specified in each such section.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on May 31, 2010.

#### SEC. 602. 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 eligi-

ble 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(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting “(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)” before the period at the end.

(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 sec-

tion 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 21” 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)”;

(C) in paragraph (7)(A)—

(i) by striking “section 1335(a)(2)(B)” and inserting “section 1335(a)(1)(B)”;

(ii) by inserting “the units funded under” after “75 percent of”;

(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 excludible 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)”; and

(2) by striking subsection (e);

(3) in subsection (g), by striking “subsection (f)” and inserting “subsection (e)”; and

(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 multi-

plied 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) 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 dis-

tributed 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”;

(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 non-compliance.

“(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”.

#### TITLE VII—BUDGETARY PROVISIONS

##### SEC. 701. 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.—Sections 501 and 524—

(1) are 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, are designated as an emergency for purposes of pay-as-you-go principles; and

(3) in the Senate, are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 4302. Mr. CORNYN (for himself and Mr. KYL) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the appropriate place, add the following:

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

##### SEC. 01. SHORT TITLE.

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

##### SEC. 02. DEFINITIONS.

In this title:

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

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

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

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

##### SEC. 03. SENSE OF CONGRESS.

It is the sense of Congress that—

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

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

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

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

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

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

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

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

#### SEC. 04. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

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

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

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

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

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

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

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

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

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

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



**SEC. 05. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.**

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

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

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

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

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

**SEC. 06. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.**

In any case in which the President determines under section 04(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, or the Comptroller General of the United States makes a determination under section 5(b)(3), 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.

**SA 4303.** Mr. SESSIONS (for himself and Mrs. McCASKILL) proposed an amendment to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end of the amendment, insert the following:

**SEC. 07. DISCRETIONARY SPENDING LIMITS.**

(a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

(b) LIMITS.—In this section, the term “discretionary spending limits” has the following meaning subject to adjustments in subsection (c):

(1) For fiscal year 2011—

(A) for the defense category (budget function 050), \$564,293,000,000 in budget authority; and

(B) for the nondefense category, \$540,116,000,000 in budget authority.

(2) For fiscal year 2012—

(A) for the defense category (budget function 050), \$573,612,000,000 in budget authority; and

(B) for the nondefense category, \$543,790,000,000 in budget authority.

(3) For fiscal year 2013—

(A) for the defense category (budget function 050), \$584,421,000,000 in budget authority; and

(B) for the nondefense category, \$551,498,000,000 in budget authority.

(4) With respect to fiscal years following 2013, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

(c) ADJUSTMENTS.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

(i) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority; and

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

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(1) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, and for fiscal year 2013, \$7,315,000,000.

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

(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(1) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceed-

ing the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, \$276,000,000, for fiscal year 2012, \$278,000,000, and for fiscal year 2013, \$281,000,000.

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

(iii) ASSET VERIFICATION.—

(1) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

(II) AMOUNTS.—For fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, and for fiscal year 2013, \$35,030,000.

(D) HEALTH CARE FRAUD AND ABUSE.—

(1) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, and for fiscal year 2013, \$320,000,000.

(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

(i) with respect to fiscal year 2011, \$51,000,000 in new budget authority;

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

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

(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

(d) EMERGENCY SPENDING.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report

shall not count for purposes of this section, sections 302 and 311 of this Act, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms “direct spending”, “receipts”, and “appropriations for discretionary accounts” mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

(f) POINT OF ORDER IN THE SENATE.—

(1) WAIVER.—The provisions of subsections (a)–(e) of this section shall be waived or suspended in the Senate only—

(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(g) LIMITATIONS ON CHANGES TO THIS SECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this section.

**SA 4304.** Mr. CARDIN (for himself, Ms. MIKULSKI, Mr. CASEY, Mr. KAUFMAN, Mrs. HAGAN, and Mr. BEGICH) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . EXTENSION OF DEPENDENT COVERAGE UNDER FEHBP.**

(a) SHORT TITLE.—This section may be cited as the “FEHBP Dependent Coverage Extension Act”.

(b) IN GENERAL.—

(1) PROVISIONS RELATING TO AGE.—Chapter 89 of title 5, United States Code, is amended—

(A) in section 8901(5)—

(i) in the matter before subparagraph (A), by striking “22 years of age” and inserting “26 years of age”; and

(ii) in the matter after subparagraph (B), by striking “age 22” and inserting “age 26”; and

(B) in section 8905(c)(2)(B)—

(i) in clause (i), by striking “22 years of age” and inserting “26 years of age”; and

(ii) in clause (ii), by striking “age 22” and inserting “age 26”.

