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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, June 21, 2010, at 11 a.m.

Senate

FRIDAY, JUNE 18, 2010

The Senate met at 9:45 a.m. and was called to order by the Honorable AL FRANKEN, a Senator from the State of Minnesota.

PRAYER

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

Let us pray.

Eternal Spirit, creator and sustainer of humanity, teach us the way of salvation, show us the path to meaningful life, and reveal to us the steps of faith.

Today, use our Senators to fulfill Your purposes. Quicken their hearts, purify their minds, and strengthen their commitments. Show them duties left undone and tasks unattended, as You lead them through challenging seasons to a deeper experience with You. Let faith, hope, and love abound in their lives, as they seek to heal the hurt in our Nation and world.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable AL FRANKEN 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 18, 2010.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

PLAYING AND WORKING FOR AMERICANS

Mr. REID. Mr. President, within the next few minutes, in Johannesburg, South Africa, before almost 80,000 people, the U.S. soccer team will begin its World Cup quest. They are going to be playing Slovenia, which has the fewest citizens of any of the participating countries. So I wish all the athletes representing our country success in today's match.

I also want to take a minute and talk about a Nevadan who is on our team. His name is Herculez Gomez. He is a graduate of Las Vegas public schools. He was, of course, an outstanding high school athlete. He played professionally here in America, but the team decided not to sign him—Kansas City—to anything he was satisfied with, so he went to Mexico to play. He became the No. 1 player in Mexico. He holds the record for scoring more goals than any person, as I understand it, who has played for another team in that country.

He is a great young man, and we are very proud of him. He is a great goal scorer, a terrific representative of Nevada and the United States in this tournament watched by billions of people around the world. He didn't play in our first game. He was standing on the sidelines. The coach had told him to go in, but soccer is an unusual game. It is not like a lot of sports. It is very difficult to substitute in a soccer game, and the referee didn't blow the whistle or stop the game, so he couldn't go in. But he will be in this game, I am sure.

I am a great soccer fan. I often boast about my youngest son, who played on three national championship soccer teams for the University of Virginia. Anyway, I watch soccer closely.

I wish the next remarks of mine could be as pleasant as those I have just given regarding Herculez Gomez. I wish we could have a lot more pleasant talk here in the Senate. But with what happened last night and what has happened for the last year and a half, it is very hard to be pleasant when you have people who are hurting in America.

Unemployment is something that is difficult to understand unless you have been unemployed. I have never been unemployed. I am very fortunate. From the time I was a boy until now, I have always had a job, even in the summers. I worked as a very young boy, starting when I was very, very

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

young. But I have seen my dad trying to get a job and not able to find work. My father was a strong young man during the depression, and I heard him tell the story many times that he would go to a mine where they were going to hire some people, and they would line up the people who were prospective workers, and one of the bosses would come out and he would go down the line and say: I will take you, I will take you, and I will take you. I guess how they looked is all they had to base it on. They had no applications. No one filed applications.

Well, even though it is not the Great Depression, we now have people going through the same thing my father went through. I heard on NPR this morning on the way to work that a woman has been out of work for a year and a half. She was hired once for 1 day. She has applied 150 different times. She keeps a notebook of the places she has applied and what happens to each of those. She is going to a job fair today, hoping something will happen and she can get a job.

The American people have had it with those who create messes and then refuse to take responsibility for cleaning them up. They are tired of the excuses. They are sick of the misplaced priorities that say one party's politics are more important than their jobs or families, their incomes and their savings.

If you want to know what we stand for on this side of the aisle—Democrats—look at our agenda this year. And our agenda has been so difficult because, without exception, everything we have tried to do has been stalled. The Republicans have made every attempt to divert our attention from what we want to do.

Here is what our agenda has been: making health insurance more affordable and health insurance companies more accountable. What kind of a country would we be if we had stood silently while 50 million of our fellow men and women had no health insurance? That is where we were. If you had a job, a good job, you might have had insurance, but that was no guarantee either. People were losing their insurance by the millions as time went on. So we did something that had to be done—health insurance.

We protected Americans' savings and seniors' pensions from Wall Street greed, making sure the American people were never again asked to bail out a big bank. Although we were stymied every step of the way, we worked to stop these people on Wall Street from doing again what they did to the American people.

During part of my career—in fact, for 4 years—I was chairman of the Nevada Gaming Commission. Now, that isn't about hunting animals; it is a gambling commission. We call it gaming. We did everything we could to make sure people who came to Nevada and gambled on the tables in Las Vegas or Reno or Lake Tahoe had a fair game. When they won money, they got to keep it; when they lost, it was their money they lost. But Wall Street had a much better deal than you can get anyplace in Nevada. On Wall Street, they gambled away our money. If they won, they kept it; if they lost, they came to us for help. So we took that on. That bill is in conference now, and we are going to come out with something the American people will like very much.

We have worked hard to create jobs. Today, JOE BIDEN is announcing the 10,000th highway project that has been funded from our stimulus or economic recovery bill. So we have created jobs, including full-time work for 3 million Americans who have the stimulus to thank for the job they are going to today.

In Nevada, the Recovery Act has created or saved more than 4,000 jobs in just the past 4 months alone. The economy in Nevada is not in good shape. It is getting better, but it is not good. We are one of the leading States in the Union in unemployment. But think how much worse it would be if we hadn't been able to create these jobs in Nevada with the recovery bill.

Our agenda has been making sure those still looking for jobs in Nevada—where 14 percent are out of work—and people across the country have the unemployment assistance they need to make ends meet in the meantime. Why the Republicans would not allow people who are out of work to collect unemployment compensation is hard for me to comprehend. JOHN MCCAIN's chief economic adviser when he ran for President is a man named Mark Zandi, and Mark Zandi said the No. 1 way to stimulate the economy is to give people who are out of work some money—unemployment assistance. The Republicans rejected the advice of JOHN MCCAIN's chief economic adviser; we followed it.

In our legislation, we cut taxes for families and businesses. Ninety-five percent of the people in America, as a result of our stimulus bill, the economic recovery bill, got a tax cut.

We have helped small businesses grow and hire more workers in the last bill we passed dealing with jobs. And we would have been happy to do more, but we get stalled every time we try to do something. Remember that bill? We had four things in it:

We extended the highway bill for a year. That saved a million jobs in America. Hundreds and hundreds of jobs were saved in Nevada. Thousands were saved in Minnesota, the Presiding Officer's State.

In that same legislation, we said that if a small business wants to buy something for their business—let's assume they need a new vehicle or equipment of any kind—they didn't have to even depreciate it anymore; that up to $250,000 they can write off. That was to help small business.

We also said that if someone is out of work for 60 days and someone is willing to give them a job for 30 hours a week—we didn't set how much they would have to be paid, but if they give them a job for 30 hours a week, then that employer doesn't have to pay the withholding tax, and at the end of that year, they get a $1,000 tax credit.

In addition to that, we decided that one of the things that worked so well in the recovery bill was Build America Bonds. That was very successful and so popular that we ran out of money. In this little jobs bill, we funded that again. Right now, as we speak, there are jobs all over America taking place as a result of what we did with that bill.

So we have done a lot of things to help small businesses. We have in that bill and we tried yesterday to give our States the critical aid they need to keep firefighters in our communities, police officers on the streets, and teachers in the classrooms. But Republicans said: No. Let the States handle their own problems. We have problems back here; don't worry about the States.

I learned a long time ago in college that one of our responsibilities back here as a Congress is to do things for the States they can't do for themselves. That is what we are doing here. But the Republicans said no yesterday. And it wasn't the majority of them, it was every single one of them.

We have worked hard to protect doctors who treat senior citizens from a massive pay cut created by the Republicans when they were in charge. Now there are going to be seniors who won't be able to find their doctor of choice because the doctors simply can't afford to work under what the Republicans decided they should be paid. They will take a pay cut. They will only get 79 percent of the money they got yesterday for the same treatment.

As part of our agenda this year—and I am not going to go through it all because Norm Ornstein, a famous journalist, said we have been the most productive Congress in the history of the country, in spite of what was going on here, despite the secret holds, the filibusters, the stalling, the delay; according to Norm Ornstein and others, the most productive Congress in the history of the country.

As part of our agenda we believe we should hold BP accountable for the sickening environmental disaster caused by its own gross negligence and maybe criminal activity in the endless pursuit of profits. One of the richest companies in the world cut corners so they could make more money.

Those are a few of the things we stand for. We stand for those things because we know we work for families, taxpayers, and hard-working Americans. But as far as I can tell, the only thing Republicans stand for is standing together. As far as anyone can see, Republicans come to work each day to fight for their special-interest friends, for corporate America, for multimillionaires, for billionaires, and for greedy CEOs who ship jobs out of

America. Remember, part of the legislation they turned down yesterday was going to stop all of that.

The trends are unmistakable. The records are public. I am not making up a thing. They are public, and numbers do not lie. It is not hard to piece together the puzzle and see who is working for the American people and who is working against them.

But you do not have to comb through voting records; just look at what happened yesterday. In the morning Republicans apologized to BP. Listen to this. Republicans apologized to BP. One of the longstanding Republican leaders in the House of Representatives said he was sorry that President Obama had asked them to come up with $20 billion. We wrote a letter to BP. The idea started with us, Democratic Senators. The President picked this up. He met with the head of BP and they said OK, we will do that. The Republicans in the House said it was a shakedown and they were embarrassed for our country that this had happened. Try that one on. Whose side are the Republicans on?

I heard an interview where a man said 9/11 did not ruin my business, Katrina didn't ruin my business, but the oilspill has ruined my business. I filed bankruptcy yesterday. And it is a shakedown?

I repeat, yesterday morning Republicans apologized to BP for holding them accountable for their own recklessness and their own greed. I repeat that because it is incredible: Republicans apologized to BP because we are making sure it pays for its mess and the taxpayers do not have to pay for their mess.

In the evening Republicans voted to help the wealthiest of the wealthy avoiding paying their fair share of taxes, while at the same time voting against giving out-of-work Americans the assistance they need.

I have friends who are billionaires. They run these big companies. With rare exception, they have come to me and said yes, we have a pretty good deal. Do you know why it is a pretty good deal? Because they pay less taxes than somebody who works for the minimum wage. The Republicans are going to continue to allow my friends, and billionaires around the country, to continue to pay less taxes than someone who works for minimum wage. What kind of a picture is that?

Their priorities are baffling to me. They are indefensible. But it is even harder to believe when you look at who got us into this mess and who is now refusing to let us get out of this mess. The same people. Why are the doctors getting a 21-percent pay cut? It is because of what they did over here. Why are so many people out of work? It is because of the policies of the prior administration—it is what went on on Wall Street, cutting the legs off of the American economy. So the people who got us into the mess are the ones who are doing everything they can to make sure that we do not get out of the mess.

If not for the years of failed Republican policies, high unemployment would not be an issue in the first place. If not for the Republican failed policies, there would not be a doctors payment problem in the first place. If not for the Republicans' disdain for sensible oversight, the disasters from Wall Street to the Gulf of Mexico, to communities across America, might not have been so devastating. And if not for the weeks and weeks of Republican delay, the emergencies in our households and businesses and big cities and small towns wouldn't be nearly as bad as they are.

Republicans might be willing to turn their backs on out-of-work Americans but Democrats are not. We are not. We are going to keep fighting for them. We are not going to give up.

As I said earlier, the American people have had it with those who create messes and then refuse to take responsibility for cleaning them up. That goes for BP and the GOP.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I ask to be recognized to speak in morning business and to be notified at 7 minutes.

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

EXTENDERS PACKAGE

Mr. SESSIONS. Mr. President, the legislation we have before us today and have been working on is problematic. It is just not healthy because it is going to increase the debt to a significant degree.

