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Senate

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

PRAYER

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

Let us pray.

O God of infinite goodness, today empower our Senators to use their time, understanding, and talents to do what You desire. May this passion to serve You guide their thoughts, words, and work. Grant that they may not be too much lost in regret for the past but instead inspire them to do with their might the task which lies in their hands. Lord, strengthen them to fight the good fight, to finish the race, and to keep the faith. At the end of their journey, reward their faithfulness with a crown of righteousness and the harvest of work well done.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 16, 2010.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business for 1 hour. Senators will be permitted to speak for up to 10 minutes each at that time. Republicans will control the first 30 minutes and the majority will control the second 30 minutes.

Upon the conclusion of morning business, the Senate will resume consideration of the House message on H.R. 4213, the tax extenders legislation. There will be up to 5 minutes for debate on the Baucus amendment, with the time equally divided and controlled between Senators BAUCUS and GRASSLEY or their designees. The Senate will then proceed to vote on the motion to waive the Budget Act with respect to the Baucus amendment. Senators should expect additional votes this afternoon in relation to amendments to the tax extenders bill. Senators will be notified when any additional votes are scheduled.

RECOGNITION OF THE MINORITY LEADER

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

NEEDING PRACTICAL SOLUTIONS

Mr. MCCONNELL. Mr. President, last night the President provided more detail on his administration's efforts to stop the oilspill in the gulf. If implemented successfully, some of what he said was encouraging. However, I wish the President would have used this opportunity to focus entirely on stopping the spill and to cleaning it up instead of using this crisis as an opportunity to push for a new national energy tax.

The immediate issue here is a broken pipe that has been spewing hundreds of thousands of gallons of oil a day into the ocean for more than 8 weeks. The fact that the White House wants to use this crisis as an excuse to push more of its legislative agenda on the American people—with the same kinds of arguments it used to push health care—is really nothing short of startling.

During the health care debate, Americans were told we couldn't afford to put off the administration's vision of government-driven reform. Health care costs were rising so quickly, the President said, that inaction was not an option. We heard the same thing last night. It is a recurring theme out of this White House.

In the middle of a jobs crisis, Americans were told they needed to spend nearly $1 trillion on longstanding Democratic priorities that Democrats called a stimulus bill. They passed it, and we lost another 3 million jobs.

Out-of-control health care costs are pricing people out of the market and threatening to bankrupt government, so they passed a massive government-driven health care bill that promises to send health care costs even higher than they already are.

Our financial crisis was caused in large part by recklessness at government-sponsored entities such as Fannie Mae and Freddie Mac, and their solution to that crisis was to pass a massive government intrusion into Main Street without even addressing Fannie or Freddie.

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

Now, in the midst of the worst environmental catastrophe in American history, they are talking about a new national energy task to achieve their ideological goal of passing global warming legislation. Americans are pleading with the administration to fix the immediate problem in the gulf and the White House wants to give us a new national energy tax instead.

Every time we face a crisis, it seems this administration takes us on another ideological tour of the far left's to-do list, when all the American people want from it are some straightforward, practical solutions.

So the White House may view the oilspill as an opportunity to push its agenda here in Washington, but Americans are more concerned about what it plans to do to solve the crisis down in the gulf. Americans have had enough of this crisis rhetoric coming out of this White House. They want real answers to real problems. And it doesn't get more real than the problem in the gulf.

Mr. President, I yield the floor.

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 for 1 hour, with Senators permitted to speak for up to 10 minutes each and with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Illinois.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I see no one on the floor on the Republican side. If there is no objection, I would like to speak as in morning business, and I will yield as soon as a Republican Senator comes to the floor.

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

GULF OILSPILL

Mr. DURBIN. Mr. President, last night the President of the United States addressed one of the toughest issues any President has ever had to face. This is an environmental disaster of historic magnitude. It is one that could not have been anticipated. We have never had anything quite like it—at least near the United States. It is certainly one the President and our government did everything they could do to respond, but this frustrating situation continues.

What the President reminded us of last night is that we need to coordinate every effort, but understand that, in the end, there is no U.S. department of deep sea drilling. What it comes down to is that we need to turn to the private sector, which has the resources, the expertise, and the capability of not only dealing with the continuing oilspill in the Gulf of Mexico but the aftermath as well.

It has been clear from the outset that this President has been very firm and resolute that British Petroleum, this oil company, is going to be held responsible for the damage that has been done. It will be at their expense, and not at the expense of American taxpayers, that we will help the businesses affected and do anything within our power to restore the devastation which has occurred to the environment.

It was interesting yesterday that in testimony before the House of Representatives, many of the leaders of the major oil companies that compete with BP were as forthright publicly as they have been privately in other conversations. They made it clear that many of the activities engaged in by BP were inconsistent with the highest standards of their industry. They made it clear that when it came to this blowout preventer, which should have stopped the flow of oil, it was inadequate. It hasn't been tested. It was not the kind of technology that had redundancy built in so that there would be some peace of mind and understanding that in the event of a rig disaster, it would work. It failed, and it failed in a situation which has caused more environmental damage in our country than we have ever seen from one occurrence.

I saw 21 years ago what happened in the Prince William Sound of Alaska, and I can tell you that more than two decades later, they are still suffering—suffering from lawsuits against the Exxon oil company, which unfortunately were ruled against the plaintiffs; suffering from environmental damage which will continue at least indefinitely.

What we have in the situation in the gulf is different. We have an admission by BP that they are at fault and an acceptance of responsibility for what they characterize as legitimate claims. I think it is proper—and many of us in the Senate joined majority leader HARRY REID in making the request—that BP set aside some $20 billion in an escrow fund, a trust fund that will be available to pay for these damages. It troubles me that this company is talking about declaring a dividend and paying out billions of dollars to its shareholders when, frankly, we don't know what the ultimate cost is going to be of the cleanup in the Gulf of Mexico. I want to be certain BP continues in business and meets its responsibility, that it sets aside the funds necessary to protect our Nation from the damage it has caused.

I also believe we need to increase the responsibility of oil companies when it comes to future drilling. Right now, there is a tax on each barrel of oil of 8 cents—8 cents. A barrel of oil is now selling for about $75. So 8 cents on each barrel is paid by an oil company into an oilspill liability fund. That has generated a little over $1 billion in the event that we run into a disaster which needs to be taken care of. In the BP circumstance, the company is assuming liability. But tomorrow, God forbid, if another tragedy occurs with a company that doesn't have BP's resources, it will be this oilspill liability fund that will be called on to repair the damage, and $1 billion is not enough. Eight cents a barrel is not enough.

Before the Senate today is an extenders bill which will increase the amount per barrel to 41 cents. This will be gathered together over time from the oil producers and the oil industry into an insurance fund, a basic oilspill insurance fund. I think that is only reasonable. The bill also increases the liability cap of companies under this oilspill liability to $5 billion. Currently, it is $1 billion. So both of these items are in our bill in an effort to hold the major oil companies accountable for any future disasters and to protect the taxpayers from paying out-of-pocket or paying out of the Treasury for any of these costs.

What is interesting is that the Republicans are going to come forward with a substitute brought on by JOHN THUNE, who is a Senator from South Dakota. The Republican substitute eliminates the increase in the tax on a barrel of oil for the oilspill liability fund. Of course, the big oil companies don't want to pay it, and this elimination of the tax is certainly on their agenda. It is unfortunate that Republican Senators are going to come forward and propose this. We need this money in the oilspill liability fund. To have a situation where this money is not being collected leaves us vulnerable in terms of future disasters where the taxpayers will be picking up the bill.

There is a provision in the Thune amendment, the Republican substitute, which eliminates the provision in our bill relating to the Tax Code when it comes to American companies shipping jobs overseas. Most of us believe that if we are going to get out of this recession, we need to strengthen American businesses and certainly hire more people in the United States, pay them a decent wage, and bring them back to work and out of the ranks of the unemployed.

At this point in time, many American companies are locating production facilities overseas because of perverse incentives which we have created in our Tax Code. The bill brought to the floor eliminates many of these incentives—eliminates the tax loopholes companies are using to be more profitable by locating overseas. So the Thune amendment, the Republican substitute amendment, comes forward and says: We don't want to do that. We

want to leave in the Tax Code—according to the Republicans—those provisions which create incentives to ship American jobs overseas. That makes no sense to me.

Last night I attended a meeting of the deficit commission, to which I was appointed by Senator REID. There was an economist there who tried to make the argument that allowing businesses in the United States—and giving them incentives, incidentally—to locate and produce overseas was good for the American economy. He argued if they could produce more overseas, it would ultimately mean they would be more profitable and produce more jobs in the United States.

I told him if that logic applied, then we ought to have a record number of manufacturing jobs because, over the last 20 years, more and more American businesses have moved production facilities offshore, overseas.

Instead, the opposite is true. In my State and in Michigan, all across the United States we have seen manufacturing jobs declining dramatically while production facilities have been sent overseas. This theory that is obviously behind the Republican Thune substitute is that we ought to reward American companies for locating and producing overseas. I do not agree with that. I hope we will oppose the Thune substitute and we will move as soon as we can to deal with the situation where we have increased jobs here in the United States to deal with this recession.

I understand we are going to have speakers later on in the Democratic side and I want to reserve time for those speakers. I reserve the remainder of time on the Democratic side, and if there is no one here to speak on the Republican side, I will yield the floor and suggest the absence of a quorum.

Is it my understanding that the time will be taken from the Republican side at this point?

The ACTING PRESIDENT pro tempore. Without objection.

Mr. DURBIN. I believe the Republicans, if I am not mistaken, under the unanimous consent were first in morning business.

I yield the floor and suggest the absence of a quorum, with the understanding the time that runs now will come from the time previously allotted to the Republican side.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, could you please let me know when I have consumed 10 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

MISSED OPPORTUNITY

Mr. ALEXANDER. Mr. President, all of us watched the President's remarks last night. It is rare for a President to make a speech from the Oval Office. President Reagan did it with the Challenger tragedy. President George W. Bush, spoke about 9/11. I thought the President was right to focus on what the government is doing to clean up the oil spill, and what we are doing to help those who are hurt. I think he missed an opportunity, though, in terms of looking to the energy future.

He mentioned the climate bill. Of course that is House passed cap-and-trade bill which doesn't have enough support to pass the Senate. He mentioned windmills and solar panels, which have nothing to do with reducing our dependence on foreign oil. I thought the missed opportunity was the President could have announced a mini-Manhattan Project to reduce our dependence on foreign oil by electrifying half our cars and trucks, which we could do without building any new powerplants by plugging them in at night. The President is in favor of that. Secretary Chu is a leader in it. In a bipartisan way we support that goal. All 41 Republican Senators support electrifying our cars and trucks. Senator DORGAN, Senator MERKLEY, and I support legislation for that. He could have talked about that.

A second part of the clean energy future could have been creating the environment to build 100 new nuclear power plants. The President has taken some impressive steps to create a better environment for nuclear power. All 41 Republican Senators support that. That would be for clean electricity, not for fuel, but it would be a clean energy future.

Third, the President could have focused on mini-Manhattan Projects for energy research and development, such as reducing the cost of solar power by a factor of 4; recapturing carbon from coal plants; trying to invent a 500-mile battery, which would have made sure that we electrify a significant part of our cars and trucks in America; recycling used nuclear fuel; and biofuels—all 41 Republican Senators support the goal of doubling energy research and development. So does the President. So those are three steps toward clean energy independence that we agree on.

He mentioned windmills and solar panels, which have nothing to do with reducing our dependence on foreign oil—those are for electricity, not fuel. They are puny amounts of electricity, in any event. If he would stick with the things that we and he agree on, he could have used that speech for an important step forward for our country. In that sense, I think it was a missed opportunity.

This past weekend the President sent a letter to Congress urging us to approve $50 billion in emergency aid to State and local governments. I want to speak about that today from the vantage point I have as a former Governor and former U.S. Secretary of Education. According to the Wall Street Journal on Monday, the letter said budget cuts at State and local levels were leading to massive layoffs of teachers, policemen, and firefighters.

The two points I want to make are that, No. 1, we here in Washington—I tried not to, but the majority did—created this financial cliff over which the States are about to run. And, No. 2, when it comes to the question of $23 billion for teachers, I think we need to ask, where is the money going to go? And from whose schoolchildren are we going to borrow it? Because right now we do not have extra money lying around in Washington, DC. We have a great big problem with spending and debt.

Let me start with what I said first, which is that we in Washington have created this financial cliff over which State Governors are running. As we were debating the health care bill I said, not really in jest, that everybody who votes for it ought to be forced to go home and serve as Governor of their State under the new rules.

Take Tennessee, for example. We were very fortunate that our State was one of the two winners in the Race to the Top education plan. Give credit to the Governor and teachers in the State. Tennessee will get a half billion dollars as a result of it. Yet, according to our Governor, the health care bill will take away more than twice as much during the same period of time by imposing $1.1 billion in new Medicaid costs on the State between 2014 and 2019. So we are causing problems for the State that caused the layoffs.

Let me not ask you to take my word for it. Here is a January op-ed from the Wall Street Journal by the Democratic Lieutenant Governor of New York, Mr. Ravitch, who says the Federal stimulus, which Congress passed at the beginning of 2009:

. . . has provided significant budget relief to the states. . . .

He approved of that.

but this relief is temporary and makes it harder for States to cut expenditures. In major areas such as transportation, education and health care, stimulus funds come with strings attached. These strings prevent States from substituting federal money for state funds, require states to spend minimum amounts of their own funds, and prevent states from tightening eligibility standards for benefits.

Lieutenant Governor Ravitch goes on to say:

Because of these requirements, states, instead of cutting spending in transportation, education and health care, have been forced to keep most of their expenditures at previous levels. . . .

We did that. Congress did that.

. . . and use federal funds only as supplements. The net result is this: The federal stimulus has led States to increase overall spending in these core areas, which in effect has only raised the height of the cliff from which state spending will fall if stimulus funds evaporate.

That is the Lieutenant Governor of New York talking about the evaporation of stimulus funds which comes

at the end of this year and he is saying we made it harder for States to pay their bills. At the time the stimulus package was passed, everyone said it was one-time funding. All of us knew that Medicaid costs were overwhelming the States. Still, Congress went ahead—the majority, in any event—and increased the federal match for Medicaid, and required States not to change eligibility requirements. Thus they created this financial cliff at the end of the year which will cause the States' share for Medicaid spending to increase from an average of 34 percent to 43 percent, a net increase of $39 billion in costs for 2011. We are getting close to the $50 billion we are being asked to bail States out for.

Let me say a word about teacher salaries. The first question is, where is the rest of the money going to go? The request, as it has been talked about, says this will save 100,000, maybe 300,000 teacher jobs. We are supposed to appropriate $23 billion for that purpose.

At $100,000 that works out to about $230,000 per teacher job saved. If we are saving 300,000 teacher jobs with that $23 billion, that works out to $76,667 per teacher job saved. The average national teacher's salary is $46,752. Where does the rest of the money go?

At the beginning of this administration there was a huge increase in education funds; $97 billion over 2 years for elementary and secondary education and $53.6 billion for the State Fiscal Stabilization fund. We were assured this was one-time funding. In April 2009, the Department of Education itself said in its guidance to the States on how to spend the money:

> The [funds are] expected to be a one-time infusion of substantial new resources. These funds should be invested in ways that do not result in unsustainable continuing commitments after the funding expires.

What we could have said is, we don't have any more money either, States. We just print it up here. So don't expect us to send you anymore.

The U.S. Department of Education helpfully suggested what some of those one-time expenditures might be—making improvements in teacher effectiveness; establishing pre-K-to-college-and-career data systems; making progress toward rigorous college- and career-ready standards; providing targeted, selective support; and effective interventions for the lowest performing schools. In other words, the States and schools were told: Don't spend this money on continuing programs. Spend it once.

Our Governor, a Democratic Governor in Tennessee, got the message. Governor Bredesen said in his State of the Union Address in 2009:

> Please let me make it clear that no proposed version of the stimulus is any panacea or silver bullet; substantial cuts are still needed under any circumstances. Furthermore, it is vital to remember that this stimulus money is one-time funding.

The ACTING PRESIDENT pro tempore. The 10 minutes of the Senator has expired.

Mr. ALEXANDER. I thank the Chair. I see none of my colleagues here.

The ACTING PRESIDENT pro tempore. Senator BARRASSO from Wyoming is waiting.

Mr. ALEXANDER. I ask for another 60 seconds to conclude my remarks. I thank the Chair.

When we think about the funding, we need to remember the best things for us to do. They are to stop imposing health care mandates on States, which make it impossible for them to pay their bills; and to properly support public education, especially public higher education, which is going to take a terrible blow because of the passage of the health care bill. Thanks to the health care bill, tuition payments for students are going to rise.

Second, we should recognize that the stimulus money passed last year was one-time funding. We created this financial cliff and now we have an unprecedented level of debt in the Federal Government. We do not have $23 billion lying around to send to the States.

Whether we are sending $230,000 per teaching job, $76,000 per teaching job, or scaling it back and saying we are only going to send the national average, which is $46,000, the question still remains: From whose grandchildren will we borrow the money?

We need to reduce the growth of the Federal debt. We should not be bailing out States with another $50 billion.

I thank the Senator from Wyoming and I yield the floor.

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

Mr. BARRASSO. Mr. President, could you please inform me how much time is remaining in morning business?

The ACTING PRESIDENT pro tempore. There is 17 minutes on the Republican side.

HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor today as someone who has practiced medicine in the State of Wyoming since 1983, taking care of families across the great State of Wyoming as an orthopedic surgeon and also as a medical director of the Wyoming Health Care, which is a program to offer low-cost medical screenings, health screenings to help people; early detection, because we know that is a way to keep down the cost of care—to help them find problems before they get too far progressed so we can get effective treatments.

This is a very successful program. Often doctors are asked for their opinions on issues. Then, if a patient has a question, they ask for a second opinion from a second physician.

Well, I come to the floor today to offer my second opinion on this health care bill. I have been doing this week after week, as we have had a year-long debate and discussion about the health care bill that has now been signed into law. I come to the floor because it seems that every week, every week since the bill became law, there has been a new revelation, a new unintended consequence that the people of America look at and say: This is a bill, now a law, that was not passed for me. It is to help someone else.

The promises the American people heard when the bill was being debated and discussed, we are now finding that those promises have been broken. Again this week one of those major promises, fundamental behind the health care law, has been broken. The American people are concerned and distressed because it affects them personally. They believe they were misled.

The goal of the health care legislation last year was to lower the cost of health care. There is agreement all across the country we need to do that; we need to lower the cost of care, to improve quality of care. Absolutely. It is in the best interest of all Americans if we can improve the quality of care; then, of course, to increase access to care. The more we can do to allow more people in this country to have access to care, the better it is.

Lower cost, improved quality, improved access. Well, that is not what this Senate Chamber passed because I believe the bill that was passed is clearly not going to lower cost, and the Congressional Budget Office agrees. It is not going to improve quality, and it is not going to improve access, as we see from statements from the Secretary of Health and Human Services about the shortage of primary care providers, the shortage of physicians and nurse practitioners and others to help. So I continue to believe the law we now have passed is bad for patients, bad for payers, the people who are going to pay the health care bill of this country, and bad for providers, the nurses and doctors who take care of those patients.

I believe the bill fundamentally is going to result in higher costs for patients, less access for care, and unsustainable spending. The Speaker of the House, NANCY PELOSI, said: You are going to have to first pass the bill to find out what is in it. Once again, this past week, we have learned about something new that is in the health care law that many Americans have found surprising.

I would like to contrast a speech President Obama gave 1 year ago this week, 1 year ago yesterday, at the American Medical Association meeting in Chicago. I would like to quote from the speech given by the President, and then contrast it to regulations that have been sent out earlier this week. What a difference a year makes. President Obama said:

> So let me begin by saying this—

This was a year ago—

> I know that there are millions of Americans who are content with their health care coverage. They like their plan and they value their relationship with their doctor.

He went on to say:

> And that means that no matter how we reform health care we will keep this promise.

If you like your doctor, you will be able to keep your doctor. Period.

He went on to say:

If you like your health care plan, you will be able to keep your health care plan. Period. No one will take it away no matter what.

Well, those are very reassuring words to the 170 million people in this country who get their health insurance coverage through their employer at work. There were 170 million people reassured 1 year ago by the words of the President of the United States that if they like what they have, they can keep it.

This is the line that the President has continued to repeat. Most recently he gave the same reassurance to the senior citizens of this country in a townhall meeting he had just a little over a week ago. But what we are seeing now, instead of allowing Americans to keep their doctors and their health care plans, is another broken promise, a broken promise to the American people.

On Friday of last week, the Associated Press reported that 51 percent, over half of all Americans, a majority of those 170 million who get their health insurance through work, will no longer necessarily be able to keep the health insurance they have.

In the 25 years or so that I have practiced medicine, I know how important it is, having worked with patients, worked with people, what happens when they lose the coverage or have to change their coverage. It is very distressing. Sometimes it can be disorienting to them as they learn what new coverage they have, what they lost. So people who felt reassured last year by the President's comments are now in a situation where 51 percent of them are going to lose the coverage they have.

The Washington Post this week, Tuesday, June 15: The administration estimated that by 2013, health plans covering as many as 69 percent of employees could lose protected status. For small employers, the small businesses of this country, the total could be as high as 80 percent.

I mean, could that really be true? I find it astonishing. We have had calls to our office: Is that really true? We have talked to patients and people that I have taken care of because I have been back in Wyoming this past weekend and ran into a number of former patients of mine. They said: Is that really going to happen?

Let's see what the rules are that came out. These are the rules that came out on Monday. I mean, it is interesting to get rules on health care, and what are the first two lines? Department of the Treasury. Internal Revenue Service.

The Internal Revenue Service is writing the rules and regulations dealing with the health care bill. It goes on with the Department of Labor, the Department of Health and Human Services. This is titled, ''Interim Final Rules For Group Health Plans And Health Insurance Coverage.''

This is 121 pages. I am not going to go through all of it, but I would like to call your attention to page 54. On page 54 there is a table, and the table is called ''Estimates of the Cumulative Percentage of Employer Plans Relinquishing,'' having to give up, ''Their Grandfathered Status.''

What it means is the percentage of employer plans of people who have the insurance they like they are not going to be able to keep.

They have a low-end estimate, a mid-range estimate and a high-end estimate of all of the employer plans in the country. It covers 170 million Americans. It says by the year 2013, just a few years from now, 51 percent, 51 percent of Americans will lose what they have now. It talks about the high estimate for the small employer plans, 80 percent.

So how can that be true? So 80 percent of small employers—that is the lifeblood of our economy, and we are at a point in this country where we have unemployment at 9.7 percent, and small business is the engine, the engine that grows the economy. Seventy percent of all new jobs in this country are created by small businesses. Yet for people who work in small businesses, it looks like up to 80 percent of them, over the next couple of years, are not going to be able to keep the health insurance they have now.

Why? Because the rules and regulations that have come out related to the law that has now been passed, in spite of the President's promise right here behind us—you will be able to keep your doctor, period; you will be able to keep your health care plan, period—the American people are finding that those words, those words, are not being held out in what was passed into law and the regulations that have now been written.

Headline, Wednesday, June 16, today, national newspaper: ''So much for 'Keeping Your Plan.' ''

Now, actually there are some people who can keep their plans—very few.

Headline, ''Union Contract Can Exempt Plans From ObamaCare.'' So you do not get to necessarily keep your plan, it says, unless a union negotiated your coverage. The administration has granted a special exemption to those, and apparently only those, health care plans, a special exemption offered by the administration, according to this article, for those whose plans have been negotiated by the unions.

You do not have to go very far. All you need to do is open a newspaper. This is on Capitol Hill just the other day, Tuesday, June 8. It says, talking about health care, there is a picture of a doctor with an eye chart: ''Comprehensive, but Not for All.''

''Health reform ban on annual limits may end up hurting lower wage workers.'' Well, I thought that the whole idea behind this was to help additional workers, to help additional workers get coverage, get care. First paragraph:

Part of the health care overhaul due to kick in this September, could end up stripping more than a million people of their insurance coverage, violating a key goal of President Barack Obama's reforms.

There it is in black and white: ''Violating a key goal of President Barack Obama's reforms.'' These are identifiable victims of ObamaCare, losers under ObamaCare. Promises made and promises broken.

What about the President's promise on the cost of care, bending the cost curve down? Well, yesterday, in The Hill:

Report projects a rise of 9 percent in employers' health costs in 2011.

But was it not Obama who said his legislation was going to actually allow Americans to have a lowering of their premiums by $2,500 per year per family? Well, how does that work with the projected rise in cost? So, once again, the American people heard one thing and now they are being delivered something very different.

That is why I come to the Senate floor today—to say it is time to repeal this legislation and replace it, replace this legislation with legislation that delivers more personal responsibility and more opportunities for individual patients, a patient-centered health care bill, a bill that allows Americans to buy insurance across State lines. We need a bill that will give more competition and will allow the costs to come down, that gives people who own their own health insurance an opportunity to get the same tax relief big companies get. That is important. That will help people.

How about a bill that includes a provision to give individual incentives to people who take responsibility for their own health care and their own health, do things like the people who come to the Wyoming Health Fairs, early detection, early treatment.

We know, and I have seen this in my years of practicing medicine, about half of all of the money we spend in this country on health care is on just 5 percent of the people. If we can focus on those 5 percent and help them with healthy lifestyles and good choices, we can get down the cost of their care.

Then we need a bill that deals with lawsuit abuse. That will help lower the amount of defensive medicine practiced and help lower the cost of care, plus one that allows small businesses to join together and then shop much more effectually to buy a lower cost health insurance plan.

Well, you can imagine what is happening right now in small businesses across America, as I have just brought to the attention of the Senate. When 80 percent, up to 80 percent of people with small business health plans who are getting their insurance that way, according to the new regulations put out by the Internal Revenue Service, as well as the Department of Health and Human Services, up to 80 percent are not going to be able to keep the coverage they now have and now enjoy under their current plans come the year 2013.

Those are the things that will make a difference. That is why I come to the floor today. I offer my second opinion about health care law, and now it is the law that I think is going to end up—and the American people understand this, and they see through it—is going to end up being bad for patients who need care, bad for payers, people paying for their health care costs, and the taxpayers of this country, as well as bad for providers, the nurses and the doctors and the hospitals who take care of those patients.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

NOMINATION OF ELENA KAGAN

Ms. KLOBUCHAR. Mr. President, I am pleased to come to the floor today with a few of my women colleagues to discuss the President's nomination of Solicitor General Elena Kagan to be an Associate Justice of the Supreme Court. I am a member of the Judiciary Committee. We are looking forward to the hearings coming up in a few weeks. We hope the country is watching because this is a very important job and Ms. Kagan is a very impressive person.

With that, I turn to the Senator from Michigan, Ms. STABENOW.

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

Ms. STABENOW. Mr. President, I thank the Senator from Minnesota.

We are here to talk about President Obama's nomination of Elena Kagan. I will come to the floor at a later point to respond to my friend from Wyoming with a different view about health care reform. We have a vote in just a few moments, a very important vote as to whether to support the ability of States, in these difficult times, to be able to continue health care for people who are out of work and for seniors who are in nursing homes, low-income seniors who find themselves caught in the economic crunch. In Michigan, there are 6 individuals out of every 100 who are on Medicaid now or who need to be on Medicaid. The upcoming vote will determine whether we place a value on health care, place a value on seniors in nursing homes and people who, because they have lost a job or because of some other situation in this economy, find themselves without health care. I hope colleagues who express concern about people having access to health care will join us in voting yes.

I thank the Senator from Minnesota for organizing and bringing us to the floor. I join her in speaking in favor of the President's nomination of Elena Kagan to be the next Justice of the U.S. Supreme Court.

She grew up in a family like so many in Michigan, with parents who worked hard for a living so they could provide for their children. Her mom was a teacher. Her dad was a tenants lawyer in New York City. She saw firsthand the effects of laws and court decisions on the everyday lives of Americans. Throughout her distinguished career, she has brought the lessons she learned from her parents—in her words, ''service, character and integrity''—to every role she has had.

She took those lessons with her to the White House, where she worked with Democrats and Republicans to forge commonsense solutions to issues such as restricting tobacco companies from targeting ads to children.

She took those lessons with her to Harvard, where she became a successful and beloved professor. As dean, she worked to engage her students in service and to honor those who have served. Every year, she invited all of the military veterans on campus to her home for a Veterans Day dinner. She reached out to students from all across the political spectrum and proved to them one-on-one that she was a smart and pragmatic leader. Very conservative law students at Harvard tend to join the Federalist Society, while progressive law students are more likely to join the American Constitution Society. The two groups disagree on almost everything. Yet both groups sent letters to the Judiciary Committee supporting Elena Kagan's nomination as Solicitor General. That is rare in politics and is proof that Elena Kagan is respected for her fairness and impartiality.

Besides her parents, perhaps the biggest influence in her life was her one-time boss and mentor Justice Thurgood Marshall, who was also the Solicitor General before becoming a Supreme Court Justice. She admired his ability, in her words, to understand the way law works ''in practice, as well as in the books—of the way in which law acted on people's lives.''

In private practice, Elena Kagan represented clients in litigation. Today, she represents all of us as the people's lawyer, the Solicitor General of the United States. Her job every day is to represent her clients, the people of our great country, before the U.S. Supreme Court. As a Justice, she will continue to represent the people. That is why I urge my colleagues today to join with us in confirming her nomination without delay.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mrs. SHAHEEN. Mr. President, I am pleased to join my colleagues, Senators STABENOW and KLOBUCHAR, in supporting the nomination of Elena Kagan to be an Associate Justice of the Supreme Court. However, before addressing the nomination of Elena Kagan, I wish to echo the remarks of Senator STABENOW about the need to look at the legislation that is going to come before us in a few minutes.

My colleague, Senator BARRASSO, talked about wanting to help those people who are most in need of health care. One of the best ways we can do that is to pass the legislation pending before this body which includes an extension of Medicaid benefits, which is so important to States and to the people who are most in need, who have the least ability to get health care. I hope that as our colleagues are thinking about how they can support health care for Americans, they will support this legislation and make sure we extend Medicaid benefits for people throughout the States.

Turning to the Elena Kagan nomination, I am extremely pleased that President Obama has selected a woman with such impressive and unique credentials to serve on the Nation's highest Court. I had the good fortune to meet Solicitor General Kagan a number of years ago when both of us were at Harvard. I was at the Kennedy School as the director of its Institute of Politics, and she had just become dean of the Harvard Law School. It didn't take her very long to get a reputation there as someone who was loved by the students and the faculty, who was able to get everyone to work together. It comes as no surprise to me that she has continued her impressive accomplishments.

My favorable impression of Elena Kagan was confirmed after a recent meeting with her in my Senate office, spending more time really looking at what her record has been with the law. I wish to focus my remarks this morning on Elena Kagan's record that has prepared her to be a Justice.

A number of my colleagues from across the aisle have implied or stated directly that the Solicitor General lacks sufficient range of professional experience. A number of Senators are concerned that Elena Kagan does not have judicial experience. To address this point, it is worth noting that 41 of the Court's 111 Justices have joined the Court without any previous experience as a judge. Among these 41 are some of the most notable jurists of the last century: Justices Louis Brandeis, Felix Frankfurter, William Douglas, Byron White, and Lewis Powell. Chief Justices Harlan Stone, Earl Warren, and William Rehnquist were also chosen for the Court without prior judicial experience. The Presidents who nominated these Justices and the Senators who confirmed them were right to recognize that experiences other than being a judge can prepare one to serve on the Supreme Court with distinction. Elena Kagan certainly has had that experience. She has traveled a path of extraordinary accomplishment. I am confident she will continue that trend once she is elevated to the bench.