(2) PROVISIONS RELATING TO MARITAL STATUS.—Chapter 89 of title 5, United States Code, is further amended—

(A) in section 8901(5) and subsections (b)(2)(A), (c)(2)(B), (e)(1)(B), and (e)(2)(A) of section 8905a, by striking “an unmarried dependent” each place it appears and inserting “a dependent”; and

(B) in section 8905(c)(2)(B), by striking “unmarried dependent” and inserting “dependent”.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective as if included in the enactment of section 1001 of the Patient Protection and Affordable Care Act (Public Law 111–148), except that the Director of the Office of Personnel Management may implement such amendments for such periods before the effective date otherwise provided in section 1004(a) of such Act as the Director may specify.

**SA 4305.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subpart B of part II of subtitle D of title II, add the following:

**SEC. \_\_\_\_ . TAX-EXEMPT BOND FINANCING.**

(a) IN GENERAL.—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking “January 1, 2011” and inserting “January 1, 2012”.

(b) CONFORMING AMENDMENTS.—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3913, 3919) are each amended by striking “January 1, 2011” each place it appears and inserting “January 1, 2012”.

**SA 4306.** Mr. WICKER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subpart B of part II of subtitle D of title II, add the following:

**SEC. \_\_\_\_ . SPECIAL DEPRECIATION ALLOWANCE.**

(a) IN GENERAL.—Paragraph (6) of section 1400N(d)(6) is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

**SA 4307.** Mr. BEGICH submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

**SEC. 6 \_\_\_\_ . ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES BY NATIVE CORPORATIONS.**

(a) IN GENERAL.—Paragraph (2) of section 170(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

“(C) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN NATIVE CORPORATIONS.—

“(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) which—

“(I) is made by a Native Corporation, and

“(II) is a contribution of property which was land conveyed under the Alaska Native Claims Settlement Act,

shall be allowed to the extent that the aggregate amount of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

“(ii) LIMITATION.—This subparagraph shall not apply to any contribution of property described in clause (i)(II) which, by itself or when aggregated to any other property to which this subparagraph applies, is a contribution of more than 10 percent of the land conveyed to the Native Corporation described in clause (i)(I) under the Alaska Native Claims Settlement Act.

“(iii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 5 succeeding years in order of time.

“(iv) DEFINITION.—For purposes of this subparagraph, the term ‘Native Corporation’ has the meaning given such term by section 3(m) of the Alaska Native Claims Settlement Act.

“(v) TERMINATION.—This subparagraph shall not apply to any contribution in any taxable year beginning after December 31, 2010.”

(b) CONFORMING AMENDMENT.—Section 170(b)(2)(A) of such Code is amended by striking “subparagraph (B) applies” and inserting “subparagraphs (B) or (C) apply”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date of the enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to modify any existing property rights conveyed to Native Corporations (with the meaning of section 3(m) of the Alaska Native Claims Settlement Act) under such Act.

**SEC. 6. INCREASE IN PENALTY FOR FAILURE TO FILE A PARTNERSHIP OR S CORPORATION RETURN.**

(a) IN GENERAL.—Sections 6698(b)(1) and 6699(b)(1) of the Internal Revenue Code of 1986 are each amended by striking “\$195” and inserting “\$205”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns for taxable years beginning after December 31, 2010.

**SA 4308.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, between lines 18 and 19, insert the following:

**SEC. 293. SPECIAL INVESTMENT RULE FOR CERTAIN QUALIFIED NEW YORK LIBERTY BOND PROCEEDS.**

For purposes of section 149(g) of the Internal Revenue Code of 1986, the proceeds of any qualified New York Liberty Bond (as defined in section 1400L(d)(2)) issued after September 30, 2009, and before January 1, 2010, which are invested in United States Treasury Obligations – State and Local Government Series shall be treated as invested in bonds described in paragraph (3)(B)(i) of such section.

**SA 4309.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and

for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:  
**SEC. 6. CHARITABLE DEDUCTION FOR COSTS ASSOCIATED WITH DONATIONS OF WILD GAME MEAT.**

(a) IN GENERAL.—Subsection (e) of section 170 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(8) SPECIAL RULE FOR CONTRIBUTIONS OF WILD GAME MEAT.—

“(A) IN GENERAL.—In the case of a charitable contribution by an individual of qualified wild game meat, the amount of such contribution otherwise taken into account under this section (after the application of paragraph (1)(A)) shall be increased by the amount of the qualified processing fees paid with respect to such contribution.

“(B) QUALIFIED WILD GAME MEAT.—For purposes of this paragraph, the term ‘qualified wild game meat’ means the meat of any animal which is typically used for human consumption, but only if—

“(i) such animal is killed in the wild by the individual making the charitable contribution of such meat (not including animals raised on a farm for the purpose of sport hunting),

“(ii) such animal is hunted or taken in accordance with all State and local laws and regulations, including season and size restrictions,

“(iii) such meat is processed for human consumption by a processor which is licensed for such purpose under the appropriate Federal, State, and local laws and regulations and which is in compliance with all such laws and regulations, and

“(iv) such meat is apparently wholesome (under regulations similar to the regulations under section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act).