According to the Joint Committee on Taxation, the Democrats' first draft of the extenders bill—that is what we are calling this legislation—presented this week would have added $78.6 billion to the debt—another $78 billion.

Total spending in that bill was $126 billion. They claim that $47 billion of this amount had been offset, meaning paid for. However, what we were not told is they were double counting many of the items. It was a manipulation. The numbers were worse than that. They were double counting some of the money and hiding the extent of the debt. There were just too many budget gimmicks, and the total impact of the bill, in truth, would have vastly exceeded the $78.6 billion that had been in the score.

The Congressional Budget Office estimates the annual deficit for this fiscal year will be $1.5 trillion—$1,500 billion. This represents the largest annual deficit in the history of the American Republic.

The CBO estimates that deficits will average—average—$1 trillion per year over the next 10 years under the budget as presented to us by President Obama. The lowest projected deficit in the 10-year period—the lowest year—would be $724 billion. That is in 2014. The way the economy is moving, I have my doubts that would occur. In fact, a fair analysis of the entire amount would indicate those numbers are less than likely to occur, unless we make significant changes, which we should do.

Last week, the gross public debt exceeded $13 trillion. This represents 89 percent of our GDP. So the debt of $13 trillion represents 89 percent of GDP. This is a serious matter. According to Carmen Reinhart's testimony before the Budget Committee—who studied this and has written a book about it—when gross debt exceeds 90 percent of GDP, growth in your country is reduced. What otherwise would be an economic growth of 3 percent would be reduced to 2 percent. You would have, in their estimation—Ms. Reinhart's and her partner, Mr. Rogoff's, book—it would knock off 1 percent of growth, which is huge. One percent of growth dragged down as a result of debt and interest is a huge matter.

Interest payments rise—interest payments on the debt we have to pay. We borrow the money, we have to pay interest on it in the form of T-bills held by people. China and other places and individuals buy these T-bills. We pay them interest. Interest in 2010 will be $209 billion. As of September 30 of this year, when fiscal year 2010 ends, it will be $209 billion.

The Federal highway bill is about $40 billion, the baseline highway bill. Just to give an indication, Alabama's general fund budget is less than $10 billion a year. We are an average-sized State, so $210 billion in interest is significant.

Well, what happens at the rate we are going, with budget deficits averaging a trillion dollars a year for the next 10 years? According to the Congressional Budget Office, that calculates this out carefully, they estimate that interest in 2020—for that 1 year—just 10 years from now, would be $916 billion—the largest single expenditure in the Federal budget, and our debt will have tripled in 10 years under the President's budget.

So this is clearly unsustainable; every witness, every economist, every

person on Wall Street, every talking head you see on television says it is unsustainable. But we have not seen any action to get us off this path. How much longer can we go before we do something? The bullet, as one person said a number of years ago about a bank that went bankrupt—they found out the Atlanta housing market collapsed, and he said: It was too late. The bullet was in the heart. When will the bullet be in our heart? When will it be too late to fight back?

On Wednesday of this week, the Democratic majority—after having brought up their bill that I have referred to; and the Senate rejected this excessive debt and spending by a vote of 45 to 52—a number of Democrats said: No, we are not going for that, Mr. Leader. A vast majority of the Democrats supported the bill, but a significant number said: No, we are not going to keep doing this. So they have now proposed yet another version of the extenders bill, on Thursday, yesterday. This version would add $55 billion to the deficit instead of $78 billion. But the number is a distortion, and it is done as a result of double counting certain funds and simply shortening the time some of the provisions would take effect—not fixing it in a significant way.

To pay for some of this spending, the Democratic majority proposes to increase the oil excise tax that funds the Oil Spill Liability Trust Fund to 49 cents from its current 8 cents a barrel. So the Oil Spill Liability Trust Fund was created to have a fund to pay costs that might relate in the future to oil—

The ACTING PRESIDENT pro tempore. The Senator asked to be notified when 7 minutes had elapsed, and we are at about 7 minutes 15 seconds.

Mr. SESSIONS. I thank the Acting President pro tempore and will wrap up.

There is so much to be said about this. But I just wish to point out how the Oil Spill Liability Trust Fund is a complete shell game. It is an absolute double counting of money, and it adds to the debt, and the debt of the bill in the way it has been scored hides the real impact.

The legislation would increase the tax on oil but does not set aside the increased revenue and save it in a fund to clean up the oil spill in the gulf or other such disasters as it is supposed to. Instead, it takes the money and creates a paper trust fund but sends the money directly over to the Treasury in order to pay some of the spending in this package and is used to reduce the amount of debt they say the bill will create.

Do you follow me? They claim they are creating a trust fund but at the same time using the money to fund the spending in this bill and claiming this money as income to justify that. Well, what is going to happen when the fund needs money to clean up a spill, which is what it was created for? Well, it is not going to be there because it is going to already have been spent. There is no dispute about this. This is absolute fact, and it is just another example of the recklessness and irresponsibility of the spending that is going on here. It is time for the American people to rise up and say to Congress: We need to have honest spending and restraint in spending.

I thank the Acting President pro tempore and yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent I be recognized for 20 minutes, to be followed by the Senator from Connecticut, Mr. DODD.

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

Mr. INHOFE. Mr. President, first of all, let me say it was my intention to come down and talk about the same subject my friend from Alabama has addressed, and I will do that if there is time at the conclusion of my first subject, which has to be said and addressed today, and if not, I may have to come back after my friend from Connecticut to address this subject. It has to do with the liability limits—something we need to think through. There is a gross misunderstanding and a lot of pandering going on of people demagoging that issue, and I want to address that.

NEW STRATEGIC ARMS REDUCTION TREATY

Mr. INHOFE. Mr. President, first of all, something has happened that we haven't even talked about on the floor, and it is very timely and very significant. We all remember what has happened in the past about treaties that have come up and the administration, whether it is Democratic or Republican, if they want a treaty, they are going to try to rush it through. This same thing happened with the Law of the Sea Treaty under President Bush, and when that happened, it was somewhat of a crisis because many of us were opposed to our own President. We are going to find this to be true about the treaty I wish to address, and that is the New START treaty. I think we all remember the START treaty, the START II treaty, and now they are calling this the New START treaty.

Yesterday, on June 17, in the committee on which I am the second ranking member, the Senate Armed Services Committee, we held the first hearing on the Strategic Arms Reduction Treaty or the New START treaty. During the hearing, we had Secretary Clinton, Secretary Gates, Dr. CHU, and Admiral Mullen all emphasizing the importance of verifying the treaty. But wait a minute. They are all speaking in behalf of the President, which means we haven't had a hearing yet. This is something we are going to be talking about doing before we get any closer to ratifying this treaty.

I think the bottom-line question for all Americans and the Senate is, Does this treaty improve the national security of the United States? I don't think so. To put it bluntly, this treaty will have a profound negative impact and implications on the U.S. national security.

Let's start with the need for the treaty because we are being told it is either this treaty or it is nothing at all, and that is just not an accurate statement. The United States and Russia are still committed under the 2002 Moscow Treaty to reduce the number of deployed nuclear weapons to a range of about 1,700 to 2,200—a decrease from 6,000 under START. Additionally, the United States and Russia had the option of extending START for 5 years and keeping in place the same detailed verification and inspection protocols under START. So it is not a matter that we have to do something or we won't have anything at all because we will continue under the existing treaties that are there. It was the decision of the Obama administration to abandon START I protocols and rush forward to another START treaty. Both countries are still bound under the Moscow Treaty.

Let's keep in mind that this treaty addresses two things: It addresses nuclear capability, warheads and the reduction of the warheads down to about 1,550, as well as delivery systems. This is the something we keep hearing about. People don't really have an understanding. If you have a nuclear warhead, you still have to deliver. There are three basic categories of deliverance. One is to do it with ICBMs. We all know what that is. The other is SLBMs; that is, submarine-launched ballistic missiles. The third would be through the air. We have two vehicles that can do this; that is, the old B–52 and the B–2.

So I think we need to talk about four things: modernization, force structure, missile defense, and verification, and then the overall ability to deter our enemies.

Keep in mind that this is a treaty between two countries, Russia and the United States. That is not really what the problem is. I think we all understand the problem is Syria, North Korea, and now Iran, which our intelligence tells us is going to have the capability of delivering an ICBM to the eastern part of the United States as early as 2015. That is very serious.

First of all, modernization. The well-respected Perry-Schlesinger Commission, a bipartisan congressional commission on strategic posture, has been working for a long period of time, and they have come up with the conclusion that our nuclear arsenal is a victim of disrepair and neglect. We haven't been doing anything with these. Even Secretary Gates—keep in mind, he was here yesterday at this hearing—he said:

> There is absolutely no way we can maintain a credible deterrent and reduce the numbers of weapons in our stockpile without either resorting to testing our stockpile or pursuing a modernization program.

We haven't done that for any period of time at all. Nonetheless, Secretary Gates, the same one who was testifying yesterday, said as recently as last October that we have to modernize and we have to test.

General Chilton, the commander of the U.S. Strategic Command, testified that modernization was not only important but essential. The last B–52—we are talking about the equipment we have—the last B–52 we cranked out was in 1964. These are ancient vehicles.

Under President Obama's first budget, he has done away with the next generation of bombers, so we can kind of forget about that as long as he is President and has a majority in this Congress. The only major nuclear power not modernizing its weapons is us. Everybody else is. Every other major power in the world is modernizing, and we all agree we shouldn't be the only one who is not doing this. Some lack modern safety features such as insensitive high-explosive and unique signal generators, and some rely on vacuum tubes.

A lot of people who are the age of my kids and grandkids don't remember how old vacuum tubes are. They look at the radios on their cars and they wonder why mine in my 1965 Ford pickup takes so long to warm up. It is because they don't remember that is the way things were. That is the way our nuclear equipment is operating now. No weapons have been fully tested since 1992 when the United States voluntarily suspended its underground nuclear testing program, and that was in anticipation of the Comprehensive Test Ban Treaty. Meanwhile, other nuclear countries, including Russia, continue to modernize and replace their nuclear weapons.

Press reports indicate the administration will invest $100 billion over the next decade in nuclear delivery systems. Now, this comes out of the press. I haven't heard this from the Obama administration. About $30 billion of this total will go, as it should, to the development and acquisition of a new strategic submarine. That will leave about $70 billion over that 10-year period. According to estimates by the Strategic Command, the cost of maintaining the current dedicated nuclear forces is about $5.6 billion a year or $56 billion over the decade. So that leaves $14 billion, which is totally inadequate to do what we need to do, and certainly it is not sufficient enough to get to a higher degree of sophistication and modernization of our aging 1964 B–52 bomber.

I am concerned that the appropriators are not going to be able to fully fund the President's fiscal year 2011 budget request of $624 million for the National Nuclear Security Administration. I commend them for this. This is an amount we should invest. I am not convinced we are going to be able to do that.

Here is something people haven't talked about; that is, in the fiscal year 2010 NDAA—that is the National Defense Authorization Act which I am active in—we required that the submission of a new START agreement to the Senate be accompanied by a plan to modernize the U.S. nuclear deterrent. That is under law. That is section 1251 of the fiscal year 2010 NDAA. So that is something we have to comply with. Yet what we are talking about now is ratifying a treaty before we have that modernization. We are not going to let that happen. It puts off decisions on a follow-on bomber and ICBM until 2013 or 2015.

A letter was written to President Obama—and I was the one who wrote it—on December 15, 2009, signed by 41 Senators, and it stated that further reductions are not in national security interest of the United States without a significant program to modernize our nuclear deterrent.