With more than 24 years of legal experience in a range of settings, she will bring a distinct perspective to judging that will serve both the Court and Americans well. Without a doubt, Ms. Kagan has been a lifelong student of the Supreme Court. As we heard from Senator STABENOW, she began her career as a clerk in the chambers of two highly regarded jurists, including the

legendary Thurgood Marshall. These formative years early in Ms. Kagan's career instilled in her an appreciation of the impact of judicial decisions on people and gave her an ability to zero in on critical facts and issues in cases.

After 3 years in private practice in Washington, Ms. Kagan became a professor of law at the University of Chicago. She focused there on scholarship and constitutional law, particularly the first amendment. She quickly became known as a powerful advocate for individual constitutional rights.

She served as an Associate White House Counsel and later Deputy Director of the Domestic Policy Council during the Clinton White House. These positions forced Elena Kagan to tackle difficult public policy matters while analyzing the limits of executive branch power.

Later, as dean of the Harvard Law School, Ms. Kagan is credited with making immense progress toward uniting a fractious faculty of very powerful opinions and intellects. She built bridges across academic and political groups.

A recent letter from the deans of law schools across the country describes Ms. Kagan as ''a superb and successful dean'' who ''revealed a strong and consistent aptitude for forging coalitions that achieved smart and sensible solutions, often in the face of insoluble conflict.''

Harvard professor Charles Fried captured the thoughts of many of Ms. Kagan's Harvard colleagues when he described her as someone who had a ''masterful'' ability to work well with diverse faculty.

Ms. Kagan's intellect and work ethic caught the attention of President Obama when she was tapped to serve as Solicitor General. She is the first woman to hold this position which is often referred to as the 10th Justice of the Court. During her tenure, Solicitor General Kagan has filed 66 briefs and has argued numerous times before the Court. I can't imagine better training for a position on the Court than the experience gained by a Solicitor General. Elena Kagan has publicly demonstrated her ability to critically analyze the law and advocate forcefully at the level demanded by our Nation's highest Court.

Elena Kagan has dedicated her life to legal study. She has excelled as a clerk, a teacher, administrator, counsel, and advocate. I know these experiences have given her a full understanding and appreciation of the Supreme Court's role in our democracy. Elena Kagan has built a career that shows she has the technical skills, the intellectual aptitude, and the personal judgment to be an extremely effective Justice. I look forward to the swift confirmation of a very impressive individual and urge all of my colleagues on both sides of the aisle to support her nomination.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I thank my two colleagues, Senators SHAHEEN and STABENOW, for joining me in making open arguments in favor of Solicitor General Kagan to be the next Associate Justice of the Supreme Court. If Members listened to Senator SHAHEEN's discussion of the experience of Elena Kagan, something quickly emerged: she has always been on the front line and has not been afraid to get into battle. She is the one who had to go before the Supreme Court and argue the Citizens United case that basically came up with a ruling from the current Supreme Court with which I don't agree. The Supreme Court went beyond their bounds in how they interpreted election law, reversing decades of precedent. Yet it was Elena Kagan who was the one willing to stand there as Solicitor General and basically say corporations are not people; people are people.

I like the thought of someone of her experience—such an intellectual heavyweight—getting on the Court to basically match Justice Roberts.

As Senator SHAHEEN has pointed out, she has consensus-building skills in addition to that. She is someone who has been able to bring together people of diverse views. With such a divided Court, as we see right now, I think it is going to be very helpful—if she gets through our process, which I believe she will—to have her on that Court. She also is a trailblazer.

She was the first woman dean at Harvard Law School in their 186-year history. In 2009 she became the first woman to serve as Solicitor General. As has been pointed out, she has also been a law professor, a member of the White House Counsel's Office, and a domestic policy adviser to President Clinton.

When I look at her resume, I notice two things: The first is that she has practical experience thinking about the impact of laws and policies on the lives of ordinary Americans. When you are involved in considering the nitty-gritty details of policies—as has emerged, as we look at all the thousands and thousands of documents she has given to the Judiciary Committee—she is someone who has been actually involved in crafting those ideas, those policies. When you have to figure out, as she has, whether to compromise or hold firm on a piece of legislation, you have to know exactly what the consequences of your recommendations will be. You have to think about the lives that will be impacted.

The second thing I notice about her resume is that she has a track record of listening to different viewpoints and bringing people together—whether it is her legacy of helping to recruit talented academics to Harvard from across the political spectrum or working with Senators from both parties on antitobacco legislation.

It is worth noting this is a nominee who once got a standing ovation from the Federalist Society when she spoke to them—that is a conservative legal society—during her time as a law school dean. It was not because she agreed with them on every substantive matter. In fact, she noted that at the beginning. It was because they respected her because she was willing to listen to other viewpoints and bring in other viewpoints. We need that kind of consensus builder on the Supreme Court of the United States.

Finally, we have to add to her list of achievements that she managed to calm the factionalism and frustration for which the law school faculty had previously been known. I can tell you after managing 167 lawyers it is not easy, but it is even harder to manage a number of law professors.

What you come up with, when you look at her whole career, is she has the practical experience of reaching out to and working with people who have different beliefs. I think that is exactly what we need on the Supreme Court.

Some of my colleagues, as has been pointed out, question whether she is fit to be a Supreme Court Justice because she has never before been a judge. Well, right now every single Justice on that Supreme Court has been a judge. While they may have different backgrounds, they have come up through what is called the ''judicial monastery.'' I think the fact that the President has nominated someone who has been on the front line, deciding policies but also arguing intricate legal cases, is a good thing.

As has been pointed out by Senator SHAHEEN, I do wonder whether these same colleagues who are objecting on the judicial experience issue would have objected to putting Chief Justice Rehnquist on the Supreme Court or Justice Brandeis or Justice Frankfurter. They did not have any judicial experience either.

It is worth noting this opinion on the importance of judicial experience is not shared by at least one member of the Supreme Court who believes that may not quite be necessary. In a speech he gave at the end of May, Justice Scalia said he was ''happy to see that this latest nominee is not a federal judge—and not a judge at all.''

For historical context, Justice Scalia noted when he first arrived at the Supreme Court in 1986, three of his colleagues had never been a Federal judge. Chief Justice Rehnquist came to the bench from the Office of Legal Counsel. Justice Byron White was Deputy Attorney General. Justice Lewis Powell was a private lawyer in Richmond. Beyond that, her current job—Solicitor General—as Senator SHAHEEN noted, is actually referred to as ''the tenth Justice'' because it is such an important position. She represents the people before the Supreme Court. That is incredibly important training for an individual nominated to serve on the Supreme Court.

It is worth noting that the last Solicitor General who subsequently became a Supreme Court Justice was none other than Thurgood Marshall—Elena Kagan's mentor and former boss.

So I hope we can put to rest this idea that only judges are qualified to be Justices. That is not a standard that we have applied throughout history, and it is not one we should start applying today.

Just think—and I will end with this, Mr. President—how far we have come. When Sandra Day O'Connor graduated from law school 50 years ago, the only offer she got from a law firm was for a position as a legal secretary. Justice Ginsburg faced similar obstacles. When she entered Harvard in the 1950s, she was only one of nine women in a class of more than 500, and one professor actually asked her to justify taking a place in that class that could have gone to a man. Later, she was passed over for a prestigious clerkship despite her impressive credentials.

In the course of the more than two centuries of this great country, 111 Justices have served on the Supreme Court. Only three have been women. If confirmed, Ms. Kagan would be the fourth, and for the first time in the history of our country three women would take their places on the bench when arguments are heard in the fall.

I look forward to our Judiciary Committee hearing. I have to tell you, I hope my colleagues listen to what Elena Kagan has to say. When she came before our Judiciary Committee as a nominee for Solicitor General, she was very impressive. She got bipartisan support. I would like to see that again.

Our job is to look at the qualifications of this nominee. Our job is to decide if she is competent. As Senator GRAHAM said during the confirmation hearing for Justice Sotomayor, he may not have picked a particular nominee, he may have supported someone else for President, but in the end, our job is to look at their qualifications and whether they will serve our country well on the Supreme Court.

I believe the answer for Elena Kagan will be yes. We are all looking forward to the hearings, and I urge my colleagues to come to the hearings with an open mind.

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 legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010

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

The legislative clerk read as follows:

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

Pending:

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

Reid amendment No. 4344 (to amendment No. 4301), to amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit.

Thune/McConnell amendment No. 4333 (to amendment No. 4301), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 5 minutes of debate equally divided between the Senator from Montana and the Senator from Iowa or their designees.

The Senator from Montana is recognized.

AMENDMENT NO. 4301

Mr. BAUCUS. Mr. President, this vote is about jobs—plainly and simply about jobs. Fifteen million Americans are out of work. Fifteen million Americans need our help.

We need to continue our efforts to get Americans back to work. Creating jobs has been a top priority. The pending substitute amendment to the American Jobs and Closing Tax Loopholes Act would help achieve that goal.

The amendment would cut taxes for American workers and families by more than $4 billion. The amendment would cut taxes for businesses by $18 billion to help them expand and create jobs.

The amendment would extend Small Business Administration loan programs to help restore the flow of credit. These programs will help small businesses to grow and hire new workers. This extension eliminates fees for certain SBA loans and increases government loan guarantees.

Since their creation in the Recovery Act, these provisions have supported more than $26 billion in small business lending. They have helped to create or retain more than 650,000 jobs.

The amendment would expand community college and career training grants offered through the Trade Adjustment Assistance Program. These grants provide Americans who have lost their jobs through no fault of their own the opportunity to learn new skills to find good jobs.

The amendment would support more than 350,000 jobs for youth ages 14 to 24 by expanding successful summer jobs programs created in the Recovery Act. This age group has some of the highest unemployment levels. Fully one-quarter of those aged 16 to 19 are unemployed—one-quarter.

The amendment would extend funding for States to provide wage assistance to employers who hire new workers. Wage assistance helps companies that might not otherwise be able to afford the cost of hiring new workers to create jobs.

The amendment would provide targeted, temporary pension relief to help employers who are struggling in this tough economy to continue to fund employee pensions without cutting jobs or restricting new hiring.

This amendment is about creating good jobs.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I thank the Chair, and I urge my colleagues to support the amendment. Let's advance this effort to create jobs.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, this bill, as it comes forward, spends more money than we budgeted for and, as a result, it violates the budget. We are trying to get some fiscal discipline around here. This would be one of the places we should start.

So I raise a point of order that the pending amendment offered by the Senator from Montana would cause the aggregate level of budget authority and outlays for fiscal year 2010, as set out in the most recently agreed to concurrent resolution on the budget, S. Con. Res. 13, to be exceeded. Therefore, I raise a point of order under section 311(a)(2) of the Congressional Budget Act of 1974.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and section 4(g)(3) of the Statutory Pay-As-You-Go Act of 2010, I move to waive all applicable sections of those acts and applicable budget resolutions for purposes of the pending amendment, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

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

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

The yeas and nays resulted—yeas 45, nays 52, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—45

Akaka	Brown (OH)	Casey
Baucus	Burris	Conrad
Bennet	Cantwell	Dodd
Bingaman	Cardin	Dorgan
Boxer	Carper	Durbin

Feinstein	Lautenberg	Schumer
Franken	Leahy	Shaheen
Gillibrand	Levin	Specter
Hagan	Merkley	Stabenow
Harkin	Mikulski	Tester
Inouye	Murray	Udall (CO)
Johnson	Reed	Udall (NM)
Kaufman	Reid	Warner
Kerry	Rockefeller	Whitehouse
Klobuchar	Sanders	Wyden

NAYS—52

Alexander	Ensign	McCaskill
Barrasso	Enzi	McConnell
Bayh	Feingold	Menendez
Begich	Graham	Murkowski
Bennett	Grassley	Nelson (NE)
Bond	Gregg	Nelson (FL)
Brown (MA)	Hatch	Pryor
Brownback	Hutchison	Risch
Bunning	Inhofe	Sessions
Burr	Isakson	Shelby
Chambliss	Johanns	Snowe
Coburn	Kohl	Thune
Cochran	Kyl	Vitter
Collins	Landrieu	Voinovich
Corker	LeMieux	Webb
Cornyn	Lieberman	Wicker
Crapo	Lugar	
DeMint	McCain	

NOT VOTING—3

Byrd	Lincoln	Roberts

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Under the previous order, the motion to concur with amendment No. 4301 to the House amendment to the Senate amendment to H.R. 4213 is withdrawn.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to a period of debate only until 12:30 p.m., with no amendments or motions in order during this period; that the time be equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each; and that the order for the recognition of Senator BAUCUS still be in effect.

The PRESIDING OFFICER. Is there objection?

The majority leader is recognized.

Mr. REID. Mr. President, I ask my friend to modify the consent agreement to have the Senate be in recess from 1 p.m. until 2 p.m. today. We will have a caucus going on at that time.

Mr. BAUCUS. Mr. President, I so make that request.

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

The Senator from North Dakota is recognized.

COBELL SETTLEMENT

Mr. DORGAN. Mr. President, the legislation that is pending and on which we now have general debate is legislation that is important. I know there has been plenty of discussion about it. I want to discuss one element of it. The legislation includes provisions to approve the Cobell settlement. The Cobell settlement is perhaps something which people do not know much about. It is a settlement of a longstanding lawsuit that has been winding its way through the Federal courts for 14 years. It is about things that have been done to American Indians that are almost unthinkable and for which they have sought redress in the Federal courts.

Let me describe this, if I may, by using a photograph of a woman. This is a photograph of Mary Fish. By telling you a little about Ms. Fish, I can describe the problem that the Cobell settlement, which is in this underlying legislation, attempts to address.

Mary Fish died a few years ago. Mary Fish was an Oklahoma Indian. She lived in a very small, humble house with 40 acres. There were six oil wells on her land that had been pumping Oklahoma sweet crude for years. Even with all of these oil wells pumping on Mary's land, she made only a few dollars a year from those wells.

Why would it be the case that this woman had oil wells on her land, lived in a small, little house, had virtually nothing, and got only a few dollars from the oil wells? The problem dates back over 100 years when the Federal Government divided up Indian tribal lands, and distributed the land in trust to individual Indians, saying: We will take care of your land for you. We will manage it. We will handle it. And, by the way, we will provide you with the proceeds from leasing on the lands.

Almost as soon as this system was set up, the Indian people found that the Federal Government, and all kinds of other manipulators involved, stole from them, cheated, and looted their lands and trust accounts from those lands. The fact is, if you go back 100 years and try to reconnect the trust accounts the Federal Government said they were holding for these Indians—for grazing fees that were paid on the Indian lands, for oil that was pumped from Indian lands, for minerals, for agriculture—what you will find is this Federal Government going back all those years does not have any records, cannot reconnect, does not have the foggiest idea what happened. In addition, there were a lot of unscrupulous people who were stealing, cheating, and looting. That is why these American Indians, the first Americans—those who were here first—14 years ago filed a case in Federal court now called Cobell v. Salazar, a case against the Secretary of the Interior.

Cobell v. Salazar has languished for 14 years in the Federal court system. At long last, there has been a negotiated settlement to settle these claims that have existed for a long time. Claims of Indians being cheated by a government that, in some cases, was corrupt for over 100 years.

That settlement is in the underlying legislation. The settlement was not something the Congress did. The settlement was a settlement between the Department of the Interior, led by Secretary Salazar, and the plaintiffs, led by a woman named Elouise Cobell. Recently, the plaintiffs and the Department of the Interior reached an agreement—finally reached an agreement—to address this unbelievable set of terrible events over the last century that cheated American Indians out of what they were owed.

My colleague from Wyoming has offered an amendment to change the settlement. My colleague, Senator BARRASSO, is someone with whom I work on the Indian Affairs Committee. I am Chair; he is Vice Chair of the Committee. I have great respect for him. I do not take issue with the fact he thinks this settlement, perhaps, could be better. I don't know that. He has some ideas on how it can be changed.

The dilemma is that we are not a party to the negotiations to reach that settlement. Perhaps if the Senator would send his recommendations to the Secretary of the Interior and the plaintiffs and they sit down at a table and decide if they want to renegotiate this or decide that. Whether there are other ideas that could or should be added, perhaps that might be beneficial. But if the Congress now decides that this settlement, which is to be paid out of the United States Judgement Fund, is not something that Congress supports, that it needs to be changed, then I think this settlement will be scuttled, and we will be back in the same position we were in.

The Federal judge who watched over the negotiations that reached a settlement in the Cobell case set a deadline of 30 days and then a second deadline and then a third deadline. The Congress missed all of those deadlines—every single one. The Federal judge a few weeks ago said: I would like to call Members of Congress down to my court to find out what on Earth they are doing, what is going on. Why can this settlement not get approved by Congress, because after 14 years, I think the Federal court believed a settlement agreed to by both parties was the appropriate thing to do. Despite this, Congress has missed all the deadlines.

In these proceedings we have been considering the Cobell settlement which is a part of the underlying legislation. I support that settlement. Is it perfect? I don't know. I was not a part of the negotiating team. That was the Interior Department and the plaintiffs, the Native Americans on behalf of the plaintiffs who have been cheated over all these years.

My colleague Senator BARRASSO says the parties themselves made changes to the settlement and so they should not mind a few more changes by the Congress. The difference is who makes the changes. The party to a settlement can make changes by agreement of the parties. But if Congress makes changes unilaterally, of course, then Congress risks voiding the entire settlement, which I fear would be the case.

Senator BARRASSO's amendment would change the settlement and I think risk sending these parties back into endless litigation that has gone on now for 14 years. I do not think anybody wants that.

Senator BARRASSO has said his proposed changes are within the framework of the settlement. But the administration, Secretary Salazar, and others have already sent a letter to the

Congress saying it believes these changes are material and would, therefore, void the settlement. I do not think any of us would want that to happen.

My colleague Senator BARRASSO has not said the settlement is unreasonable or unjust, only that he wants to improve the settlement. With great respect to my colleague—and I do like him, and we work together well on a lot of issues—I believe now is not the time to decide after 14 years that this settlement needs improvement.

If the changes are within the framework of the settlement, my recommendation is that he meet with the parties who were at the table and reached this settlement. If they believe his ideas have some merit, maybe some of them will find their way into the settlement. The Congress was not a party to that settlement and should not make unilateral changes.

I hope very much we can finally resolve more than a century of theft and mismanagement through this settlement. When I talked about looting, stealing, cheating, and theft, I understand that. I said that deliberately. That is exactly what has happened. Even worse has been the unbelievable mismanagement of those funds that cheated a whole lot of people.

This is a photograph, as I indicated, of Mary Fish. I said she had six oil wells on her land. She lived in a humble little house and got a couple dollars from them. Somebody else got the money. Who got the money? What happened to the money from the oil wells on this woman's land that led her to die before she had a chance to lead a good life, to have the resources that should have been hers?

I have another photograph, this woman's name is Susan White Calf. She is from the Blackfeet tribe. She is a Blackfeet Indian. She passed away in November of 2007. This picture was in 2001. She took this picture with her grandchildren.

Mr. President, 2001, by the way, was the same year that the Federal courts found that the Federal Government had broken its trust responsibility to the American Indians by this unbelievable mismanagement of Indian trust funds. The Federal Government said: Trust us. We will take care of your funds. We will take care of your assets. Trust us. The fact is, unbelievable mismanagement, some theft, and some looting occurred.

Six years later after 2001, 6 years after the courts found that the Federal Government had broken its trust responsibility to American Indians, Susie died, still waiting to get the money that was owed her for grazing leases on land she owned. This is money that Susie White Calf should have had during her life but did not because the Federal Government dropped the ball, was guilty of unbelievable mismanagement. This problem of mismanagement goes back well into the 1800s.

When you read the stories of how the Indians were cheated and the federal mismanagement, and then take a look at where the records were being stored. It is unbelievable. You cannot even reconstruct the records that were stored in rat-infested warehouses. You cannot find some records, and you find others in rat-infested warehouses.

I ask unanimous consent to proceed for as much time as I may consume.

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

Mr. DORGAN. Mr. President, I will not speak long. Let me continue and finish.

When the historic accomplishment occurred of settling this lawsuit after 14 years between the Federal Government and the plaintiffs, when that historic agreement was reached, I was hopeful the Congress would move very quickly and provide the resources, from the Settlement Fund, that are available to make this settlement work.

I hope very much, if there is a vote—I don't know there will be a vote on the Barrasso amendment—if there is a vote on the Barrasso amendment, I hope very much my colleagues will oppose it.

I say to Senator BARRASSO that the ideas, recommendations, and thoughts he has about this settlement should be presented to both sides who negotiated the settlement. In fact, if Congress were to unilaterally make changes, I think it would void the settlement. Void it after 14 long years and a lot of important work that would culminate in a settlement that plaintiffs have been waiting for and plaintiffs well deserve.

I urge my colleagues, as the Administration has urged, let us not unilaterally go outside the settlement that has been structured and negotiated. Let's decide to do what I believe Congress has a responsibility to do.

The longer this drags out, the more the American people see what was done to American Indians, the more people see how badly some of these people were cheated. Yes, this woman, who never got her money and died long before that money was ever available. Yes, this woman, who lived humbly all her life with six oil wells on her land and got virtually nothing from it. Do we have to continue to talk about these issues, or should we settle this and do what the Federal Government should do: own up to its responsibility, say we have done wrong here, say we will fix it now, say the trust accounts are going to work the way they should work. But to recompense for past mistakes and for money that was not given to the first Americans that the Federal Government promised would be theirs, that belonged to them, came from their lands, let's not interrupt that with an amendment on the floor of the Senate on this legislation. Let us instead decide we will ratify this agreement and put this behind us.

It is a very sad, sorry chapter in the history of this government in the way they have treated American Indians.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the previous order regarding debate be extended to 1 p.m. under the same conditions, and limited.

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

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

RESTORING MARKET CREDIBILITY

Mr. KAUFMAN. Mr. President, I have always believed—and I have spoken many times on the Senate floor—that the two most important things that make America great are democracy and free capital markets.

But over the last year, as many of my colleagues are aware, I have become deeply concerned that the credibility of our stock markets—one of our Nation's most precious national treasures—can no longer be taken for granted.

On May 6, when the markets yo-yoed up and down, plunging 573 points in a mere 5 minutes before recovering 543 points in the next 90 seconds—it was nothing less than an embarrassment.

The strength of our stock market depends on its ability to establish an accurate price for a company's fundamental value that reflects a consensus among buyers and sellers at any given moment.

In that capacity, the markets failed, in fact they spectacularly failed, for a harrowing 20-minute time period.

In the aftermath of May 6, the integrity of our markets has been questioned, and investor confidence has been shaken.

In order to restore market credibility and instill confidence among the investing public, regulators and lawmakers alike must act wisely but urgently to fix the structural schisms that plague today's capital markets.

That is why I am encouraged, and relieved, that Mary Schapiro, the Chairman of the Securities and Exchange Commission, clearly understands what is at stake.

Testifying before the Senate Subcommittee for Securities, Insurance, and Investment on May 20, she said:

> I believe the markets exist for public companies to raise capital, to build businesses, and create jobs, and they exist for investors to support that activity. And those are the number one and number two purposes of markets. And everything else from my perspective has to be put into the context of those two goals.

At a panel last week in Montreal at the International Organization of Securities Commissions, Chairman Schapiro reiterated that point, saying the SEC needs to . . .

> [E]xplore whether bids and orders should be regulated on speed so there is less incentive to engage in this microsecond arms race

that might undermine long-term investors and the market's capital-formation function. The markets have to serve that function for companies to raise money, create jobs and allow the economy to grow . . . We are also looking at whether and to what extent pre-trade price discovery is impaired by the diversion of desirable, marketable order flow from public markets to dark pools.

I couldn't agree more with Chairman Schapiro.

May 6 made clear what many have long claimed: today's overly-fragmented marketplace, which seems to favor speed over substance, and trading over investing, may be inhibiting the capital-formation process and failing to protect the interests of long-term investors.

If that is the case, then regulatory action is needed urgently.

Simply put, do stock prices adequately reflect the economics of the companies they represent?

On May 6, when liquidity vanished and established companies like Accenture traded briefly for a penny a share, the answer to the question of whether our markets are performing their central function was clearly no.

But rather than an aberration, it appears that the May 6 flash crash was no isolated event.

On June 2, we saw yet another ''mini-flash crash'' in the stock of Diebold, a technological services company.

Prior to 12:22 p.m. that day, Diebold had traded at around $28 per share and within a range of roughly 80 cents.

In the next minute, the rug was swept out from under Diebold as 399,000 shares were traded and Diebold's stock price plunged 35 percent to $18.

By 12:40, Diebold was once again trading at $28 per share.

The sudden decline in price appeared to be in response to news of Diebold's settlement with the SEC over fraudulent accounting practices, which Bloomberg began reporting at 12:25 and Diebold confirmed with a press release a little more than an hour later.

The SEC should investigate both the manner in which the news broke and the trading activity that followed it.

In the aftermath of the extreme plunge, questions have been raised concerning the manner in which the SEC filed the complaint, which data feeds first reported it, and the electronic overreaction to the news—all of which suggest that the severe volatility in Diebold could have been largely avoided altogether.

The SEC was actually resolving an old investigation with Diebold, the settlement of which had been previously disclosed, and not making any new accusations against the company.

But when word of the complaint reached Bloomberg or other sources, it led to a ''trigger'' that potentially activated algorithms programmed to react immediately to breaking news. This may explain why trading activity in Diebold exploded shortly before the story broke publicly.

Notably, the SEC filed the complaint manually at the U.S. Federal District Court in DC during market hours rather than using the Public Access to Court Electronic Records—PACER—filing system.

Mr. President, regulators should add to their list the need to examine whether the precipitous drop in Diebold stock was the result of high frequency traders who can subscribe directly to market data and news feeds and perhaps had programmed faulty correlations into their algorithms to react to breaking news events.

Indeed, with so much of the marketplace dominated by high frequency traders employing similar strategies, an overreaction by a few algorithms looking to trade instantaneously on the basis of imprecise correlations could trigger a dramatic plunge.

While the algorithms' calculations may be accurate ''most of the time,'' the chaos that ensues when they are not inexcusably undermines investor confidence.

In the Diebold case, once the algorithmic overreaction became clear, humans with actual knowledge of Diebold's true fundamentals quickly intervened. It is no surprise, then, that the stock price rebounded so quickly.

Though volatility has always been present in the markets, we see that without human judgment the speed of trading can indeed lead to very brief ''bungee jumps'' for individual stocks whenever there is a significant news event.

At the same time, regulators should also consider whether the extreme volatility in Diebold's stock is yet another example of sell orders breaking through a ''razor-thin crust'' of liquidity provided by high-frequency traders.

As we saw on May 6, the high-frequency traders who fill the order books on many market centers provide only ''fleeting'' liquidity, particularly in periods of market stress or uncertainty.

This is because many high frequency traders prefer to continuously place and cancel small, rapid-fire orders rather than risk letting their orders sit on public venues where they would increase order book depth and promote orderly markets.

Regardless of what caused Diebold's ''bungee jump'' or the May 6 market meltdown, we should all agree that such unusual market activity strikes at the very heart of our market's credibility.

Even if the SEC's circuit breaker pilot program—which would halt trading for 5 minutes in any S&P 500 stock that experiences a 10 percent price change in the previous 5 minutes—were in place, market and stop-loss orders would still remain vulnerable to a 10 percent insta-drop.

This situation undermines the confidence of long-term investors.

Mr. President, the Diebold incident and other factors from May 6 make me concerned about what our markets have become.

According to a research group survey of 145 market participants conducted in the weeks following May 6, I am not alone.

The Executive Summary of the survey results states overall investor confidence in the existing market structure is waning.

The summary says:

Barely half of all participants have at least a high degree of confidence in U.S. equity market structure; The buy side has the least confidence in U.S. equity market structure. This is particularly demoralizing given they are the guardians over much of our nation's equity investments; Participants no longer believe market structure strongly supports an orderly market; Increasingly, market participants believe that the U.S. equity market structure is not a level playing field.

These results underscore how critical it is for regulators to address problems with the current market structure in order to restore investor confidence and protect the strength and credibility of our capital markets.

Sadly, Mr. President, the fact is that we simply do not have the data we need to assess fully the impact of market structure changes on long-term investors.

Indeed, regulators currently lack sufficient information on the routing history of orders—including those that may go through broker-dealer internalization venues, other dark pools, and multiple exchanges and ECNs before being executed.

The SEC also acknowledges it does not have: ''important information on the time of the trade or the identity of the customer.''

As Kevin Cronin, the director of Global Equity Trading at Invesco, a retail and institutional investment fund, said at a June 2 SEC Roundtable:

There are dimensions of cost that today we do not have the ability to really understand.

Accordingly, I have pushed for the SEC to quickly implement tagging for large traders and a consolidated audit trail in order to gain a more granular view of the marketplace.

Once the Commission has collected the data, it should improve its internal analytical capabilities while also making the data available in masked form to the public, or at least academics and independent analysts, so that objective experts can study market performance comprehensively.

I admit there are no easy solutions, Mr. President, but we need to strive to answer the difficult questions or millions of Americans will eventually lose confidence in our markets and leave what is already starting to look like a ''casino.''

In that regard, Chairman Schapiro again appears to be on the right track. Regulators must consider, as she said, whether high frequency traders should be subject to speed limits and whether deep and valuable liquidity is being shielded from the public marketplace.

Our markets should not be reduced to a battle of algorithms in which capital formation is an afterthought and long-term investors are relegated to second-tier status, nor should the public ''lit'' markets house only ''exhaust'' order

flow that is passed over by those who trade in dark pools.

Perhaps high-frequency traders who claim to be ''modern-day market-makers'' should be subject to some quoting obligations like their traditional market-maker predecessors.

Setting reasonable speed limits on how quickly such traders can withdraw their bids and offers, as Chairman Schapiro alluded to last week, could help level the playing field and make the markets safer and more stable for all investors.

I have also proposed requiring exchanges and market centers to allocate costs at least partially based on message traffic share.

Cancellations, of course, are not inherently bad—they can enhance liquidity by affording automated traders greater flexibility when posting quotes.

But with as many as 98 percent of orders placed on Nasdaq cancelled or otherwise unexecuted on a given trading day, their use is clearly excessive.

Those who choke the system with cancellations make the markets less efficient for investors. And they should pay the price for the inefficiencies they create.

Exchanges cater to high frequency traders in a variety of ways, by electing not to charge them for high cancellation rates, and providing co-location services for their computers right next to the exchanges' own servers.

Fortunately, co-location and direct market data feeds appear to be on the regulatory radar—the CFTC proposed a rule last week to ensure exchanges provide ''fair access'' for, and increased transparency of, co-location services.

But new practices that further threaten market integrity have recently come to light.

Several market participants, including institutional investment adviser Southeastern Asset Management, have said exchanges are releasing private information on investor orders, including details on the total shares an investor has accumulated and other data that could be used by high-frequency traders to trade ahead of investor orders.

It is important to remember that these potentially disadvantaged institutional orders represent the tens of millions of Americans who invest in mutual, pension, and retirement funds.