“(C) QUALIFIED PROCESSING FEE.—For purposes of this paragraph, the term ‘qualified processing fee’ means any fee or charge paid to a processor which fulfills the requirements of subparagraph (B)(iii) for the purpose of processing wild game meat, but only to the extent that such meat is donated as a charitable contribution under this section.”

(b) EXCLUSION OF PROCESSOR'S INCOME FROM TAX EXEMPT ORGANIZATIONS.—

(1) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 140 the following new section:

**“SEC. 139F. CERTAIN INCOME RECEIVED FROM CHARITABLE ORGANIZATIONS.**

“(a) IN GENERAL.—Gross income of a qualified meat processor shall not include any amount paid to such processor as a qualified processing fee by a charitable organization for the processing of donated wild game meat.

“(b) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED MEAT PROCESSOR.—The term ‘qualified meat processor’ means a processor which fulfills the requirements of section 170(e)(8)(B)(iii).

“(2) CHARITABLE ORGANIZATION.—The term ‘charitable organization’ means an entity to which a charitable contribution may be made under section 170(c) and the charitable purpose of which is to provide free food to individuals in need of food assistance.

“(3) DONATED WILD GAME MEAT.—The term ‘donated wild game meat’ means qualified wild game meat (as defined in section 170(e)(8)(B)), without regard to clause (iii) thereof which is received as a charitable contribution (as defined in section 170(c)) by a charitable organization.

“(4) QUALIFIED PROCESSING FEE.—The term ‘qualified processing fee’ means any fee or

charge paid to a qualified meat processor for the purpose of processing donated wild game meat.”

(2) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before the item relating to section 140 the following new item:

“Sec. 139F. Certain income received from tax exempt organizations.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to donations made, and fees received, after the date of the enactment of this Act.

**SA 4310.** Mr. SCHUMER (for himself, Ms. STABENOW, Mr. LEVIN, Mr. ISAKSON, and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

**SEC. 6. MODIFICATION OF EXCISE TAX ON INVESTMENT INCOME OF PRIVATE FOUNDATIONS.**

(a) IN GENERAL.—Subsection (a) of section 4940 of the Internal Revenue Code of 1986 is amended by inserting “(1.39 percent in the case of taxable years beginning before January 1, 2015)” after “2 percent”.

(b) TEMPORARY ELIMINATION OF REDUCED TAX WHERE FOUNDATION MEETS CERTAIN DISTRIBUTION REQUIREMENTS.—Subsection (e) of section 4940 of such Code is amended by adding at the end the following new paragraph:

“(7) APPLICATION.—Paragraph (1) shall not apply for any taxable year beginning after December 31, 2009, and before January 1, 2015.”

(c) STUDY.—Not later than December 31, 2013, the Secretary of the Treasury shall conduct and submit to the Congress a study which examines the effect of the change in the rate of tax under section 4940 of the Internal Revenue Code of 1986 (as amended by this section) has on the level of grantmaking by private foundations.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

**SA 4311.** Mr. FRANKEN (for himself, Ms. SNOWE, and Mrs. MURRAY) proposed an amendment to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE —OFFICE OF THE HOMEOWNER ADVOCATE**

**SEC. —01. 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. 02. 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) **LIMITATIONS ON FORECLOSURES.**—No homeowner may be taken to a foreclosure sale, until the earlier of the date on which the Office of the Homeowner Advocate case involving the homeowner is closed, or 60 days since the opening of the Office of the Homeowner Advocate case involving the homeowner have passed, except that nothing in this section may be construed to relieve any loan servicers from any otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

(3) **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. 03. 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. 04. 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. 05. 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.

**SA 4312.** Mr. VITTER (for himself, Mr. GREGG, and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend

the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

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

## **SEC. \_\_\_\_ . NEW REVENUES TO THE OIL SPILL LIABILITY TRUST FUND.**

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

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

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

**SA 4313.** Mr. BARRASSO submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

## **(h) ATTORNEYS' FEES AND INCENTIVE AWARDS.—**

(1) **IN GENERAL.**—Any award of attorneys' fees, expenses, and costs or any incentive award in connection with the Litigation shall be within the discretion of the United States District Court for the District of Columbia (referred to in this section as the “Court”) and in accordance with controlling law, including paragraphs (2) and (3).

## **(2) ATTORNEYS' FEES, EXPENSES, AND COSTS.—**

(A) **IN GENERAL.**—Any motion or request for attorneys' fees, expenses, and costs incurred in the Litigation shall be supported by complete and contemporaneous daily time, expense, and cost records for all such fees, expenses, and costs.