So, therefore, the first issue of this is the ratification of the New START treaty by the Senate has to be linked to some kind of commitment for modernization, which is not in place now.

The second thing is force structure. According to the Perry-Schlesinger Strategic Posture Commission—and I will quote two sentences out of that. Keep in mind, the triad is ICBM, SLBM, and the air delivery system.

The triad of strategic delivery systems continues to have value. Each leg of the nuclear triad provides unique contributions to stability. As the overall forces shrink, their unique values become more prominent.

This is this Commission. We all know about the Perry-Schlesinger Commission. No one questions that they are the final authority, and something has to be done. We need to listen to them.

We get this also: We need to understand what the Russian force structure will look like and do a net assessment to determine whether we can maintain a viable nuclear deterrent in this new agreement. And we need to take into full consideration the 2010 Nuclear Posture Review which concluded—and I am quoting now—this is the third posture review:

> Large disparities in nuclear capabilities could raise concerns on both sides and among U.S. allies and partners, and may not be conducive to maintaining a stable, long-term relationship.

So right now, we are talking about the nuclear force structure suggested in section 1251 of the NDAA. We have 420 of the 450 currently deployed single-warhead ICBMs; we have 60 of the nuclear capability B–52s and B–2s, and we have 240 total of the warheads or the SLBMs. Add that up, and that is 720. This treaty calls for 700. When we asked the question of the panel yesterday: Where are you going to come up with the 20 reduction, they didn't have it, but that is still under consideration. So we don't even know at this time in terms of force structure and the problems we have.

Additionally, this treaty does not address tactical nuclear weapons even though tactical nuclear weapons remains one of the most significant threats. A tactical nuclear weapon could be a suitcase bomb; it could be anything other than the three legs of the nuclear triad this treaty addresses. One thing we know is that the Russians have 10 times—the ratio is 10 to 1—they have 10 times the tactical nuclear weapons that we do. I agree with Henry Kissinger. Just the other day, he said:

> The large Russian stockpile of tactical nuclear weapons, unmatched by a comparable American deployment, could threaten the ability to undertake extended deterrence.

Again, there is a lot more on this, but I think this gets the point across that we have to be looking at the force structure.

I wish to move to the missile defense part of this.

We have heard—and we have been talking about this since January—that the New START treaty has a provision in it, in the preamble, which says that if we expand our missile defense capabilities, the Russians could get out of this treaty. We have been told by the administration that is not true. I have heard so many different explanations of article V in the treaty that I remain concerned that it is as clear as mud. The Obama administration assures us there are no limitations. Yet, if you look at the preamble, it says:

> . . . the interrelationship between strategic offensive arms and strategic defensive arms, that this interrelationship will become more important as strategic nuclear arms are reduced, and that current strategic defensive arms do not undermine the viability and effectiveness of the strategic offensive arms of the Parties.

In other words, we don't want you to be concerned with your own national defense.

There is a unilateral statement that was issued by the Russian side of missile defense released the same day as the full agreed-upon text. This was in Prague in April. This is what our President signed. It said that the treaty ''can operate and be viable only if the United States of America refrains from developing its missile defense capabilities quantitatively and qualitatively.'' There it is. That is a statement. That is undeniable. It is there.

Sergey Lavrov, who is the Russian Foreign Minister, stated to emphasize that:

> We have not yet agreed on this [missile defense] issue and we are trying to clarify how the agreements reached by the two presidents . . . correlate with the actions taken unilaterally by Washington.

He added that:

> [The] Obama administration had not coordinated its missile defense plans with Russia.

So this is the one that I think is very significant.

Since I am running out of time—I am going to be able to pursue this and get into a lot more detail. But if you look at what happened in Poland when we had the ground-based missile defense shield that was being installed in the

first budget this President had, he pulled the rug out from under both the Czech Republic and Poland and discontinued this ground-based capability. That is something that put us in a position that is pretty scary.

I do wish to mention one thing about verification. There is limited verification. We all remember that President Reagan always used to say: Trust, but verify. Trust, but verify. This is all trust and no verification.

We are looking at it right now and seeing that the verification process is not there. I am concerned that there are 18 inspections per year that are allowed—that would be 180 inspections in 10 years—given the fact that we conducted on the order of 600 inspections during the 15 years of START I. The top verification priorities need to be accurate and effective, and they are not there now. They are still waiting on the National Intelligence Estimate that will assess our ability to monitor the treaty. I think we all recognize we are going to have to be able to have that verification.

Lastly would be the deterrence. As Secretary Gates said back in October of 2008:

> As long as others have nuclear weapons, we must maintain some level of these weapons ourselves to deter potential adversaries and to reassure over two dozen allies and partners who rely on our nuclear umbrella for their security, making it unnecessary for them to develop their own.

I agree with that, but that is not the message we heard yesterday. The New START focuses on reducing the strategic nuclear arsenals of Russia and the United States and fails to address the proliferation of nuclear weapons of other countries. The whole idea is that we are having an agreement, this treaty between two countries, but it is between the wrong two countries. This ought to be with countries such as Iran. Russia is not a threat; Iran is a threat to us. North Korea is also a threat to us. We have to be looking at where the real problem is. We know—and it is not even classified—that Iran will have the capability of sending an ICBM to the United States as early as 2015, and we have taken down the only defense we would have against that by taking out the Poland ground-based interceptor. That is scary.

The conclusion I come to on this is the Senate must receive a comprehensive net assessment of benefits, costs, and risks, with a clear and precise listing of terms, definitions, and banned permit actions, and the Senate has to continue to receive a series of follow-on hearings. We haven't had many hearings.

I remember when we had the Law of the Sea Treaty. That was during a Republican administration. The Bush administration decided that Ronald Reagan was wrong, I guess, so they were going to have this. They weren't having hearings either. They sent people over there who were answering to President Bush. At that time, the Republicans were in the majority, and I chaired the Environment and Public Works Committee. We held a hearing, and the Law of the Sea Treaty passed the Foreign Relations Committee 16 to 0, and it was ready to sail through. We realized what was in it. They had not changed it since the 1980s when, at that time, Ronald Reagan was opposed to it. With that being the case, we had to have our own hearings. We had people coming in and talking about why we should not have the Law of the Sea Treaty.

The Law of the Sea Treaty would have turned over to the United Nations authority over 70 percent of the Earth's surface. We were able to effectively kill that because we were able to show it was wrong. We haven't had those hearings on this treaty yet. We have to have hearings on the treaty before they are going to be able to get the votes. I am taking this opportunity, since nobody is talking about this right now, of alerting our Members on both sides of the aisle that this Obama administration is going to rescue this treaty and get it done before we have our hearings. That isn't going to happen. Fortunately, it takes two-thirds to ratify a treaty. That is our responsibility.

Later, I will talk in more detail, as it gets closer. I will use a little bit of time and address the problem that my friend from Alabama was talking about a few minutes ago, which is that we have received a lot of criticism for our objection to raising the limits, which are currently way too low, to $75 billion.

First, they wanted to raise the limits of liability for economic damages to $10 billion, and I objected to that because both the President and the Secretary of the Interior, Ken Salazar, said we need to think it thoughtfully all the way through as to how high a liability limit we want. Then they came forth with no liability limits.

These are my words and not the words of any experts, but I have spent many years in my life in the insurance business. I remember, in 1994, I was one who introduced a bill to put a repose on aviation products. At that time, we were importing aviation products and airplanes from other countries because we weren't making them here. Why weren't we making them here? Our tort laws would not let us. We had unlimited liability. They didn't have limits out there. Consequently, Piper Aircraft had to go into bankruptcy. They had to actually move some of their operations to Canada because their tort laws were different at that time. We introduced and passed a bill that was intended to be a 12-year repose bill.

That meant if a company manufactured an airplane or an airplane part and it worked fine for 12 years, and there was an accident, you could not go back against the manufacturer. We could not get it through. Instead, we had an 18-year repose bill. That was one that I thought was too long. That meant if something had been running well for 18 years, then you could not go back and sue.

I called Lloyd's of London, and they said: You are right. We don't care if it is 18 years or 12 or 20 years; you have to have an end to underwrite against. In other words, we cannot insure it unless we know there is an end in the future.

Consequently, that is what we need to do in this because companies have to be able to have insurance in order to drill. We didn't think that was so necessary prior to the tragedy we are addressing now in the gulf. Now we realize we should be and what we need to do. If we leave it open ended, that will mean if we ever have any drilling or exploring in the gulf, it is going to have, in my opinion, to be done not even by the big 5, including BP, it would have to be done by the international oil companies—those in Venezuela and in China. So, in my opinion, if we adopt something with an open-ended, unlimited liability that means we are all through drilling in the gulf.

Quite frankly, that is exactly what the Obama administration wants. All this hype and their talk about oil and gas—earlier this week, we had the Sanders amendment, which would have put anyone out of business who was in the business of drilling, including our marginal producers in Oklahoma. A marginal well is only 15 barrels a day. That is what we do in Oklahoma. Yet the average marginal well produces only two barrels a day but accounts for 28 percent of the domestically produced oil. That is significant. They would have been out of business if we had adopted the Sanders amendment, which we handily defeated earlier this week.

I believe the statement made yesterday by Senator ROCKEFELLER pretty much says it right. I hope I have it so I can refer to it. He was criticizing all these efforts to try to have some kind of cap and trade, and I think the meeting that took place yesterday verifies that cap and trade is in fact dead. The votes simply aren't there. I don't have that—yes I do. This is what took place yesterday. It is in this morning's Politico:

> The Senate Democrats may have emerged from a much-hyped caucus meeting without a clear plan for this summer's energy bill, but they appear to agree on one point; that is, cap and trade is dead.

I have been saying that for about 3 months. I think we are hearing that now from a lot of the Democrats. Senator MCCASKILL said:

> I don't see 60 votes for a price on carbon right now.

There is the same quote by several others. This is a quote I like. Listen, this is profound, and I don't think I have ever quoted Senator ROCKEFELLER and said it was something with which I totally agree. But this is something he said:

> The Senate should be focusing on the immediate issues before us: to suspend EPA action on greenhouse gas emissions, push clean

coal technologies, and tackle the gulf oil spill. We need to set aside controversial and more far-reaching climate proposals and work right now on energy legislation that protects our economy, protects West Virginia, and improves our environment.

I agree wholeheartedly. We on the Republican side have said we have an energy policy, and that it is all of the above.

I will yield at any time to my friend from Connecticut, since he had time reserved. Apparently, he doesn't want it.

It may be that the caucus that met yesterday was united in the idea that cap and trade is dead. But I don't think that is necessarily true with the Obama administration.

I am glad to yield to my friend. My understanding is that they only have 4 more minutes, and a unanimous consent request will be made here. I am almost out of time anyway.

Mr. DODD. Mr. President, I am told we have time. Floor staff will let me know. We have a little more time available.

Mr. INHOFE. I ask the Chair, how much time is remaining before—the Senator from Nebraska has reserved time; is that correct?

The ACTING PRESIDENT pro tempore. Evidently not.

Mr. INHOFE. Mr. President, let me conclude and say I will come back and talk about this at a later time. I do believe President Obama's pollster has some ideas that became public. I will share this last point.

Joe Benenson, the President's campaign pollster, did a survey for somewhat of an extremist environmental group, and, among other things, he found that based on his interpretation of the survey result, pushing for cap and trade and tying opposition to it to big oil is a potent political weapon for Democrats against Republicans this fall.

I think that says it all. People are using the tragedy in the gulf for political purposes. This is something we want people to understand.

With that, I yield the floor.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

HONORING OUR ARMED FORCES

U.S. ARMY SPECIALIST BLAINE REDDING

Mr. JOHANNS. Mr. President, I rise today to remember a fallen hero, U.S. Army SPC Blaine Redding of Plattsmouth, NE.