These market practices, among many others, underscore how critical it is for regulators to keep pace with market developments. The May 6 flash crash and the miniflash crash in Diebold a month later have sounded the alarm that the very credibility of our market is at stake. While regulators must continue to rely on data to drive the rulemaking process and be mindful of unintended consequences, they cannot delay in tackling the problems that leave us vulnerable to another flash crash today.

As an engineer and a graduate of Wharton Business School, I understand and appreciate as much as anyone the importance of innovation and technological development. I want to make it clear I am not interested in banning high frequency trading or dark pools, nor am I advocating a return to the horse-and-buggy system. But new technologies must operate in a regulatory framework that considers both positive and negative consequences. If the public marketplace has been reduced to a battle of algorithms in which liquidity is fleeting and inaccessible when investors need it the most, and if the deep liquidity that is so critical to establishing accurate prices—particularly during times of market stress—is largely traded in dark pools, that must be carefully but urgently remedied.

As John Wooden, the legendary UCLA basketball coach who passed away 2 weeks ago, used to say, ''Be quick, but don't hurry.''

Be quick, don't hurry.

The SEC and CFTC must adopt the same philosophy as they confront the great challenges before them.

''Be quick, but don't hurry.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the time used during the quorum call be charged equally to both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I understand the time has been divided during this debate until 1 o'clock. Can I learn how much time is available on our side?

The PRESIDING OFFICER. The majority has 15 minutes remaining.

GULF OILSPILL

Mr. DORGAN. Mr. President, I want to discuss briefly the President's remarks last evening to the Nation about the oil spill in the Gulf of Mexico and the actions that this administration has been doing to address that. I would also like to discuss issues related to BP, the company that leased the area offshore and drilled the exploratory well which exploded in the gulf.

First of all, I know there is a great deal of anxiety, nervousness and anger about all this. I understand all that because all of us are frustrated that the oil continues to flow. It is a mile down beneath the surface of the water, which is known as a deepwater well. All of us are frustrated that this spill has not been contained. But the President did not cause that spill, and the President himself cannot fix it.

I do know this though. The Secretary of the Interior, the Secretary of Energy, and many other senior administration officials have brought together the best minds in the world as a team to try to evaluate what kinds of technologies and actions that can be used to fix that leak and stop that gusher. They have consulted many experts. They have consulted the Norwegians who drill in the North Sea in deepwater drilling. They have consulted with many interests. While it is not a case where they have not done everything conceivable to shut down that spill, and I think, as the President suggested last evening, we are beginning to make some good progress.

Then the next issue is how do you deal with the impact on the coastal regions in the Gulf of Mexico. This is unbelievably devastating to these States. How do you deal with that? As I have indicated, what about the guy who has a fishing boat on the pier. The pier is deserted. The boat sits at the end of the pier. There is no opportunity to fish.

And that person has to make a payment on the boat each month. What about that person and what about the tens of thousands of others like him? What about the ecological and environmental damage that has been caused as well? All of those issues are critically important.

I appreciate the fact that the President gave a speech to the Nation. I think it was important to do that. I also appreciate the fact that this administration was on this very quickly. But it is frustrating for them and for all of us that the leak from that well has not been stopped.

I do want to mention the issue of BP because the President mentioned it last night, and we have talked about it before. BP has said they will stand behind all legitimate claims and reimburse people for those impacts. I said last week—and I know the President has also now said it as well. It is one thing to make a pledge but another to follow through on a commitment. We have heard about pledges before. In the Exxon Valdez disaster, Exxon made a pledge to pay for the economic and other damages but then fought it for 20 years. A whole lot of folks died before they saw the result of what they were promised. So pledges are one thing. I want a binding commitment from the responsible party. If BP says they are going to stand behind this—if they do not stand behind this, the taxpayers will eventually end up picking up the tab. So the issue is, if BP says: We pledge this, I say that is fine, let's make it a binding commitment. Put the money in a recovery fund. You can call it what you want—a trust fund, an escrow account, a recovery fund. Put the money in there so we know it will

be available for use to those who have been impacted. I also think that there needs to be some sort of special master work to find a mechanism by which you begin to get the money out to the people who are hurting. That is what needs to be done.

There is debate about whether BP should pay a dividend to its shareholders that it announced several weeks ago. Of course they should not pay a dividend. There ought to be no dividend at this point. They need to have the money available to recompense all of the damages for all of the people and all the natural resource damages that have occurred as a result of this devastating gusher a mile under the ocean. So I don't want them to pay a dividend. They shouldn't be talking about a dividend. All of the discussion ought to be about how much money you put in this recovery fund.

Thad Allen has written to BP saying: How about some more transparency in how your are making decisions to compensate communities and individuals? I know BP has paid some funding to people, but Thad Allen has said: How about some increasing transparency? Let's find out what you are paying, whom you are paying, how you are paying. What is the criteria? How about some transparency here? We shouldn't have to be asking those questions. The money ought to be put in a fund, and that fund ought to be administered by people who are putting together the criteria by which we address the problems that are being confronted by people all up and down the Gulf Coast. That is what ought to happen.

Another company that is responsible here is Transocean. By the way, Transocean was the company who BP leased the mobile offshore drilling unit from, and they were drilling under contract for BP. They are going to have some responsibility as well, I expect.

Let me give you a description here because it is so symbolic of what is happening too often in this country. Transocean was an American headquartered company, but they moved to Switzerland not too long ago. Why did they move to Switzerland? I assume so they do not have to pay American taxes. Go find a tax haven so you do not have pay taxes to the United States. So they have, as I understand it, about 1,200 employees working in Houston, TX, and about 12 employees in Switzerland. Yet they declare Switzerland their headquarters.

They had a meeting in Switzerland some weeks ago and decided they were going to pay a $1 billion dividend to their shareholders. They ought not be paying dividends either. They, too, ought to keep this funding available in case it is needed—when it is needed—to be helpful to the people on the Gulf Coast who are seeing these unbelievable impacts. So they ought not be paying dividends at all.

Again, we should be asking questions about Transocean. Is it a big company that should have some liability here? I guess so. It operates 140 mobile offshore drilling units. It is the world's largest offshore drilling contractor. But again I say, as I have said before, why is it that when you pull the pages back and unearth the story, you discover, that this is a company that moved its headquarters for tax purposes? They first went to the Cayman Islands and then went to Switzerland. Yet, hey have a handful of people in Switzerland and most of the people in Texas. Why does it not want to be an American company? I guess to avoid paying U.S. taxes. Why is it that all these companies want the opportunity to utilize all that our country has to offer but none of the obligations to the country? It is unbelievable, to me.

But with respect to dividends, I say to BP and Transocean: Don't be doing that. You are going to need that money.

Let's make a binding commitment—no more pledges. That old movie, ''Jerry McGuire,'' where Cuba Gooding, Jr., says, ''Show me the money''—show me the money. Let's have that money go from a pledge to a binding commitment in a recovery fund, and that will give a whole lot of folks who are hurting today some feeling that maybe, just maybe, they are going to get helped.

I also wanted to make a couple of other points about how the Senate addresses energy and climate change legislation.

Last evening, the President talked about the need for Congress to take up energy legislation. I agree with that. The fact is, we passed an energy bill out of the Energy Committee last June. I want to debate and vote on it on the floor of the Senate.

There are all of these questions about energy versus climate change. Look, the Energy bill we passed will maximize the production of renewable energy. It will help build the transmission lines, the interstate highway of transmission capability, around our country that is necessary so that you can produce energy where the Sun shines and the wind blows and move it to the load centers where it is needed. It can help do all of these things. It includes provisions for building efficiency and retrofits. It does a lot of things to reduce carbon.

I guess my approach to energy is best described—and I didn't take Latin in a high school of nine students in my senior class. But I call my approach ''totus porkus,'' which probably in Latin would mean something like ''whole hog.'' I think we ought to do everything. Let's do everything and do it well. Let's responsibly produce more oil and gas here and do it the right way. Let's maximize wind, solar and other renewable resources. Let's have the first ever renewable energy standard that says we anticipate that 20 percent. We need to get 20 percent of all of the electricity produced from renewable sources. Let's support biomass and more biofuels. Let's do all of those things and do them well, even as we do them differently, including using coal by capturing the carbon.

By the way, there are a lot of ways to do that. Sandia National Laboratories is working on ways to change the way we think about CO_2. Yes, CO_2 is a major problem, but it can also be a product. Why don't you think of this not just as a problem but a product? What kind of beneficial use can you develop with CO_2 that turns a problem into an asset?

I chair the subcommittee on appropriations that funds the energy research and development for the Department of Energy. We are doing a lot of unbelievable things that take a look at beneficial use of CO_2. Even as we reduce the emissions into the atmosphere to try to protect this planet, we can find ways to use CO_2 in a beneficial way and protect our planet.

My point is this about taking up legislation: Some say, well, you have to bring climate change to the floor of the Senate right now. Look, I don't think there are 60 votes for a climate change bill. But if that is the case, we will see. But at this point, we do know we have a bipartisan bill on energy legislation from the Senate Energy Committee does all of the right things. We ought to try to reduce our dependency on foreign oil and do that soon. We can do that by bringing the Energy bill we have already passed on a bipartisan basis to the floor of the Senate—the sooner the better, in my judgment.

I know we are short of time. I know Senator REID and others—

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. DORGAN. We have all talked about the prospects of debating energy legislation and want to do the right thing. I hope, as the President indicated last night, the right thing is to pass good, comprehensive energy legislation that will make us less dependant on foreign oil and begin to address climate change at the same time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

GULF OILSPILL

Ms. LANDRIEU. I rise today for the purposes of giving some context and commenting in response to the President's speech last night as well as to some of my colleagues who have spoken on the need for a comprehensive energy policy as we move forward. But I would like to begin by just reminding us all that today is the 57th day of what may prove to be one of the most damaging environmental accidents in our Nation's history.

Fifty-seven days ago, the tragic explosion of the Deepwater Horizon took the lives of 11 men and unleashed an uncontrolled and uncontrollable, to date, torrent of oil and gas into the

Gulf of Mexico. It threatens our environment, and it threatens our economy and the wetlands that underpin a way of life, a precious way of life in the gulf region.

I have had the—I guess unfortunate opportunity to spend some time with the widows. And I say ''unfortunate'' because I wish I could have met them under different circumstances. But to hear their remembrances of their husbands, to hear the way they expressed to me the heartfelt commitment their spouses had to this industry and to their work and their call for this work to be more safe, for companies to be held accountable, but also their call—which I think serves as real testimony on their behalf to the American people—their call for this deepwater industry to continue, was very moving to me and to all people who I think have had the opportunity to meet these young and very impressive women. I was proud to introduce the Senate resolution honoring these men and their families. I wish to thank my colleagues for agreeing to this resolution unanimously.

But today I wanted to speak on three important issues relative to this general situation: one, the need for better safety regulations and improvements at MMS; the other, the impacts of this moratoria; and the call for accelerated revenue sharing and an accelerated claims process. First, let me begin with the need for better safety regulations.

There are more than 300,000 men and women who work in the oil and gas industry in Louisiana alone. There are a significant number of them who work offshore and directly support both the offshore and onshore industry. The offshore crewmen know this work can be dangerous. They go through a variety of safety drills and regulations routinely. And we owe it to them to make sure these activities are safer in the future. For this reason, I have fully supported a thorough review of offshore drilling safety standards and have applauded the Department, and particularly Secretary Ken Salazar, for his willingness to clean house at the Minerals Management Service.

This tragedy brought to light an unhealthy relationship that has existed, unfortunately for many years, between the oil industry and the Federal regulators who are called to regulate them, to make sure this industry is safe. That must be changed. The regulators did not have the resources to push back. They did not have the expertise.

We in Congress bear some responsibility for that. And that did not start under President Obama's administration, but it should end under President Obama's administration. This Congress systematically undermanned and underfunded this important agency by not giving it the appropriate attention it needs, and it is our responsibility to fix it.

I look forward to meeting with the man whom the President has appointed or nominated to head MMS. I will be making my own independent decision of whether he is the right person for this position. Until I meet him and talk with him and understand a little bit more about him, I will reserve my judgment.

We need a Minerals Management Service that is to be a proud, competent, and respected industry watchdog. We need the watchdog back. We need the cop back on the beat if we are to ensure that an accident of this magnitude never happens again off our shores. As I have said, Minerals Management—many of these employees are my constituents. One of their main offices is in Metairie, LA. I have been there. I have met many of them, and they are some very good people. But they need to be well managed. They need to be well led. They need to be given the resources they need to do the job they can do if that happens.

The Coast Guard also has a role to play. We should strengthen the Coast Guard's role and make sure that between Interior and the Coast Guard, they are getting the job done for the American people.

Nobody in the country wants this job done better, nobody wants this industry more safe than the people from Louisiana and Mississippi and Alabama and Texas who man these rigs, although, as you know, when you were with me, Mr. President, some of our people said to you in the meeting just last week: We were grateful for the men from Illinois who came down to work on these rigs. So we want people to know we have people from all over the country, from Illinois and Maine who come and do shifts 2 weeks offshore, make a good living for their family, support their families for years. We want it to be safe for everyone.

So I applaud the President and Secretary Salazar for getting MMS back on the right track. That work needs to be done. As I said, the cop needs to be put back on the beat.

Let me speak for a few minutes, though, about this ill-conceived and arbitrary 6-month moratorium. The effort the President is making to ensure this terrible tragedy never happens again is commendable. It is beyond aggravating. It is disgusting. It angers us so much to see the terrible tragedy unfolding on our televisions and to open newspapers across the land and see the most horrific pictures of wildlife being affected, of dolphins and pelicans and birds, precious places to us that we not only work but vacation with our families for many years.

It is very hard to look at those pictures. Americans are suffering through this as we watch this horror movie unfold. But what the President has done could cause even more economic damage than the spill itself, by putting a 6-month moratorium on all rigs drilling below 500 feet.

I know we have to make sure these 33 floating rigs that drill in deep water and the other standard platforms that drill between 500 and 1,000 feet are safe. But I wish to say unequivocally and with the support of the vast majority of the people of my State and throughout the gulf, 6 months is too long. The deepwater industry cannot survive in the gulf with a 6-month pause. This work has to be done more quickly. The commission was announced last month. It was just seated a few days ago. The work is just beginning. There doesn't seem to be a sense of urgency. We need a greater sense of urgency to get this work done.

I was pleased to hear the President say he has urged them to get their work done before the 6-month timeframe. That was a slight step in the right direction. But this work has to be done in a much shorter period than 6 months. These rigs will not stay in the gulf for 6 months idling at a cost of $500,000 a day. They can't be fiduciarily responsible to their investors and do that. They have to move to where they can drill. So they will. We have already received signals they will simply pick up and move off the coast of Africa or Brazil or Cuba or other places—Venezuela—to drill. They can't sit idly in the gulf. We have to figure out a way to make sure they are safe, that this never happens again, and make sure they don't leave. That is the challenge before this administration in the next couple of days and weeks, starting with a meeting I will have with Secretary Salazar this afternoon with a broad coalition of leaders, both from the private sector and the public sector, who are committed to keeping the economy of the gulf coast strong. We have to find a way forward that is somewhere between doing nothing and having all of these rigs leave and not come back for several years. That is one of the points on the moratorium.

Second, I wish to ask the President for his personal support and the support of this body to accelerate revenue sharing, or to accelerate revenue sharing to accelerate a large stream of revenue that is reliable for the Gulf Coast States to be able to rebuild our barrier islands, to rebuild our coast, to sustain this economy and this ecology and this environment over the long run so we can produce the oil and gas this country desperately needs.

Even though this Horizon accident happened 57 days ago, 57 days ago this country was using 20 billion barrels of oil a day. Today, 57 days later, 11 lives lost, the rig at the bottom of the ocean, we are still using 20 billion barrels a day. The President did not say to people last night to park their cars and walk to work. He didn't say that. I didn't hear him say that.

We have to understand we have to continue to drill for oil and gas. But when we drill for oil and gas, the taxes that are paid to the Federal Government and have been paid over the years to the tune of $165 billion to the Federal Government from severances and royalties, that some of that money

come back to the States of Louisiana, Mississippi, Alabama, Texas, and, yes, even Florida, in my view, even if they decide not to drill. They are at risk. They are at the front line. We are not the only coastal States, but we are the frontline coastal States. Those revenues need to come back to us.

We passed a bill some years ago, a bill I worked on for 15 years, called the Landrieu-Domenici Gulf of Mexico Energy Security Act. That bill is in effect. But because of concerns about the deficit, because of a lack of understanding of the urgency by this Congress and past Congresses, that money doesn't come to us until 2017. We can see that is too late. We can see it with our own eyes. We can feel it with our own heart. We can see it is too late now. We needed that money 20 years ago. We needed it 5 years ago. We need it today.

For any energy bill to pass, with all due respect to my good friend, BYRON DORGAN; with all due respect to Senators who have been leading this energy effort, there will be no energy bill. The gulf coast Senators will not allow it. There will be no energy bill of any magnitude without recognizing the vital need for these Gulf Coast States to share appropriately, as interior States share the revenues for drilling. Interior States such as New Mexico, Wyoming, Utah keep 50 percent of the taxes. So the State of Wyoming last year got $1 billion. We could clean up a lot of pelicans with $1 billion. Louisiana got virtually nothing.

Our people are on the front line with oil washing up to their knees, and this Congress basically keeps 100 percent of the money. Those days are over. We are going to have some kind of accelerated revenue sharing in any energy bill. Gulf coast Senators will not allow a bill to pass this floor without something we believe is fair to our people.

The third issue I wish to speak to the President about and to the Congress—and the President mentioned it last night, and I am grateful—is an accelerated claims process. These claims are going to be different than any kind of claim process that has been paid, maybe similar to what happened after Katrina and Rita, as Mississippi and Louisiana and Alabama struggled with how to make people whole. This is going to be a complicated and difficult situation. We have workers who can't work, who were used to making $500 to $1,000 a week, pretty fairly decent wages, not great but decent. They have not been able to work for a long time.

The PRESIDING OFFICER. The time of the Senator has expired.

Ms. LANDRIEU. I ask unanimous consent for 5 additional minutes.

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

Ms. LANDRIEU. Mr. President, that is a modest wage and a decent wage. But it gets a lot more complicated than that. There are boat captains who were getting their business back after Katrina and Rita, recreational boat captains, fishing captains. Unlike Florida where people will come to the beach and then they will see a boat charter and they will wander onto the wharf and charter the boat, that does not happen in Louisiana because we don't have many beaches. People call from Mexico and Canada and all over the country months in advance and charter a specific boat with a specific captain because we have some of the best fishing in the world. They come with their sons and daughters and their grandsons and granddaughters. They come down with major corporate groups and do this chartering. These companies make millions of dollars a year. They can't work either.

This claims process is going to be difficult. We have restaurants in New Orleans that are 70 miles from the gulf. They have had to either shut their doors or turn down their number of hours of operating or take things off their menus. I don't know how we will calculate the economic damage to them. This is going to be complicated.

We have hotels. We have retirees who own three or four condos. A woman came up to me and said: MARY, my mother is not a business person. She is a retiree. She owns a couple of condos in Florida. That is her retirement income. She rents out these condos. She has had all cancellations this summer. What am I going to do for her?

That is a good question. She will file a claim.

From retirees with condos they rent out to supplement their incomes to fishing boat captains to hotels to restaurants and to the workers themselves, I am glad the President is taking the bull by the horns with this claims process. I hope he is having a frank discussion with Tony Hayward at his office today about that to make sure we don't have one bankruptcy, that we don't have one business, a small business or a medium-size business or a large business that goes bankrupt because of BP's gross negligence in the Gulf of Mexico. They have put the industry at risk. They have put the gulf coast at risk. That claims process needs to work. We have a great job to do ahead of us.

Those are the three points I wished to make. One, we most certainly need to move forward on a balanced energy bill. There will be no energy bill; gulf coast Senators will block anything that does not have immediate help for Gulf Coast States. Let my colleagues be on notice. We can debate the rest of the bill, how we move forward, whether we do nuclear or a portion of drilling or wind or solar. These Gulf Coast States are on the front lines, and we are going to get justice for them in the near future. We are going to accelerate and make the claims process more robust, and we are going to continue to put pressure on the White House and Secretary Salazar, respectfully, but appropriately, to say: Let's get our safety work done in the gulf. We cannot lose this industry. We cannot lose these jobs. Our economy depends on it.

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

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

The legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The Senator may proceed.

Mr. BURRIS. Mr. President, I recognize this is Republican time, and should a Republican come, I will then yield the floor to that colleague of mine.

(The remarks of Mr. BURRIS pertaining to the submission of S. Res. 559 are printed in today's RECORD under ''Morning Business.'')

GULF OILSPILL

Mr. BURRIS. Mr. President, very briefly, in terms of President Obama's speech last night on the crisis in the gulf, I just want to let it be known for the record that I support our President in that speech and every effort he has made in trying to get direction and a solution to the problems we are experiencing down on our gulf coast.

I find it disheartening and disappointing all these commentators who want to attack our President, want him to be angry, want him to act. I have no idea what they want this man to do. But I know this man is doing all he can for the people of America. I ask those commentators to get off of his back, stop attacking the President, who had nothing to do with that problem and is putting everything he has with the resources America has to solve this problem.

This has never happened before in our history. It is a problem beyond comprehension. Yet, still, these Monday morning quarterbacks sit back and criticize and bring out their undocumented types of statements about our President that I just feel emotionally disturbed about.

So I say to all Americans, this President is doing all he can to support this issue we are facing, and you have to deal with BP, you have to deal with Transocean, and you have to deal with Halliburton. Those are the ones who are responsible for this problem. Let's go after them. Make them pay. Make them deal with this and get the solution and, therefore, Americans can move forward.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I come to the floor today to talk about the crisis we are having in the Gulf of Mexico and how it is impacting Florida, with the worst economic and environmental disaster in our Nation's history.

Yesterday, I had the opportunity to be with the President of the United States, along with our Governor, Congressman JEFF MILLER, and other State and local leaders, and we talked to the President about the oilspill and what needs to be done in order to mitigate the damage that is happening to Florida and the other Gulf States.

The most important thing I wanted to stress with the President of the United States is that after capping the well, which is job 1—and we have some confidence and the President reported he hopes by the end of this month at least 90 percent of the oil will be captured from the wellhead—but the next most important priority is keeping that oil from coming on shore.

Right now, there is a slick of oil that is 2 miles wide and 40 miles long. It is oil that has come up, apparently, off the bottom of the ocean. There is this ''lava lamp'' effect that is happening now, where the oil, depending upon the heat of the day, is sinking and rising in the ocean. This is part of that plume that British Petroleum said did not exist, and it is a darker and heavier oil than what we have seen before. This is not merely the sheen that is on the top. That oil is right off the shore of Pensacola.

We need to make sure that oil does not come ashore, does not come on our beaches, does not get into Pensacola Bay, does not go through the Perdido Pass, does not get into those wetlands and marshes. The best way we can do that is to get more skimmers off the coast of Florida.

As of yesterday, there were 32 skimmers off the coast of Florida. That is simply unacceptable. We know from Admiral Allen that there are 2,000 skimmers in the United States. I brought this point up to the President of the United States.

Maybe all of them are not available to come to Florida. But if 500 of them were available to come to the Gulf of Mexico, that would be a huge improvement. There should not be 32 skimmers off the coast of Florida; there should be hundreds of skimmers, especially with this looming threat of this oil coming ashore.

I have asked for weeks that every skimmer that is available in this country and every skimmer that is available around the world be on its way to Florida. I brought up this issue with the President and Admiral Allen. Why aren't there more skimmers? I was told that Admiral Allen is trying to get as many as possible.

We need a sense of urgency to get those skimmers off our shores.

I asked specifically about foreign countries offering aid to bring their skimmers to Florida and the other Gulf States and I was told that we have help from foreign countries, but yesterday the State Department says that 21 offers from 17 countries to bring help to Florida and the other Gulf States have been refused. Which is it? Are they helping or are we refusing them? We have to get that communications mishap, that misunderstanding, under control. If the foreign countries want to bring their skimmers here, we should welcome them, and the other equipment they can bring to help us ameliorate this oil as it comes ashore.

I am going to stay laser focused on this. We are going to do a skimmer watch. Every day I am here, I am going to come to the floor and report to this Senate, this Congress, and the people of the United States how many skimmers are off the coast of Florida. This is something the Federal Government should do. Thirty-two skimmers sounds as though my buddies and I got some boats out there and did it. It doesn't sound like the Federal Government. The lives of the people of Florida are at stake. Their businesses, their livelihoods are at stake.

I was told by the owner of the pier in Pensacola and a lady who worked for him that people are coming to the beach in Pensacola to see the beach one last time, as if they were visiting a friend on his or her deathbed, because they don't think the beach is ever going to look the same. So they are coming with their cameras and they are bringing their children and showing them what a snow-white beach looks like because they don't think they are going to see it again.

I have had grown men—men I have known 10, 20 years of my life, professionals—come up to me with tears in their eyes worrying about what this is going to mean for Florida. Ninety percent of Floridians live within 10 miles of the coast. People move to Florida because they love the water. We have more recreational boaters and fishermen than any other State. We have more coastline than any State in the continental United States. Only Alaska surpasses us in coastline. We have more beaches than any State in the United States. Water is part of our way of life, and we need to see a more robust effort.

I am appreciative of the President on this escrow fund he has set up, and we have just gotten a report that BP is going to put $20 billion into this escrow account. We have been asking for this since the beginning of May. I am glad the President got it done. While I don't always agree with the President, where credit is due, credit should be given, and he should be given credit for this and getting it done. We need those dollars to pay claims. We need those dollars because Floridians are getting mixed results from BP about paying those claims. So I am appreciative of the President for taking the idea, executing it, and getting it done. Now we need to see the same attention to detail and urgency in trying to keep that oil from coming to shore, and I look forward to that.

We have failed from the beginning to understand the scope of this spill. On April 23 we thought there were 200 barrels a day leaking. On April 28 it was moved up to 5,000; May 27, 19,000; June 10, 40,000; today, 60,000 barrels a day. Sixty thousand barrels a day leaking into the Gulf of Mexico. That is 2½ million gallons per day; to date an estimated 146 million gallons. We are eclipsing the Exxon Valdez each week that goes by.

We have to stay vigilant. The President must stay involved. I hope he will come back to Florida. We are going to look for him to lead us through this. No one wants the President to succeed more than I do in this particular matter because it is the livelihood of Floridians. It is our economy and it is our environment that is at stake.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Missouri.

Mr. BOND. Mr. President, I rise today to speak about the Thune amendment.

In a few weeks we will celebrate our Nation's birthday. I find it ironic that 234 years after our forefathers first led the fight for independence with the battle cry of ''no taxation without representation,'' I am hearing similar protests from Missourians today. Their frustration is not only understandable, it is warranted.

Missourians and, I believe, Americans in every State across our Nation have said: No more. They have said no to runaway spending. They have said no to more big government policies. Failing to represent these views, the majority in Congress has fallen down on the job.

It is no wonder that Americans feel as though Washington is not listening since my friends on the other side of the aisle are asking us to ignore our Nation's $13 trillion debt, the largest in our Nation's history, and pass a bill that would add nearly another $79 billion to the deficit.

But there is a better way. There is a more responsible way. My colleague from South Dakota, Senator THUNE, has offered a substitute amendment that is paid for—paid for—cuts the deficit by $68 billion, and includes all the major priorities agreed to on a bipartisan basis by Democrats and Republicans.

In the Thune substitute, of which I am a proud cosponsor, we have a real opportunity to show the American people that we in Washington are listening. We have an opportunity to show the American people we are serious about addressing the most severe financial crisis this country has ever faced, and we have an opportunity for a rare moment of bipartisanship which, in recent years, has become all too uncommon in this body.

As does the proposal from Senator BAUCUS, the Republican alternative extends expiring unemployment benefits

for struggling families until November; and as does the Baucus bill, the Republican alternative extends tax breaks to small businesses which they so desperately need to get back on their feet and start creating jobs. We need to assure them the longstanding tax benefits they depend on will continue.

However, unlike the Baucus bill which the majority is using as a vehicle to increase taxes permanently, increase spending and increase the deficit, the Republican alternative cuts taxes even more by an additional $26 billion, cuts spending by over $100 billion and, according to the Congressional Budget Office, reduces—reduces—the deficit by $68 billion, instead of increasing it.

The Thune amendment also stops the cuts to doctors and provides a 2-percent increase in Medicare reimbursement payments that go to doctors this year, and an additional 2 percent in 2011 and 2012. That is one more year than the doc fix in the Baucus bill, and it is actually paid for, not put on our children's credit cards.

I have heard from doctors across Missouri and they can no longer face the devastating cuts that threaten their livelihood and threaten our seniors' access to care. They are telling me they are going to have to stop taking Medicare patients, because the way Medicare is implemented now, they only get 80 percent of what it costs them to provide the service and they are saying, We just can't cut any more—we can't take any more Medicare patients. Hospitals are saying the same thing. That is before the half trillion dollar cut in Medicare reimbursement comes in. It perplexes me that the majority has not addressed that problem in what they told us was a comprehensive health care law.

Something else that was largely left out of the new health care bill was malpractice reform. The Thune amendment corrects this oversight and enacts comprehensive medical malpractice reform that will save up to $49 billion over 10 years.

My friend from Montana, Senator BAUCUS, takes the opposite approach. The bill he and the majority leader are asking us to support increases spending by $126 billion, including over $70 billion in new and permanent tax increases, and will increase the deficit by $79 billion over the next 10 years. The Baucus-Reid bill is exactly the kind of approach that history has shown us won't work and the American people have told us they don't want.

The American people have had it with Washington-gone-wild policies. They have had enough of the spending, the tax increases, the debt, the bailouts, the big government job-killing policies that have been pushed through Congress and have been supported by the administration. Today, the Republican alternative offers the majority an opportunity to reverse course, to end the out-of-control spending and get serious about fiscal responsibility.

When facing a crisis, words mean very little. To say you are concerned about the debt while voting to increase it means very little to our children and grandchildren who will have that bill on their credit cards and will have to foot the bill in the future. As the old country and western song goes: We need a little less talk and a lot more action. The Thune amendment offers us a real chance to bring sanity back to Washington policies and for Members of this body to show the American people they are serious about meeting needs while also addressing our growing deficit.

I urge my colleagues to join me in supporting the Thune amendment and, after months of ignoring them, finally demonstrate to the American people that, yes, we are listening to them, we are concerned, we are going to do something about the debt, the deficit, and the other problems this country faces.

Mr. President, I yield the floor.

RECESS

Mr. BOND. Mr. President, I ask unanimous consent that the Senate stand in recess.

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

Thereupon, the Senate, at 12:56 p.m., recessed, and reassembled when called to order by the Acting President pro tempore.

AMERICAN JOBS AND CLOSING TAX LOOPHOLES ACT OF 2010—Continued

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

Mr. CARDIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of debate only until 3:30 p.m., with no amendments or motions in order during this time, and that the time be equally divided and controlled between the leaders or their designees, with Senators permitted to speak therein for up to 10 minutes each, and that the order for recognition for Senator BAUCUS remain in effect.

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

Mr. CARDIN. Mr. President, before I suggest the absence of a quorum, I ask that the time be equally divided between the majority and the minority.