(B) **PRE-SETTLEMENT.**—Notwithstanding any other provision of law, any award of attorneys' fees, expenses, and costs incurred in the Litigation on or before December 7, 2009, shall not exceed \$50,000,000 above amounts previously paid by the defendants in the Litigation.

(3) **INCENTIVE AWARDS.**—Notwithstanding any other provision of law, any incentive awards to class representatives in connection with the Litigation—

(A) shall not exceed, in the aggregate, \$15,000,000; and

(B) shall be limited to reimbursement of documented expenses and costs that—

(i)(I) were paid by the class representative with the funds of that class representative; or

(II) were paid by the class representative with borrowed funds that the class representative has a binding legal obligation to repay; and

(ii) have not otherwise been paid or reimbursed by the United States, Class Counsel, or any other person or entity other than the class representative petitioning for the award.

(i) **SELECTION OF 1 OR MORE QUALIFYING BANKS.**—The Court, in exercising the discretion of the Court to approve the selection of any proposed Qualifying Bank under paragraph A.1. of the Settlement, shall consider, in addition to the requirements of paragraph A.29. of the Settlement and any other requirements or factors that the Court determines to be relevant, whether the bank—

(1) employs officers and staff with experience in administering and collateralizing large deposits of settlement funds;

(2) has a demonstrated record of compliance with all applicable banking laws (including regulations); and

(3) offers competitive rates of interest on deposits and competitive fees or charges for any services that the bank will perform under the Settlement.

(j) TRUST LAND CONSOLIDATION FUND.—

(1) CONSULTATION.—In implementing paragraph F. of the Settlement, the Secretary shall consult with federally recognized Indian tribes with respect to—

(A) prioritizing and selecting tracts of land for consolidation of fractionated interests; and

(B) otherwise implementing the Settlement with regard to consolidation of fractionated interests under the Settlement.

(2) CONTRACTING AND COMPACTING.—Notwithstanding any provision of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.), the activities in implementing paragraph F. of the Settlement shall be subject to contracting and compacting under titles I and IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(k) TRUST ADMINISTRATION CLASS ADJUSTMENTS.—

(1) IN GENERAL.—In addition to any amounts deducted from the Accounting/Trust Administration Fund under paragraph E.4.b.2. of the settlement, the Court shall require the Claims Administrator (as defined in paragraph A.5. of the Settlement) to set aside, from the funds paid into the Accounting/Trust Administration Fund (as defined in paragraph A.1 of the Settlement) pursuant to paragraph E.2.a. of the Settlement, \$50,000,000 for making equitable adjustments to the payments to members of the Trust Administration Class pursuant to this subsection.

(2) PURPOSE OF ADJUSTMENTS.—The purpose of the adjustments under this subsection is to provide additional compensation to any member of the Trust Administration Class who demonstrates that the pro rata formula calculated under paragraph E.4.b.(3) of the Settlement does not provide fair compensation.

(3) PROCEDURES.—Except as provided in paragraph (5), the procedures, sufficiency of proof, and other requirements for members of the Trust Administration Class to receive adjustments under this subsection shall be established by, and be within the discretion of, the Court.

(4) AMOUNT OF ADJUSTMENTS.—Whether an adjustment authorized under this subsection should be made and the amount of any such adjustment shall be within the discretion of the Court and not subject to appeal.

(5) TIMING OF ADJUSTMENTS.—Any adjustment payments authorized under this subsection shall be distributed after payments have been made to class members under paragraphs E.3. and 4. of the Settlement.

(6) REMAINING FUNDS.—Any funds remaining in the amount set aside under paragraph (1) after completing the payments of equitable adjustments under this subsection shall be distributed to all members of the Trust Administration Class in accordance with the pro rata percentages calculated for the members of that class under paragraph E.4.b.(3) of the Settlement.

(7) SPECIAL MASTER.—

(A) IN GENERAL.—At the discretion of the Court, the determination of the amount of equitable adjustments under this subsection may be made by the special master appointed under the Settlement.

(B) REVIEW AND APPROVAL.—Any adjustments made by the special master under subparagraph (A) shall be subject to the review of the Court.

**SA 4314.** Mr. INHOFE submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### **TITLE —HONEST EXPENDITURE LIMITATION PROGRAM**

##### **SEC. .01. SHORT TITLE; EXPIRATION.**

(a) SHORT TITLE.—This title may be cited as the “Honest Expenditure Limitation Program Act of 2010” or the “HELP Act”.

(b) EXPIRATION.—This title shall expire at the end of fiscal year 2020.

#### **Subtitle A—Congressional Non-security Discretionary Spending Limits**

##### **SEC. .101. NON-SECURITY DISCRETIONARY SPENDING LIMITS.**

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

#### **“NON-SECURITY DISCRETIONARY SPENDING LIMITS**

“SEC. 316. (a) NON-SECURITY DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the non-security discretionary spending limits as set forth in subsection (b) to be exceeded.