Blaine was a proud member of Company A, 2nd Battalion, 327th Infantry Regiment, of the 101st Airborne Division, operating in one of the most dangerous areas of Afghanistan, the Kunar Province.

On June 7, only 4 weeks after arriving in that country, Specialist Redding was killed when his vehicle was struck by a remotely detonated improvised explosive device.

His death is a great loss to our Nation and to Nebraska, his home State.

Blaine was a model of persistence, determination, and patriotism. Faced with challenges during his adolescent years, he realized that military service was the best way to fulfill his longings.

Blaine overcame an early departure from high school by earning a general equivalency diploma to join the U.S. Army. He was determined to sustain a family history of service to our country in uniform, beginning with a great-grandfather and continuing through subsequent generations.

Fort Campbell became a very special place for Specialist Redding. He and his brother, PFC Logan Redding, were assigned to the elite 101st Airborne Division.

But more important, he met his future wife Victoria, or Nikki, while at Fort Campbell. They were married on March 13, 2010. With this came a renewed sense of responsibility to defend this great Nation and its principles of freedom.

Specialist Redding knew combat operations, having completed already a year-long tour in Iraq. The rugged terrain and close proximity to the Pakistan border of the area of Afghanistan where he was poses special challenges to allied forces. Losses have been heavy in this region. Specialist Redding was comforted by his brother being deployed nearby. Ultimately, Logan would aid in returning his brother's body to the United States.

Specialist Redding will be remembered in different ways. His Army buddies sometimes refer to him as ''a perfect soldier,'' a great ''mortar man.''

To family and friends, he had a priceless personality. To his wife Nikki, he was a devoted husband with a very big heart.

The decorations and badges earned during a far too brief Army career speak to his dedication and to his bravery: the Army Commendation Medal, the Army Achievement Medal, the National Defense Service Medal, Global War on Terrorism Service Medal, Army Service Ribbon, and the Purple Heart. He proudly wore the Combat Infantry Badge and Air Assault Badge.

Today, I join Nikki, family, and friends in mourning the death of their beloved husband, son, brother, and friend. Blaine made the ultimate sacrifice in defense of our great Nation, and we owe him and his family an immeasurable debt of gratitude.

May God be with the Redding family, friends, and all those who mourn his death and celebrate his life. We will remember Blaine as we remember all the Nation's fallen warriors who gave their lives so that we may live in peace. Their names are etched on the conscience of our Nation in glory undimmed unto the end of our people.

I also offer my prayers to all those serving in uniform today, and especially those serving in peril overseas. May God bless them and their families and see them through these difficult times.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

REMEMBERING DOUGLAS GRAVEL

Mr. DODD. Mr. President, I wish to take a few minutes to recognize three individuals, two of whom are no longer with us, and one is a man who just retired from a life of dedication to his community and family. I wish to spend a few minutes talking about the three of them, if I may.

The first is a friend of mine who passed away several weeks ago, an individual who made a wonderful contribution to our country.

Doug Gravel was a wonderful friend, a great champion of American education, and a person who attracted a legion of friends, supporters, and followers throughout his life.

Although he never lived for fame or even for recognition, Doug Gravel was instrumental in shaping the way we teach our children in this country, from one end of our Nation to the other.

The Montessori method of teaching, familiar to many people, was developed a century ago by Maria Montessori in Italy. It was designed as a system to educate the whole child by empowering children to guide their own development. It encourages kids to develop their own unique personalities and fosters their curiosity in the world around them while removing environmental obstacles to their progress.

For many children, the Montessori method has proven to be an unqualified success. Many of its methods are incorporated in public education in this country as well. Its revitalization in the latter half of this century can be traced back to a very small group of individuals—parents who lived in my state in Greenwich, CT. One of those people was a fellow named Doug Gravel.

Realizing there was no clearinghouse for parents, teachers, and school administrators interested in the Montessori method, Dr. Nancy McCormick Rambusch established the American Montessori Society at the Whitby School in Greenwich, CT in 1960. It is today America's oldest Montessori School, and Doug Gravel was right there with Nancy Rambusch when the program started.

At that time, the fate of the Montessori School was in doubt. In fact, an article in 1964 in Time magazine confidently predicted that the American Montessori movement would die out entirely within a few years.

The critics, obviously, were terribly wrong, as they often are, thanks in no small part to the work of Dr. Nancy Rambusch and Doug Gravel. The American Montessori Society grew and prospered. Today, the society has 11,000 members in 50 nations around the world, and it works to ensure that the high standards and excellent education that have come to symbolize the Montessori schools are available to children everywhere.

I was very privileged to serve as honorary Chair of the society's annual conference back in 2007 when it celebrated the 100th anniversary of Montessori education. I am pleased that the organization's archives from the Montessori Society are housed at the research center at the University of Connecticut, named for my father.

As part of my work for the organization, I had the honor of getting to know Doug Gravel very well. His commitment to quality education was matched by his commitment to treating those around him with respect and compassion.

His warm personality, his wise mind, and his tremendously sharp wit were a source of great joy to his friends and to the many whom he educated—and entertained—throughout his life and certainly in his capacity as a Montessori trainer and headmaster of the Caedmon School in New York.

My family will always have a special love for Doug Gravel. I come from a family of educators, starting with my great-grandmother Catherine Murphy who came to this country unable to read or write her own name. But soon after arriving in Connecticut she got herself elected to the local school board because she knew the future belonged to those who were educated.

My father's three sisters, my brother Tom, and my sister Carolyn all became teachers as well. In fact, Carolyn, in particular, carried on my father's passion for Montessori education at the Whitby School in Greenwich, CT, back in the late 1950s and early 1960s. Doug was such a good friend to Carolyn, to our entire family, and to educators everywhere, for that matter.

On behalf of all those grateful for the good work Doug Gravel did for American education, for the great person he was, I offer my condolences to his beloved Maria, his brilliant and beautiful daughters Mary and Anne, and his cherished grandchildren. I offer that wonderful family my thanks and the thanks of many thousands of parents and children, all of whom benefitted because there was someone named Doug Gravel who modernized and revitalized American education.

TRIBUTE TO PRESTON J. EMPEY

Mr. President, the second individual I wish to recognize has no particular fame in any way at all. He is just a wonderful human being who announced his retirement. I rise today in the midst of all the work we are doing to support ordinary Americans, working families—people who go about their daily lives in every way to try to support their communities and their families.

In particular, I rise to celebrate one of them, a man named Preston Empey—''Press'' to his friends and family.

In 1953, Press Empey, who had served in the Navy during World War II and then gone on to college, got a job at the Cloverleaf Dairy in Provo, UT, where he was soon promoted to manager.

Press Empey worked hard to support his young family. And over the past 60 years, he became legendary for treating his customers as though they were members of his own family.

Milk was cheaper in those days when Press started out. It was also something you got from a face you knew instead of a cold case at a convenience store or grocery store.

To our younger members, some of the people who work in this Chamber, the idea of having a milkman show up at your house sounds like ancient history. It is not that ancient. It was not that many years ago when most Americans were familiar with someone who actually delivered the milk. Press did it, up until a few weeks ago, in his community for almost 60 years.

Press's customers got to know him—some so well that if they were not home when he delivered the dairy, they trusted him to go inside and put it in the refrigerator anyway. And he got to know them. When hard times befell customers—as they certainly have in every one of our communities over the years—and they could no longer afford their shipments or products, he worked with them to ensure they got their deliveries every day and at some future point paid him back for the products and services they were receiving.

No matter what befell him—bad weather, injury, illness, even mechanical troubles—he would be there on time even if it meant starting his day hours before sunrise. Once, after his truck rolled over on the highway, Press calmly got it back on the road, dusted himself off, and made every single delivery that day.

Still, when he was asked about his greatest accomplishment, he paused and said: ''Well, we've raised five children.'' He and Glenna did just that. He and his lovely wife had great fun. I have known the family for years. They are remarkable people, hard-working, diligent, delightful human beings.

Once Press invited some friends, including my late father-in-law Karl Clegg, to go hunting in the Utah mountains. Maybe because Press couldn't bear to be away from that dairy truck of his, he decided that it would make a fine camper for all of them. After all, it had good insulation, lots of space for sleeping, and, best of all, a cooler stocked with ice cream.

Off they went, taking the dirt roads and crossing streams, drawing, one can imagine, wide-eyed stares from fellow hunters in huge SUVs as they bounced along in the dairy truck through the mountains and hills of Utah. The cooler turned out to be a fine meat locker as well, although Press and Karl's snoring echoed off the truck's walls and posed an obstacle to others who might have wanted to sleep. They had a great trip in Press Empey's dairy truck.

For more than half a century—almost 60 years—Press has been an institution. He is now retiring at the age of 83, not because he is tired but because his trucks, in his own words, are plum worn out.

That is good news for his lovely wife Glenna and wonderful family who will get a little more of Press to themselves after a life spent sharing his generosity of spirit and profound dedication with their neighbors and his customers. As I said, for more than half a century, they have been a hard-working American family.

I am pleased to congratulate Press on his retirement and join my wife Jackie and our family in wishing him and Glenna many years of happiness and joy.

REMEMBERING BILL STANLEY

Mr. President, lastly, I wish to spend a minute talking about a wonderful man who passed away a few weeks ago in my home State of Connecticut. I rise to talk about the rich and eventful life of one of Connecticut's great champions and favorite sons, William Stanley of Norwich, CT.

Bill Stanley was a stockbroker for 46 years, although that is about the last thing anyone would ever think of when asked to describe him. That was his job, but his life was far more interesting and far more complicated than that. He was active in politics. He served for a term in the State senate. He was an influential adviser and trusted friend to my father, who served in this body, as well as former Governor and Senator Abe Ribicoff, and Ella Grasso, the first woman elected Governor in her own right in the United States, among many others.

He served as the official photographer of his hometown newspaper, the Norwich Bulletin. He had his own radio show for more than a decade, and he published the history of his community on a regular basis.

But most importantly, Bill Stanley's life was defined by his love for his community of Norwich, CT, and the incredible work he did for many years to boost its prominence and champion its virtues and favorite sons, regardless of who they were.

When Bill was a very young boy in elementary school, he wrote an essay for school and attempted to redeem one of American history's most despised figures and a native son of Norwich, CT—not that his connection to the community is often bragged about—Benedict

Arnold. Sure, he was a traitor, young Bill wrote, but what about his positive attributes, he suggested. Bill Stanley was suspended for 3 days from elementary school because of that essay. But that did not shake him. It is not that Bill abided treason but Benedict Arnold could not have been all that bad in Bill Stanley's mind—after all, he was from Norwich.

Later in life, he would insist that Samuel Huntington, not George Washington, should be recognized as our first President. Why? Well, among other things, Samuel Huntington was from Norwich, CT.

Each year, the Second Company Governor's Footguard of New Haven—Benedict Arnold's organization—would convene a ceremony at the cemetery where Samuel Huntington was buried. Why? Well, as the Footguard's Major Commandant said, ''We did it for Bill.'' Because Bill Stanley is from Norwich. Well, 2 years ago, they even made Bill an honorary captain in the Footguard.

Bill fostered a lifelong crusade to create a Founding Fathers museum, designed to recognize the Presidents elected under the Articles of Confederation and the Continental Congress, to secure Norwich's rightful place. Samuel Huntington was the first President under the Articles of Confederation, so there is some legitimacy to Bill Stanley's case, although it has never been recognized by many more than Bill Stanley and those of us who come from Norwich, CT.