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

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Mr. President, the Senate will soon vote on the American Jobs Act—a critical bill that would create jobs and help expand small businesses. It would close the tax loopholes that allow far too many large corporations to move jobs overseas. In doing so, it would establish, conversely, tax incentives for American small businesses so they can create jobs in America. We have seen for too many years—and the Presiding Officer, in New Mexico, has seen too many jobs in Albuquerque, Santa Fe, as I have in Cleveland and other cities, move overseas because of trade agreements and bad tax law.

The Senate, we hope, is close to voting on extending unemployment insurance and COBRA subsidies through the extenders bill. Far too many Republicans seem to look at unemployment insurance as welfare. Unemployment insurance is what it is called—insurance. When you have a job, you pay into the unemployment fund. When you are laid off through no fault of your own, you can receive help from that insurance fund. It is as simple as that.

We cannot forget why we are in this untenable position of needing to help small businesses and workers and strengthen the public programs that help Americans find new jobs. We are here because of reckless Wall Street practices brought on by unprecedented greed that has created a crippling recession.

I rise to discuss the Wall Street reform bill, as it is now being negotiated in the conference committee, for a few moments.

Last week, David Wessel noted in the Wall Street Journal—the paper of record for finance, if you will—that when surveyed by the newspaper, leading economists suggested the prevailing belief that the Senate bill didn't go far enough to address the issue of banks being too big to fail.

During the Senate debate, I put forward a proposal with Senator KAUFMAN, of Delaware, that would have addressed the problem by capping the size of megabanks.

Evidence backs up what has been abundantly clear in the last 2 years: Megabanks pose a greater risk and threat to our economy than smaller ones because of the heightened volatility of their assets and activities. Only 15 years ago, the largest six banks in the United States—their total assets were added up to be about 17 percent of GDP. Fifteen years ago, the combined assets of the six largest banks made up 17 percent of gross domestic product. Today, their combined assets make up about 63 percent of the GDP.

Our proposal would have limited the size of bank holding companies at $1 trillion and investment banks at $400 billion. Mr. President, $1 trillion is $1,000 billion. I can't believe people in

this institution would defend, as so many did, that that is not a bank that is too big. Too big to fail, as people as conservative as Alan Greenspan, who is as much to blame for all of this—for the government's total failure during the Bush years to regulate Wall Street—even he said too big to fail is simply too big. Only from the rarefied heights of a glass or ivory tower does $½ trillion appear too limited. Remember, Lehman Brothers had more than $600 billion in assets and liabilities when it failed and sent the markets into a tailspin.

We can all agree that our financial system should never again be on the brink of total collapse and that taxpayers should never have to foot the bill for the mess created by Wall Street. If we want to prevent bailouts, we have to prevent banks from becoming so big that bailouts are necessary. Why wouldn't big banks behave in a risky way when they suspect a bailout will be given? That is why we must not rely on a reactive approach to risks that can undermine our economy. Instead, we must be much more proactive to prevent those risks from ever recurring.

On June 3, Richard Fisher, the president of the Dallas Fed, explained in an important speech why we need to address the size of the megabanks. He said:

> Ending the existence of ''too big to fail'' institutions is certainly a necessary part of any regulatory reform effort that could succeed in creating a stable financial system. It is the most sound response of all. If we are to neutralize the problem, we must force these institutions to reduce their size.

This isn't some far-left or far-right economist; this isn't some bomb thrower; this is Richard Fisher, the president of the Dallas Fed, emphasizing that too big to fail is, in fact, too big.

The Brown-Kaufman amendment wasn't adopted into the Wall Street reform bill that passed this body. Yet I continue to believe that it is essential if we want to prevent giant institutions from driving down the economy. But it is not the only proposal that would address the instability created by the megabanks.

There are several other amendments and issues in the House or Senate bills that I would briefly like to address.

First, the Merkley-Levin amendment ending proprietary trading. Because of Republican obstruction, we were denied the opportunity to vote on that proposal to end the reckless Wall Street gambling called proprietary trading. Opponents of this, particularly from across the aisle, went to such great pains to avoid a vote because I think they knew it had strong support.

The Merkley-Levin amendment would strengthen the Volcker rule in Senator DODD's Wall Street reform bill. It would have barred banks and their affiliates from engaging in proprietary trading, which, in layman's language, is the ''casino gambling'' that has banks selling products to clients with one hand, while betting against the products and their clients with the other hand. That can happen only on Wall Street.

Too many Wall Street banks used their proprietary trading operations to get rich at the expense of their own clients. When those risky bets go bad, American taxpayers are footing the bill. Lehman Brothers' risky bets led to the largest bankruptcy in our Nation's history. Soon thereafter, other Wall Street banks, which also engaged in reckless proprietary trading, brought our economy to the brink of collapse. It is time for Congress to end this self-serving practice where the conflicts of interest are obvious—and dangerous.

Second, Senator LINCOLN's amendment on derivatives. Remember that the five biggest banks control 97 percent of the banking industry's derivatives holdings—five banks, 97 percent. I support Agriculture Committee Chairwoman LINCOLN's proposal, which would separate derivatives dealing from lending at commercial banks.

This provision is important for the same reason as the Merkley-Levin amendment. Sprawling financial institutions increase their lucrative operations at the expense of other more fundamental and traditional banking activities.

Right now, megabank speculation is detracting from their primary job: consumer and small business lending. The fact is, too many banks in New Mexico, Ohio, and all over are simply refusing to lend now. They are not lending the way our economy needs them to do it. This is part of the reason.

The latest report by the Congressional Oversight Panel of TARP, chaired by Elizabeth Warren, looked at how TARP recipients are lending to small businesses. It found that between 2008 and 2009, Wall Street lending portfolios have shrunk by 4 percent, with their small business loan portfolios shrinking by 9 percent. Over the same period, banks' securities holdings increased by almost 23 percent. Traditional lending by the biggest banks, which received 81 percent of government bailout funds, has declined. At the same time, lending to small businesses from medium-size banks, which received 11 percent of the bailout, increased.

Taxpayer-funded assistance, in other words, should not support a bank's gambling, but it should support sound economic growth.

Third, Senator COLLINS' amendment on capital standards was adopted in the Senate bill. It would require the Nation's largest banks to meet, at a minimum, the same capital standards imposed on smaller banks.

Under current law, regulators can often permit large financial institutions to follow more permissive capital standards, while smaller banks are held to a different standard. Capital standards applied equally to all banks would help reduce the risk presented by financial institutions as they grow in size or engage in reckless banking behavior. The principle behind this amendment is sound. Regulators should be empowered to apply and enforce capital standards equally and responsibly—regardless of a bank's size.

Fourth, the amendment Representative PAUL KANJORSKI offered is a provision in the House bill that directs regulators to take action against any financial company that ''poses a grave threat to the financial stability or economy of the United States.'' The grave threat of a large financial institution results from excessive leverage, exposure to other risky institutions, or unstable sources of credit. Because of this provision, Federal regulators could apply stricter prudential standards, limit mergers and acquisitions, and force the selloff of business units and assets.

Finally, there is a provision offered by JACKIE SPEIER in the House which would impose a statutory 15-to-1 leverage ratio on systemically risky banks. Combining this with Senator COLLINS' new capital rule is essential. We tried something like this amendment as part of our larger amendment, with Senator KAUFMAN, in the breaking up of the largest five or six or seven banks.

Placing limits on these banks' leverage—meaning their assets relative to their debt—is critical to ending taxpayer bailouts. They cannot just leverage and leverage, in ratios like Lehman Brothers did, at 30 and 40 to 1. Four of the five largest investment banks were leveraged 30, 35, or 40 to 1 at the time of the financial crisis. That means their assets far outbalanced their ability to cover the debt.

According to the Kansas City Fed, the 20 biggest banks are more highly leveraged than community banks. Because the megabanks are bigger than ever before, bailing them out would cost taxpayers even more than they paid this time.

It is unfair. More important, it is dangerous. The current distortions in the market give privileged, large banks a clear funding advantage. Their implicit government backing is worth up to $34 billion annually. That is Wall Street welfare where large financial institutions continue to receive cheaper rates—maybe 75 basis points is what most economists say—compared to smaller banks.

As the Wall Street reform bill heads into conference, we should not dilute it to appease Wall Street. Wall Street lobbyists are all over this institution—all over the House, all over the Senate. They have already had too much impact on this bill. They have had almost total influence with Republicans. Frankly, they have had too much influence with my political party, too—the Democrats.

We should keep our eye on the ball by stopping financial crises before they start.

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

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

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

Mr. SESSIONS. 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.

ELENA KAGAN NOMINATION

Mr. SESSIONS. Mr. President, I want to speak briefly on the President's nomination of Elena Kagan to the Supreme Court. The more we examine her record, the more concerns there are that her legal judgments might be infected by her very liberal political views.

We see strong evidence of that in Ms. Kagan's memos as a clerk on the Supreme Court. In her work as Domestic Policy Adviser in the White House for President Clinton, we see those strong political views. We see strong evidence of this during her time as dean of Harvard Law School.

Perhaps to some in the elite progressive circles of academia it is acceptable to discriminate against the patriots who fight and die for our freedoms, but the vast majority of Americans, I think, correctly know that such behavior is wrong. It has an arrogance about it and, really, it is not ethical.

When Dean Kagan became dean in 2003, she inherited a policy of full, equal access for the military. But she reversed that policy in clear open defiance of Federal law. She kicked the military out of the campus recruitment office as our troops, at that very moment, risked their lives in two wars overseas.

Some have recently attempted to defend this conduct by arguing that she deigned to speak with the student veterans to discuss whether they would coordinate a sort of second-class system for the recruiters who would come on campus to seek young men and women to serve as JAG officers. This all happened after she had defied the law and had shut down those official channels of recruitment at the official recruiting office. But the Harvard Student Veterans Association plainly expressed to Ms. Kagan in a letter to the entire law school that they lacked the resources to take the place of the campus office now closed to the military.

The letter reads in part:

> Given our tiny membership, meager budget, and lack of any office space, we possess neither the time nor the resources to routinely schedule campus rooms or advertise extensively for outside organizations, as is the norm for most recruiting events.

But Ms. Kagan was unmoved. Instead of welcoming the military recruiters on campus, she punished them, relegating them to second-class status, even leading student veterans to arrange recruiter meetings off campus. In fact, Dean Kagan's public comments contributed to a hostile on-campus environment for both recruiters and student veterans alike. In fact, she said she ''abhorred'' the military's recruitment policy—blaming soldiers for the decisions of lawmakers—the Congress—and the President. She called it a ''moral injustice of the first order,'' and participated in a student protest opposing military recruiting on campus.

Stunningly, she expressed sympathy for students and faculty for whom she said ''the military's presence on campus feels alienating.'' Those alienated by the military's presence were not the ones who needed the sympathy, they needed a history lesson. They had the freedom to complain and protest from the safety of Harvard's campus because of the blood and sacrifice of the men and women who wear our uniform.

If you talk to student veterans who were on campus during 2004 and 2005, you will learn many of them felt exploited. Here were people who had just returned from battles in Iraq, dodging enemy gunfire, and they were supposed to quietly hustle the military recruiters through the back door and provide political cover for Dean Kagan.

In a report for NPR, one student veteran who was there summed it up this way:

> Getting us to carry her water on military recruitment through the back door was a bridge too far. I came to view her as a very smooth political person.

Ms. Kagan said her mistreatment of the military was justified by her view that don't ask, don't tell was a ''moral injustice of the first order.'' But don't ask, don't tell was created and implemented by President Clinton. Where was her outrage during the 5 years she served in the Clinton White House? Why would she blame the military? They didn't pass the rule. It was Congress and the President.

So Ms. Kagan didn't take a stand in Washington when she was here, where the policy was adopted, but waited until she got to Harvard and then stood in the way of hard-working military recruiters who had nothing to do with establishing the policy.

Now information has come to light suggesting that Ms. Kagan may even have been less morally principled in her approach than has been portrayed. Around the same time that Dean Kagan was campaigning to exclude military recruiters—citing what she saw as the evils of don't ask, don't tell—Harvard University accepted $20 million from a member of the Saudi Royal family to establish a center for ''Islamic Studies'' and Sharia law. An Obama State Department report concerning Saudi Arabia and the Sharia law concept noted:

> Under Shari'a as interpreted in [Saudi Arabia] sexual activity between two persons of the same gender is punishable by death or flogging.

Ms. Kagan was perfectly willing to obstruct the military, which has liberated countless Muslims from the hate and tyranny of Saddam Hussein and the Taliban, but it seems she was willing to sit on the sidelines as Harvard created a center funded by—and dedicated to—foreign leaders presiding over a legal system that would violate what would appear to be her position. She fought the ability of our own soldiers to access campus resources but not those who spread the oppressive tenets of Sharia-type law.

Perhaps her response was guided by campus politics, but certainly Ms. Kagan lacks any experience as a judge or as a lawyer, and not much as a scholar of law. She hasn't written much. Much of her career has been spent actively engaged in liberal politics not legal practice, and there are serious questions as to whether she would be able to set aside that political agenda that has defined so much of her career. I think that is the test we try to give a fair evaluation of this nominee.

So these are important issues, and she will have an opportunity to discuss her views. I expect many Americans will be listening closely, but it will be important that any nominee to the Supreme Court be able to assure with great confidence the American people—and this Senate—that if confirmed, he or she would be faithful to the law, to serve under the Constitution, and not above it, and not have their political agenda infect their rulings, which must be nonpolitical.

I thank the Chair, and I yield the floor.

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

Mr. REID. Mr. President, I appreciate my friend from Alabama wrapping up his speech.

AMENDMENTS NOS. 4344 AND 4351

Mr. President, notwithstanding the pendency of a motion to concur, I ask unanimous consent that it be in order for the Senate to now consider the Reid amendment No. 4344 in its current form and the Isakson amendment No. 4351; that the amendments be debated concurrently until 2:45 p.m.; that at 2:45 p.m., the Senate proceed to vote in relation to the Reid amendment, to be followed by a vote in relation to the Isakson amendment; that each amendment be subject to an affirmative 60-vote threshold; that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if they do not achieve the threshold, then they be withdrawn; that no amendment be in order to either amendment; that if either amendment is agreed to, then once the Baucus motion to concur has been made, the amendment be considered incorporated in the motion to concur.

I further ask there be 4 minutes between the two votes equally divided.

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

Amendments Nos. 4344 and 4351 are as follows:

AMENDMENT NO. 4344

(Purpose: To amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit)

At the appropriate place, insert the following:

SEC. —. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010' '' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010' ''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010' '' after ''for 'July 1, 2010' ''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to residences purchased after June 30, 2010.

(d) OFFSET.—

(1) DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred after December 31, 2011.

AMENDMENT NO. 4351

(Purpose: To amend the Internal Revenue Code of 1986 to extend the time for closing on a principal residence eligible for the first-time homebuyer credit)

At the appropriate place, insert the following:

SEC. —. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010' '' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010' ''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010' '' after ''for 'July 1, 2010' ''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to residences purchased after June 30, 2010.

(d) TRANSFER OF STIMULUS FUNDS.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009, from the amounts appropriated or made available and remaining unobligated under division A of such Act (other than under title X of such division A), the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the net decrease in revenues resulting from the enactment of subsections (a) and (b).

Mr. REID. Mr. President, my friend from Georgia is here, so I will be very quick. In fact, he can take 3 of the 4 minutes between the votes.

The home buyer credit has been wildly successful in stimulating home purchases. I have heard from a number of Nevadans who have met the April 30 deadline for having a binding contract for a home—and not only Nevadans but all over the country—but are very concerned they will not be able to close their transaction by the end of this month.

The failure to meet the June 30 deadline is not the fault of the home purchaser. Banks, title companies, and closing agents are swamped as a result of the success of this program. Many home buyers are stuck waiting for banks to make decisions on short sales. Unfortunately, the banks making these decisions feel no sense of urgency, leaving home buyers powerless to meet the current deadlines. They simply don't care, as has been shown during this entire period of time. The banks don't care about the home buyers or the homeowners.

My amendment extends the deadline for 3 months. This will give the homeowners time and the home buyers time to close their home purchases. My amendment is fully offset by disallowing a tax deduction for punitive damages paid in connection with a judgment or settlement.

Mr. DODD. Mr. President, I wanted to take a few minutes today to speak in support of the amendment offered by my dear friend and colleague from Nevada, HARRY REID. I am proud to be cosponsoring this important amendment. Last November we passed, with bipartisan support, an amendment that extended the very successful first time homebuyer tax credit and expanded it to the ''move up buyer.'' My good friend from Georgia, Senator ISAKSON was instrumental in crafting this extended and expanded tax credit and I want to commend him for all the work he has done on this issue. Under that legislation, which we worked on together, homebuyers who were eligible for the credit had to sign a binding contract for their new home by April 30 and close by June 30 to receive the credit.

As of April, the Internal Revenue Service estimates that 2.6 million Americans have used the credit. The National Realtors Association reported that home sales rose by 6 percent between March and April this year as Americans clamored to qualify for the credit. That increase marked the third consecutive month that home sales grew. And that is exactly what this legislation was intended to do—spur home sales and bring the housing market back to life.

There are between 55,000 and 75,000 eligible homebuyers who entered into contracts to purchase a principal residence by April 30, but who will not get the benefit of the homebuyer tax credit because they do not close by June 30. There are a variety of reasons this might occur: the seller is unable to secure a timely approval from their lender for sales related to distressed properties; recent natural disasters have damaged the property; or the homebuyer has experienced delays in the processing of their Federal mortgage program application.

This amendment would extend the closing date deadline from June 30 to September 30 so that these eligible homebuyers can still claim the credit. I want to make very clear that this amendment does not extend the credit to new applicants—they must still meet all the eligibility requirements and be under contract by April 30. This amendment just gives them more time to close the deal.

At the end of the day, this amendment is really about fairness for the thousands of homebuyers who might be ineligible for the credit simply because it is taking longer than usual to complete their paperwork. It is simply unfair to allow homeowners who played by the rules to lose this credit due to administrative challenges beyond their control. I also want to note that this provision is fully paid for by denying corporations the ability to deduct punitive damages from their taxable income. Once again, I thank the majority leader and his staff for crafting this fiscally responsible amendment to help homebuyers. I urge all my colleagues to vote for this amendment.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I will be brief. This deals with two amendments, and both do the same thing, except for the way in which they are paid for.

I appreciate very much Senator REID's interest in this as the leader. I have worked on this issue, as everybody knows, for a long time. We passed unanimously in the Senate last year a home buyer tax credit which ended on April 30 for contract date. Unfortunately, because of the backlog of appraisals and the current FDIC regulation, a lot of people who qualified for the credit are not going to be able to

close by the end of June, and they will lose the credit because we put a June 30 closing date as the deadline for closing the credit earned by the contract of April 30.

Both amendments merely move that June 30 date to the end of September, which gives another 90 days to close the transaction that has already been under contract for 60 days. It ensures Americans they will get what the Senate promised them in terms of the tax credit, if they in fact performed and qualified prior to April 30.

The difference in the two amendments is the pay-for. One is doing away with the deductibility of punitive damages, which is Senator REID's. The other is mine, which takes it from the unspent $50 billion in stimulus money. And the pay-for, by the way, in both cases, is not a lot of money in the scheme of things. It is a lot of money to me and you, but it is $140 million and not $50 billion.

So I would certainly appreciate support for the Isakson amendment, and I appreciate the support of Senators DODD and REID. I yield back the remainder of my time, and I ask for the yeas and nays on the Reid amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to amendment No. 4344.

The clerk will call the roll.

The legislative clerk called the roll.

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

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

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

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—60

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

NAYS—37

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

NOT VOTING—3

Byrd	Roberts	Warner

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 37. Under the previous order requiring 60 votes for the adoption of the amendment, the amendment is agreed to.

Mr. DURBIN. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4351

The PRESIDING OFFICER. Under the previous order, there is 4 minutes equally divided on the Isakson amendment No. 4351.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, this is a tax credit extension, as with the previous amendment, but with a different pay-for. The previous was deductibility of punitive damages. This one is from the stimulus money. Both accomplish the same thing, which is allowing Americans who qualified for the tax credit by contracting by April 30 to close by September 30 rather than by June 30. The reason we are pushing it forward is because FDIC rules, regulatory rules and appraisal rules, are forcing closings taking as long as 120 days. This doesn't give anybody a credit who hasn't already earned it. It just allows them to take advantage of it by protracting the closing date so they would have enough time to close. I urge a positive vote on the Isakson amendment.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I oppose this amendment. Recovery act money works. It adds to reducing unemployment. It adds to the economy. It is very productive. It is helpful. It makes no sense to cut back recovery dollars that work, that help our economy. I, therefore, strongly oppose the amendment.

Mr. ISAKSON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

All time is yielded back. The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

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

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

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—45

Alexander	Crapo	Lugar
Barrasso	Dorgan	McCain
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Nelson (NE)
Brown (MA)	Grassley	Nelson (FL)
Brownback	Gregg	Risch
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Conrad	Klobuchar	Voinovich
Corker	LeMieux	Webb
Cornyn	Lincoln	Wicker

NAYS—52

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

NOT VOTING—3

Byrd	Roberts	Warner

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 52.

Under the previous order requiring 60 votes for adoption of this amendment, the amendment is withdrawn.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that debate be extended until 4:30 under the same conditions and limitations of the previous order; further, that during this period, any quorum calls be equally divided.

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

Mr. REID. Mr. President, I suggest the absence of a quorum, and I ask that the time during this quorum call be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4333

Mrs. HUTCHISON. Mr. President, I rise today to speak on the Thune amendment. This is the Republican alternative. Of course, we now know the Baucus package did not get the 60 votes required to go forward and, therefore, we are now looking at the Republican substitute and waiting for a new bill to come from Senator BAUCUS.

I think it is so important that our Senate say to the American people

that we know the debt being created in this country is unsupportable. Our bailouts have skyrocketed, our spending, our borrowing, now taxing—it is more than the American people can stand.

Our national debt now tops $13 trillion. Since President Obama took office 18 months ago the debt has grown by over $2.4 trillion. The President's budget shows there is no end in sight. It doubles the national debt in 5 years and triples it in 10.

In order to sustain this current spending level, the Federal Government is being forced to borrow 40 cents for every dollar it spends this year. The Federal Government is spending 67 percent more than it is earning. This is similar to a household that earns $62,000 but spends $105,000.

From whom are we borrowing that money? We owe China over $900 billion, Japan nearly $800 billion. Every household in America knows what it is like to set a budget. They know what the income is, and they know how to stick with it. It involves setting priorities, making tough decisions, and discipline.

The bill we are debating on the Senate floor today includes important policies that are national priorities, and I support many of them. However, it is time that the Federal Government does what every other household does; that is, pay for our priorities.

Here is what the Thune amendment does. It extends the expiring unemployment provisions until November, the expired tax provisions, including the local and State sales tax deduction through the end of the year. So we know that any of the expired tax cuts that people have been counting on that have been in place for several years would go through the end of this year so people would know that is at least one stabilizing force on which they can count.

It drops the job-killing tax increases in the Baucus substitute. The Thune amendment proves that government can make the tough choices. The Thune amendment is paid for. According to CBO, it cuts taxes by $26 billion, it cuts spending by over $100 billion, and it reduces the deficit by $68 billion over the next 10 years. It shows the American people that this Senate is serious about stopping the deficit spending we have seen in the last 18 months.

Spending cuts in the Thune amendment: one, it rescinds the unobligated stimulus funds; two, it imposes a 5-percent, across-the-board cut in government spending for all Federal agencies except the Veterans' Administration and the Department of Defense; three, it freezes for 1 year Federal employee salaries, including, of course, Congress. It is very important that our Federal employees have the same kinds of restrictions that most Americans are feeling right now. It is a freeze, not a cut, in Federal employee salaries. It requires the selling of $15 billion of unneeded and unused government property.

I believe the doctor fix that we have done in a patchwork way year after year since the balanced budget amendment is now another patch.

Medicare pays doctors in a fundamentally broken way. It has become an access-to-care crisis for our seniors. Too many seniors are unable to find a doctor who takes Medicare because the Federal Government has proven time and again that it is an unreliable business partner. We need a long-term solution so that the best and brightest in our country will choose medicine for their career and will choose to serve Medicare patients. Medicare is supposed to make seniors comfortable that they will be able to get medical care, but so many Medicare patients cannot find good doctors; they can't go to the doctors they want to see because the doctors have just said: I have had enough.

In Texas, over 60 percent of our counties are considered health professional shortage areas. The number of medical school graduates choosing primary care has dropped 50 percent since 1997. Fifteen medical specialties have reported physician workforce shortages, and we could face a physician shortage of more than 150,000 physicians in the next 15 years.

The Thune amendment provides over 2 years of a positive update for our Medicare physicians paid for by the kind of tort reform that has saved Texas doctors so much. The tort reform has brought down insurance premiums in Texas and we have increased our number of doctors since tort reform was enacted.

We could do the same thing at the Federal level, and then the many counties I hear about from my colleagues all over our country that don't have a primary care physician or don't have an OB–GYN physician would be able to start seeing an influx of medical personnel back into the practice of medicine.

We can do something good for America. We can show America that Congress understands that this debt is unsustainable, if we pass the Thune amendment. It is essential that we pass an amendment that will pay for the extension of unemployment insurance, that will not have any more deficit spending and not increase taxes.

We need to continue the cutting of taxes so that our businesses will feel they can hire people, so that we will have an economy that can be sustained without sending more and more money to the Federal Government, which is growing bigger and bigger. We need business to grow, to hire people, to get our economy going again so that all of the sectors, including retail as well as manufacturing, will survive in our country.

It is my hope we can pass the Thune amendment. It is fully paid for, it will not have deficit spending, and it will cut taxes rather than increase taxes on businesses. That is the alternative that we think is important for America to see.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest called the roll.

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

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

MOTION TO CONCUR WITH AMENDMENT NO. 4369

(Purpose: In the nature of a substitute)

Mr. BAUCUS. Mr. President, pursuant to the previous order, I move to concur in the House amendment to the Senate amendment to the bill with an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 4369 to the House amendment to the Senate amendment to H.R. 4213.

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

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

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

Mr. BAUCUS. Mr. President, this is a new substitute amendment. We voted on an earlier version today. This is a new one. It still addresses many of the same issues as the last substitute, but it is smaller. It has fewer dollars involved and it is more paid for. The majority of this amendment is now offset. Most of the dollars spent in this amendment are offset, not by a lot but still the majority—more than half. All of the amendment is offset except for two matters: the unemployment insurance and the aid to the States under Medicaid; that is, the safety net provisions are not offset—those two. Everything else is offset. That means we do pay for changes to how doctors are compensated under Medicare. That is paid for. We do pay for all the changes to the tax laws. They are paid for as well.

We also made changes to the provisions regarding S corporations and carried interest. I will have more to say about those tomorrow, but suffice it to say that the S corp changes address some of the administrative concerns and burdens some Senators had as we were attempting to stop the abuses of some professional S corps, the abuses they have been conducting. Frankly, they have been paying themselves a very small salary. These are professional corporations primarily. Then they pay themselves dividends. Because dividends are not wages, they avoid payroll taxes. They avoid the FICA tax and avoid paying the Medicare tax. That is something we are trying to stop. The substitute still addresses that abuse but in a way that is less burdensome to bona fide S corporations. The carried interest provisions generally soften some of the provisions that were contained in the substitute.

The bottom line is that we listened. Several Senators had some concerns about the earlier substitute. We heard those Senators, and we have adjusted the amendment accordingly.

We believe this amendment can provide a path forward. We believe this amendment can complete our work on this bill. We believe this amendment can help to enact into law help to people who need help, the unemployed, and States under Medicaid and also help create jobs our constituents are demanding. The tax provisions will have that effect.

I very much hope that when we get to the substitute amendment vote, we will get the necessary votes to pass it. I am looking for something above 60, north of 60, so we can move forward to other measures.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

FINANCIAL REFORM

Mr. KAUFMAN. Mr. President, it has only been 2 years since we had an extremely painful financial crisis that almost brought down our entire economy.

To try to address the root cause of the crisis, we are currently nearing completion of a long and arduous process to develop a comprehensive financial reform bill.

The world is watching to see how strong a bill this Congress will produce, and we need to show leadership. Yet I fear that instead of putting in place strong structural reforms as a model for other nations, we are deferring too much to the discretion of regulators who have failed in the past, and to international negotiations—currently underway in Basel, Switzerland—that have all too often resulted in global standards that were the lowest common denominators.

Capital flows easily across borders, and so the United States needs to provide leadership and then produce harmonized global standards. Instead, I fear we are doing the opposite. We have hollowed out our national response so that we can negotiate with a free hand on the global stage—after Congress showed the world that we lack the political resolve to impose hard measures.

This is why we have heard a common refrain that statutory requirements on capital or other prudential standards will tie regulators' hands during these international negotiations. We heard it before on the Brown-Kaufman amendment to restrict the size, leverage, and risk of our megabanks. Now we hear it on the Collins amendment.

Senator COLLINS's commonsense provision would ensure that bank holding companies and systemically significant nonbank financial institutions are subject to capital and leverage requirements as stringent as those that insured depository institutions face under existing prompt corrective action regulations. This provision would raise the capital bar for our largest financial institutions, requiring them to hold more committed and reliable forms of capital; namely, common equity and retained earnings. As my colleagues will recall, it passed by a voice vote during the Senate debate.

Now there is the threat that the Collins amendment might be eliminated for the sake of ''international negotiations.'' Mr. President, I fear this is a recipe for a global race to the bottom for two reasons: First, a tepid response by the United States may also undermine other countries' consideration of tough reform measures. For example, the U.K. is studying whether to break up their megabanks. But some in the U.K. have suggested that since the United States isn't taking this preemptive action, the U.K. would not do it either.

Second, some countries' regulators appear to be wedded to the status quo, and we are only reinforcing the impression that tough measures are not needed. Remarkably, only weeks before the European Government and the IMF cobbled together an almost $1 trillion bailout of European megabanks, one French Government official stated:

> The situation is completely different here, and the system that was in place has not worked badly and does not need to be overhauled.

Regulators from Germany, France, and Japan, among others, are opposed to having a leverage requirement and a more strict definition of what constitutes capital.

Leaving aside the opposition of many countries to the very concept of a leverage capital requirement, there are those who still indicate that the quantitative requirement must be set through the Basel negotiations. In fact, Treasury Secretary Geithner said:

> By the end of this year, we will negotiate an international consensus on the new ratios.

Why does it strengthen our negotiating hand for the Congress to have failed to enact hard rules? Moreover, it is tougher to imagine how we can set a number on leverage when we don't even have an agreement on how to measure leverage, since the United States follows GAAP accounting standards while the rest of the world follows IFRS. It is unlikely we will have uniformity, or even harmonization of those rules, for many years—if we ever will at all. While the accounting standard issue is often overlooked, it should go without saying that it is a more basic and first-order problem.

Most important, for what are we negotiating? The history of international capital standards is that of colossal failures—Basel I, Basel II, and now Basel III. Instead, we have a sovereign banking failure and should be establishing a sovereign solution.

If other countries want to permit banks to become risky and fail—such as what Europe may be facing due to the European debt crisis—let them learn the hard lessons America has already learned.

Let me briefly review the history of the Basel accords, which should stiffen the resolve of the conference negotiators to include measures that will prevent another financial crisis caused by U.S. megabanks.