“(b) LIMITS.—The non-security discretionary spending limits are as follows:

“(1) For fiscal years 2011 through 2015, the spending level for such spending in fiscal year 2010 reduced each year thereafter on a pro rata basis so that the level for fiscal year 2015 does not exceed the level for fiscal year 2008.

“(2) For fiscal years 2016 through 2020, the spending level for fiscal year 2015.

“(c) NON-SECURITY SPENDING.—In this section, the term ‘non-security discretionary spending’ means discretionary spending other than spending for the Department of Defense, homeland security activities, intelligence related activities within the Department of State, the Department of Veterans Affairs, and national security related activities in the Department of Energy.

“(d) LIMITATIONS ON CHANGES TO THIS SECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would—

“(1) repeal or otherwise change this section; or

“(2) exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

“(e) POINT OF ORDER IN THE SENATE.—

“(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

“(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

“(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

“(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.”.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act

of 1974 is amended by inserting after the item relating to section 315 the following new item:

“Sec. 316. Non-security discretionary spending limits.”.

#### **Subtitle B—Statutory Non-security Discretionary Spending Limits**

### **PART I—DEFINITIONS, ADMINISTRATION, AND SEQUESTRATION**

#### **SEC. .211. DEFINITIONS.**

In this title:

(1) ACCOUNT.—The term “account” means—  
(A) for discretionary budget authority, an item for which appropriations are made in any appropriation Act; and

(B) for items not provided for in appropriation Acts, direct spending and outlays therefrom identified in the program and finance schedules contained in the appendix to the Budget of the United States for the current year.

(2) BREACH.—The term “breach” means, for any fiscal year, the amount by which discretionary budget authority enacted for that year exceeds the spending limit for budget authority for that year.

(3) BUDGET AUTHORITY; NEW BUDGET AUTHORITY; AND OUTLAYS.—The terms “budget authority”, “new budget authority”, and “outlays” have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622).

(4) BUDGET YEAR.—The term “budget year” means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

(5) CBO.—The term “CBO” means the Director of the Congressional Budget Office.

(6) CURRENT.—The term “current” means—

(A) with respect to the Office of Management and Budget estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget;

(B) with respect to estimates made after that budget submission that are not included with it, the estimates consistent with the economic and technical assumptions underlying the most recently submitted President’s budget; and

(C) with respect to the Congressional Budget Office, estimates consistent with the economic and technical assumptions as required by section 202(e)(1) of the Congressional Budget Act of 1974.

(7) CURRENT YEAR.—The term “current year” means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

(8) DISCRETIONARY APPROPRIATIONS AND DISCRETIONARY BUDGET AUTHORITY.—The terms “discretionary appropriations” and “discretionary budget authority” shall have the meaning given such terms in section 3(4) of the Congressional Budget Act of 1974.

(9) NON-SECURITY DISCRETIONARY SPENDING LIMIT.—The term “non-security discretionary spending limit” shall mean the amounts specified in section 222.

(10) OMB.—The term “OMB” means the Director of the Office of Management and Budget.

(11) SEQUESTRATION.—The term “sequestration” means the cancellation or reduction of budget authority (except budget authority to fund mandatory programs) provided in appropriation Acts.

#### **SEC. .212. ADMINISTRATION AND EFFECT OF SEQUESTRATION.**

(a) TIMETABLE.—The timetable with respect to this title is as follows:

On or before:

5 days before the President's budget submission required under section 1105 of title 31, United States Code .....  
 The President's budget submission .....  
 10 days after end of session .....  
 15 days after end of session .....

Action to be completed:

CBO Discretionary Sequestration Preview Report.  
 OMB Discretionary Sequestration Preview Report.  
 CBO Final Discretionary Sequestration Report.  
 OMB Final Discretionary Sequestration/Presidential Sequestration Order.

(b) **PRESIDENTIAL ORDER.**—

(1) **IN GENERAL.**—On the date specified in subsection (a), if in its Final Sequestration Report, OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(2) **SPECIAL RULE.**—If the date specified for the submission of a Presidential order under subsection (a) falls on a Sunday or legal holiday, such order shall be issued on the following day.

(c) **EFFECTS OF SEQUESTRATION.**—The effects of sequestration shall be as follows:

(1) Budgetary resources sequestered from any account shall be permanently cancelled, except as provided in paragraph (5).

(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account).

(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

(4) Except as otherwise provided in this part, obligations or budgetary resources in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

(5) Budgetary resources sequestered in special fund accounts and offsetting collections sequestered in appropriation accounts shall not be available for obligation during the fiscal year in which the sequestration occurs, but shall be available in subsequent years to the extent otherwise provided in law.