When the executive editor of the Norwich Bulletin asked Bill to write a regular column about Norwich history, each one began, ''Once upon a time.'' It became so popular that he eventually published 10 books, which earned $¼ million, which Bill promptly gave to charity. Because it wasn't all about glorifying Norwich's past—Bill made it his mission to build a better future as well for his neighborhood and friends and the people he cared deeply about.

In 1987, St. Jude Common, a retirement home, opened on three acres of land Bill donated to that charity. He used his political acumen to raise $4.5 million in State funds to open the home, and another $400,000 from the Diocese of Norwich.

A friend who served with him on the home's board of directors recalled:

> Every year at Christmas, he would make sure we set up a dinner for all the residents. I would always attend to see the joy he had in bringing joy to others. He captured the Christmas spirit and was always a joy to be around.

Bill Stanley was truly a joy to be around. He was a fascinating guy, who always had an interesting story and was busy as he could be up until his last illness. He was a great friend to my family. My father loved him dearly. He was a loyal and true friend in so many wonderful ways. I am glad I never had a tough race against someone from Norwich as well.

I join his beloved wife Peg, his son Bill, Jr., whom I know so well, and his daughters Carol and Mary in mourning Bill Stanley's passing, and I join every man, woman, and child in Norwich, CT, in giving thanks for the wonderful life of William Stanley.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

KAGAN NOMINATION

Mr. MCCONNELL. Mr. President, last month, the President nominated his friend and member of his administration, Solicitor General Elena Kagan, to a lifetime position on the Supreme Court. Ms. Kagan has never been a judge and only practiced law for 2 years as a junior associate before her current position as Solicitor General. She has largely been an academic, administrator, and policy advocate and advisor.

So we have not had a lot of information about her background.

But recent documents from her time as a policy advocate in the Clinton administration have shed more light on her views. And, in my view, they help answer the question some have asked as to whether she would be able to transition into a very different kind of role; namely, that of an impartial jurist Americans expect to sit above the political fray.

As a judge on our highest court, Ms. Kagan would no longer be a member of President Obama's team. Rather, her job would be to apply the law evenhandedly to persons and groups with whom she might not necessarily empathize. And in that regard, it is instructive to see how she's viewed the law and applied it when it comes to persons and groups with which she may not agree.

I previously discussed Ms. Kagan's role in the Citizens United case. Here was a case in which the government said it could block a small nonprofit corporation from showing a movie that it made about then-Senator Hillary Clinton because it viewed the film as the kind of political speech that was prohibited by Federal campaign finance laws.

This was not only the first case Ms. Kagan argued as a member of the Obama administration; it appears to have been the first case she has ever argued in any court. And in it, she and her office took the position, at different points in the case, that the Federal Government had the power to ban videos, books and pamphlets if it didn't like the speech or the speaker, a shocking position for the solicitor general of a nation that has always prided itself on a robust exchange of ideas under the first amendment.

The justices on the Supreme Court, conservative and liberal alike, also seem to have been taken aback by this position. As were legal commentators of all political stripes; but now, in looking at some of the documents from her time as a political advisor in the Clinton administration, perhaps her views before the Supreme Court in Citizens United are not that surprising after all.

As a part of President Clinton's team, Ms. Kagan co-wrote a memo in which she said it was unfortunate that the Constitution stands in the way of many government restrictions on spending on political speech. She also wrote that many of the Supreme Court's precedents that protect political speech in this area were, to quote her memo, ''mistaken in many cases.''

We have also learned from the documents produced by the Clinton Library last week that Ms. Kagan was a member of the campaign finance working group at the Clinton White House. These documents appear to show that in this area, at least, Ms. Kagan placed her political desires over an evenhanded reading of the law and of the rights that the Constitution protects.

What is more, these newly released documents show that Ms. Kagan went out of her way to prevent the professional lawyers at the Justice Department from officially noting their concerns that the legislation being considered in Congress could infringe on Americans' first amendment rights.

In the mid-1990s, for example, the Office of Legal Counsel was concerned with the constitutionality of campaign finance legislation making its way through Congress. As a July 17, 1996, memo by Ms. Kagan put it: The OLC believed that all of the campaign finance bills under consideration by the House at that time ''present[ed] serious constitutional issues.''

Now, Ms. Kagan did not say these lawyers were wrong. In fact, she noted that their concerns were to be expected in a case like this. But allowing them to express their legal analysis would have been at odds with the Clinton administration's political strategy, a strategy she helped develop.

She was determined, as one memo put it, to ''try to head off DOJ . . . letters'' that noted constitutional problems. So she called a political appointee at the Justice Department and told him that Clinton's Office of Management and Budget ''might well disapprove'' any such opinion letter from the Justice Department.

The phone call evidently worked. The documents we have now seen show that the political appointee with whom she spoke called back and told her the ''OLC did not have adequate time to prepare comments on the campaign finance legislation and, given the possibility that such comments might not go through, would not attempt to do so.'' What a coincidence.

Whether one works in the judicial, legislative, or executive branches of government, you take an oath to support and defend the Constitution of the United States. In this case, Ms. Kagan recognized that the professional lawyers at the Justice Department had valid legal concerns that these bills might violate Americans' free speech rights. But she disregarded these valid concerns, and even helped prevent them from being aired, in order to help advance a political agenda.

Now, I understand that Ms. Kagan was part of President Clinton's team, just like she is now part of President Obama's team. Both Presidents were no doubt pleased with her political and policy advice. And we know President Obama is very pleased with the job she did in Citizens United. But if she were confirmed to the Supreme Court, she can not be on anyone's team.

Ms. Kagan has said that judging is a ''craft,'' and that the Senate should always insist that a nominee's background show that they can ''master'' that craft. I agree with Ms. Kagan that judging is a craft. But for most of her adult life, she has practiced a much different craft, the craft of political advocacy. We must be convinced that someone who has spent the better part of her career as a political adviser, policy advocate, and academic, rather than as a legal practitioner or a judge, can put aside her personal and political beliefs, and impartially apply the law, rather than be a rubberstamp for the Obama or any other administration. The Clinton library documents make it harder, not easier, to believe that Ms. Kagan could make that necessary transition.

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

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

AFFORDABLE HEALTH CARE FOR AMERICA ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 210, H.R. 3962; that the Baucus substitute amendment, which is at the desk, be considered agreed to, and the motion to reconsider be laid upon the table; that the bill, as amended, be read a third time, passed, and the motion to reconsider be laid upon the table; that the title amendment, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table; that any statements related to this measure be printed in the RECORD, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4383), in the nature of a substitute, was agreed to.

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

The amendment (No. 4384) was agreed to, as follows:

Amend the title so as to read: ''An Act to provide a physician payment update, to provide pension funding relief, and for other purposes.''.

Mr. CONRAD. This is the Statement of Budgetary Effects of PAYGO legislation for H.R. 3962, as amended by Senate Amendment No. 4383. This statement has been prepared pursuant to Section 4 of the Statutory Pay-As-You-Go Act of 2010, Public Law 111–139, and is being submitted for printing in the CONGRESSIONAL RECORD prior to passage of H.R. 3962, as amended, by the Senate.

Total Budgetary Effects of H.R. 3962:

2010–2015—net decrease in deficit of $2.384 billion.

2010–2020—net decrease in deficit $168 million.

Reduction of Total Budgetary Effects for Current Policy under Section 7:

2010–2015—$6.348 billion.

2010–2020—$6.348 billion.

Total Budgetary Effects of H.R. 3962 for the 5-year Statutory PAYGO Scorecard: −$8.732 billion.

Total Budgetary Effects of H.R. 3962 for the 10-year Statutory PAYGO Scorecard: −$6.516 billion.

I ask unanimous consent to have printed in the RECORD a table prepared by the Congressional Budget Office, which provides additional information on the budgetary effects of this act.

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

ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS FOR AN ACT TO PROVIDE A PHYSICIAN PAYMENT UPDATE, TO PROVIDE PENSION FUNDING RELIEF, AND FOR OTHER PURPOSES (AS PROVIDED BY STAFF ON JUNE 18, 2010

[Millions of dollars, by fiscal year]

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
	Net Increase or Decrease (−) in the On-Budget Deficit												
Total On-Budget Changes	−569	2,460	−1,266	−1,253	−981	−776	−467	−171	558	1,233	1,063	−2,384	−168
Less:													
Current-Policy Adjustment for Medicare Payments to Physicians [1]	2,708	3,640	0	0	0	0	0	0	0	0	0	6,348	6,348
Statutory Pay-As-You-Go Impact	−3,277	−1,180	−1,266	−1,253	−981	−776	−467	−171	558	1,233	1,063	−8,732	−6,516

Note: Components may not sum to totals because of rounding.

[1] Section 7(c) of the Statutory Pay-As-You-Go Act of 2010 provides for current-policy adjustments related to Medicare payments to physicians. CBO estimates that the maximum available adjustment for a physician payment policy through November 30, 2010, is about $6.3 billion.

Sources: Congressional Budget Office and joint Committee on Taxation.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 3962), as amended, was passed.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, let me say to my friend, the majority leader, this is a good example of bipartisanship. I think we have come up with a proposal and achieved a goal that both sides wanted to achieve, which is to get a doctor fix for at least a 6-month period of time. Also, it is paid for. So we have done it without adding to the deficit, and I think that is something both sides can feel good about.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, sometimes the Senate can be terribly disconcerting and aggravating, but that is the way the Senate is. Those are the rules we work under. I love the Senate. Every day that goes by, I understand there are times I am aggravated and disconcerted, but the vast majority of the time I am amazed how we are able to get work done.

I say through the Presiding Officer to my friend, the Republican leader, I am glad we were able to work out this legislation. This is extremely important for everybody, and we are going to move on with the rest of the bill and try to finish that as early as possible.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I very much appreciate this development. This is very important. Now doctors will be paid. More important, seniors will get the benefits they deserve. Payments under TRICARE will now go out. Military who participate in TRICARE, the retired military program, will get their benefits because that is all tied together. It is important because this provision expired June 1, this month, and it is about the last day for the payments to be paid; otherwise, there would be a 21-percent reduction in payments to physicians, and many providers would not provide the services to seniors, or even Medicaid, for that matter. So it is very important that we are taking this action this day; otherwise, there would be near chaos in the absence of medical care and procedures.

I appreciate the cooperation on both sides of the aisle in working this out. This is all paid for. This is not deficit

spending, which I think is critical to many. Third, it is a good omen. I hope we can take this cooperation and work out the rest of the so-called extenders bill together on both sides of the aisle. I am very pleased with this development. I thank the majority leader and the minority leader for working this out. Now we can put this issue aside and doctors will be paid, seniors will get the benefits they deserve, and we can go on to work cooperatively to finalize the rest of the bill.

I thank my friend.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this year has been an extremely difficult year. No one has been more involved in everything we have done here than my friend from Montana. In true times of crisis—and we have had plenty of crises in the last 18 months, and he and I had a relationship before that. In the last 18 months, we were in the trenches together to work through some big problems we have here legislatively. Because of his responsibility as chairman of the Finance Committee, much of the burden of what goes on in the Senate is on his shoulders. He has broad shoulders and a wonderful staff. I enjoy working with him, and I enjoy his friendship.

REMEMBERING ARKANSAS FLOOD VICTIMS

Ms. LANDRIEU. Mr. President, it is with heartfelt sympathy that I stand before you today to offer my deepest condolences to the family members and friends who lost their loved ones in the flash floods that swept through the Albert Pike Recreation Area in the Ouachita National Forest Campgrounds in the early morning hours of June 11, 2010. Approximately 8 inches of rain fell in 1 hour overnight, providing very little warning to campers of the danger. The warnings went unheard early Friday morning; the campground has no sirens, no park ranger on site, poor radio reception, and spotty cell phone service.