The Basel I Accord was a crude apparatus that established numerical requirements for the amount of capital that banks need to set aside based upon how risky the assets on their balance sheets were perceived to be. Different types of loans and assets were lumped into risk buckets. Some received lower risk weights, while others received higher risk weights. However, those weightings were arbitrary determinations that did not even take into account basic risks—most notably credit risk—associated with loans and other financial assets that banks hold.

Under the Basel I system, a bond issued by a blue chip AAA company such as Johnson & Johnson would have had a much higher risk weight than a subprime stated-income loan, a loan to Greece, or a loan to Lehman Brothers. Not surprisingly, banks were able to easily game—or arbitrage—these capital requirements in a way that generally increased their risk profile. Banks were able to cherry-pick high-risk, and therefore, high-return assets that had low capital requirements because of the risk bucket in which they were placed. Banks also got around the Basel I requirements by shifting more assets off their balance sheets.

The Basel II Accord, which was agreed to in 2004, was the culmination of several years of negotiations. While it was intended to address the flaws of Basel I by making capital requirements more risk sensitive, it actually created bigger problems.

Most notably, the accord's complexity and sophistication masked a deregulatory philosophy that sought to make determinations on capital adequacy dependent on the judgments of rating agencies and, increasingly, the banks' own internal models. By outsourcing their regulatory responsibilities to the banks that they were supposed to regulate, bank regulators were making an implicit admission that the size and complexity of the megabanks had exceeded their comprehension.

Unfortunately, complex capital standards that rely upon banks' own internal models pose serious problems for any democratic nation that prizes accountability and transparency, such as the United States. In his book ''Banking on Basel,'' Federal Reserve

Governor Daniel Tarullo provides an exhaustive account of the Basel II capital accord that specifically questions the accord's decision to base capital standards on the internal ratings of banks. Tarullo indicates that the ''very complexity of the [accord's] approach gives banks more opportunities to manipulate, or make mistakes during, calculation of their capital ratios.''

Even more troubling, Governor Tarullo noted it would also be nearly impossible for any independent auditor or examiner to identify failures and forbearance on the part of regulators. To that point, he states ''it may be extremely difficult for an independent entity such as the Government Accountability Office to reconstruct the series of decisions and judgments that went into the creation and supervisory assessment of the credit risk model.'' Given that, how will we in Congress be able to hold either the megabanks or their regulators accountable?

By virtually all accounts, the Basel II Accord was a complete failure. The Basel Committee itself estimated that it reduced capital for some banks by as much as 29 percent, at a time in which regulators should have been ramping up capital and other prudential requirements upon banks.

By trying to tie capital requirements to so-called risked-based measurements, the Federal Reserve—the main driver of the Basel process—apparently hoped to eliminate the basic leverage requirement. In fact, former Fed Governor Susan Bies told banks that ''the leverage ratio down the road has got to disappear.'' Fortunately, despite the Fed's objections, Basel II has not been implemented in the United States, in large part due to concerns that it would disadvantage smaller community banks that did not have the resources and wherewithal to make investments in supposedly advanced risk models.

It was, however, applied to European banks. Unconstrained by a basic leverage capital ratio, many of these banks went on to arbitrage the Basel requirements by gorging on AAA-rated bonds backed by subprime mortgages, not to mention the sovereign debt of highly indebted Eurozone countries such as Greece and Spain. The result has been hundreds of billions of dollars of losses followed by both explicit and implicit bailouts by EU governments.

The accord was also effectively applied to investment banks such as Lehman Brothers and Goldman Sachs, which had precarious and explosive business models that utilized overnight funding to finance illiquid inventories of assets. These institutions were nominally regulated by the SEC, which had no track record to speak of with respect to ensuring the safety and soundness of financial institutions. The Commission allowed these investment banks to leverage a small base of capital over 40 times—I repeat, over 40 times—into asset holdings that, in some cases, exceeded $1 trillion.

Of course, in the wake of the most recent crisis, the same failed regulators now tell us that, this time, they have learned their lesson and will develop a new agreement that will address the deficiencies of the last one. But what reasons do we have for thinking that will be true?

Assistant Treasury Secretary Michael Barr notes that regulators are now pushing for new global capital standards that will be ''more robust, higher and better quality, less pro-cyclical, and include global agreement on a leverage ratio.'' But the megabanks are already developing new ways to arbitrage as well as weaken the global capital standards to which Secretary Barr refers. In other words, they are finding ways to gut and go around the rules before they are even finalized.

What is more, many of the regulators involved in the discussions inspire little confidence. Christian Noyer, the governor of the Bank of France and the new chairman of the Bank of International Settlements, the entity that oversees the Basel rulemaking process, indicated, that the new rules ''shouldn't undermine the business model of banks which have perfectly withstood the crisis.'' Given that the same Bank of International Settlements estimates that eurozone banks have two-thirds of the exposures to the most fiscally imperiled European countries—Greece, Ireland, Portugal and Spain—it is not clear to which banks Governor Noyer is referring.

As the Financial Times notes, France, Germany and Japan are ''more attached to the preeminence of the current risk-based approach and wants the leverage ratio to have a much less important role in governing banks' balance sheets.'' In effect, they are pushing for the status quo of Basel II, which has been an unmitigated disaster. After the multiple trillions of dollars worth of public funds expended on megabank bailouts, it seems amazing that many regulators would like to maintain a system where the largest banks effectively regulate themselves.

But U.S. regulators are not immune to the defense of the existing regime. As the Wall Street Journal reports, ''some U.S. government officials are fighting what they view as an anti-American proposal that would prevent banks from counting as part of their capital cushion a specific type of security favored by U.S. banks known as a trust-preferred security.'' In other words, we have unnamed U.S. regulators that are fighting against Senator COLLINS' amendment in international negotiations.

The current state of international capital negotiations gives little comfort to those who would like to see fundamental structural reforms to address the problem of too big to fail.

I am in favor of international negotiations to harmonize financial regulatory standards. However, these negotiations should not preclude the Congress from setting statutory floors. They should never result in the abdication of our sovereign powers and responsibilities.

I, therefore, agree with the sage thoughts of former Federal Reserve Chairman Paul Volcker when he said that while ''good things may come out of the Basel process, ''it is not structural change.'' In his view, and in mine, we need to do both.

Instead of trusting our financial stability solely to unelected financial guardians, in this country and abroad, Congress should legislate structural and fundamental reforms that preemptively address the persistent problem of too big to fail. Senator COLLINS' provision is but one example of that. There is also Senator LINCOLN's proposal to require swap dealers to be spun off and separately capitalized from insured depository institutions; a strong Volcker Rule ban on proprietary trading at banks, as proposed by Senators MERKLEY and LEVIN.

Without transparency and accountability, a democracy cannot function. That is why we still need the statutory standards on the leverage as well as the size of these megabanks. While some technocrats may say that they are blunt tools, I say that that is precisely the point. They will not only provide a sorely needed gut check that ensures that regulators do not miss the forest for the trees when assessing the capital adequacy of a financial institution, they will also provide a basic means to ensure accountability in the performance of government officials.

We cannot—we cannot—afford another meltdown and the American people—and, indeed, the rest of the world—are looking to Congress to take steps to ensure that that does not happen. By adopting these fundamental reforms and preemptive measures, Congress will go a long way towards protecting the American people from future bailouts. It will also be providing global leadership, demonstrating to the rest of the world that fundamental reform of our financial system does not rest upon the decisions of unelected technocrats whose grand designs brought our financial system to the brink.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise tonight to express my concern with how Congress continues to address this package of so-called extenders. This is a debate we have had on multiple occasions this year, and once again we find ourselves discussing how to enact a short-term extension of items such as emergency unemployment benefits, reauthorization of the National Flood Insurance Program, the Federal Medicaid matching rate, FMAP, and the Medicare doc fix.

This is a difficult debate for many of us. Times are tough across the country, as well as in my home State of Georgia where the unemployment rate is 10.4 percent. During a time of economic hardship, I do not believe we

should allow provisions, such as the extension of emergency unemployment benefits, to expire. But I do believe that when we extend these programs, we should do so in a responsible fashion. Congress should find a way to pay for those extensions.

That is where there is disagreement on this issue—not whether Congress should pass an extenders package but whether it should be paid for.

Even though the need for these extensions comes as no surprise, we again find ourselves in a position where the majority has proposed extending these programs without finding the money to fund them.

Just 2 weeks after our Federal debt topped $13 trillion—let me say that one more time; $13 trillion is owed by the United States of America today—we are now poised to vote on another proposal that would spend money this country simply does not have.

That number, $13 trillion, is so big that it is difficult to comprehend. But what it boils down to is $42,000 of debt for every single citizen of the United States of America.

The public debt has risen by $2.4 trillion in the 500 days since the current administration took office. That is an average of $4.9 billion per day. We are now borrowing 43 cents of every dollar we spend. But still we are continuing to spend.

Estimates show that $4.8 trillion of the $9 trillion in debt that America will accrue over the next decade will be from interest. That is $4.8 trillion that could be better used on national defense or returned to taxpayers to pay for other necessities. Instead, future generations will be forced to pay higher taxes to foot the bill for Congress's out-of-control spending.

With much of our national debt being held by other nations, such as China, this is also an issue of national security. Just as with our energy and food supply, we put our Nation in a more vulnerable position when we disproportionately rely on other countries.

It is a matter of great concern that our Nation is in deep debt to foreign countries that often do not share our positions on domestic or international policy matters. While our global economy ensures that there will be foreign investment in our debt, this sustained, exploding debt guarantees that we provide leverage to our creditors. At some point, we have to say enough is enough and make some tough decisions about spending beyond our means. Again, we can pass an extenders package without recklessly adding to the cost of our Federal debt.

Earlier this year, this body voted to give the rule known as pay-go the force of law. And yet virtually every piece of legislation that we have considered between then and now has fallen short of this standard. Talking about fiscal responsibility and restraint while spending recklessly is hypocrisy of which the American people will surely take notice, and they have taken notice. States as well are being left in the fiscal lurch.

By not shoring up the Federal Medicaid matching rate, my State of Georgia will have a $370.5 million hole in its budget. We have had to make sacrifices at home. My legislature has had to make very difficult, hard, and tough decisions with respect to trying to find reductions in spending at the State level to come up with a fiscally responsible, and balanced budget that they are required to have under our State constitution.

We know States are facing huge challenges, relying as they do on money promised from the Federal Government. But we all need to keep in mind that we are borrowing virtually every cent of that money. It is time we get serious about this Nation's precarious fiscal situation. We can no longer afford to burden our grandchildren with insurmountable debt.

Recently, we witnessed what happens when a nation does not live within its means. The economic crisis in Greece was caused by years of unbridled spending and failure to implement fiscal reforms. This recklessness left Greece badly exposed when the global economic downturn appeared. This pattern should serve as a wake-up call to every one of us that spending must be controlled.

Retirement programs such as Medicare and Social Security are on the verge of bankruptcy. In March of this year, reports emerged that Social Security is set to pay out more in benefits than it receives in payroll taxes this year—a threshold the program was not expected to cross until at least 2016. By some estimates, the program will no longer be able to pay retirees full benefits by the year 2037.

Instead of trying to place programs such as Social Security on more stable footing, we spent more than a year debating a health care bill that will create even more costly entitlement programs, the true price tag of which is yet to be seen.

The original proposal that was debated and voted on earlier today, advanced by the majority, increased spending by $126 billion, which included more than $70 billion in new taxes and increased the deficit by $79 billion over the next 10 years. Thank goodness the votes were not there to proceed with that underlying bill.

Now, according to the chairman of the Finance Committee, we have a new bill. While it is smaller in dollars, according to the comments made by the chairman of the Finance Committee earlier tonight—he says also that the majority of the amendment is offset, which means it is still not paid for.

We have an opportunity tomorrow to take a step toward responsibility and restraint by paying for this extenders package. I am a cosponsor of the amendment introduced by the Senator from South Dakota, Mr. THUNE, which would extend the same programs as the House-passed version of this legislation. But unlike that version, the Thune amendment pays for those programs instead of adding their cost to the Federal debt. It also cuts taxes by $26 billion, cuts spending by more than $100 billion, and, according to the CBO, reduces the deficit by $55 billion. It does this through spending cuts and the use of unobligated stimulus funds.

The Thune amendment does away with the harmful tax increases on long-term investment that are part of the underlying bill. These taxes on carried interest would almost certainly serve to discourage capital investment, increase borrowing costs associated with starting or growing businesses, and hurt real estate and stock prices, all at a time when our economy is extremely vulnerable. The real estate and venture capital arena—two segments of our economy that are vital to sustained job growth—would be especially hard hit by these taxes on long-term investments.

Many Americans need the programs in this bill to be extended, but we must be sure we extend them in a responsible way, and that is why I urge my colleagues to strongly consider the Thune amendment as we debate it tomorrow and vote in favor of the Thune amendment.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The Cloture motion having been presented under rule XXII, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to concur in the House amendment to the Senate amendment to H.R. 4213, the American Workers, State, and Business Relief Act of 2010, with the Baucus amendment No. 4369.

Harry Reid, Max Baucus, Patrick J. Leahy, Jeanne Shaheen, Byron L. Dorgan, Sherrod Brown, Edward E. Kaufman, Daniel K. Akaka, Christopher J. Dodd, Jeff Bingaman, Robert P. Casey, Jr., Jack Reed, Barbara A. Mikulski, Roland W. Burris, Jon Tester, Daniel K. Inouye, Tom Harkin.

Mr. REID. I ask unanimous consent that the mandatory quorum be waived.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to a period of morning business, with Senators allowed to speak for up to 10 minutes each, with the exception of the Senator from Illinois.

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

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

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

CHILD SOLDIERS

Mr. DURBIN. Mr. President, in December of 2008, the Trafficking Victims Protection Reauthorization Act became law. The act includes a provision that I put in the bill with Senator SAM BROWNBACK, Republican of Kansas, to address the problem of child soldiers, specifically the Child Soldier Prevention Act.

The goal of this language was simple and straightforward: U.S. military assistance should not go to finance the use and exploitation of children in armed conflict. The law not only expresses American values by rejecting any use of child soldiers by foreign governments, but also provides leverage through our Foreign Military Assistance Program to encourage governments to address this heinous practice.

Moreover, under the Child Soldiers Accountability Act and Human Rights Enforcement Act, it is unlawful to knowingly provide material support to the use of child soldiers. Tragically, according to Amnesty International, hundreds of thousands of children around the world are still being used as child soldiers. These boys and girls wield automatic weapons on the front lines of combat. They serve as human mine detectors. They participate in suicide missions. They carry supplies, they act as spies, messengers, lookouts, and sex slaves. They endanger their own health and the lives of others and sacrifice their childhood in the process.

As chairman of the Judiciary Committee's Human Rights and the Laws Subcommittee, one of the first hearings we held was focused on the scourge of child soldiers. We heard moving testimony from a remarkable young man named Ishmael Beah. Mr. Beah is a former child soldier from Sierra Leone and author of the best selling book, ''A Long Way Gone: Memoirs of a Boy Soldier.''

Some Americans may recall this book because it was featured at Starbucks for a long period of time. You find it at bookstores as well. I will never forget what Mr. Beah told the Human Rights Subcommittee, and I want to quote him. Here is what he said:

> When you go home tonight to your children, your cousins, and your grandchildren, and watch them carrying out their various childhood activities, I want you to remember that at that same moment, there are countless children elsewhere who are being killed, injured; exposed to extreme violence and forced to serve in armed groups, including girls who are raped . . . As you watch your loved ones, those children you adore most, ask yourselves whether you would want these kinds of suffering for them. If you don't, then you must stop this from happening to other children around the world whose lives and humanity are as important and of the same value as all children everywhere.

We have a moral obligation to respond to Mr. Beah's challenge. Children suffer high mortality, disease, and injury rates that are higher in combat situations than adults. The lasting effects of war and abuse remain with them long after the shooting stops. Both girls and boys are stigmatized and traumatized by their experience, and left with neither family connections nor skills to allow them to transition successfully to productive adult life.

Over the last decade, 2 million children have died in armed conflict—10 years, 2 million children died in armed conflict, 6 million injured.

Further troubling is that children have served as soldiers for governments that have in the past received the assistance of the U.S. Government. With the passage of the Child Soldier Prevention Act, my hope was that this practice would come to an end.

Imagine my surprise when I saw on the front page of the New York Times this week that Somalia's transitional federal government, which the U.S. supports financially as part of its larger counterterrorism strategy, is brazenly using child soldiers. Mr. President, I know you have a young son and you probably saw this photograph. But imagine, if you will, two young boys, identified in this photograph in Somalia, 12-year-old Adan Ugas, and 15-year-old Ahmed Hassan, holding automatic military weapons and working for the transitional Federal Government of Somalia.

When I was a little boy, 12, 10, we used to play with guns, but they were all toys. This is the real thing. These are children. As Ishmael Beah said: Try to picture your son or daughter in that situation, their childhood robbed and scarred for life from being drawn into horrific violence.

The fact that they are working for a military financed by the United States is appalling. In fact, according to human rights groups and the United Nations, the Somali Government is fielding hundreds of children on the front lines, some as young as 9 years old. A Somali Government official quoted in the Times article said: We were trying to find anyone who could carry a gun.

I read that article. It talked about these little boys who, the guns were so heavy, they were switching the strap from one shoulder to the next. They were talking about these little boys with these automatic weapons challenging people in vehicles to stop or they would shoot them.

They asked one of these little boys: What do you really love in life? He said: I love my gun. A Somali Government official acknowledged the fact that this is happening, an official of a government which we are supporting.

I understand Somalia is in a difficult neighborhood in the world, and one of the most dangerous places. It is trying to emerge from years of lawlessness, and the fledgling government does need support. I have met with refugees who have fled the chaos of Somalia in hopes of a better life.

In fact, this last Saturday I met with refugees in Chicago from Somalia. But the law is clear. American tax dollars must not be used to fund the use of child soldiers. Period. I urge the Department of State and the Department of Defense to immediately halt the U.S. support for any such activities and to work with the Somali Government to terminate the use of child soldiers, and reintegrate these children back into a normal, peaceful family life.

I have written our Secretary of State, Hillary Clinton, and urged her to recognize that though the Somali transitional government is trying to bring some measure of stability to their war-torn country, it should not do so on the backs of its most precious commodity, its children, and certainly not with the help of American taxpayers.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Secretary Clinton on this topic.

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

JUNE 16, 2010.

Secretary of State HILLARY CLINTON,
Department of State, Washington, DC.

DEAR SECRETARY CLINTON: I write with great concern over a June 14 report in the New York Times that U.S. military financing to the Somali Transitional Federal Government is being used to pay for the use of child soldiers. Such assistance would appear to be in violation of the Child Soldier Prevention provision of the Trafficking Victims Protection Reauthorization Act of 2008 which prohibits U.S. military assistance to governments of a country that use child soldiers. Moreover, under the Durbin-Coburn Child Soldiers Accountability Act and the Durbin-Coburn Human Rights Enforcement Act, it is unlawful to knowingly provide material support to the use of child soldiers.

As you know, the tragic use of child soldiers continues to a problem around the world. Amnesty International estimates that globally more than 250,000 children are fighting in active conflicts. These young boys and girls fight on front lines of combat, serve as human mine detectors, participate in suicide missions, carry supplies, and act as spies, messengers, lookouts, and sex slaves—endangering their health and lives. Quite simply, they are robbed of their childhoods.

Furthermore, the lasting effects of war and abuse remain with them for years—too often for a lifetime. Former child soldiers are stigmatized and traumatized by their experience and left with neither family connections nor skills to allow them to transition successfully into productive adult lives. We should be doing everything we can to not only end military support for governments that engage in this troubling practice, but to also

help such children reintegrate into their families and society.

I recognize that the Somali Transitional Federal Government is trying to bring some measure of stability to that war torn country. However, it should not do so on the backs of its precious children, and certainly not with the help of the American taxpayer.

Thank you for looking into this matter.

Sincerely,

RICHARD J. DURBIN,
U.S. Senator.

INTERCHANGE FEES

Mr. DURBIN. Mr. President, I will be brief because I see my friend from Iowa is on the floor here. I want to give him a chance to speak.

The Federal Government pays interchange fees when people use credit and debit cards to pay for things such as admission to national parks, groceries, at military commissaries, tickets on Amtrak, and copays for VA medical services. In fiscal year 2007, our Federal Government paid $433 million in credit card fees. The vast majority were interchange fees.

Last year, the Appropriations Subcommittee on Financial Services and General Government, which I chair, asked the Treasury Department to look into how much money taxpayers are paying to credit card companies for the use of credit cards. We got the report this week. It concludes that Treasury could save at least $36 to $39 million a year if it did several things, such as negotiating the actual interchange rates charged to the Federal Government.

We had a hearing today, and an employee of the Department of the Treasury came and testified and said the Federal Government of the United States was unable to negotiate an interchange fee with either Visa or MasterCard. The card companies refuse to negotiate. There is $8 billion in economic activity with the Treasury through the credit and debit cards of these two companies. But they refuse to negotiate with the Federal Government.

We also learned that one major company, MasterCard, charges an interchange fee of 1.55 percent on every government transaction, plus 10 cents, while the going rate on an interchange fee for supermarkets across America is 1.27. It turns out that our Federal Government is paying more to the credit card companies than supermarkets are paying in Illinois, Iowa, or Alaska.

You ask yourself: Well, why is that? Is there a high default rate from the Federal Government? The answer is no. The Federal Government pays. And yet we are being charged a higher rate. But let me say for a moment, it is not ''we'' who are being charged a higher rate, it is the taxpayers. The taxpayers of this country are subsidizing credit card companies by paying higher fees than commercial businesses for the use of credit cards.

It is inexcusable, it is indefensible. You know the debate we had—I know, Mr. President, you recall it personally, a few weeks ago—about whether these credit card companies are going to be held to charging reasonable and proportional amounts for the use of debit cards.

What we are finding at Amtrak, at the VA, and at commissaries across America, is our Federal taxpayers are underwriting these credit card companies.

I tried, when I brought this amendment to the floor of the Senate relative to interchange fees, to do everything in my power to preserve the ability of small banks and credit unions to compete with big banks in issuing debit cards. My amendment does nothing to disadvantage those small financial institutions. We specifically exempted any financial institution with a value of less than $10 billion. As a result, only 3 credit unions out of 1,000 in America were covered by my amendment, and about 80 or 90 banks out of the 8- or 9,000 in this country.

I heard from one of my colleagues on the Senate floor today from the Midwest, who said: The credit unions were in last week. They are frightened by your amendment.

I said: Are they over $10 billion in value?

No, not even close.

Well, the amendment doesn't apply to them.

They are afraid the big credit card companies, Visa and MasterCard, will reduce their interchange fees on small banks and credit unions if the Durbin amendment passes in the Wall Street reform bill.

It is an indication to all of us of the power of these credit card companies to terrorize credit unions and community banks. They have become the messengers of the big banks and credit cards to kill the amendment we passed in the Senate.

By exempting 99 percent of banks from debit and interchange regulation, my amendment would actually enable these banks to receive more interchange revenue than their big bank competitors. Yet the so-called Independent Community Bankers of America and the Credit Union National Association oppose the amendment. Why? An article out of Reuters came out yesterday that makes it plain.

The article is titled ''Small Banks Fight Card Fee Limits Despite Exemption.'' The article says:

> Small banks believe they have no choice but to support Visa and Mastercard in a battle against lawmakers over fees for processing debit card transactions.

Why do the small banks believe this? The article continues:

> The Durbin amendment explicitly exempts banks with less than $10 billion of assets, so smaller banks in theory should not oppose the law. But the exemption is cold comfort to small banks, which say that whatever the law stipulates, Visa and Mastercard will force them to accept the same fees as larger banks.

I want to make it clear what I have said before, last week in a meeting of the Senate Judiciary Committee, the Antitrust Division of the Department of Justice testified that they are investigating Visa and MasterCard now. Nothing more was said, but they confirmed press accounts that that is being done.

I think it is long overdue. This duopoly, this power in the market, this ability to terrorize credit unions and small banks is an indication of too much power and too little competition. If we truly believe in a free market and an entrepreneurial society, we have to support competition. In this case, merchants, businessmen, small banks, and small credit unions are being terrorized by these powerful interests.

The article quotes Jason Kratovil, vice president of congressional relations for the Independent Community Bankers of America, saying that ''Visa and MasterCard have 'probably not directly' told small banks that they will receive lower fees,'' but that it is ''pretty clear, at least for our guys, that it's going to end up with one rate for all issuers.''

So Visa and MasterCard are arguing: If we have to lower the interchange fees for the biggest banks in America, then we will lower them for the smallest banks in America—even though they are exempt under the Durbin amendment. Visa has 122 different interchange fees and MasterCard well over 100. To argue they can't come up with two different interchange fees, that it is impossible, is ridiculous.

It is the kind of thing where these credit unions and small banks have been terrorized by Visa and MasterCard. The Independent Community Bankers say Visa and MasterCard have ''probably not directly'' threatened to voluntarily lower small bank interchange rates, but the message received was ''pretty clear.'' It is obvious what is going on: Visa and MasterCard are making threats if this amendment becomes law, they will use their market power against small banks by voluntarily lowering their interchange rates.

It is a great tactic that scares the small banks and credit unions into lobbying against the amendment which passed in the Senate. I am sure the big banks couldn't have more fun than to watch the smaller banks, exempt under our amendment, do their bidding. The big banks hate the thought of my amendment passing, giving small banks an advantage in the debit card market. The small banks are just being played like marionettes when it comes to their role in this lobbying efforts.

I sent the CEOs of Visa and MasterCard a letter and told them this: My amendment protects small banks, but you are threatening to take steps on your own to disadvantage them. If you collude with each other or with the big banks to disadvantage small banks, you could run afoul of the antitrust laws.

Visa and MasterCard wrote back yesterday and said: No, Senator, we

wouldn't want to do anything to hurt small banks, but the market may just force us if your amendment becomes law.

This is ridiculous. With Visa and MasterCard having 100 percent of the market for signature debit cards, they are the market. The market is going to force them? Guess what. They are the market. They set the rules. They fix all the fees now. Small banks and credit unions are so afraid of Visa and MasterCard—they are quivering—and their big bank allies, they do not believe they can support any regulation of the interchange system no matter how reasonable. Small banks are afraid to take the risk that these giant corporations might decide to wield their enormous market power against them.

Ironically, that is the world in which small businesses, merchants, and other acceptors of payment cards live today. Small businesses have no choice today but to accept Visa and MasterCard and the fees and rules they establish.

Today at my hearing, Wendy Chronister of Springfield, IL, my hometown, who is CEO of the Qik-n-EZ convenience stores, about 11 of them in central Illinois, came and testified. I know her family well. They live a few doors away from me. I know her dad who started the company 40 years ago. She is a spectacular young woman who is the CEO of this small company that has these convenience stores.

The No. 1 cost in her business is labor, the No. 3 cost is utility bills, and the No. 2 cost is interchange fees to Visa and MasterCard. They represent about half of the charges they pay for labor and represent about twice as much as they pay for utility bills. That is how big a factor this is in a small business. She has no power to negotiate, no power to compete. She is at a loss.

She was sitting at the table with a representative of the Federal Government who said we are in the same boat. We do $8 billion a year accepting cards from Visa and MasterCard and cannot get them to negotiate with us a lower interchange fee for the sake of taxpayers and reducing the deficit. That is the kind of power they have.

I am going to wrap up because I see Senator GRASSLEY is anxious.

When I heard this argument today that the Federal Government was unable to get Visa and MasterCard to negotiate an interchange fee, they are so powerful, these private companies, I had a flashback—a flashback to one of my favorite movies of all time. It was released in about 1963 or 1964. It is entitled ''Dr. Strangelove.'' In this movie, Peter Sellers played three different roles, and one of the roles was as a British military officer named Lionel Mandrake. He was at a base where they thought another world war was about to break out, a nuclear conflict. He was trying to find a telephone to call someone in Washington to bring an end to this nuclear war. At that point actor Keenan Wynn came in playing the role of COL Bat Guano. Sellers said to Colonel Guano: I need change to make a phone call to Washington to stop this world war.

Colonel Guano said: I don't have any change.

Peter Sellers said: You shoot up with your gun the Coca-Cola machine, and I will take the money out and make the phone call.

He said: You want me to shoot up the Coca-Cola machine. I will do it, but you are going to have to answer to Coca-Cola for this.

That is what I was reminded of today when I heard that our Federal Government, with $8 billion in business with Visa and MasterCard, can't get them to sit down at the table. That shows the power of these private companies.

What is going on here? This isn't competition. They are not some sainted entity. They represent a business, and they are supposed to be a competitive business with the other credit card companies. But they are not. They are dictating fees to small businesses that are hurting, reducing their profitability and their employment at a time when we desperately need jobs.

Small banks should come to understand the predicament that their colleagues in the small business community face, as both live in a world that is too often run by card networks and big banks. It is time for the interchange system to change. We need to end this system where Visa and MasterCard have the market power to set fees and establish rules however they want.

I extend my apologies to Senator GRASSLEY. If I had known he had to leave, I would have wrapped up a lot earlier and saved my comments about ''Dr. Strangelove'' for a later time. I thank him very much. He has been a good friend and patient.

AGGRESSIVE OILSPILL RESPONSE

Ms. MIKULSKI. Mr. President, America is facing a catastrophe in the gulf. I rise today to speak about the President's address to our Nation last night and my recent trip to the gulf.

I agree with the President that BP must stop the leak, clean up the oil, and end the economic hurricane they have caused on the gulf coast. I agree that BP—not the taxpayers—must be liable for costs of cleaning up the mess, for compensating businesses, fisherman and families, and for their economic losses. BP must set aside a fund of $20 billion or more today that they don't control to pay all economic claims in a fair and timely way.

I like that the President focused on the Nation's long range energy needs. We do need to move our energy policy forward. And I am so pleased the President picked Dr. Don Boesch for the new National Commission to prevent and respond to future spills like this one. Dr. Boesch has strong ties to Maryland. He has been president of UMD Center for Environmental Science since 1990 and serves as Governor O'Malley's science adviser. He's also a man of Louisiana, born in New Orleans and a graduate of Tulane. He knows the issues of Louisiana and he's got a special place in his heart in looking out for Maryland.

I also agree with Billy Nungesser, president of Plaquemines Parish, LA. He believes we should bring every asset we have to fight this thing. The people of Louisiana need to see more action on the ground and we can't just rely on BP's word to get the job done.

We need to organize and mobilize our own government. Right now we are acting like a bureaucracy rather than a fighting force to protect the beaches and the people from the consequences of the oilspill. I hope in the coming days, the President will insist on defining what success is.

This administration needs goals and metrics for shore clean up that will be adequate. They must establish a mechanism for monitoring, oversight and relentless follow-through. Right now, no one but BP knows what is going on. There has been a lot of reporting on inputs—but not enough on outcomes. We need structure for oversight and we need to know the outcomes of our actions.

The President also needs to insist on expediting permits. When I was on the gulf coast last week, I heard from locals that their ideas on how to protect coasts are stuck in bureaucracy. We need to unstick the bureaucracy. This is a national emergency that needs an aggressive national response. We are all in this together.

I went to the gulf coast as chair of the Commerce, Justice, Science Appropriations Subcommittee, which funds the National Oceanic and Atmospheric Administration, NOAA. NOAA is in the gulf right now telling us where this oil is going, helping to cleanup the shores and marshes and assisting fishermen who are hurting.