(d) **SUBMISSION AND AVAILABILITY OF REPORTS.**—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate, and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

**PART II—NON-SECURITY DISCRETIONARY SPENDING LIMITS**

**SEC. 221. DISCRETIONARY SEQUESTRATION REPORTS.**

(a) **DISCRETIONARY SEQUESTRATION PREVIEW REPORTS.**—

(1) **REPORTING REQUIREMENT.**—On the dates specified in section 212(a), OMB shall report to the President and Congress and CBO shall report to Congress a Discretionary Sequestration Preview Report regarding discretionary sequestration based on laws enacted through those dates.

(2) **DISCRETIONARY.**—The Discretionary Sequestration Preview Report shall set forth estimates for the current year and each subsequent year through 2014 of the applicable discretionary spending limits and a projection of budget authority exceeding discretionary limits subject to sequester.

(3) **EXPLANATION OF DIFFERENCES.**—The OMB reports shall explain the differences be-

tween OMB and CBO estimates for each item set forth in this subsection.

(b) **DISCRETIONARY SEQUESTRATION REPORTS.**—On the dates specified in section 212(a), OMB and CBO shall issue Discretionary Sequestration Reports, reflecting laws enacted through those dates, containing all of the information required in the Discretionary Sequestration Preview Reports.

(c) **FINAL DISCRETIONARY SEQUESTRATION REPORTS.**—

(1) **REPORTING REQUIREMENTS.**—On the dates specified in section 212(a), OMB and CBO shall each issue a Final Discretionary Sequestration Report, updated to reflect laws enacted through those dates.

(2) **DISCRETIONARY SPENDING.**—The Final Discretionary Sequestration Reports shall set forth estimates for each of the following:

(A) For the current year and each subsequent year through 2014; the applicable discretionary spending limits.

(B) For the current year, if applicable, and the budget year; the new budget authority and the breach, if any.

(C) The sequestration percentages necessary to eliminate the breach.

(D) For the budget year, for each account to be sequestered, the level of enacted, sequesterable budget authority and resulting estimated outlays flowing therefrom.

(3) **EXPLANATION OF DIFFERENCES.**—The OMB report shall explain—

(A) any differences between OMB and CBO estimates for the amount of any breach and for any required discretionary sequestration percentages; and

(B) differences in the amount of sequesterable resources for any budget account to be reduced if such difference is greater than \$5,000,000.

(d) **ECONOMIC AND TECHNICAL ASSUMPTIONS.**—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.

**SEC. 222. LIMITS.**

(a) **DISCRETIONARY SPENDING LIMITS.**—As used in this title, the term “non-security discretionary spending limit” shall have the same meaning as in section 316 of the Congressional Budget Act of 1974.

(b) **ENFORCEMENT.**—

(1) **SEQUESTRATION.**—On the date specified in section 212(a), there shall be a sequestration to eliminate a budget-year breach.

(2) **ELIMINATING A BREACH.**—Each non-security discretionary account shall be reduced by a dollar amount calculated by multiplying the enacted level of budget authority for that year in that account at that time by the uniform percentage necessary to eliminate a breach of the discretionary spending limit.

(3) **PART-YEAR APPROPRIATIONS.**—If, on the date the report is issued under paragraph (1), there is in effect an Act making continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraph (2) shall be subtracted from—

(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

(4) **LOOK-BACK.**—If, after June 30, an appropriation for the fiscal year in progress is en-

acted that causes a breach for that year (after taking into account any previous sequestration), the discretionary spending limit for the next fiscal year shall be reduced by the amount of that breach.

(5) **WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.**—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in section 221(c). Fifteen days after enactment, OMB shall issue a report containing the information required in section 221(c). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

(c) **ESTIMATES.**—

(1) **CBO ESTIMATES.**—As soon as practicable after Congress completes action on any legislation providing discretionary appropriations, CBO shall provide an estimate to OMB of that legislation.

(2) **OMB ESTIMATES.**—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriations, OMB shall transmit a report to the Senate and to the House of Representatives containing—

(A) the CBO estimate of that legislation;

(B) an OMB estimate of that legislation using current economic and technical assumptions; and

(C) an explanation of any difference between the 2 estimates.

(3) **DIFFERENCES.**—If during the preparation of the report under paragraph (2), OMB determines that there is a difference between the OMB and CBO estimates, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation, to the extent practicable, shall include written communication to such committees that affords such committees the opportunity to comment before the issuance of that report.

(4) **ASSUMPTIONS AND GUIDELINES.**—OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

**SA 4315.** Mr. SESSIONS (for himself and Mrs. MCCASKILL) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

**SEC. \_\_\_\_ . DISCRETIONARY SPENDING LIMITS.**

(a) **POINT OF ORDER.**—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.