The Caddo and Little Missouri rivers rose by 20 feet overnight, engulfing the hikers and campers who were spending the night in tents along the rivers in the isolated Ouachita Mountains. The 54-unit campground was quickly inundated with water, which was rising as quickly as 8 feet per hour. The water was so violent it overturned RVs and peeled asphalt off the roads.

Twenty people, in some instances several members from the same family including young children, lost their lives in this tragedy. Among those lost were eight Louisianans, and my heart goes out to the Smith family, who lost Anthony, Joey, and Katelynn; to the Basinger family, who lost Shane and Kinsley in Gloster; and the Roeder family in Luling who, lost Kay, Debbie, and Bruce.

The 20 people lost to this tragedy will be greatly missed by their families, friends, and communities. I ask that you remember the victims of the flash floods in your thoughts and prayers.

ADDITIONAL STATEMENTS

HEBRON, NORTH DAKOTA

• Mr. CONRAD. Mr. President, today, I am pleased to recognize a community in North Dakota that is celebrating its 125th anniversary. From July 1–4, the residents of Hebron, ND, will gather to celebrate their community's founding.

The city of Hebron was established in the 1880s and was formed into a village in 1885. It was incorporated as a city in 1916. Hebron grew to its highest population of 2,000 in the mid-1950s and now is a town of around 900 nestled in a peaceful valley located 2 miles north of Interstate 94 in southwestern North Dakota.

Hebron is home to the Hebron Brick Company, Inc., which was started in 1904. Soon after European settlers began arriving in western North Dakota, Charles Weigel and Ferdinand Leutz established Hebron Fire & Pressed Brick Company. It is the oldest manufacturing operation in North Dakota, and its state-of-the-art brick making facility had made it one of the most successful brick companies in the upper Midwest. Abundant natural resources of the area allow the Hebron Brick Company to provide its customers with an array of brick options. Their modern facilities ensure that the Hebron Brick Company manufactures consistent, durable, and elegant products for their customers.

Hebron sits along the Old Red Old Ten Scenic Byway. The Old Red Old Ten Scenic Byway allows tourists the opportunity to explore the rich history of North Dakota settlers. The culture of Native Americans and the diversity of European pioneers are captured along this route. The natural beauty of the buttes, river valleys, and prairie provides an image of pleasant, rural life for visitors.

The citizens of Hebron are proud to mention the many reasons their community is so strong. The city offers genuine small-town living with a weekly local newspaper, two grain elevators, a public library, an outstanding public education system, parks, and recreational areas for families and friends to spend quality time together. Hebron will soon celebrate the completion of its new community center, and I wish to congratulate the city on achieving this milestone.

In honor of the city's 125th anniversary, community leaders have organized a parade, car show, street dance, concerts, and other celebratory events.

I ask that my colleagues in the U.S. Senate join me in congratulating Hebron, ND, and its residents on their first 125 years and in wishing them well in the future. By honoring Hebron and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Hebron that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Hebron has a proud past and a bright future.•

NEW LEIPZIG, NORTH DAKOTA

• Mr. CONRAD. Mr. President, today, I am pleased to recognize a community in North Dakota that is celebrating its 100th anniversary. From July 1–4, the residents of New Leipzig, ND, will gather to celebrate their community's founding.

In May 1910, a town site was platted by the Milwaukee Land Company of Chicago. The German-Russian residents of nearby Leipzig, wanting a location closer to the railroad, relocated to what was soon named New Leipzig. New Leipzig underwent a brief name change in 1912, but after input from residents, the town was once again called New Leipzig.

Hertz Brothers Hardware is believed to be the oldest company still doing business in Grant County. Originally located in Leipzig as the Farmers Commerce Company, the company quickly moved to New Leipzig and became known as Hertz Brothers Hardware in 1912. Today, the business is under its third generation of management. Roehl Trucking is also a third-generation business, and Stelter Repair is under its fourth generation of management. Main Street today is almost entirely populated by farm-related service businesses. Businesses currently servicing the area include Tietz Hardware, Larry's Service Center, Stern Motors, Randy's Sales & Service, Stelter Repair, Roehl Transfer Inc., Schock Real Estate, B & L Lounge, Star Grocery, Hertz Brother's Inc., the United States Postal Service, New Leipzig Grain, and Dakota Community Bank.

New Leipzig, like so many other rural communities, strives to be a true home for its people and to provide a solid upbringing and quality education for its children.

In honor of the city's 100th anniversary, community leaders have organized class gatherings, a bonfire, a parade, a dance, and an ice cream social, among many other fun and exciting events.

I ask that my colleagues in the U.S. Senate join me in congratulating New Leipzig, ND, and its residents on their first 100 years and in wishing them well in the future. By honoring New Leipzig and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as New Leipzig that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

New Leipzig has a proud past and a bright future.•

TRIBUTE TO STANLEY ISRAELITE

● Mr. DODD. Mr. President, in 1995, U.S. News and World Report named Stanley Israelite one of the ''Twelve Indispensible Americans.''

But I didn't need U.S. News and World Report to tell me just how indispensible Stanley is. He worked with me for 25 years, beginning the very first day I was sworn in as a Member of the House of Representatives. This weekend, he celebrated his 85th birthday, and I join in that celebration.

One day, very early in my service, I was out to dinner with Stanley—which was a very important part of any decision I made. He listened to me talk for a while about some issues we were working on, but when I asked him for his advice, he simply said, ''I am going to tell you one thing about this job. Never forget the people.''

Stanley never has. In my office, he was the person who could be counted on to stand up for any constituent, no matter how big or small their need. And in his spare time, he became a fixture of his community and a champion for small businesses. When he retired, he took exactly 1 day off and then returned to work for the Norwich Community Development Corporation.

When he won an award from the Norwich Rotary last year, Stanley, in his typical modest fashion, said, ''I hope I deserve this. If you said I do, I'll accept it. I won't give it back.'' Well, that was the first time Stanley Israelite ever passed up an opportunity to give something back to this community.

Mr. President, Stanley Israelite is a national treasure, a favorite son of Connecticut, one of my closest advisers, and one of my dearest friends. I wish him all the best on his 85th birthday and in all the days ahead.●

TRIBUTE TO DR. RAYNARD S. KINGTON

● Mr. HARKIN. Mr. President, I wish to salute Dr. Raynard S. Kington and thank him for his outstanding service and leadership at the National Institutes of Health over the past decade.

Dr. Kington has had an exemplary career in public service. In 1997, he joined the U.S. Department of Health and Human Services as Director of the Division of Health Examination Statistics and Director of the National Health and Nutrition Examination Survey within the National Center for Health Statistics at the Centers for Disease Control and Prevention. He joined the NIH in 2000 as Director of the Office of Behavioral and Social Sciences Research. While leading that office, he simultaneously served as Acting Director of the National Institute on Alcohol Abuse and Alcoholism. In 2003, he was promoted to Principal Deputy Director of NIH.

Dr. Kington is an extraordinarily accomplished scientist, administrator and physician. His quiet leadership and wisdom were especially evident during his tenure as Acting Director of NIH from October 2008 to August 2009. Most notably, he led the agency's effort to quickly and judiciously allocate the $10.4 billion that this Congress provided to the NIH in the American Recovery and Reinvestment Act. In addition, his keen leadership skills were critical to successful implementation of President Obama's Executive order on human embryonic stem cell research and to establishing the Basic Behavioral and Social Science Opportunity Network Initiative. I am also grateful to Dr. Kington for leading NIH's efforts to strengthen conflict of interest regulations.

Dr. Kington possesses a remarkable range of experience in higher education, research, management, public policy, and rigorous intellectual achievement. In 2006, he was elected to the prestigious Institute of Medicine of the National Academy of Sciences, where he currently serves as the chair of the Section on Administration of Health Services, Education, and Research.

He has been a senior scientist at the RAND Corporation, and was codirector of the Charles R. Drew University/RAND Center on Health and Aging. He has served as an assistant professor of medicine at UCLA and as a visiting associate professor of Medicine at the Johns Hopkins University School of Medicine.

Mr. President, at the age of 16, Dr. Kington began his postsecondary education at the University of Michigan, where he received his B.S. with distinction and his M.D. at the age of 21. He completed his residency in internal medicine at Michael Reese Medical Center in Chicago. He was appointed a Robert Wood Johnson Clinical Scholar at the University of Pennsylvania, where he completed his M.B.A. with distinction and his Ph.D. with a concentration in Health Policy and Economics at the Wharton School. He is board-certified in internal medicine, geriatric medicine, and public health and preventive medicine.

Dr. Kington has a broad range of knowledge and experience in scientific, health, economic, and social issues. His research interests lie in the relationships among race, socioeconomic position, and health status, especially in older populations. He is a leading scientific researcher on the role of social factors as determinants of health.

We all owe a debt of gratitude to Dr. Kington for his extraordinary public service. The scientific community and the Nation have benefited enormously from his skilled leadership.

Finally, I would point out that NIH's loss is my State's great gain. On August 1, he will be inaugurated as the 13th president of Grinnell College in Iowa. I join with my Senate colleagues in thanking Dr. Kington for his past service and wishing him even greater success in his challenging new position in Iowa.●

ARKANSAS HISTORIC SITES

● Mrs. LINCOLN. Mr. President, today I recognize six Arkansas historic sites that have been added to the National Register of Historic Places. These Arkansas landmarks help define our State's history and heritage, and I am proud to see them included on the National Register.

The newly listed properties are:

The Century Flyer at Conway, a miniature train manufactured by the National Amusement Device Co. of Dayton, OH, around 1955.

Arnold Springs Farmstead at Melbourne in Izard County, featuring a vernacular Greek Revival house built around 1857, plus several outbuildings.

The Walnut Street Commercial Historic District at Walnut Ridge, with buildings dating to around 1875.

Fargo Training School Historic District near Fargo in Monroe County, where Black children attended school between 1949 and 1968.

Old Searcy County Jail on Center Street in Marshall, a 1902 Native-stone building influenced by the Romanesque style of architecture.

Cherry Street Historic District Boundary Expansion at Helena-West Helena.

Along with all Arkansans, I congratulate these communities for receiving this national recognition. I also salute the local officials and residents of our State for their efforts to maintain the beauty and history of their communities.●

WINROCK INTERNATIONAL

● Mrs. LINCOLN. Mr. President, this year marks the 25th anniversary of a landmark nonprofit in my home State of Arkansas. Winrock International will celebrate 25 years of empowering the disadvantaged, increasing economic opportunities and sustaining natural resources in our State and around the world.

With its global headquarters in Little Rock, Winrock International traces its roots to a charitable endeavor that Arkansas Gov. Winthrop Rockefeller established at his home and ranch on Petit Jean Mountain, the Winrock International Livestock Research and Training Center. In 1985 that institution merged with the Agricultural Development Council and the International Agricultural Development Service, both founded by Mr. Rockefeller's brother, John D. Rockefeller III, to form Winrock International.

From Arkansas to Africa to Asia, Winrock touches lives all across the globe. They find solutions that work in the real world, increase long-term productivity and make lasting improvements in people's lives.

Near Helena-West Helena, AR, my hometown, Winrock helped five sweet potato farmers build a new industry based on local produce grown by smallholder farms. Important projects like these put infrastructure and expertise on the ground that support our

traditional industry of agriculture while also building new opportunities for growth.

In the Philippines, a Winrock project has supported the electrification of 474 villages, 13,422 households and 224 schools. This project improved education for more than 44,000 students and gave families and communities access to modern energy sources, which is a critical first step in increased social and economic development.