I also went as the Senator from Maryland. I wanted to talk to scientists first hand to find out how the spill could impact Maryland. Will it affect our beaches and treasured Chesapeake Bay?

Last week, I saw the catastrophe in the gulf. We met the people, we saw the beaches, and we saw the impact on the wildlife. And everywhere we went, we saw oil and the consequences of oil. I spoke to people whose livelihoods depend on the gulf. When we talk about what we saw—words like ''Louisiana,'' ''Grand Isle'' and ''Pelican Island''—I also think of words like ''Ocean City'' and ''Assateague,'' Maryland's own barrier island. What we saw was the good, the bad, and the ugly.

First, we met with the people, and I saw just how resilient they are. They have real grit and are determined to do something to save their communities. We coastal people need to be on their side. We saw communities where they would ordinarily have thousands of visitors with busy fishing charters.

Now, it's like a ghost land. The beach looked more like a military base than an ocean resort, with trucks going up and down, carrying booms and all kinds of response equipment. And when you go out to sea, on a boat or in a helicopter, you see this oil creeping closer and closer to the shoreline. We are concerned about the environmental impact, but we are also concerned about the human impact on lives, livelihoods, and safety.

Next, we asked—is the oil going to come up the east coast in this so-called ''loop current or loop stream?'' We were told the beaches of Ocean City will be safe. Even in the worst case scenario, the oil won't get beyond the Carolinas. Second, we were told that the seafood is safe. It is being inspected locally by NOAA and the FDA, so what is coming to the American marketplace is safe. That's what we were told, but I believe what Ronald Reagan said: ''Trust, but verify.''

Maryland's economy is tied to the Louisiana economy. Our seafood restaurants and markets rely on what's caught in the gulf. I am holding a Maryland delegation meeting to make sure that we bring in ocean scientists and seafood inspectors to verify that our Atlantic coast beaches and our Chesapeake Bay will stay oil free and our seafood will be safe to eat.

That was the good news. The bad news is BP. The BP people have to fix this. BP is cutting corners, minimizing the situation, and now here we are. The oil will continue to gush, and it will gush until August. But the oil coming out of the well will take 6 weeks to get to shore, so we are going to feel all of this well into September. And that is the best case scenario.

I support our President in calling for an escrow account for BP to put $20 billion aside for economic damages. I fear the hoarders will take charge. I fear BP will file for bankruptcy and will want the taxpayers to bail them out. The American taxpayer will not bail out the oil companies. The oil companies must put aside the money to pay damages and cleanup costs.

Our own bureaucracy needs reform. We saw the can-do spirit there among the people, but the permit process is slow—whether it is the EPA, Corps of Engineers or NOAA. This needs to be reformed. And this stuff, called dispersant sounds like if you pour chemicals on the oil the oil will disburse and everything's fine. I am concerned that dispersants could be causing more problems than they are solving. I am concerned about the toxic impact on human beings and marine life creating dead zones off the coast of Louisiana.

That is why I plan to hold a hearing. To learn more about the effects of these dispersants—what do we already know, what do we need to know, and what research needs to be done—because I don't want dispersants to turn out to be the DDT or Agent Orange of the oilspill. It is our job in Congress to push the bureaucracy, to push BP to get the job done and protect the American people.

Then, we saw the ugly. The so-called protective booms were dysfunctional and in disarray, saturated with sticky smelly oil that had been there for days and no one had come to pick them up or clean them up. They were breaking loose and some washed up in marshes, causing far more damage than the oil. If they couldn't protect the few miles around the pelicans areas, how can they protect the beaches? They have got to do a lot better job. It took four Senators going to Louisiana to get the booms cleaned up near Grand Isle.

There are no performance standards to make sure BP or the government are doing what they say they are doing and that it is working. There must be relentless follow-through by the government. The Coast Guard is treating BP as if it were another government agency, when the Coast Guard needs to take BP to task. They need to make sure that they have performance standards and they need to make sure that there is follow-through.

After witnessing the catastrophe in the gulf and seeing the way the oil is impacting the people, the communities, and the environment, I am so glad that we in Maryland opposed offshore drilling. No matter what is the energy policy I will always oppose offshore drilling off of the Mid-Atlantic coast. We can never let what's happening in the gulf happen to any other communities.

Our first responsibility will be to the Nation's taxpayers, not to the oil companies. Our second responsibility is to the people of the gulf, to do all we can to protect them. We need to make sure that we contain the oil and can clean it up so they can get on with their lives and their livelihoods.

I was honored to be able to go and represent Marylanders there because we are coastal people too. When I talked to the people down there who fish and crab, we talked about how we use the same kind of bait, we use the same kind of line, the same kind of ways. We cook them a little bit different—but we eat them all the same. And when they held our hands, they said when you go back to Maryland and Washington, don't ever forget us. And we won't. We are all Americans, we are all coastal people, and we are all in this together.

58TH ANNUAL NATIONAL PRAYER BREAKFAST

Mr. ISAKSON. Mr. President, I had the privilege of co-chairing the 58th Annual National Prayer Breakfast with Senator KLOBUCHAR. I ask unanimous consent that a copy of the transcript of the 2010 National Prayer Breakfast proceedings be printed in the CONGRESSIONAL RECORD.

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

58TH NATIONAL PRAYER BREAKFAST

Senator Amy Klobuchar: Good morning, everyone. I am Amy Klobuchar, the Senator from Minnesota. Welcome to the 58th annual National Prayer Breakfast. For anyone from warmer climates, we know it is a little snowy, but in Minnesota we would call this, ''fair to partly cloudy.'' What a gathering. This is a very different scene from the first National Prayer Breakfast all the way back in 1952—that was attended only by a couple hundred people and they were all men. And now what we have today is over 3,000 people from all 50 states and over 140 countries. Although the National Prayer Breakfast may look a lot different than it did in 1952, one of the great traditions of this event is that it is bipartisan, as you can see from our head table up here, as well as the fact that we have a Democratic and a Republican co-chair. In that tradition, I am very proud to introduce to you my Republican co-chair and good friend, the Senator from Georgia, Johnny Isakson.

Senator Johnny Isakson: Thank you. We do welcome you because what began as a very small group in 1952 has become a group that has influence around the world in countries all over this world. We are so delighted that you traveled near and you travelled far to be a part of the National Prayer Breakfast here in the United States of America. Amy and I are both members of the Senate but one important thing to know is that we alternate years—this happened to be the Senate's year to chair the National Prayer Breakfast. But next year, the House will as well. We do so in partnership, we do so in brotherhood, and we do so in love, and we do so in faith. I now want to begin by introducing my side of the head table, and then Amy will introduce her side of the head table. First, the Vice President of the United States of America, Joe Biden; the Secretary of State of the United States of America, Hillary Rodham Clinton; the distinguished Senator from the state of Utah, Orrin Hatch; the luckiest thing that ever happened to me 41 years ago, my wife, Dianne; the distinguished senior Senator from the state of Oregon, Ron Wyden; the co-chair of the House prayer breakfast, from Missouri, Representative Todd Akin; a lady who has the voice of an angel and later you will hear her sing, God Bless America, Sergeant First Class MaryKay Messenger, the lead vocalist of the United States Military Academy Band; and my, friend and the artist who will sing the closing hymn, Ralph Freeman.

Senator Klobuchar: Johnny put the music together this morning and you are going to love it. President Obama and the First Lady will be joining us shortly; His Excellency Jose Luis Rodriguez Zapatero, the Prime Minister of Spain is with us; my husband, John Bessler who made our daughter's lunch at 5:30 this morning while I was getting ready for this; Admiral Mike Mullen, the Chairman of the Joint Chiefs of Staff; 2007 Heisman Trophy winner, Tim Tebow; the co-chair of the House prayer breakfast, Representative Charlie Wilson of Ohio; and the Heisman Trophy winner of Senate chaplains, Rear Admiral Barry Black.

Johnny and I wanted you all to hear this morning from our friend, Senate Chaplain, Barry Black, who like all Senate chaplains since 1789 opens each session of the Senate with a prayer. To me and Johnny, Barry is a friend and a spiritual adviser but he is also an embodiment of the power of faith and discipline and hard work. From his impoverished childhood in Baltimore to his distinguished 27-year career in the U.S. Navy, to his service in the Senate, Chaplain Black's ''only in America'' story, a story he has detailed so eloquently in his book, From the

Hood to the Hill, shows us that God has great plans for our lives. It is my pleasure to introduce to you our friend, Chaplain Barry Black, who will lead us in the opening prayer.

Rear Admiral Barry Black: Let us lift our hearts in prayer. Lord of life, the giver of every good and perfect gift. You have been our help in ages past and our hope for years to come. Lord, forgive us when we forget that more things are wrought by prayer than this world dreams of. We thank you for this nation conceived in liberty and dedicated to the proposition that people possess basic rights that they receive from you. Make us good global neighbors as we remember that righteousness exalts a nation but sin is a reproach to any people. Hear our petitions and use our supplications to change and shape our times according to your plan. May our prayers empower us to trust you more fully, live for you more completely and serve you more willingly. In a special way, smile upon our international guests who have travelled great distances to be with us, give them traveling mercies as they return home. And Lord, shower your favor upon the program participants, especially our primary presenter. May the words of their mouths and the meditations of their hearts bring honor to you. Bless this morning, our food and fellowship. We pray this in the matchless name of Jesus. Amen.

Senator Isakson: Would you please welcome to your right, Mr. Robert Fraumann, the most gifted musician the United Methodist Church has ever known and enjoy his mix of Beethoven's ''Fifth Symphony'' and ''How Great Thou Art'' and ''The Warsaw Concerto'' and ''To God Be the Glory.'' Robert Fraumann.

Mr. Robert Fraumann: (piano music)

Narrator: Ladies and Gentlemen, the President of the United States Barack Obama and the First Lady Michelle Obama.

Senator Klobuchar: Welcome, Mr. President, Mrs. Obama. We are so pleased to have you here. I also know there are many members from the House of Representatives. I see Speaker Pelosi. And from the United States Senate and the President's Cabinet—if they could all stand so we could acknowledge you. Thank you. Mr. President, you should know that Johnny, being from Georgia, is really adjusting to the fact that this breakfast had quiche instead of grits. So I really don't know how he is going to explain that when he gets home. And actually, Johnny has been a great pal for me this year as a co-chair of the Senate prayer breakfast and I can tell you that to show his support for his co-chair, he actually supported the Vikings over the Saints in the playoff game. That was a tough game. My fourth quarter prayers made no difference but not even God can overrule a ref's calls.

Senator Isakson: You know I ain't real sure it was the refs. It might have been Brett Farve's interception.

Senator Klobuchar: Very good.

Senator Isakson: We are honored to be here today and I am honored to share with Amy, the co-chairmanship of the Senate prayer breakfast. She thinks getting me to pull for the Vikings was the ultimate reconciliation, not true. Ultimate reconciliation is when Senator Bill Nelson convinced me to invite the quarterback of the Florida Gators, who beat us four successive years at the University of Georgia. Tim, welcome, we are glad to have you. This is a great occasion and we are so delighted and honored that all of you are here today. And I am going to turn it back over to our leader, Amy Klobuchar.

Senator Klobuchar: Thank you. Each week Johnny and I and our fellow senators get together for a weekly Senate prayer breakfast. I always come away from it a better person. At our breakfasts, a senator always speaks, sometimes about his or her faith, sometimes about a personal struggle, sometimes about the challenges of forgiveness after a tough political fight. Our prayer breakfasts are always real and refreshingly honest. And just when I am ready to give up on working with maybe a few of my colleagues, it reminds me that we all share a common purpose and a common humanity, and that with faith and forgiveness, we can start anew. Now it is my honor today to introduce Sergeant First Class MaryKay Messenger, the lead vocalist with the United States Military Academy Band. MaryKay first sang with the band in 1980 at the age of twelve. She continued throughout the years as a guest vocalist until she joined the Army in 1996. She has performed throughout the world—everywhere from Beijing to the opening bell of the New York Stock Exchange, from Yankee Stadium to Carnegie Hall. This morning she will be singing ''God Bless America,'' a song composed by Irving Berlin during the First World War while he was serving in a United States Army camp. MaryKay Messenger.

Sgt. MaryKay Messenger: [Singing]

While the storm clouds gather far across the sea,
Let us swear allegiance to a land that's free,
Let us all be grateful for a land so fair,
As we raise our voices in a solemn prayer.
God Bless America,
Land that I love.
Stand beside her, and guide her
Through the night with a light from above.
From the mountains, to the prairies,
To the oceans, white with foam
God bless America, My home sweet home.
God bless America, My home sweet home.

Senator Ron Wyden: Good morning, Mr. President, Mrs. Obama, honored guests. It is my privilege to offer a reading from the second book of the Torah, the Book of Exodus. Exodus deals with the formation of the Jewish people into a nation as they make their way from slavery to the Promised Land. There are very important lessons in the passage where Moses' father in law, Jethro, a Midianite priest, guides Moses on the correct way to govern his people.

''Jethro, the priest of Midian, Moses' father-in-law, heard all that God had done for Moses and for Israel His people, how the Lord had brought Israel out from Egypt.'' Then, later in the passage, ''the next day Moses sat as magistrate among the people while the people stood about Moses from morning until evening. But when Moses' father-in-law saw how much he had to do for the people, he said 'What is this thing you are doing to the people? Why do you act alone while all the people stand about you from morning until evening?' Moses replied to his father-in-law, 'it is because the people come to me to inquire of God; when they have a dispute, it comes before me and I decide between one person and another and I make known the law and the teachings of God.' But Moses' father-in-law said to him, 'the thing you are doing is not right. You will surely wear yourself out and these people as well. For the task is too heavy for you. You cannot do it alone. Now listen to me, I will give you council and God be with you. You represent the people before God. You bring the disputed before God and enjoin upon them before the laws and the teachings and make it known to them, the way they are to go and the practices they are to follow. You shall also seek out from among all of the people capable men who fear God, trustworthy men who spurn ill-gotten gain, set these over them as chiefs of thousands, hundreds, fifties and tens and let them judge the people at all times. Have them bring every major dispute to you but let them decide every minor dispute for themselves. Make it easier for yourself by letting them share the burden with you. If you do this and God commands you, you will be able to bear up and all these people too will go home unwary.' Now Moses heeded his father-in-law and did just as he had said. Moses chose capable men out of all of Israel and appointed them heads over all the people, chiefs of thousands, hundreds, fifties and tens and they judged the people at all times. The difficult matters they would bring to Moses and all the minor matters they would decide themselves. Then Moses bade his father-in-law farewell and he went his way to his own land.''

May we all show similar wisdom and be open, open to advice and guidance from any source. Not just within our own group, our own faction, our own tribe, and it is only with that wisdom can we hope to provide just and true leadership.

Congressman Charlie Wilson: Good morning Mr. President, Madam Secretary, honored guests. I am Congressman Charlie Wilson from Ohio's sixth district and my co-chair is Congressman Todd Akin of Missouri's second district. We would like to thank the Senate for putting this program together this morning. We know the House is looking forward to putting it together again next year. Todd and I are here together this morning because we are the co-chairs of the House prayer breakfast. Members of Congress from both parties have been meeting for prayer on a weekly basis for more than five decades in the House. We come together in the Capitol dining room every Thursday morning at eight a.m., with no staff, we read a verse of scripture, we pray for the sick and wounded and we offer up a prayer of thanksgiving for our country. We also have a different guest speaker each week who shares their testimony. One week it's a Democrat, the next week it's a Republican. Finally, we close in prayer and we make sure to share that too—one week a Democrat leads the closing prayer, the next a Republican. We never know how many are going to be at our prayer breakfast to attend our weekly gathering. I am happy though to let you know that it has increased considerably this year. Our meeting lasts about an hour and many of us refer to it as the best hour of the week. We hope that you will consider our example and set aside time each week with your colleagues to deepen your relationships and open your mind to God. And now, my co-chair, Todd Akin.

Congressman Todd Akin: Good morning, I am Todd Akin from Missouri. The tradition of the Prayer Breakfast goes back to the days of President Eisenhower. Because of the tremendous importance that we place on a personal relationship with God, a personal relationship with Jesus Christ, it is a Christian prayer breakfast. And yet we welcome happily people of all different faiths to join us. Along these lines when we arrive on a Thursday morning and hear a personal testimony, we hear a tremendous diversity in the kinds of stories. For example, we heard this story of a little boy who grows up penniless and orphaned on the streets wondering where the next meal will come from, and how he is led on a journey to the U.S. Congress. We hear another story of a pilot of a small airplane in the fog over the mountains of Germany with little instrumentation and how in answer to prayer, a hole is opened up in the fog showing a landing strip way below—how he dives his airplane through the hole in the fog, lands on the landing strip and the fog closes in around the aircraft. It is from these and other testimonies that Congressmen develop a mutual respect and affection for each other. The statesman William Wilberforce from England had two great aims in his life.

The first was to get rid of slavery. The second one was to build civility—that is, a respectful and loving treatment of the different legislators in England. This prayer breakfast that we enjoy every week inspires that civility in an otherwise polarizing political environment, that is why it is the best hour of the week. God bless you.

Senator Orrin Hatch: [alarm going off on cell phone] Woops, oh dear.

Senator Klobuchar: It's time for your prayer. Is that the alarm for your prayer?

Senator Hatch: I never learned how to turn that alarm off. I apologize. Let us pray. Our dear Father in Heaven, as we bow our heads this morning before Thee, we are so grateful for this great nation and for the nations of the world, but especially for the opportunities we have as a nation to bring peace and contentment and tranquility throughout this world. We are grateful for our great leaders and we pray that Thou wilt bless them. We pray that Thou wilt bless our President and our Vice President and their cabinet and all of the leaders throughout the federal government that they might be inspired to lead us to do the things that are righteous in Thy sight that we might be able to be good followers and that we might be able to combine together to do what is right. As Moses' father in law told him, let's share the responsibility and let's work together in the best interest of our country. Let's have bipartisanship reborn again in this great nation. We are so grateful for those who serve in the military who are represented here today and throughout this country. We are grateful for the sacrifices that they undertake on our behalf. We are grateful for those who are in harm's way and pray that Thou wilt pour special blessings upon them, that they might be blessed and protected. And we pray that we might be a nation that will help to bring peace and tranquility throughout the world. We are grateful for all of the food, clothing and shelter that Thou has provided for us. We are grateful for those who serve in governments throughout the states, for the respective state legislatures. And last but not least, we are grateful for the Congress of the United States and we will pray that the Congress might be able to work together as Democrats and Republicans and Independents to serve Thee, to serve our country, to serve our fellow men and women, and to bring peace and contentment to this great nation and throughout the world. We pray at this time for those who are suffering in Haiti and elsewhere throughout the world. We ask you to bless them and help them and help us to do our share in helping throughout this world. We are grateful for the leaders from other countries who are here and we pray Thy blessings upon them. Once again, we ask that you bless our President, Vice President and the leaders of this country. In the name of Jesus Christ, Amen.

Senator Klobuchar: Thank you very much Senator Hatch. Now to read our next scripture today we are honored to be joined by Jose Luis Rodriguez Zapatero, who is currently serving his second four year term as the Prime Minister of Spain. Prime Minister Zapatero however, is not just the leader of one very important country, he is also the current Chairman of the European Union. And if that isn't enough, he made a claim to fame as Prime Minister with a cabinet where a majority of his cabinet members are women. I decided to add that. The Prime Minister has also made invaluable contributions to interfaith dialogue and reconciliation in his country, both as an individual and as an elected leader. His personal quest has been to promote peaceful coexistence and tolerance among the religious faiths in his own country and throughout the world. Please join me in welcoming the Prime Minister of Spain, the Chairman of the European Union, His Excellency Jose Luis Rodriguez Zapatero.

The Prime Minister of Spain: [Speaking in Spanish]

Translator: Mr. President, Members of Congress, ladies and gentlemen, thank you. Thank you for inviting me to participate—on behalf of my country, on behalf of Spain—in one of the American people's most symbolic traditions. And thank you to Senators Klobuchar and Isakson. And please do allow me now to speak to you in Spanish, the language in which people first prayed to the God of the Gospels in this land.

No one knows the value of religious freedom better than all of you. Your forbearers fled oppression and so as to never be deprived of their freedom, they founded this country. A nation, the United States of America, born out of democracy; a nation that has never stopped thriving thanks to the strength of that democracy, which abolished slavery, recognized equal voting rights and outlawed discrimination; a nation that has expanded pluralism, tolerance and respect for all choices and beliefs. Admirable feats, admirable in the eyes of a firm believer in democracy, living in one of the oldest nations in the world, Spain. Our nation is also diverse, forged out of diversity and renewed in its diversity. Our nation is as diverse as America. It is the most multi-cultural of the lands of Europe, a Spain that is Celtic, Iberian, Phoenician, Greek, Roman, Jewish, Arab and Christian, especially Christian as defined by the Latin American Author Carlos Fuentes. Our two countries owe much to us that have come to us from abroad. Our countries cannot be understood without them. Without those who throughout history have come to our land and living in our midst have become us, have become what we are.

Allow me to read you a Bible passage from Deuteronomy, Chapter 24, ''You should not withhold the wages of poor and needy laborers whether other Israelites or aliens who reside in your land or in one of your towns. You shall pay them their wages daily before sunset because they are poor and their livelihood depends on them.''

Let us be concerned with integrating those who have come to work and live in our countries in our midst. Let us also be concerned with all of those whom we cannot welcome amongst us and who are suffering from hunger and extreme poverty in so many places around the world, such as those living in Haiti and whose misfortune has moved us to offer up all our efforts of solidarity; a solidarity which reconciles us with our human condition, with our vulnerability and our fraternity and which should never wane. Furthermore, I would like to proclaim my deep commitment to those men and women who in our societies in these difficult times are suffering the scarcity of jobs. They should all know that as government leaders, this task is our paramount concern. No other task is more binding to us than that of fostering job creation. Today, it is my plea that we also advocate the right of all persons anywhere in the world to moral autonomy, to their quest for that which is good. Today, it is my plea that we advocate the freedom of all to live their own lives, to live with their loved one and to build and nurture their family environment. This is worthy of respect.

Freedom, civic truth, the truth common to us all, it is what makes us true, genuine, authentic human beings, because freedom enables each of us to look destiny in the eye and seek our own truth. But tolerance is so much more than accepting the other. It is discovering, knowing, acknowledging the other. Ignorance of the other is at the root of all conflicts that threaten human kind and endanger our future. Ignorance breeds hate. Harmony is founded on knowledge—so is peace. Even in the past, Spain was a model of peaceful coexistence among the three religions of the Book—Judaism, Christianity and Islam. And today in the world, Spain defends religious tolerance and respect for difference, dialogue, peaceful coexistence of cultures, the alliance of civilizations. We do so with as much conviction as we reject excluding statements of moral superiority, absolutism, and uncompromising fundamentalism. The United States knows, as does Spain, that the spurious use of religious faith to justify violence can be hugely destructive. And what better occasion than this prayer breakfast to commemorate together, to honor together, our victims of terrorism. Because it also together that we defend freedom wherever it is threatened.

Mr. President, members of Congress, ladies and gentlemen, be it with a lofty dimension or a civic one, freedom is always the foundation of hope, of hope in the future, for liberty as for honor says Don Quixote in the masterpiece written in Spanish, ''One can rightfully risk one's life, yet captivity is the worst evil that can befall men.'' Liberty is one of the most precious gifts heaven has bestowed upon man that this gift may continue blessing America and all people's on earth. Thank you very much. [Applause]

Senator Isakson: Prime Minister Zapatero, thank you for those meaningful and inspirational words. We are delighted to have you in America today and we appreciate your friendship very much. You know every day when I find those special few moments to pause and meditate and pray for the things I am thankful for, the very first prayer is for the men and women who serve us in harm's way in our armed forces around the world. For I know they not only serve the United States, but they serve peace, freedom and democracy of all nations around the world. And it is my pleasure now to introduce the leader of the United States' military, the Chairman of the Joint Chiefs of Staff, Admiral Michael Mullen.

Admiral Michael Mullen: Thank you. Good morning Mr. President, Mrs. Obama, Vice President Biden, Secretary Clinton, other distinguished heads of state and distinguished visitors, ladies and gentlemen. I am deeply honored to be here and to have this opportunity. I have been asked this morning to offer a prayer for world leaders. When my wife, Deborah, informed me that one of the leaders I would be praying for was probably me, something I hadn't really considered, I actually started taking this very serious. I am also mindful that there is more than one higher power in the room today, no offense, Mr. Vice President. Now, before I ask you all to join me in prayer I would like to tell a little story. It is about an Army platoon leader in the Korean War. He and his men fell into an ambush one day out on patrol and found themselves surrounded by enemy soldiers. They hunkered down in a small clearing, making the best of what little cover they could find and tried desperately to hold on against what seemed to be terrible odds. Every now and then, the platoon sergeant noticed that his young lieutenant would dash behind a big rock and sit for a minute or two and then dash back out and start issuing new commands: ''move here, move there, shift your fire high, shift it low.'' The barrage of orders seemed to come almost as fast as the enemy bullets themselves. After an hour or so, while suffering only a few casualties, the platoon had chased off their attackers and began to safely make their way back to base. On the walk back, the sergeant approached the lieutenant and asked him: ''Exactly what were you doing behind that rock, sir?'' The officer grinned a little, sighed, his shoulders sank, he said ''I needed

time to think, to adjust so I kept asking myself three questions: What am I doing? What am I not doing? And how can I make up the difference?'' Now, I do not know if that story is really true or not—I am told that it is. I really like it, because it illustrates perfectly the deepest challenge of leadership during difficult times—that of self reflection and sober analysis. Even in the heat of battle, perhaps especially in the heat of battle, we must find the time to think, to adjust, and to improve our situation. After more than four decades in uniform in peace and in war, it has been my experience that people are guided best not by their instincts but by their reason. That leaders are most effective not when they rule passionately but when they decide dispassionately. As St. Thomas Aquinas once said, ''A man has free choice only to the extent that he is rational.'' And so in these dangerous, difficult and immensely challenging times, when our young troops fight two wars overseas while their loved ones back home fight to keep their families together, when everything from the economy to the environment instills fear and uncertainty, let us exercise our own free choice. Let us lead rationally and calmly. Let us take the time to ask ourselves: What are we doing? What are we not doing? And how can we make up the difference? We may not always like the answers—I know I seldom do—but we can always learn from having posed the questions.

And now, please bow your heads and join me in prayer. Father in Heaven, we gather today to ask your blessing over the lives and decisions of those who lead us around the world. Theirs is a mighty task and a noble calling, for upon their shoulders rest the hopes and dreams of billions of people, not only of this generation but of future generations who know us not. May you guide them in that pursuit, oh Lord, give them the faith to seek your guidance, the wisdom to make the right decisions and the character to see those decisions through. Help them choose love over hate, courage over fear, principle over expediency. Let them always seek concord and peace and to remember that the best leader is a good and humble servant. Encourage them, Father, to seek your council as Solomon himself did in 1 Kings, chapter 3, saying to you: ''but I am only a little child and do not know how to carry out my duties. So give me a discerning heart to govern your people and to distinguish between right and wrong.'' May you bless us all Lord, your children, and give our leaders that same discerning heart. Help us always to distinguish between right and wrong and to serve others before ourselves. This we pray, in Thy name, Amen.

Senator Klobuchar: Thank you very much, Admiral Mullen. It is now my great honor to introduce our keynote speaker, Secretary of State, Hillary Rodham Clinton. She is an incredibly accomplished woman whose life has been shaped by the deep and abiding faith she was blessed to receive during her childhood in suburban Chicago. Faith was always central to Hillary Clinton's family. Her mother taught Sunday school and made sure that her daughter and sons were there the moment the church doors opened. In high school, she was deeply influenced by her youth minister who taught her about faith in action. On one memorable evening at age fourteen, her church youth group went to hear a speech by Reverend Martin Luther King, a transformative experience that inspires her today. As a successful attorney and the First Lady of Arkansas, her faith inspired her to be a forceful advocate for disadvantaged children and families. As our nation's First Lady, her faith led her to be a champion for health care reform and for human rights, especially for women around the world. As I have learned from people who were here at this prayer breakfast long before me, Hillary Clinton and her husband, President Bill Clinton, were always generous with their time at this prayer breakfast. As a Senator from New York, Senator Clinton's faith sustained as she became a highly respected legislator who always did her homework. And after a long and bruising presidential campaign in which she shattered the glass ceiling for national women candidates forever, she was asked by President Obama to serve as Secretary of State. She could have so easily said ''no'' and stayed as the powerhouse she was in the Senate, instead, she once again answered the call to serve. She didn't flinch, she didn't hesitate. And in the words of Isaiah, she said, ''Send me.'' From the sands of the Mideast, to the capitals of Europe, to the devastation in Haiti, she has shown America's strength and commitment to the world. Please join me in welcoming, Secretary of State Hillary Clinton.

Secretary of State Hillary Clinton: Thank you. Thank you. Thank you very much. I have to begin by saying that I am not Bono. Those of you who were here when he was, I apologize beforehand. But it is a great pleasure to be with you and to be here with President and Mrs. Obama, to be with Vice President Biden, with Chairman Mullen, with certainly our hosts today, my former colleagues and friends, Senators Johnny Isakson and Amy Klobuchar. And to be with so many distinguished guests and visitors who have come from all over our country and indeed from all over the world.

I have attended this prayer breakfast every year since 1993, and I have always found it to be a gathering that inspires and motivates me. Now today, our minds are still filled with the images of the tragedy of Haiti where faith is being tested daily in food lines and makeshift hospitals, in tent cities where there are not only so many suffering people but so many vanished dreams.

When I think about the horrible catastrophe that has struck Haiti, I am both saddened but also spurred. This is a moment that has already been embraced by people of faith from everywhere. I thank Prime Minister Zapatero for his country's response and commitment. Because in the days since the earthquake, we have seen the world and the world's faithful spring into action on behalf of those suffering. President Obama has put our country on the leading edge of making sure that we do all we can to help alleviate not only the immediate suffering, but to assist in the rebuilding and recovery. So many countries have answered the call, and so many churches, synagogues, mosques and temples have brought their own people together. And even with modern technology through Facebook and telethons and text messages and Twitter, there has been an overwhelming global response. But of course, there is so much more to be done.

When I think about being here with all of you today, there are so many subjects to talk about. You have already heard, both in prayer and in Scripture reading and in Prime Minister Zapatero's remarks, a number of messages. But let me be both personal and speak from my unique perspective now as Secretary of State. I have been here as a First Lady. I have been here as a senator, and now I am here as a Secretary of State. I have heard heartfelt descriptions of personal faith journeys. I have heard impassioned pleas for feeding the hungry and helping the poor, caring for the sick. I have heard speeches about promoting understanding among people of different faiths. I have met hundreds of visitors from countries across the globe. I have seen the leaders of my own country come here amidst the crises of the time and, for at least a morning, put away political and ideological differences. And I have watched and I have listened to three presidents, each a man of faith, speak from their hearts, both sharing their own feelings about being in a position that has almost intolerably impossible burdens to bear, and appealing often, either explicitly or implicitly, for an end to the increasing smallness, irrelevancy, even meanness, of our own political culture. My own heart has been touched and occasionally pierced by the words I have heard and often my spirit has been lifted by the musicians and the singers who have shared their gifts in praising the Lord with us. And during difficult and painful times, my faith has been strengthened by the personal connections that I have experienced with people who, by the calculus of politics, were on the opposite side of me on the basis of issues or partisanship.