(b) LIMITS.—In this section, the term “discretionary spending limits” has the following meaning subject to adjustments in subsection (c):

(1) For fiscal year 2011—

(A) for the defense category (budget function 050), \$564,293,000,000 in budget authority; and

(B) for the nondefense category, \$540,116,000,000 in budget authority.

(2) For fiscal year 2012—

(A) for the defense category (budget function 050), \$573,612,000,000 in budget authority; and

(B) for the nondefense category, \$543,790,000,000 in budget authority.

(3) For fiscal year 2013—

(A) for the defense category (budget function 050), \$584,421,000,000 in budget authority; and

(B) for the nondefense category, \$551,498,000,000 in budget authority.

(4) With respect to fiscal years following 2013, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

(c) ADJUSTMENTS.—

(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

(i) with respect to fiscal year 2011, \$50,000,000,000 in new budget authority;

(ii) with respect to fiscal year 2012, \$50,000,000,000 in new budget authority; and

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

(B) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013, that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, \$7,171,000,000, for fiscal year 2012, \$7,243,000,000, and for fiscal year 2013, \$7,315,000,000.

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

(C) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

(I) For fiscal year 2011, \$276,000,000, for fiscal year 2012, \$278,000,000, and for fiscal year 2013, \$281,000,000.

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

(iii) ASSET VERIFICATION.—

(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

(II) AMOUNTS.—For fiscal year 2011, \$34,340,000, for fiscal year 2012, \$34,683,000, and for fiscal year 2013, \$35,030,000.

(D) HEALTH CARE FRAUD AND ABUSE.—

(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, \$314,000,000, for fiscal year 2012, \$317,000,000, and for fiscal year 2013, \$320,000,000.

(E) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

(i) with respect to fiscal year 2011, \$51,000,000 in new budget authority;

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

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

(F) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, or 2013 that includes \$3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to \$1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed \$1,900,000,000.

(d) EMERGENCY SPENDING.—

(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropria-

tions for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

(2) EXEMPTION OF EMERGENCY PROVISIONS.—Any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of this section, sections 302 and 311 of this Act, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits), and section 404 of S. Con. Res. 13 (111th Congress).

(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

(4) DEFINITIONS.—In this subsection, the terms “direct spending”, “receipts”, and “appropriations for discretionary accounts” mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) POINT OF ORDER.—

(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

(B) SUPERMAJORITY WAIVER AND APPEALS.—

(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment

shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(6) CRITERIA.—

(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

(i) necessary, essential, or vital (not merely useful or beneficial);

(ii) sudden, quickly coming into being, and not building up over time;

(iii) an urgent, pressing, and compelling need requiring immediate action;

(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

(v) not permanent, temporary in nature.

(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

(f) POINT OF ORDER IN THE SENATE.—

(1) WAIVER.—The provisions of subsections (a) and (e) of this section shall be waived or suspended in the Senate only—

(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(g) LIMITATIONS ON CHANGES TO THIS SECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this section.

**SA 4316.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

On page 255, line 18, strike “a drug” and insert “a covered inpatient drug”.

On page 256, line 24, strike “a patient” and insert “an inpatient”.

On page 260, line 17, after “subsection (a)(4)” insert the following: “that has applied for and enrolled in the program described under this section”.

On page 261, line 15, strike “20.20” and insert “11.75”.

On page 275, strike line 2 and insert the following: each succeeding fiscal year.

“(g) EFFECT OF SECTION.—Nothing in this section shall be construed to apply to section 340B.”.

**SA 4317.** Mr. BINGAMAN submitted an amendment intended to be proposed

to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 255, strike line 14 and all that follows through line 2 on page 275 and insert the following:

“(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 11.75 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 govern-

mental 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.

“(g) EFFECT OF SECTION.—Nothing in this section shall be construed to apply to section 340B.”.

## 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 Thursday, June 10, 2010, at 3 p.m. in room 628 of the Dirksen Senate Office Building to conduct a business meeting on pending committee issues.

1. Nomination of Tracie L. Stevens to serve as Chair of the National Indian Gaming Commission;

2. Nomination of JoAnn Balzer to serve as Member, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development;

3. Nomination of Cynthia Chavez Lamar to serve as Member, Board of Trustees, Institute of American Indian and Alaska Native Culture and Arts Development;

4. S. 2802, the Blackfoot River Land Settlement Act of 2009;

5. S. 2906, a bill to amend the Act of August 9, 1955, to modify a provision relating to leases involving certain Indian tribes in Washington; and

6. S. 1448, a bill to amend the Act of August 9, 1955, to authorize the

Coquille Indian Tribe, the Confederated Tribes of Siletz Indians, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, the Klamath Tribes, and the Burns Paiute Tribe to obtain 99-year lease authority for trust land.