I salute Winrock International for their dedication, commitment and support of our neediest communities and citizens—both in the United States and around the world, and I am proud that Winrock calls Arkansas home.●

LOUISIANA PEACH FARMERS

● Mr. VITTER. Mr. President, I would like to recognize all Louisiana peach farmers, the festival's title sponsors: Squire Creek Country Club, the Ruston-Lincoln Chamber of Commerce, the city of Ruston, and all the other sponsors who partnered to celebrate the Diamond Anniversary of the Louisiana Peach Festival the weekend of June 25 to 27, 2010.

In 1947, the area peach growers of Lincoln Parish organized the Louisiana Fruit Growers Association. In 1951, the association voted to promote their industry by spreading the word about the exceptional Lincoln Parish peaches throughout Louisiana.

In June 1951, the president of the Louisiana Fruit Growers Association, J.E. Mitcham, and Walter Smith founded the Louisiana Peach Festival in Ruston. The association, with the cooperation of the city of Ruston, chamber of commerce, civic clubs, garden clubs, merchants, and many other individuals, worked tirelessly to prepare the city for the inaugural festival. Area merchants filled the Ruston Daily Leader with advertisements offering special sales and savings to honor the first Peach Festival. The program of the First Annual Louisiana Peach Festival, which was held on June 27 to 28, 1951, consisted of ''Peaches and Posies'' flower show, a peach cookery contest, an art show, and several athletic tournaments. The festival also crowned the First Queen Dixie Gem and Princess Peach.

In the years following, the Louisiana Peach Festival grew in size and popularity. In 1952, the festival's activities doubled in number. By the third year, the festival won national attention when Queen Dixie Gem III, Dorothy Etta Goff, traveled to Washington, DC, to present then Vice President Richard Nixon a box of peaches. Over the past 60 years the festival has become an iconic event in the region.

Thus, today I would like to recognize all the organizations, volunteers, and especially the farmers for continuing to put on the Louisiana Peach Festival. I would also like to thank them for their appetizing service to Lincoln Parish and to the State of Louisiana.●

MESSAGE FROM THE HOUSE

At 11:42 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5297. An act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

H.J. Res. 86. A joint resolution recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 286. A concurrent resolution recognizing the 235th birthday of the United States Army.

MEASURES REFERRED

The following joint resolution was read the first and the second times by unanimous consent, and referred as indicated:

H.J. Res. 86. Joint resolution recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 286. Concurrent resolution recognizing the 235th birthday of the United States Army; to the Committee on the Judiciary.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 5297. An act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mrs. BOXER, from the Committee on Environment and Public Works, with amendments:

S. 3362. A bill to amend the Clean Air Act to direct the Administrator of the Environmental Protection Agency to provide competitive grants to publicly funded schools to implement effective technologies to reduce air pollutants (as defined in section 302 of the Clean Air Act), including greenhouse gas emissions, in accordance with that Act (Rept. No. 111–207).

By Mrs. BOXER, from the Committee on Environment and Public Works, without amendment:

S. 3363. A bill to amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act (Rept. No. 111–208).

S. 3372. A bill to modify the date on which the Administrator of the Environmental Protection Agency and applicable States may require permits for discharges from certain vessels (Rept. No. 111–209).

By Mrs. BOXER, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 3374. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation facilities on those sites (Rept. No. 111–210).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DORGAN (for himself, Mr. ALEXANDER, and Mr. MERKLEY):

S. 3511. A bill to promote the deployment of plug-in electric drive vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. HUTCHISON (for herself, Mr. LEMIEUX, and Mr. CORNYN):

S. 3512. A bill to provide a statutory waiver of compliance with the Jones Act to foreign flagged vessels assisting in responding to the Deepwater Horizon oil spill; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. CASEY, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 1002, a bill to provide for the acquisition, construction, renovation, and improvement of child care facilities, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the names of the Senator from Delaware (Mr. KAUFMAN) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1156

At the request of Mr. HARKIN, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Colorado (Mr. BENNET) were added as cosponsors of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1859

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

S. 2814

At the request of Ms. COLLINS, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2814, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 3254

At the request of Mr. BROWN of Ohio, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 3254, a bill to amend the Fair Labor Standards Act of 1938 to require persons to keep records of non-employees who perform labor or services for remuneration and to provide a special penalty for persons who misclassify employees as non-employees, and for other purposes.

S. 3324

At the request of Mr. BROWN of Ohio, the name of the Senator from California (Mrs. BOXER) 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. 3374

At the request of Mrs. BOXER, her name and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. 3374, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a grant program to revitalize brownfield sites for the purpose of locating renewable electricity generation facilities on those sites.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4383. Mr. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3962, to provide a physician payment update, to provide pension funding relief, and for other purposes.

SA 4384. Mr. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3962, supra.

TEXT OF AMENDMENTS

SA 4383. MR. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3962, to provide a physician payment update, to provide pension funding relief, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010''.

TITLE I—HEALTH PROVISIONS

SEC. 101. 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 ''JANUARY THROUGH MAY ''; and

(2) by adding at the end the following new paragraph:

''(11) UPDATE FOR JUNE THROUGH NOVEMBER OF 2010.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2010 for the period beginning on June 1, 2010, and ending on November 30, 2010, the update to the single conversion factor shall be 2.2 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR REMAINING PORTION OF 2010 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for the period beginning on December 1, 2010, and ending on December 31, 2010, and for 2011 and subsequent years as if subparagraph (A) had never applied.''.

(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. 102. 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. 103. ESTABLISH A CMS–IRS DATA MATCH TO IDENTIFY FRAUDULENT PROVIDERS.

(a) AUTHORITY TO DISCLOSE RETURN INFORMATION CONCERNING OUTSTANDING TAX DEBTS FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(22) DISCLOSURE OF RETURN INFORMATION TO DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF ENHANCING MEDICARE PROGRAM INTEGRITY.—

''(A) IN GENERAL.—The Secretary shall, upon written request from the Secretary of Health and Human Services, disclose to officers and employees of the Department of Health and Human Services return information with respect to a taxpayer who has applied to enroll, or reenroll, as a provider of services or supplier under the Medicare program under title XVIII of the Social Security Act. Such return information shall be limited to—

''(i) the taxpayer identity information with respect to such taxpayer;

''(ii) the amount of the delinquent tax debt owed by that taxpayer; and

''(iii) the taxable year to which the delinquent tax debt pertains.

''(B) RESTRICTION ON DISCLOSURE.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Health and Human Services for the purposes of, and to the extent necessary in, establishing the taxpayer's eligibility for enrollment or reenrollment in the Medicare program, or in any administrative or judicial proceeding relating to, or arising from, a denial of such enrollment or reenrollment, or in determining the level of enhanced oversight to be applied with respect to such taxpayer pursuant to section 1866(j)(3) of the Social Security Act.

''(C) DELINQUENT TAX DEBT.—For purposes of this paragraph, the term 'delinquent tax debt' means an outstanding debt under this title for which a notice of lien has been filed pursuant to section 6323, but the term does not include a debt that is being paid in a timely manner pursuant to an agreement under section 6159 or 7122, or a debt with respect to which a collection due process hearing under section 6330 is requested, pending, or completed and no payment is required.''.

(2) CONFORMING AMENDMENTS.—Section 6103(p)(4) of such Code, as amended by sections 1414 and 3308 of Public Law 111–148, in the matter preceding subparagraph (A) and in subparagraph (F)(ii), is amended by striking ''or (17)'' and inserting ''(17), or (22)'' each place it appears.

(b) SECRETARY'S AUTHORITY TO USE INFORMATION FROM THE DEPARTMENT OF TREASURY IN MEDICARE ENROLLMENTS AND REENROLLMENTS.—Section 1866(j)(2) of the Social Security Act (42 U.S.C. 1395cc(j)), as inserted by section 6401(a) of Public Law 111–148, is further amended—

(1) by redesignating subparagraph (E) as subparagraph (F); and

(2) by inserting after subparagraph (D) the following new subparagraph:

''(E) USE OF INFORMATION FROM THE DEPARTMENT OF TREASURY CONCERNING TAX DEBTS.—In reviewing the application of a provider of services or supplier to enroll or reenroll under the program under this title, the Secretary shall take into account the information supplied by the Secretary of the Treasury pursuant to section 6103(l)(22) of the Internal Revenue Code of 1986, in determining whether to deny such application or to apply enhanced oversight to such provider of services or supplier pursuant to paragraph (3) if the Secretary determines such provider of services or supplier owes such a debt.''.

(c) AUTHORITY TO ADJUST PAYMENTS OF PROVIDERS OF SERVICES AND SUPPLIERS WITH THE SAME TAX IDENTIFICATION NUMBER FOR MEDICARE OBLIGATIONS.—Section 1866(j)(6) of the Social Security Act (42 U.S.C. 1395cc(j)(6)), as inserted by section 6401(a) of Public Law 111–148 and as redesignated by section 1304 of Public Law 111–152, is amended—

(1) in the paragraph heading, by striking ''PAST-DUE'' and inserting ''MEDICARE'';

(2) in subparagraph (A), by striking ''past-due obligations described in subparagraph (B)(ii) of an'' and inserting ''amount described in subparagraph (B)(ii) due from such''; and

(3) in subparagraph (B)(ii), by striking ''a past-due obligation'' and inserting ''an amount that is more than the amount required to be paid''.

TITLE II—PENSION FUNDING RELIEF

Subtitle A—Single Employer Plans

SEC. 201. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Paragraph (2) of section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. The Secretary of the Treasury shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—Section 303(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1083(c)) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) ANNUAL LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

''(III) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to

any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under chapter 1 of the Internal Revenue Code of 1986 for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A of the Internal Revenue Code of 1986) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1) of such Code) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of such Code for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) of such Code for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 302(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of this title).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 302(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary of the Treasury shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary of the Treasury shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 303 of such Act (29 U.S.C. 1083) is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 430(c) is amended by adding at the end the following subparagraph:

''(D) SPECIAL ELECTION FOR ELIGIBLE PLAN YEARS.—

''(i) IN GENERAL.—If a plan sponsor elects to apply this subparagraph with respect to the shortfall amortization base of a plan for any eligible plan year (in this subparagraph and paragraph (7) referred to as an 'election year'), then, notwithstanding subparagraphs (A) and (B)—

''(I) the shortfall amortization installments with respect to such base shall be determined under clause (ii) or (iii), whichever is specified in the election, and

''(II) the shortfall amortization installment for any plan year in the 9-plan-year period described in clause (ii) or the 15-plan-year period described in clause (iii), respectively, with respect to such shortfall amortization base is the annual installment determined under the applicable clause for that year for that base.

''(ii) 2 PLUS 7 AMORTIZATION SCHEDULE.—The shortfall amortization installments determined under this clause are—

''(I) in the case of the first 2 plan years in the 9-plan-year period beginning with the election year, interest on the shortfall amortization base of the plan for the election year (determined using the effective interest rate for the plan for the election year), and

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the remaining balance of the shortfall amortization base of the plan for the election year in level annual installments over such last 7 plan years (using the segment rates under subparagraph (C) for the election year).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments determined under this subparagraph are the amounts necessary to amortize the shortfall amortization base of the plan for the election year in level annual installments over the 15-plan-year period beginning with the election year (using the segment rates under subparagraph (C) for the election year).

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor of a plan may elect to have this subparagraph apply to not more than 2 eligible plan years

with respect to the plan, except that in the case of a plan described in section 106 of the Pension Protection Act of 2006, the plan sponsor may only elect to have this subparagraph apply to a plan year beginning in 2011.

''(II) AMORTIZATION SCHEDULE.—Such election shall specify whether the amortization schedule under clause (ii) or (iii) shall apply to an election year, except that if a plan sponsor elects to have this subparagraph apply to 2 eligible plan years, the plan sponsor must elect the same schedule for both years.