After my very first prayer breakfast, a bipartisan group of women asked me to join them for lunch and told me that they were forming a prayer group. And these prayer partners prayed for me. They prayed for me during some very challenging times. They came to see me in the White House. They kept in touch with me and some still do today. And they gave me a handmade book with messages, quotes, and Scripture to sustain me. And of all the thousands of gifts that I have received in the White House, I have a special affection for this one. Because in addition to the tangible gift of the book, it contained 12 intangible gifts, 12 gifts of discernment, peace, compassion, faith, fellowship, vision, forgiveness, grace, wisdom, love, joy, and courage. And I have had many occasions to pull out that book and to look at it and to try, Chairman Mullen, to figure out how to close the gap of what I am feeling and doing with what I know I should be feeling and doing. As a person of faith, it is a constant struggle, particularly in the political arena, to close that gap that each of us faces.

In February of 1994, the speaker here was Mother Theresa. She gave, as everyone who remembers that occasion will certainly recall, a strong address against abortion. And then she asked to see me. And I thought, ''Oh, dear.'' And after the breakfast we went behind that curtain and we sat on folding chairs, and I remember being struck by how small she was and how powerful her hands were, despite her size, and that she was wearing sandals in February in Washington.

We began to talk and she told me that she knew that we had a shared conviction about adoption being vastly better as a choice for unplanned or unwanted babies. And she asked me—or more properly, she directed me—to work with her to create a home for such babies here in Washington. I know that we often picture, as we are growing up, God as a man with a white beard. But that day, I felt like I had been ordered, and that the message was coming not just through this diminutive woman but from some place far beyond.

So, I started to work. And it took a while because we had to cut through all the red tape. We had to get all of the approvals. I thought it would be easier than it turned out to be. She proved herself to be the most relentless lobbyist I have ever encountered. She could not get a job in your White House, Mr. President. She never let up. She called me from India, she called me from Vietnam, she wrote me letters and it was always: ''When is the house going to open? How much more can be done—quickly?''

Finally, the moment came: June 1995 and the Mother Theresa Home for Infant Children opened. She flew in from Kolkata to attend the opening and, like a happy child, she gripped my arm and led me around, looking

at the bassinets and the pretty painted colors on the wall, and just beaming about what this meant for children and their futures.

A few years later, I attended her funeral in Kolkata, where I saw presidents and prime ministers, royalty and street beggars pay her homage. And after the service, her successor, Sister Nirmala, the leader of the Missionary of Charity, invited me to come to the Mother House. I was deeply touched. When I arrived, I realized I was one of only a very few outsiders. And I was directed into a whitewashed room where the casket had already arrived. And we stood around with the nuns, with the candles on the walls flickering, and prayed for this extraordinary woman. And then Sister Nirmala asked me to offer a prayer. I felt both inadequate and deeply honored, just as I do today.

And in the tradition of prayer breakfast speakers, let me share a few matters that reflect how I came on my own faith journey, and how I think about the responsibilities that President Obama and his administration and our government face today. As Amy said, I grew up in the Methodist Church. On both sides of my father's family, the Rodhams and the Joneses; they came from mining towns. And they claimed, going back many years, to have actually been converted by John and Charles Wesley. And, of course, Methodists—we are methodical. It was a particularly good religion for me. And part of it is a commitment to living out your faith. We believe that faith without works may not be dead, but it is hard to discern from time to time. John Wesley had this simple rule which I carry around with me as I travel: ''Do all the good you can by all the means you can and by all the ways you can and all the places you can at all the times you can to all the people you can, as long as ever you can.'' That is a tall order. And of course, one of the interpretive problems with it is, who defines good? What are we actually called to do, and how do we stay humble enough, obedient enough, to ask ourselves, ''Am I really doing what I am called to do?'' It was a good rule to be raised by and it was certainly a good rule for my mother and father to discipline us by. And I think it is a good rule to live by, with the appropriate dose of humility. Our world is an imperfect one filled with imperfect people, so we constantly struggle to meet our own spiritual goals. But John Wesley's teachings, and the teachings of my church, particularly during my childhood and teenage years, gave me the impetus to believe that I did have a responsibility. It meant not sitting on the sidelines, but being in the arena. And it meant constantly working to try to fulfill the lessons that I absorbed as a child. It is not easy. We are here today because we are all seekers, and we can all look around our own lives and the lives of those whom we know and see everyone falling so short.

As we look around the world, there are so many problems and challenges that people of faith are attempting to address—or should be. We can recite those places where human beings are mired in the past—their hatreds, their differences—where governments refuse to speak to other governments, where the progress of entire nations is undermined because isolation and insularity seem less risky than cooperation and collaboration, where all too often it is religion that is the force that drives and sustains division rather than being the healing balm. These patterns persist despite the overwhelming evidence that more good will comes from suspending old animosities and preconceptions, from engaging others in dialogue, from remembering the cardinal rules found in all of the world's major religions.

Last October, I visited Belfast once again, 11 years after the signing of the Good Friday agreement, a place where being a Protestant or a Catholic determined where you lived, often where you worked, whether you were a friend or an enemy, a threat or a target. Yet over time, as the body count grew, the bonds of common humanity became more powerful than the differences fueled by ancient wrongs. So bullets have been traded for ballots—as we meet this morning, both communities are attempting to hammer out a final agreement on the yet unresolved issues between them. And they are discovering anew what the Scripture urges us: ''Let us not become weary in doing good, for at the proper time we will reap a harvest if we do not give up.'' Even in places where God's presence and promise seems fleeting and unfulfilled or completely absent, the power of one person's faith and the determination to act can help lead a nation out of darkness.

Some of you may have seen the film, ''Pray the Devil Back to Hell.'' It is the story of a Liberian woman who was tired of the conflict and the killing and the fear that had gripped her country for years. So she went to her church and she prayed for an end to the civil war. And she organized other women at her church, and then at other churches, then at the mosques. Soon thousands of women became a mass movement, rising up and praying for a peace, and working to bring it about that finally, finally ended the conflict.

And yet, the devil must have left Liberia and taken up residence in Congo. When I was in the Democratic Republic of Congo this summer, the contrasts were so overwhelmingly tragic—a country the size of Western Europe, rich in minerals and natural resources, where 5.4 million people have been killed in the most deadly conflict since World War II; where 1,100 women and girls are raped every month; where the life expectancy is 46 and dropping; where poverty, starvation and all of the ills that stalk the human race are in abundance. When I traveled to Goma, I saw in a single day the best and the worst of humanity. I met with women who had been savaged and brutalized physically and emotionally, victims of gender and sexual-based violence in a place where law, custom and even faith did little to protect them. But I also saw courageous women who, by faith, went back in to the bush to find those who, like them, had been violently attacked. I saw the doctors and the nurses who were helping to heal the wounds, and I saw so many who were there because their faith led them to it.

As we look at the world today and we reflect on the overwhelming response—of the outpouring of generosity—to what happened in Haiti, I am reminded of a story of Elijah. After he goes to Mount Horeb, we read that he faced ''a great wind, so strong that it was splitting mountains and breaking rocks in pieces before the Lord, but the Lord was not in the wind; and after the wind, an earthquake, but the Lord was not in the earthquake; and after the earthquake, a fire, but the Lord was not in the fire; and after the fire, a sound of sheer silence—a still small voice.'' It was then that Elijah heard the voice of the Lord. It is often when we are only quiet enough to listen, that we do as well. It is something we can do at any time, without a disaster or a catastrophe provoking it. It shouldn't take that.

But the teachings of every religion call us to care for the poor, tell us to visit the orphans and widows, to be generous and charitable, to alleviate suffering. All religions have their version of the Golden Rule and direct us to love our neighbor and welcome the stranger and visit the prisoner. But how often in the midst of our own lives do we respond to that? All of these holy texts, all of this religious wisdom from these very different faiths, call on us to act out of love. In politics, we sometimes talk about message discipline—making sure everyone uses the same set of talking points. Well, whoever was in charge of message discipline on these issues for every religion certainly knew what they were doing. Regardless of our differences, we all got the same talking points and the same marching orders. So the charge is a personal one. Yet across the world, we see organized religion standing in the way of faith, perverting love, undermining that message. Sometimes it is easier to see the far away than the here at home. But religion, cloaked in naked power lust, is used to justify horrific violence, attacks on homes, markets, schools, volleyball games, churches, mosques, synagogues, temples. From Iraq to Pakistan and Afghanistan to Nigeria and the Middle East, religion is used as a club to deny the human rights of girls and women, from the Gulf to Africa to Asia, and to discriminate, even advocating the execution of gays and lesbians. Religion is used to enshrine in law intolerance of free expression and peaceful protest. Iran is now detaining people and executing people under a new crime—waging war against God. That seems to be a rather dramatic identity crisis.

So in the Obama Administration, we are working to bridge religious divides. We are taking on violations of human rights perpetrated in the name of religion. And we invite members of Congress and clergy and active citizens like all of you here to join us. Of course, we are supporting the peace processes from Northern Ireland to the Middle East, and of course we are following up on the President's historic speech at Cairo with outreach efforts to Muslims and promoting interfaith dialogue, and of course we are condemning the repression in Iran. But we are also standing up for girls and for women, who too often in the name of religion, are denied their basic human rights. And we are standing up for gays and lesbians who deserve to be treated as full human beings. And we are also making it clear to countries and leaders that these are priorities of the United States. Every time I travel, I raise the plight of girls and women, and make it clear that we expect to see changes. And I recently called President Museveni, whom I have known through the prayer breakfast, and expressed the strongest concerns about a law being considered in the parliament of Uganda.

We are committed, not only to reaching out and speaking up about the perversion of religion, and in particularly the use of it to promote and justify terrorism, but also seeking to find common ground. We are working with Muslim nations to come up with an appropriate way of demonstrating criticism of religious intolerance without stepping over into the area of freedom of religion, or nonreligion, and expression. So there is much to be done, and there are a lot of challenging opportunities for each of us as we leave this prayer breakfast, this 58th prayer breakfast.

In 1975, my husband and I, who had gotten married in October, and we were both teaching at the University of Arkansas Law School in beautiful Fayetteville, Arkansas—we got married on a Saturday and went back to work on a Monday. So around Christmastime, we decided that we should go somewhere and celebrate, take a honeymoon. And my late father said, ''Well, that's a great idea, we'll come too.'' And indeed Bill and I and my entire family went to Acapulco. We had a great time, but it wasn't exactly a honeymoon. So when we got back, Bill was talking to one of his friends who was then working in Haiti, and his friend said, ''Well, why don't you come see me? This is the most interesting country. Come and take some time.'' So indeed, we did. So we were there

over the New Year's holidays. And I remember visiting the cathedral in Port-au-Prince, in the midst of, at that time, so much fear from the regime of the Duvaliers, and so much poverty, there was this cathedral that had stood there and served as a beacon of hope and faith. After the earthquake, I was looking at some of our pictures from the disaster, and I saw the total destruction of the cathedral. It was just a heart rending moment. And yet, I also saw men and women helping one another, digging through the rubble, dancing and singing in the makeshift communities that they were building up. And I thought again that as the Scripture reminds us, ''Though the mountains be shaken and the hills be removed, yet my unfailing love for you will not be shaken nor my covenant of peace be removed.''

As the memory of this crisis fades, as the news cameras move on to the next very dramatic incident, let us pray that we can sustain the force and the feeling that we find in our hearts and in our faith in the aftermath of such tragedies. Let us pray that we will all continue to be our brothers' and sisters' keepers. Let us pray that amid our differences we can continue to see the power of faith not only to make us whole as individuals, to provide personal salvation, but to make us a greater whole and a greater force for good on behalf of all creation. So let us do all the good that we can, by all the means we can, in all the ways we can, in all the places we can, to all the people we can, as long as ever we can. God Bless you.

Senator Isakson: Thank you, Secretary Clinton, for your words of inspiration and for the magnificent job you do as the Secretary of State for our nation. I now have the high honor and distinct privilege of introducing the President of the United States—that is no easy task. Have you ever tried introducing somebody that is known to everybody on the planet? It is hard to find something unique and inspirational. Everyone knows of the historic impact of Barack Obama's election to the Presidency of the United States. We all marvel at his oratory skills and his ability to communicate, and we all know his energy is boundless. We also know that his audacity of hope has given hope to millions of people around the world, to aspire to the highest of achievement in their life. But it was his State of the Union that inspired me as to what I would say, because I listened when he asked us to seek those things that we have in common, not those things that divide us. And then I realized it, Mr. President, you and I share one unique characteristic in common—we married way over our heads. With a magnificent First Lady like Michelle Obama, I felt it only appropriate that I would introduce you today, sir, as the husband of the dynamic First Lady of the United States of America, President Barack Obama.

The President: Thank you. Thank you very much. Please be seated.

Thank you so much. Heads of State, Cabinet members, my outstanding Vice President, members of Congress, religious leaders, distinguished guests, Admiral Mullen—it's good to see all of you. Let me begin by acknowledging the co-chairs of this breakfast, Senators Isakson and Klobuchar, who embody the sense of fellowship at the heart of this gathering. They are two of my favorite senators. Let me also acknowledge the director of my Faith-based Office, Joshua DuBois, who is here. He's doing great work.

I want to commend Secretary Hillary Clinton on her outstanding remarks and her outstanding leadership at the State Department. She is doing good every day. I am especially pleased to see my dear friend, Prime Minister Zapatero, and I want him to relay America's greetings to the people of Spain. And Johnny, you are right, I am deeply blessed, and I thank God every day for being married to Michelle Obama.

I am privileged to join you once again as my predecessors have for over half a century. Like them, I come here to speak about the ways my faith informs who I am—as a President and as a person. But I am also here for the same reason that all of you are, for we all share recognition—one as old as time—that a willingness to believe, an openness to grace, a commitment to prayer can bring sustenance to our lives.

There is, of course, a need for prayer even in times of joy and peace and prosperity. Perhaps especially in such times prayer is needed—to guard against pride and to guard against complacency. But rightly or wrongly, most of us are inclined to seek out the divine not in the moment when the Lord makes his face shine upon us but in the moment when God's grace can seem farthest away.

Last month, God's grace, God's mercy, seemed far away from our neighbors in Haiti. And yet I believe that grace was not absent in the midst of tragedy. It was heard in prayers and hymns that broke the silence of an earthquake's wake. It was witnessed among parishioners of churches that stood no more, a road side congregation holding bibles in their laps. It was felt in the presence of relief workers and medics, translators, service men and women bringing food and water and aid to the injured.

One such translator was an American of Haitian decent, representative of the extraordinary work that our men and women in uniform do all around the world—Navy Corpsman Christopher Brossard. And lying on a gurney aboard the USNS Comfort, a woman asked Christopher: ''Where do you come from? What country? After my operation,'' she said, ''I will pray for that country.'' And in Creole, Corpsman Brossard responded, ''Etazini.'' The United States of America.

God's grace, and the compassion and decency of the American people is expressed through the men and women like Corpsman Brossard. It is expressed through the efforts of our Armed Forces; through the efforts of our entire government; through similar efforts from Spain and other countries around the world. It is also, as Secretary Clinton said, expressed through multiple faith-based efforts. By Evangelicals at World Relief. By the American Jewish World Service. By Hindu temples, and mainline Protestants, Catholic Relief Services, African-American churches, the United Sikhs. By Americans of every faith, and no faith, uniting around a common purpose, a higher purpose.

It's inspiring. This is what we do, as Americans, in times of trouble. We unite, recognizing that such crises call on all of us to act, recognizing that there but for the grace of God go I, recognizing that life's most sacred responsibility—one affirmed, as Hillary said, by all of the world's great religions—is to sacrifice something of ourselves for a person in need.

Sadly, though, that spirit is too often absent when tackling the long-term, but no less profound issues facing our country and the world. Too often, that spirit is missing without the spectacular tragedy—the 9/11 or the Katrina, the earthquake or the tsunami—that can shake us out of complacency. We become numb to the day-to-day crises, the slow-moving tragedies of children without food and men without shelter and families without health care. We become absorbed with our abstract arguments, our ideological disputes, our contests for power. And in this Tower of Babel, we lose the sound of God's voice.

Now, for those of us here in Washington, let's acknowledge that democracy has always been messy. Let's not be overly nostalgic. Divisions are hardly new in this country. Arguments about the proper role of government, the relationship between liberty and equality, our obligations to our fellow citizens—these things have been with us since our founding. And I am profoundly mindful that a loyal opposition, a vigorous back and forth, a skepticism of power, all of that is what makes our democracy work.

And we have seen actually some improvement in some circumstances. We haven't seen any canings on the floor of the Senate any time recently. So we shouldn't over-romanticize the past. But there is a sense that something is different now; that something is broken; that those of us in Washington are not serving the people as well as we should. At times, it seems like we are unable to listen to one another; to have at once a serious and civil debate. And this erosion of civility in the public square sows division and distrust among our citizens. It poisons the well of public opinion. It leaves each side little room to negotiate with the other. It makes politics an all-or-nothing sport, where one side is either always right or always wrong when, in reality, neither side has a monopoly on truth. And then we lose sight of the children without food and the men without shelter and the families without health care.

Empowered by faith, consistently, prayerfully, we need to find our way back to civility. That begins with stepping out of our comfort zones in an effort to bridge divisions. We see that in many conservative pastors who are helping lead the way to fix our broken immigration system. It's not what would be expected from them, and yet they recognize, in those immigrant families, the face of God. We see that in the Evangelical leaders who are rallying their congregations to protect our planet. We see it in the increasing recognition among progressives that government cannot solve all of our problems, and that talking about values like responsible fatherhood and healthy marriage are integral to any anti-poverty agenda. Stretching out of our dogmas, our prescribed roles along the political spectrum, that can help us regain a sense of civility.

Civility also requires relearning how to disagree without being disagreeable; understanding as President Kennedy said, that ''civility is not a sign of weakness.'' Now, I am the first to confess that I am not always right. Michelle will testify to that. But surely you can question my policies without questioning my faith, or, for that matter, my citizenship.

Challenging each other's ideas can renew our democracy. But when we challenge each other's motives, it becomes harder to see what we hold in common. We forget that we share in some deep level the same dreams—even when we don't share the same plans on how to fulfill them.

We may disagree about the best way to reform our health care system, but surely we can agree that no one ought to go broke when they get sick in the richest nation on Earth. We can take different approaches to ending inequality, but surely we can agree on the need to lift our children out of ignorance; to lift our neighbors from poverty. We may disagree about gay marriage, but surely we can agree that it is unconscionable to target gays and lesbians for who they are—whether it is here in the United States or, as Hillary mentioned, more extremely in odious laws that are being proposed most recently in Uganda.

Surely, we can agree to find common ground when possible, parting ways when necessary. But in doing so, let us be guided by our faith, and by prayer. For while prayer can buck us up when we are down, keep us calm in a storm; while prayer can stiffen our

spines to surmount an obstacle—and I assure you I'm praying a lot these days—prayer can also do something else. It can touch our hearts with humility. It can fill us with a spirit of brotherhood. It can remind us that each of us are children of an awesome and loving God.

Through faith, but not through faith alone, we can unite people to serve the common good. And that's why my Office of Faith-Based and Neighborhood Partnerships has been working so hard since I announced it here last year. We have slashed red tape and built effective partnerships on a range of uses, from promoting fatherhood here at home, to spearheading inter-faith cooperation abroad. And through that office, we have turned the faith based initiative around to find common ground among people of all beliefs, allowing them to make an impact that is civil and respectful of difference and focused on what matters most.

It is this spirit of civility that we are called to take up when we leave here today. That is what I am praying for. I know in difficult times like these—when people are frustrated, when pundits start shouting and politicians start calling each other names—it can seem like a return to civility is not possible, like the very idea is a relic of some bygone era. The word itself seems quaint—civility.

But let us remember those who came before; those who believed in the brotherhood of man even when such a faith was tested. Remember Dr. Martin Luther King. Not long after an explosion ripped through his front porch, his wife and infant daughter inside, he rose to that pulpit in Montgomery and said, ''Love is the only force capable of transforming an enemy into a friend.''

In the eyes of those who denied his humanity, he saw the face of God.

Remember Abraham Lincoln. On the eve of the Civil War, with states seceding and forces gathering, with a nation divided half slave half free, he rose to deliver his first inaugural and said, ''We are not enemies but friends . . . Though passion may have strained, it must not break our bonds of affection.''

Even in the eyes of Confederate soldiers, he saw the face of God.

Remember William Wilberforce, whose Christian faith led him to seek slavery's abolition in Britain. He was vilified, derided, attacked; but he called for ''lessening prejudices and conciliating good-will, and thereby making way for the less obstructed progress of truth.''

In the eyes of those who sought to silence a nation's conscience, he saw the face of God.

Yes, there are crimes of conscience that call us to action. Yes, there are causes that move our hearts and offenses that stir our souls. But progress does not come when we demonize opponents. It is not born in righteous spite. Progress comes when we open our hearts, when we extend our hands, when we recognize our common humanity. Progress comes when we look into the eyes of another and see the face of God. That we might do so—that we will do so all the time, not just some of the time—is my fervent prayer for the nation and the world.

Thank you, God bless you, and God bless the United States of America.

Senator Isakson: Thank you so much, Mr. President, for your leadership and your words of faith. We are now in for a magnificent treat. Ralph Freeman founded Song Sermon Ministries years ago, has sung on continents around the world and throughout the United States. Ladies and gentlemen, Mr. Ralph Freeman.

Mr. Ralph Freeman: [Singing]

We believe in the Father who created all that is
And we believe the universe and all there is His
As a loving Heavenly Father he yearned to save us all
To lift us from the fall—we believe
We believe in Jesus, the Father's only son
Existing uncreated before time had begun
A sacrifice for sin, he died then he rose again
To ransom sinful man—we believe.
We believe in the Spirit who makes believers one
Our hearts are filled with His presence
The Comforter has come
The kingdom unfolds in His plan
Unhindered by quarrels of man
His church upheld by his hands—we believe
Though the Earth be removed
And time be no more
These truths are secure God's words shall endure
Whatever may change, these things for sure—we believe.
So if the mountains are cast down into the plains
When the kingdoms all crumble, this one remains
Our faith is not subject to seasons of man
With our fathers we proclaim
We believe our Lord will come as He said
The land and the sea will give up their dead
His children will reign with Him as their head
We believe
We believe

Senator Klobuchar: What an amazing song. Thank you so much and the President wanted me to let you know he only had to leave early so it makes it easier for you all to get out of here. But we want to thank you for such a beautiful morning, something we will never forget and we have one last prayer, a closing prayer and Johnny will introduce our speaker.

Senator Isakson: My favorite verse in the Bible is in the first book of Thessalonians, the 5th chapter, the 16th and 17th verses—''Rejoice evermore.'' And certainly after this morning's message from Secretary of State Clinton and the gifted musicians that we heard from, Ralph Freeman, Bob Fraumann and MaryKay Messenger, we have had a reason to rejoice this morning. But in addition, the second verse says ''Pray without ceasing,'' and I can not think of a more appropriate person to close today than the young man of great gift and talent on the gridiron, who lives his faith and ministers around the world sharing with others. A role model for the youth of America, the University of Florida quarterback, the Heisman Trophy Winner, Mr. Tim Tebow.

Mr. Tim Tebow: It is actually rather incredible that a Georgia Bulldog would invite a Florida Gator. So you can actually see the hand of God here today already. Madam Secretary, Senators, distinguished guests, thank you so much for this opportunity. Now if you would, please bow your heads and pray with me right now.

Dear Jesus, thank you for this day. Thank you for bringing together so many people that have a platform to influence people for you. Lord, as we disperse today let us be united in love, hope and peace. Lord, let us come together as one and break down all the barriers in between us that separate us. Lord, you came to seek and save those who were lost and we thank you for that. Lord, we don't know what the future holds but we know who holds the future and in that there is peace and in that there is comfort and in that there is hope. Lord, we pray for the people all over the world who are hurting right now, Lord. And the first thing that comes to mind is James 1, verses 2 through 4, ''Consider all joy my brethren when you encounter various trials, knowing that the testing of your faith produces endurance and let endurance have its perfect result, that you may be perfect and complete, lacking in nothing.'' And we pray for the people in Haiti right now, Lord, that you make them perfect and complete because you love them and you have a plan for their lives, just like you do with our lives right now. So my prayer is as we leave today, we are united as one because of you. We love you and thank you. In Jesus' name, Amen.

Senator Isakson: Thank you for attending. We look forward to seeing you at the 59th Prayer Breakfast next year.

Senator Klobuchar: Thank you.

HONORING OUR ARMED FORCES

SPECIALIST WILLIAM C. YAUCH

Mrs. LINCOLN. Mr. President, today I honor SPC William C. Yauch, 23, of Batesville who died in Jalula, Iraq, in support of Operation Iraqi Freedom. According to initial reports, Specialist Yauch died of injuries sustained when a vehicle-borne improvised explosive device detonated near his patrol. He is survived by his wife of Batesville, his mother of Cave City, and his father of Saint Charles, MO.

My heart goes out to the family of Specialist Yauch who made the ultimate sacrifice on behalf of our Nation. Along with all Arkansans, I am grateful for his service and for the service and sacrifice of all of our military servicemembers and their families. I am committed to ensuring they have the full support that they need and deserve. Our grateful Nation will not forget them when their military service is complete.

More than 11,000 Arkansans on active duty and more than 10,000 Arkansas reservists have served in Iraq or Afghanistan since September 11, 2001. These men and women have shown tremendous courage and perseverance through the most difficult of times. As neighbors, as Arkansans, and as Americans, it is incumbent upon us to do everything we can to honor their service and to provide for them and their families, not only when they are in harm's way but also when they return home. It is the least we can do for those whom we owe so much.

Specialist Yauch was assigned to B Company, 5th Battalion, 20th Infantry Regiment, 2nd Infantry Division, Joint Base Lewis-McChord, WA.

REMEMBERING COLONEL WILLIAM H. MASON AND CHIEF MASTER SERGEANT THOMAS E. KNEBEL

Mrs. LINCOLN. Mr. President, today I pay tribute to two airmen from Arkansas, Air Force COL William H. Mason of Camden and CMSGT. Thomas E. Knebel of Midway, who bravely gave their lives during the Vietnam War, but whose ultimate fate had remained unknown. During a recent ceremony at Arlington National Cemetery, Colonel Mason and Chief Master Sergeant Knebel along with their crew members were given full military honors for their sacrifice.

On May 22, 1968, these men were aboard a C–130A Hercules on an evening flare mission over northern Salavan Province, Laos. Fifteen minutes after the aircraft made a radio call, the crew of another U.S. aircraft observed a large ground fire near the last known location of the aircraft. Search and rescue could not be attempted due to heavy antiaircraft fire in the area.

The fate of the plane and its crew was a mystery for decades. Military investigators pursued numerous leads before locating the crash site just inside Vietnam in 2000, then spent several more years trying to identify human remains at the site.

After years of uncertainty, the families of Colonel Mason and Chief Master Sergeant Knebel can now be at peace knowing the remains of their loved ones have been found.

My heart goes out to the families of these airmen, who made the ultimate sacrifice on behalf of our Nation. Along with all Arkansans, I am grateful for the service and sacrifice of all of our military servicemembers and their families. I am committed to ensuring they have the full support that they need and deserve. As Arkansans, and as Americans, it is incumbent upon us to do everything we can to honor their service. It is the least we can do for those whom we owe so much.

ADDITIONAL STATEMENTS

WYNDMERE, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I wish to recognize a community in North Dakota celebrating its 125th anniversary. On June 25 through 27, the residents of Wyndmere will gather to celebrate their community's history and founding.

In 1883, when North Dakota was just part of the Dakota territories, the city of Wyndmere was founded. It was named after Windermere Lake in Westmorelandshire, England, which derived from the combination of ''wynd,'' meaning a narrow lane, and ''mere,'' a pool or lake. The post office was established in 1884, and the Soo Line railroad crossed through town in 1888. The town flourished and became known as the Corn Capital of North Dakota.

The city was named a boom town in 1903 with multiple banks, physicians, blacksmith shops, jewelry stores, newspapers, and other businesses signaling its prosperity. Today, the city of Wyndmere and its residents are lucky to live with America's countryside in their backyard. With Sheyenne National Grasslands to enjoy, it is no surprise to find such a happy community. Wyndmere will celebrate its quasquicentennial with activities including an all school reunion and a parade.

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

Wyndmere has a proud past and a bright future.●

REMEMBERING JOHN W. DOUGLAS

● Mr. DODD. Mr. President, today I wish to honor the life and career of John Woolman Douglas, who passed away on June 6, 2010, at the age of 88.

We are all familiar with the images of the 1963 civil rights march, which took place here in Washington, DC, and is still one of the largest demonstrations of its kind in the Nation's history. It was during this march, in front of the Lincoln Memorial, with the National Mall flooded with demonstrators, that Dr. Martin Luther King, Jr. delivered his iconic ''I Have a Dream'' speech.

The images of that day, and of Dr. King's speech, have left an indelible mark on U.S. history. These events are remembered as some of the most important moments in the struggle against racial discrimination. They are also remembered as a nonviolent and hopeful affair—a stark contrast to the violence which characterized earlier demonstrations in the deep south.

Much of the credit for the success of this historic event goes to the tireless work of an Assistant Attorney General at the Justice Department. His name was John Douglas. As the head of the Justice Department's Civil Rights Division, Douglas was charged by President Kennedy with the responsibility for the logistics and security of the march. For five weeks in the summer of 1963, he worked tirelessly with local law enforcement, the march's organizers, and the city of Washington to ensure a peaceful, effective demonstration.

Though his efforts went largely unnoticed to most Americans, it was vital to the success of this iconic event. It was also a testament to Mr. Douglas's personal belief in ensuring that the laws of our nation protect and promote the civil rights of all citizens.

His commitment to the rule of law, and to the advancement of basic human and civil rights in the United States and across the globe, helped John Douglas find himself at the forefront of some of the most significant moments of the 20th century—events that helped shape that century into one of progress and promise.

The son of the late U.S. Senator Paul Douglas, John was a 1943 graduate of Princeton University. After serving in the Navy during World War II as an officer on a PT boat in the Pacific, he enrolled at Yale Law School, in my home State of Connecticut. In 1948, he went on to London as a Rhodes Scholar and returned to clerk for Supreme Court Justice Harold Burton. He then embarked upon a career in private law practice and in government, during which he sought to advance the cause of justice both at home and abroad.

In 1962, Douglas was one of four men who negotiated the release of more than 1,000 anti-communist prisoners, captured and held by Cuban leader Fidel Castro after the Bay of Pigs invasion. He then served in the Kennedy Justice Department, where he was Assistant Attorney General until leaving to help his father run his final campaign for U.S. Senate in 1966.

Upon returning to private practice, he served as cochairman of the Lawyer's Committee for Civil Rights Under Law. In 1970, he learned that schools in the South were still placing black students in separate classes and preventing them from participating in after school activities. Under his direction dozens of volunteers travelled to the South to assist in taking legal action to stop these injustices. Throughout the 1970s and 80s, he continued working actively on civil rights issues, serving as the cochairman of the Washington Lawyers' Committee for Civil Rights and Urban Affairs, and also as president of the National Legal Aid and Defender Association.