Those wishing additional information may contact the Indian Affairs Committee at 202-224-2251.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 8, 2010, at 10 a.m., to hold a hearing entitled “The New START Treaty (Treaty Doc. 111-5): The Negotiations.”

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

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “The State of the American Child” on June 8, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

### COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on June 8, 2010, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “The Risky Business of Big Oil: Have Recent Court Decisions and Liability Caps Encouraged Irresponsible Corporate Behavior?”

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

### SELECT COMMITTEE ON INTELLIGENCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 8, 2010, at 2:30 p.m.

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

### NEAR EAST SUBCOMMITTEE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 8, 2010, at 3 p.m., to hold a Near Eastern subcommittee hearing entitled “Assessing the Strength of Hezbollah.”

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

## PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff from the Finance Committee be

allowed on the Senate floor for the duration of the debate on the tax extenders legislation: Logan Timmerhoff, Kathryn Spika, Logan Baker, Benjamin Furnas, John Merrick, Andrew Fishburn, Mary Baker, Emily Freeman, Drew Colling, Ellen Montz, Randy Aussenberg, and Jenn Rigger.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be allowed on the Senate floor for the duration of the debate on the tax extenders legislation: Greg Sullivan, Nicole Marchman, Chris Goble, and Claire Green.

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

## DIRECTION TO DISCHARGE S.J. RES. 26

We, the undersigned Senators, in accordance with chapter 8 of title 5, United States Code, hereby direct that the Senate Committee on Environment and Public Works be discharged of further consideration of S.J. Res. 26, a resolution on providing for congressional disapproval of a rule submitted by the Environmental Protection Agency relating to the endangerment finding and the cause or contribute findings for greenhouse gases under section 202(a) of the Clean Air Act, and, further, that the resolution be immediately placed upon the Legislative Calendar under General Orders.

Lisa Murkowski, Mitch McConnell, Saxby Chambliss, E. Benjamin Nelson (NE), Kay Bailey Hutchison, Richard Burr, Jeff Sessions, Thad Cochran, Richard G. Lugar, George V. Voinovich, Lamar Alexander, John Cornyn, Blanche L. Lincoln, John Barrasso, Mary Landrieu, Chuck Grassley, John Thune, John McCain, Lindsey Graham, Bob Corker, Jim Bunning, Robert F. Bennett, James M. Inhofe, John Ensign, Michael B. Enzi, James E. Risch, Roger F. Wicker, Mike Johanns, Tom Coburn, David Vitter, George LeMieux, Jim DeMint, Orrin G. Hatch, Johnny Isakson, Sam Brownback, Mike Crapo, Kit Bond, Richard Shelby, Jon Kyl, Pat Roberts, Judd Gregg.

## ORDERS FOR WEDNESDAY, JUNE 9, 2010

Mr. BAUCUS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, Wednesday, June 9; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the House message with respect to H.R. 4213, the tax extenders legislation.

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

## PROGRAM

Mr. BAUCUS. Mr. President, Senators should expect rollcall votes in relation to amendments to the tax extenders legislation to occur throughout the day tomorrow.

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ADJOURNMENT UNTIL 10 A.M.  
TOMORROW

Mr. BAUCUS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:10 p.m., adjourned until Wednesday, June 9, 2010, at 10 a.m.

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NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

MAURA CONNELLY, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAOR-

DINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LEBANON.

DANIEL BENNETT SMITH, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GREECE.

NATIONAL SCIENCE FOUNDATION

SUBRA SURESH, OF MASSACHUSETTS, TO BE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION FOR A TERM OF SIX YEARS, VICE ARDEN BEMENT, JR., RESIGNED.

NATIONAL OCEANIC AND ATMOSPHERIC  
ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

*To be captain*

DAVID A. SCORE  
RANDALL J. TEBEEST  
ANNE K. LYNCH  
ANITA L. LOPEZ

*To be commander*

KEITH W. ROBERTS  
RICHARD T. BRENNAN  
ADAM D. DUNBAR  
PETER C. FISCHER  
JEREMY M. ADAMS  
MICHAEL J. SILAH  
SCOTT M. SIROIS  
MARK A. WETZLER  
KURT A. ZEGOWITZ  
TIMOTHY J. GALLAGHER  
NATHAN H. HANCOCK  
DEMIAN A. BAILEY

## DISCHARGED NOMINATION

The Senate Committee on Finance was discharged from further consideration of the following nomination pursuant to Sec. 411(c) of P.L. 109-280 and the nomination was placed on the Executive Calendar on June 7, 2010:

\*JOSHUA GOTBAUM, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION.

\*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

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WITHDRAWAL

Executive Message transmitted by the President to the Senate on June 8, 2010 withdrawing from further Senate consideration the following nomination:

PAUL STEVEN MILLER, OF WASHINGTON, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2016, VICE CAROLYN L. GALLAGHER, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 1, 2010.