''(III) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary, and may be revoked only with the consent of the Secretary. The Secretary shall, before granting a revocation request, provide the Pension Benefit Guaranty Corporation an opportunity to comment on the conditions applicable to the treatment of any portion of the election year shortfall amortization base that remains unamortized as of the revocation date.

''(v) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year shall only be treated as an eligible plan year if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this subparagraph.

''(vi) REPORTING.—A plan sponsor of a plan who makes an election under clause (i) shall—

''(I) give notice of the election to participants and beneficiaries of the plan, and

''(II) inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

''(vii) INCREASES IN REQUIRED INSTALLMENTS IN CERTAIN CASES.—For increases in required contributions in cases of excess compensation or extraordinary dividends or stock redemptions, see paragraph (7).''.

(2) INCREASES IN REQUIRED CONTRIBUTIONS IF EXCESS COMPENSATION PAID.—Section 430(c) is amended by adding at the end the following paragraph:

''(7) INCREASES IN ALTERNATE REQUIRED INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR EXTRAORDINARY DIVIDENDS OR STOCK REDEMPTIONS.—

''(A) IN GENERAL.—If there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to an election year under paragraph (2)(D), then the shortfall amortization installment otherwise determined and payable under such paragraph for such plan year shall, subject to the limitation under subparagraph (B), be increased by such amount.

''(B) TOTAL INSTALLMENTS LIMITED TO SHORTFALL BASE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an election year is required to be increased for any plan year under subparagraph (A)—

''(i) such increase shall not result in the amount of such installment exceeding the present value of such installment and all succeeding installments with respect to such base (determined without regard to such increase but after application of clause (ii)), and

''(ii) subsequent shortfall amortization installments with respect to such base shall, in reverse order of the otherwise required installments, be reduced to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this paragraph) to the present value of the remaining unamortized shortfall amortization base.

''(C) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'installment acceleration amount' means, with respect to any plan year in a restriction period with respect to an election year, the sum of—

''(I) the aggregate amount of excess employee compensation determined under subparagraph (D) with respect to all employees for the plan year, plus

''(II) the aggregate amount of extraordinary dividends and redemptions determined under subparagraph (E) for the plan year.

''(ii) ANNUAL LIMITATION.—The installment acceleration amount for any plan year shall not exceed the excess (if any) of—

''(I) the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period elected under paragraph (2)(D) with respect to the shortfall amortization base with respect to an election year, determined without regard to paragraph (2)(D) and this paragraph, over

''(II) the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of paragraph (2)(D) (and in the case of any preceding plan year, after application of this paragraph).

''(iii) CARRYOVER OF EXCESS INSTALLMENT ACCELERATION AMOUNTS.—

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under subclause (I) or this subclause with respect to any succeeding plan year, when added to other installment acceleration amounts (determined without regard to clause (ii)) with respect to the plan year, exceeds the limitation under clause (ii), the portion of such amount representing such excess shall be treated as an installment acceleration amount with respect to the next succeeding plan year.

''(III) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

''(IV) ORDERING RULES.—For purposes of applying subclause (II), installment acceleration amounts for the plan year (determined without regard to any carryover under this clause) shall be applied first against the limitation under clause (ii) and then carryovers to such plan year shall be applied against such limitation on a first-in, first-out basis.

''(D) EXCESS EMPLOYEE COMPENSATION.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'excess employee compensation' means, with respect to any employee for any plan year, the excess (if any) of—

''(I) the aggregate amount includible in income under this chapter for remuneration during the calendar year in which such plan year begins for services performed by the employee for the plan sponsor (whether or not performed during such calendar year), over

''(II) $1,000,000.

''(ii) AMOUNTS SET ASIDE FOR NONQUALIFIED DEFERRED COMPENSATION.—If during any calendar year assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor, then, for purposes of clause (i), the amount of such assets shall be treated as remuneration of the employee includible in income for the calendar year unless such amount is otherwise includible in income for such year. An amount to which the preceding sentence applies shall not be taken into account under this paragraph for any subsequent calendar year.

''(iii) ONLY REMUNERATION FOR CERTAIN POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under clause (i) only to the extent attributable to services performed by the employee for the plan sponsor after February 28, 2010.

''(iv) EXCEPTION FOR CERTAIN EQUITY PAYMENTS.—

''(I) IN GENERAL.—There shall not be taken into account under clause (i)(I) any amount includible in income with respect to the granting after February 28, 2010, of service recipient stock (within the meaning of section 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined under section 83(c)(1)) for at least 5 years from the date of such grant.

''(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation provide for the application of this clause in the case of a person other than a corporation.

''(v) OTHER EXCEPTIONS.—The following amounts includible in income shall not be taken into account under clause (i)(I):

''(I) COMMISSIONS.—Any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(II) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—Any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(vi) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—The term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term 'compensation' shall include earned income of such individual with respect to such self-employment.

''(vii) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under clause (i)(II) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $1,000, such increase shall be rounded to the next lowest multiple of $1,000.

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

''(I) the adjusted net income (within the meaning of section 4043 of the Employee Retirement Income Security Act of 1974) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization, or

''(II) in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner.

''(ii) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of clause (i), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

''(iii) EXCEPTION FOR INTRA-GROUP DIVIDENDS.—Dividends paid by one member of a controlled group (as defined in section 412(d)(3)) to another member of such group shall not be taken into account under clause (i).

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

''(v) EXCEPTION FOR CERTAIN PREFERRED STOCK.—

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred stock shall not be taken into account under clause (i) to the extent that dividends accrue with respect to such stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to such stock.

''(II) APPLICABLE PREFERRED STOCK.—For purposes of subclause (I), the term 'applicable preferred stock' means preferred stock which was issued before March 1, 2010 (or which was issued after such date and is held by an employee benefit plan subject to the provisions of title I of Employee Retirement Income Security Act of 1974).

''(F) OTHER DEFINITIONS AND RULES.—For purposes of this paragraph—

''(i) PLAN SPONSOR.—The term ' plan sponsor' includes any member of the plan sponsor's controlled group (as defined in section 412(d)(3)).

''(ii) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any election year—

''(I) except as provided in subclause (II), the 3-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009), and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 5-year period beginning with the election year (or, if later, the first plan year beginning after December 31, 2009).

''(iii) ELECTIONS FOR MULTIPLE PLANS.—If a plan sponsor makes elections under paragraph (2)(D) with respect to 2 or more plans, the Secretary shall provide rules for the application of this paragraph to such plans, including rules for the ratable allocation of any installment acceleration amount among such plans on the basis of each plan's relative reduction in the plan's shortfall amortization installment for the first plan year in the amortization period described in subparagraph (A) (determined without regard to this paragraph).

''(iv) MERGERS AND ACQUISITIONS.—The Secretary shall prescribe rules for the application of paragraph (2)(D) and this paragraph in any case where there is a merger or acquisition involving a plan sponsor making the election under paragraph (2)(D).''.

(3) CONFORMING AMENDMENTS.—Section 430 is amended—

(A) in subsection (c)(1), by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection'', and

(B) in subsection (j)(3), by adding at the end the following:

''(F) QUARTERLY CONTRIBUTIONS NOT TO INCLUDE CERTAIN INCREASED CONTRIBUTIONS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(7).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 202. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

(a) IN GENERAL.—Title I of the Pension Protection Act of 2006 is amended by redesignating section 107 as section 108 and by inserting the following after section 106:

''SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) IN GENERAL.—If the plan sponsor of a plan to which section 104, 105, or 106 of this Act applies elects to have this section apply for any eligible plan year (in this section referred to as an 'election year'), section 302 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply to such year in the manner described in subsection (b) or (c), whichever is specified in the election. All references in this section to 'such Act' or 'such Code' shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

''(b) APPLICATION OF 2 AND 7 RULE.—In the case of an election year to which this subsection applies—

''(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

''(2) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such sections apply (after taking into account paragraph (1))—

''(A) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, and

''(B) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—In the case of an election year to which this subsection applies, for purposes of applying section 302(d) of such Act and section 412(l) of such Code—

''(1) in the case of the increased unfunded new liability of the plan, the applicable percentage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code for any pre-effective date plan year beginning with or after the first election year shall be the ratio of—

''(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, to

''(B) the increased unfunded new liability for such plan year, and

''(2) in the case of the excess of the unfunded new liability over the increased unfunded new liability, such applicable percentage shall be determined without regard to this section.

''(d) ELECTION.—

''(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

''(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

''(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

''(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

''(3) INCREASED UNFUNDED NEW LIABILITY.—The term 'increased unfunded new liability' means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

''(4) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) by adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to

section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 203. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(I) such percentage, as determined without regard to this subparagraph, or

''(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term 'applicable provision' means—

''(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(II) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

''(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

''(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term 'applicable provision' means—

''(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(ii) subsection (e).''.

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 204. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(f) of the Employee Retirement Income Security Act of 1974 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

''(I) such ratio, as determined without regard to this subparagraph, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007, and before September 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and before January 1, 2011, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3) of the Internal Revenue Code of 1986.''.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 430(f) of the Internal Revenue Code of 1986 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year of a plan shall be the greater of—

''(I) such ratio, as determined without regard to this subsection, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007 and before September 1, 2008, as determined under rules prescribed by the Secretary.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after August 31, 2009.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2008.

Subtitle B—Multiemployer Plans

SEC. 211. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year beginning after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

TITLE III—BUDGETARY PROVISIONS

SEC. 301. BUDGETARY PROVISIONS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

SA 4384. Mr. REID (for Mr. BAUCUS (for himself and Mr. GRASSLEY)) proposed an amendment to the bill H.R. 3962, to provide a physician payment update, to provide pension funding relief, and for other purposes; as follows:

Amend the title so as to read: ''An Act to provide a physician payment update, to provide pension funding relief, and for other purposes.''.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in Executive Session, I ask unanimous consent that on Monday, June 21, the Senate proceed to executive session at 5:15 p.m. and debate concurrently until 6 p.m. Calendar No. 777, Mark Goldsmith; No. 778, Marc Treadwell; and No. 779, Josephine Tucker; that the time between 5:15 p.m. and 6 p.m. be equally divided and controlled between Senators LEAHY and SESSIONS or their designees; that at 6 p.m., the Senate proceed to vote on confirmation of the nominations in the order listed; that there be 2 minutes of debate, equally divided, prior to any votes after the first; with succeeding votes limited to 10 minutes each; that upon confirmation, the motion to reconsider be considered made and laid upon the table, the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

HONORING AND PRAISING THE NAACP ON ITS 101ST ANNIVERSARY

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to H. Con. Res. 242.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 242) honoring and praising the National Association for the Advancement of Colored People on the occasion of its 101st anniversary.

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

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

The concurrent resolution (H. Con. Res. 242) was agreed to.

The preamble was agreed to.

MEASURE READ THE FIRST TIME—H.R. 5297

Mr. REID. Mr. President, I believe H.R. 5297 has been received from the House and is now at the desk.

The PRESIDING OFFICER. It is.

Mr. REID. I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its next reading on the next legislative day.

ORDERS FOR MONDAY, JUNE 21, 2010

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, June 21; 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 following any leader remarks, there be a period of morning business until 5:15 p.m., with Senators permitted to speak for up to 10 minutes each, with no motions in order; that following morning business, the Senate proceed to executive session as provided for under the previous order.

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

PROGRAM

Mr. REID. Mr. President, at approximately 6 p.m. on Monday, the Senate will proceed to a series of up to three rollcall votes. Those votes will be on the confirmation of several district court nominations.

ADJOURNMENT UNTIL MONDAY, JUNE 21, 2010, AT 2 P.M.

Mr. REID. 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 1:59 p.m., adjourned until Monday, June 21, 2010, at 2 p.m.