Internationally, Mr. Douglas worked to advance human rights through the development of democracy across the globe. In 1985, he traveled to South Africa, where he demonstrated against apartheid. He then returned to that nation as an official election observer in 1994—the year that Nelson Mandela was elected as President of South Africa in the first multi-racial election in that nation's history. He also served as an election monitor in the African nation of Namibia on three occasions in the 1980s and 1990s.

When he saw the rule of law warped into the tool of oppressive regimes, John Douglas stood courageously on the side of justice and human rights. As chairman of the Carnegie Endowment for International Peace from 1978 to 1986, he advocated for international arms controls. He also travelled to Chile in 1986 to protest the violent, oppressive regime of General Augusto Pinochet.

Clearly, he knew, just as my father Thomas Dodd, one of the lead prosecutors of the Nuremberg trials did, that the law is humanity's strongest and noblest weapon against tyranny and oppression. This is a fundamental value that John Douglas truly took to heart, and throughout his career he fought for the rule of law over the rule of the mob both at home and abroad.

His contributions to the advancement of these principles shall never be forgotten, and I extend my deepest condolences to his family for their loss.●

TRIBUTE TO DR. JEFF KIMPEL

● Mr. INHOFE. Mr. President, when a tornado or severe weather event

threatens the lives and property of our citizens across the country, few know that a hard-working, unsung hero is directing the National Severe Storms Laboratory in Norman, OK, to provide advanced weather forecasting on these threats. Our friend and colleague, Dr. Jeff Kimpel, Director of the NSSL, is retiring after 13 years of Federal service as the Director of the National Severe Storms Laboratory in Norman, OK. He will be sorely missed.

As my colleagues in the Senate know, the NSSL is best known for developing Doppler weather radar technology that led to the establishment of the national NEXRAD network consisting of more than 150 radar systems. During Dr. Kimpel's watch, NSSL performed the scientific and technological research that upgraded the NEXRADs from proprietary to open systems, added superresolution capability and designed dual-polarization upgrades. Dual-polarization will significantly increase the accuracy of rainfall estimates, delineate rain from snow, and provide an estimate of hail size. Since its installation, the NEXRAD program has reduced tornado-related deaths by 45 percent and personal injuries by 40 percent.

Under Dr. Kimpel's leadership, NSSL established strong programs in short-term cloud-resolving, numerical forecast models that are designed to yield estimates of hazardous weather events including tornadoes, windstorms, lightning, hail, and heavy precipitation. He championed radar-based rainfall analyses for flash flood and river forecasting. He was instrumental in establishing support for new facilities for NSSL that led to the eventual construction of the magnificent National Weather Center building shared with the National Weather Service and the University of Oklahoma Meteorology Program. He supported NSSL scientists and equipment to participate in 17 national and international field studies including the high profile Verification of the Origin of Tornadoes Experiment.

While Dr. Kimpel served as Director, NSSL scientists published over 600 archival, refereed journal articles, obtained 3 patents, and participated in 4 Cooperative Research and Development Agreements with private companies. NSSL employees achieved many honors and recognitions during his tenure including a NSSL affiliate being elected to the National Academy of Sciences, a senior researcher being elected to the National Academy of Engineering, and two junior colleagues being invited to the White House as winners of the Presidential Early Career Award for Scientists and Engineers.

Dr. Kimpel's legacy at NSSL will be his establishment of far-reaching research programs designed to vastly improve weather and water warnings and forecasts. He worked tirelessly to launch the Multifunction Phased Array Radar initiative as a possible eventual replacement for NEXRAD. He worked with the NWS Storm Prediction Center and the Norman Weather Forecast Office to establish the Hazardous Weather Testbed to accelerate the transition of new science into operational warning and forecasting decision processes. He worked with others to support the Warn-on-Forecast initiative that envisions a time when severe weather warnings will be issued using numerical guidance in addition to the present method of detecting precursors or the event itself. Dr. Kimpel expanded NSSL's radar-based flash flood forecasting and water management programs into coastal areas where inundation from land-falling tropical storms and hurricanes is possible.

Prior to becoming the Director of NSSL, Dr. Kimpel served in the U.S. Air Force, including a tour in Vietnam for which he was awarded the Bronze Star. He earned his graduate degrees at the University of Wisconsin before joining the meteorology faculty at the University of Oklahoma. He achieved the rank of full professor and held a number of administrative positions including dean of the College of Geosciences and provost and senior vice president of the Norman Campus. He was named a Fellow of the American Meteorological Society, is a certified, consulting meteorologist, and was elected president of the AMS in 2000. He chaired both the National Science Foundation's Advisory Committee for Atmospheric Sciences and the Board of Trustees of the University Corporation for the Atmospheric Sciences. Dr. Kimpel plans on remaining in Norman and spending more time with his five children and two grandchildren.

Is there an unsung hero protecting Americans? Yes—that hero to all of us is Dr. Jeff Kimpel. We wish him well in his future pursuits, and all of us continue to support those research and day-to-day operations he has championed at the NSSL in severe weather detection, research, and forecasting.●

TRIBUTE TO BOBBY SOUTHARD

● Mrs. LINCOLN. Mr. President, today I recognize Police Chief Bobby Southard of Hot Springs, AR. After a 22-year law enforcement career, Chief Southard will retire at the end of June.

Hired as a police officer in 1988, Chief Southard has enjoyed a successful career, serving as sergeant, lieutenant, captain, acting chief of police, and in February 2007 was selected as chief of the 129-person department.

Along with all Arkansans, I recognize the courage, bravery, and dedication of our Arkansas law enforcement, who risk their lives each day to keep our citizens safe. I thank these public servants for their service and sacrifice.●

TRIBUTE TO DR. FAUST ALVAREZ

● Mr. TESTER. Mr. President, today I announce to the Senate that after 24 years as chief of staff for the VA Montana Health Care System, Dr. Faust M. Alvarez, MD, has decided to retire. Dr. Alvarez was appointed chief of staff in August 1986 and continued in that position until April 30, 2010. He began his career as a staff physician at Fort Harrison Medical Center in 1984. Prior to joining the VA system he was engaged in private practice in the city of Helena for 12 years. During this time he founded and directed the first Montana hemodialysis unit and renal program at St. Peter's Hospital.

When Dr. Alvarez became the chief of staff at the VA, he sought to provide Montana's veterans with a high quality standard of care, and to provide easier access to medical services. These were challenging goals given that the VA Montana Health Care System has only one hospital and Montana is the fourth largest State geographically. Furthermore Montana has the second largest per capita veteran populations in the country. Through hard work and dedication, he and his staff have achieved these goals and have made the VA Montana Health Care System what it is today.

In 1988 Dr. Alvarez began expanding services for veterans by creating satellite clinics. The first clinics were opened in Anaconda and Kalispell. Today the VA Montana Health Care System has a presence in every major city in the state through 12 satellite outpatient facilities. Three of these facilities have telemedicine access and more are to be activated.

Through Dr. Alvarez's leadership and the hard working personnel of VA Montana, the VA Montana Medical System has been recognized on numerous occasions for its quality medical services. In 2005 the VA Montana was selected as the Nation's VA hospital of the year. Dr. Alvarez believes that Montana's veterans should expect and receive the highest quality medical care and services, and he has strived to ensure this expectation is met. By hiring board certified medical personnel, acquiring new state of the art equipment and incorporating current medical trends into the provision of healthcare services at VA Montana, Dr. Alvarez, and his staff, have made the VA Montana Health Care System the facility of choice for veterans across the State.

I thank Dr. Alvarez for his dedicated years of service. We are all proud of his accomplishments at VA Montana and the positive affect that the VA has had across the State during his tenure. I appreciate his initiative and hard work to continually improve medical services for Montana's veterans and to ensure our veterans receive appropriate care. I am certain that those who come after will maintain the same level of commitment and leadership.

Dr. Alvarez is a fellow of the American College of Physicians, an honorary designation recognizing scholarly and professional achievements in internal medicine. Dr. Alvarez was appointed by various Governors of the State of Montana to the State Board of Medical Examiners where he served for a total of 18 years.

Dr. Alvarez is retired from the U.S. Army Reserve where he served as a colonel and regional flight surgeon. He was also State medical commander for the Montana National Guard as well as flight surgeon to the 189th Aviation Battalion. During his service he received multiple decorations, including five Commendation Medals and five Meritorious Service Medals. Upon retirement, he received the Legion of Merit for exceptional meritorious conduct in the performance of outstanding services and achievements.

Dr. Alvarez and his wife of 43 years, Marie, have been dedicated to and are actively involved in the Helena community. They created the Dr. Faust M. & Marie Alvarez Scholarship in 1975. It is awarded annually to a deserving Carroll College student demonstrating academic integrity and financial need majoring in biology or a health-field program. Dr. Alvarez has also served as a member of the Regional Airport Board and as a senior FAA medical examiner. Both he and Marie are pilots. He also enjoys restoring classic automobiles and building fine wood furniture. He has five daughters and four grandchildren.

Dr. Alvarez has been an outstanding civil servant. I thank him for his service and what he has done for Montana's veterans. I wish him and his wife the best in their future endeavors.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

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

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 7:57 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3951. An act to designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the ''Roy Rondeno, Sr. Post Office Building''.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6234. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''17 CFR Part 190 (75 FR 17297, April 6, 2010), Account Class'' (RIN3038–AC94) received in the Office of the President of the Senate on June 10, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6235. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Bacillus thuringiensis eCry3.1Ab Protein in Corn; Temporary Exemption from the Requirement of a Tolerance'' (FRL No. 8829–9) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6236. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticide Management and Disposal; Standards for Pesticide Containers and Containment; Change to Labeling Compliance Date'' (FRL No. 8830–7) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6237. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, a quarterly report relative to withdrawals or diversions of equipment from Reserve component units from January 1, 2010 to March 31, 2010; to the Committee on Armed Services.

EC–6238. A communication from the Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral Robert T. Moeller, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–6239. A communication from the Acting Director of the Acquisition Policy and Legislation Branch, Office of the Chief Procurement Officer, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Revision of Department of Homeland Security Acquisition Regulations; Restrictions on Foreign Acquisition'' (RIN1601–AA57) received in the Office of the President of the Senate on June 10, 2010; to the Committee on Armed Services.

EC–6240. A communication from the Associate Director, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Final Rule Amending Appendix A to the Iranian Transactions Regulations'' (31 CFR Part 560) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–6241. A communication from the Division Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Local Number Portability Porting Interval and Validation Requirements; Telephone Number Portability'' (FCC 10–85) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6242. A communication from the Deputy Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Facilitating the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands'' (FCC 10–107) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Commerce, Science, and Transportation.

EC–6243. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report relative to obligations and unobligated balances of funds provided for Federal-aid highway and safety construction programs during fiscal year 2008; to the Committee on Commerce, Science, and Transportation.

EC–6244. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval of the Clean Air Act, Section 112(I), Authority for Hazardous Air Pollutants: Air Emission Standards for Halogenated Solvent Cleaning Machines: State of Rhode Island Department of Environmental Management'' (FRL No. 9163–2) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Environment and Public Works.

EC–6245. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Transportation Conformity Regulations'' (FRL No. 9164–5) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Environment and Public Works.

EC–6246. A communication from the Director, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Extension of Expiration Dates for Several Body System Listings'' (RIN0960–AH20) received in the Office of the President of the Senate on June 15, 2010; to the Committee on Finance.

EC–6247. A communication from the Deputy Associate Commissioner, Office of Regulations, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment Language Change from 'Wholly' to 'Fully''' (RIN0960–AH16) received in the Office of the President of the Senate on June 11, 2010; to the Committee on Finance.

EC–6248. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 41 Research Credit—Intra-Group Receipts from Foreign Affiliates'' (UIL No. 41.51–11) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Finance.

EC–6249. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Built-in Gains and Losses under Section 382(h)'' ((TD9487) (RIN1545–BG03)) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Finance.

EC–6250. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 382 Segregation Rules'' (Notice No. 2010–49) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Finance.

EC–6251. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Section 382(I)(3)(C) Fluctuations in Values'' (Notice No. 2010–50) received in the Office of the President of the

Senate on June 16, 2010; to the Committee on Finance.

EC–6252. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Indoor Tanning Services; Cosmetic Services; Excise Taxes'' (RIN1545–BJ41) received in the Office of the President of the Senate on June 16, 2010; to the Committee on Finance.

EC–6253. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to U.S. military personnel and U.S. civilian contractors involved in the anti-narcotics campaign in Colombia; to the Committee on Foreign Relations.

EC–6254. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to provisions of Section 7072 of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2010, as they relate to restrictions on assistance to the central government of Serbia; to the Committee on Foreign Relations.

EC–6255. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a notification of the Department's intent to obligate Fiscal Year 2010 Nonproliferation, Antiterrorism, Demining and Related Programs funds to be used for the Export Control and Related Border Security Program; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–123. A resolution adopted by the Senate of the State of Alaska relative to the mining and processing of rare earth elements in Alaska and to the stockpiling of rare earth elements; and urging Congress to pass H.R. 4866; to the Committee on Energy and Natural Resources.

SENATE RESOLVE NO. 8

Whereas the United States once was largely self-sufficient in rare earth elements; and

Whereas mineable concentrations of rare earth elements are not commonly found; and

Whereas rare earth elements are exceptionally valuable because of their unique chemical, electrical, and physical properties; and

Whereas the unique chemical, electrical, and physical properties of rare earth elements make them indispensable for a wide variety of emerging critical technologies, and, in particular, technologies needed for defense and clean energy applications; and

Whereas the United States has become almost entirely dependent on foreign sources of yttrium, niobium, and rare earth elements, as well as associated elements of tantalum and zirconium; and

Whereas dysprosium and terbium are among the scarcest, most valuable, and most sought after rare earth metals needed for green technology and military applications; and

Whereas the value-added technology and skill to allow both the recovery of rare earth elements from mineral forms in ore and the manufacture of finished products, such as magnets, from rare earth elements has almost entirely migrated to China, as has the actual mining of rare earth ores; and

Whereas China currently accounts for 97 percent of the world's production of rare earth elements; and

Whereas China has reduced its exports of rare earth elements; and

Whereas a future in which manufacturing of wind turbines, solar panels, advanced batteries, and geothermal steam turbines are produced only outside of the United States poses a risk to the country; and

Whereas, after extraction of rare earth ores, processing, refining, and production are needed to provide the United States with self-reliance in these technologies; and

Whereas, in contrast to rare earth element deposits found elsewhere in the United States, Bokan Mountain discoveries on the southern end of Prince of Wales Island are rich in the heavy rare earth elements of europium, gadolinium, terbium, dysprosium, thulium, holmium, erbium, ytterbium, lutetium, and yttrium; and

Whereas continued exploration, together with the establishment of secondary processing and research facilities in Alaska, would result in new career opportunities for Alaskans; and

Whereas current economic opportunities on Prince of Wales Island and throughout Alaska have significantly decreased; and

Whereas the federal Tongass National Forest Land and Resource Management Plan has been completed and the Bokan Mountain area zoned for mineral development; and

Whereas the state's Prince of Wales Island Area Plan has been completed and the Kendrick Bay area classified for mineral and forestry access and development; and

Whereas overland access and transport requirements in the Tongass National Forest are mitigated by immediate access to the mining property by ocean transport; and

Whereas H.R. 4866 has been introduced in the United States Congress to reestablish a competitive domestic rare earth elements production industry, a domestic rare earth processing, refining, purification, and metals production industry, a domestic rare earth metals alloying industry, and a domestic rare earth-based magnet production industry and supply chain in the United States; Be it

Resolved, That the Senate urges the United States Congress expeditiously to pass H.R. 4866; and be it further

Resolved, That the Senate recommends continued exploration of rare earth deposits in Alaska, the issuance of permits, as promptly as allowed by law, for extraction, processing, and production of rare earth materials on the Bokan Mountain properties, and commencement of planning for extraction, processing, and production of rare earth materials by industry.

Copies of this resolution shall be sent to the Honorable Ike Skelton, Chair of the Armed Services Committee of the U.S. House of Representatives; the Honorable Sander M. Levin, Acting Chair of the Ways and Means Committee of the U.S. House of Representatives; the Honorable Barney Frank, Chair of the Financial Services Committee of the U.S. House of Representatives; the Honorable Lisa Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 111th United States Congress.

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. McCAIN:

S. 3496. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

By Mr. BROWN of Massachusetts (for himself and Mrs. FEINSTEIN):

S. 3497. A bill to amend the Outer Continental Shelf Lands Act to require leases entered into under that Act to include a plan that describes the means and timeline for containment and termination of an ongoing discharge of oil, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 3498. A bill to support the establishment and operation of Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA:

S. 3499. A bill to amend title 38, United States Code, to require fiduciaries of individuals receiving benefits under laws administered by the Secretary of Veterans Affairs to authorize the Secretary to obtain financial records with respect to such individuals for purposes of administering such laws, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio (for himself, Mr. FRANKEN, and Mr. BEGICH):

S. 3500. A bill to provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURR (for himself, Mr. KERRY, Mr. LUGAR, Mr. BROWN of Massachusetts, Mr. BEGICH, Mr. ROBERTS, Mr. BOND, Mr. AKAKA, Mr. SPECTER, Mrs. MCCASKILL, and Mr. DURBIN):

S.J. Res. 32. A joint resolution recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ENZI (for himself, Mr. BARRASSO, Mr. BAUCUS, Mr. BINGAMAN, Mr. CONRAD, Mr. CRAPO, Mr. JOHANNS, Mr. JOHNSON, Mr. REID, and Mr. ROBERTS):

S. Res. 554. A resolution designating July 24, 2010, as ''National Day of the American Cowboy''; to the Committee on the Judiciary.

By Ms. STABENOW (for herself, Mr. VOINOVICH, Mr. SPECTER, Mrs. MURRAY, Mr. BAYH, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. BOXER, Mr. CARDIN, Mr. MENENDEZ, and Ms. KLOBUCHAR):

S. Res. 555. A resolution supporting the goals and ideals of National Ovarian Cancer Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself, Mr. BOND, and Ms. CANTWELL):

S. Res. 556. A resolution recognizing the important role that fathers play in the lives of their children and families and designating 2010 as ''The Year of the Father''; to the Committee on the Judiciary.

By Mr. NELSON of Nebraska (for himself and Mr. ISAKSON):

S. Res. 557. A resolution commending EyeCare America for its volunteerism and

efforts to preserve eyesight throughout the previous 25 years; considered and agreed to.

By Mr. NELSON of Nebraska (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. DODD, Mr. BINGAMAN, Mr. JOHANNS, Ms. COLLINS, Mr. BUNNING, Mr. CARPER, Mr. BROWN of Ohio, and Mr. UDALL of Colorado):

S. Res. 558. A resolution designating the week beginning September 12, 2010, as ''National Direct Support Professionals Recognition Week''; considered and agreed to.

By Mr. BURRIS (for himself, Mr. DURBIN, Mrs. GILLIBRAND, Mr. LEVIN, Mr. LUGAR, Mr. HARKIN, Ms. MIKULSKI, Mrs. LINCOLN, Ms. LANDRIEU, and Mr. CARDIN):

S. Res. 559. A resolution observing the historical significance of Juneteenth Independence Day; considered and agreed to.

ADDITIONAL COSPONSORS

S. 353

At the request of Mr. BROWN of Ohio, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 353, a bill to amend title IV of the Public Health Service Act to provide for the establishment of pediatric research consortia.

S. 510

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 510, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 649

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 649, a bill to require an inventory of radio spectrum bands managed by the National Telecommunications and Information Administration and the Federal Communications Commission.

S. 678

At the request of Mr. LEAHY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 678, a bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes.

S. 866

At the request of Mr. REED, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 866, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 941

At the request of Mr. CRAPO, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Iowa (Mr. HARKIN) 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. 1072

At the request of Mrs. LINCOLN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1072, a bill to amend chapter 1606 of title 10, United States Code, to modify the basis utilized for annual adjustments in amounts of educational assistance for members of the Selected Reserve.

S. 1445

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1445, a bill to amend the Public Health Service Act to improve the health of children and reduce the occurrence of sudden unexpected infant death and to enhance public health activities related to stillbirth.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 3036

At the request of Mr. BAYH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3084

At the request of Ms. KLOBUCHAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3084, a bill to increase the competitiveness of United States businesses, particularly small and medium-sized manufacturing firms, in interstate and global commerce, foster job creation in the United States, and assist United States businesses in developing or expanding commercial activities in interstate and global commerce by expanding the ambit of the Hollings Manufacturing Extension Partnership program and the Technology Innovation Program to include projects that have potential for commercial exploitation in nondomestic markets, providing for an increase in related resources of the Department of Commerce, and for other purposes.

S. 3141

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 3141, a bill to amend the Internal Revenue Code of 1986 to provide special rules for treatment of low-income housing credits, and for other purposes.

S. 3211

At the request of Mrs. SHAHEEN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3211, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certain certified diabetes educators as certified providers for purposes of outpatient diabetes self-management training services under part B of the Medicare Prorgram.

S. 3238

At the request of Mr. SCHUMER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3238, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001, and to the memorials established at the 3 sites that were attacked on that day.

S. 3320

At the request of Mr. WHITEHOUSE, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 3320, a bill to amend the Public Health Service Act to provide for a Pancreatic Cancer Initiative, and for other purposes.

S. 3363

At the request of Mr. CARDIN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of 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.

S. 3405

At the request of Mr. MENENDEZ, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3405, a bill to amend the Internal Revenue Code of 1986 to eliminate oil and gas company preferences.

S. 3447

At the request of Mr. AKAKA, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 3447, a bill to amend title 38, United States Code, to improve educational assistance for veterans who served in the Armed Forces after September 11, 2001, and for other purposes.

S. 3466

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 3466, a bill to require restitution for victims of criminal violations of the Federal Water Pollution Control Act, and for other purposes.

S. 3472

At the request of Mr. MENENDEZ, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 3472, a bill to amend the Oil Pollution Act of 1990 to require oil polluters to pay the full costs of oil spills, and for other purposes.

S. 3479

At the request of Mrs. HAGAN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 3479, a bill to authorize the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control and Prevention, to establish and implement a birth defects prevention, risk reduction, and public awareness program.

S. 3481

At the request of Mr. CARDIN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3481, a bill to amend the Federal Water Pollution Control Act to clarify Federal responsibility for stormwater pollution.

S. 3486

At the request of Mr. BROWN of Ohio, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3486, a bill to amend title 38, United States Code, to repeal the prohibition on collective bargaining with respect to matters and questions regarding compensation of employees of the Department of Veterans Affairs other than rates of basic pay, and for other purposes.

S.J. RES. 30

At the request of Mr. ISAKSON, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S.J. Res. 30, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the National Mediation Board relating to representation election procedures.

S. RES. 546

At the request of Mr. SPECTER, the names of the Senator from New York (Mr. SCHUMER), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Res. 546, a resolution recognizing the National Museum of American Jewish History, an affiliate of the Smithsonian Institution, as the only museum in the United States dedicated exclusively to exploring and preserving the American Jewish experience.

S. RES. 548

At the request of Mr. CORNYN, the names of the Senator from Nevada (Mr. ENSIGN), the Senator from South Carolina (Mr. DEMINT), the Senator from Mississippi (Mr. WICKER), the Senator from Texas (Mrs. HUTCHISON), the Senator from Missouri (Mr. BOND), the Senator from Idaho (Mr. RISCH), the Senator from Arizona (Mr. MCCAIN), the Senator from Florida (Mr. LEMIEUX) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. Res. 548, a resolution to express the sense of the Senate that Israel has an undeniable right to self-defense, and to condemn the recent destabilizing actions by extremists aboard the ship Mavi Marmara.

S. RES. 552

At the request of Mr. BENNET, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 552, a resolution designating June 23, 2010, as ''Olympic Day''.

S. RES. 553

At the request of Ms. STABENOW, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. Res. 553, a resolution expressing the sense of the Senate that Congress should unwaveringly uphold the dignity and independence of older Americans.

AMENDMENT NO. 4333

At the request of Mr. THUNE, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of amendment No. 4333 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4346

At the request of Mr. COBURN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No. 4346 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4348

At the request of Mrs. MURRAY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 4348 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4351

At the request of Mr. ISAKSON, the name of the Senator from Tennessee (Mr. CORKER) was added as a cosponsor of amendment No. 4351 proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

AMENDMENT NO. 4363

At the request of Ms. CANTWELL, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of amendment No. 4363 intended to be proposed to H.R. 4213, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 3498. A bill to support the establishmeht and operation of Teachers Professional Development Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation, along with my friend and colleague, the senior Senator from Connecticut, Mr. DODD, that will strengthen the content knowledge and instructional skills of our present K–12 teacher workforce and thus ultimately raise student achievement.

The Teachers Professional Development Institutes Act would establish eight new Teachers Professional Development Institutes throughout the nation each year over the next 5 years based on the model which has been operating at Yale University for over 30 years. Every Teachers Institute would consist of a partnership between an institution of higher education and the local public school system in which a significant proportion of the students come from low-income households. These Institutes will strengthen the present teacher workforce by giving each participant an opportunity to gain more sophisticated content knowledge and a chance to develop curriculum units with other colleagues that can be directly applied in their classrooms. We know that teachers gain confidence and enthusiasm when they have a deeper understanding of the subject matter that they teach and this translates into higher expectations for their students and an increase in student achievement.

The Teachers Professional Development Institutes are based on the Yale-New Haven Teachers Institute model that has been in existence since 1978. For over 30 years, the Institute has offered, 5 or 6 13-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their mastery of the specific subject area that they teach. The subject selection process begins with representatives from the Institutes soliciting ideas from teachers throughout the school district for topics on which teachers feel they need to have additional preparation, topics that will assist them in preparing materials they need for their students, and topics that will assist them in addressing the standards that the school district requires. As a consensus emerges about desired seminar subjects, the Institute director identifies university faculty members with the appropriate expertise, interest and desire to lead the seminar. University faculty members, especially those who have led Institute seminars before, may sometimes suggest seminars they would like to lead, and these ideas are circulated by the representatives as well. The final decisions on which seminar topics are offered are ultimately made by the teachers who participate. In this way, the offerings are designed to respond to what teachers believe is needed and useful for both themselves and their students.

The cooperative nature of the Institute seminar planning process ensures

its success. Institutes offer seminars and relevant materials on topics teachers have identified and feel are needed for their own preparation, as well as what they know will motivate and engage their students. Teachers enthusiastically take part in rigorous seminars they have requested, and practice using the materials they have obtained and developed. This helps ensure that the experience not only increases their preparation in the subjects they are assigned to teach, but also their participation in an Institute seminar gives them immediate hands-on active learning materials that can be used in the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop relevant curricula for their classroom and their students, the Institutes empower teachers.

The Yale-New Haven Teachers Institute conducted a National Demonstration Project from 1999–2002 that showed that similar Institutes could be created rapidly at diverse sites with large concentrations of disadvantaged students. After 2 years of research and planning, and based on the success of that Project, the Institute in 2005 launched the Yale National Initiative to strengthen teaching in public schools, a long-term endeavor to assist with the establishment of Teachers Institutes of this specific type in most states. As a result, new Institutes already have been established in Philadelphia, Pennsylvania, and Charlotte, North Carolina; and Institutes are currently being planned for New Castle County, Delaware, and San Francisco, California.

The teachers surveyed for the National Demonstration Project reported that student motivation, student interest, and student mastery were higher during the Institute-developed unit than during other work. Subsequently, the findings of a 2009 Report on Teachers Institute Experiences found that teachers participated out of desires to obtain curricula which suited their needs, increased subject mastery, and motivated students. Mr. President, 96 percent of the teachers rated the Institute seminars as useful, partly due to the reported increase in knowledge and in raising expectations of their students.

A retrospective study showed that over a 5-year period Teachers Institute participants were almost twice as likely as non-participants to remain teaching in the district five years later. Research has shown that longevity in a district is associated with teaching effectiveness.

Many agree that teacher quality is the single most important school-related factor in determining student achievement. High-quality teacher professional development programs that focus on subject and pedagogy knowledge are a proven method for enhancing the effectiveness of a teacher in the classroom. A recent review of professional development studies by the Department of Education's Institute of Education Sciences found that ''teachers who receive substantial professional development—an average of 49 hours in the nine studies—can boost their students' achievement by about 21 percentile points.''

The Yale-New Haven Teachers Institute model enhances teachers' basic writing, math, and presentation skills. It increases expectations of student achievement and enthusiasm for teaching while developing skills for motivating students. These are key features that research suggests are effective in producing gains in both teacher knowledge and practice and student achievement. The Teachers Institutes accomplish student achievement gains through a proven approach distinguished from both conventional professional development offerings of school districts and from traditional continuing education and outreach programs of colleges and universities.

Education Secretary Arne Duncan said recently, ''The more we can provide high-quality professional development, so that teachers have deep content knowledge, there are huge benefits. . . . So whether it's partnerships with universities and higher ed institutions, to create those meaningful professional development opportunities and really create those content-rich environments that students desperately need, that is absolutely critically important.''

This is precisely what the Teachers Professional Development Institutes Act strives to accomplish. The need for effective teachers with deep content knowledge is most apparent and urgent in schools and school districts that enroll a high proportion of students from low-income families, exactly the schools and school districts that Teachers Institutes serve.

The Yale-New Haven Teachers Institute has already proven to be a successful model for teacher professional development as demonstrated by the high caliber curriculum unit plans that teacher participants have developed and placed on the web, and by the evaluations that support the conclusion that virtually all the teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. The finding that Institute participants were almost twice as likely as non-participants to remain in teaching in high-need schools is especially encouraging. Our proposal would open this opportunity to many more teachers in high-need schools throughout the Nation.

I urge my colleagues to act favorably on this measure.

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

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

S. 3498

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

SECTION 1. TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES.

(a) IN GENERAL.—Part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) is amended by adding at the end the following:

''Subpart 6—Teachers Professional Development Institutes

''SEC. 2161. SHORT TITLE.

''This subpart may be cited as the 'Teachers Professional Development Institutes Act'.

''SEC. 2162. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress makes the following findings:

''(1) Teaching is central to the educational process and the ongoing professional development of teachers in the subjects they teach is essential for improved student learning.

''(2) Attaining the goal of the No Child Left Behind Act of 2001 (Public Law 107–110)—having a classroom teacher who is highly effective in every academic subject the teacher teaches—will require innovative approaches to improve the effectiveness of teachers in the classroom.

''(3) The Teachers Institute Model focuses on the continuing academic preparation of schoolteachers and the application of what the teachers study to their classrooms and potentially to the classrooms of other teachers.

''(4) The Teachers Institute Model was developed initially by the Yale-New Haven Teachers Institute and has successfully operated in New Haven, Connecticut, for more than 30 years.

''(5) The Teachers Institute Model has also been successfully implemented in cities larger than New Haven.

''(6) In the spring of 2009, a report entitled 'An Evaluation of Teachers Institute Experiences' concluded that—

''(A) Teachers Institutes enhance precisely those teacher qualities known to improve student achievement;

''(B) Teachers Institutes exemplify the crucial characteristics of high-quality teacher professional development; and

''(C) Teachers Institute participation is strongly related to teacher retention in high-poverty schools.

''(b) PURPOSE.—The purpose of this subpart is to provide Federal assistance to support the establishment and operation of Teachers Institutes for local educational agencies that serve significant low-income student populations in States throughout the Nation, in order to—

''(1) improve student learning; and

''(2) enhance the quality and effectiveness of teaching and strengthen the subject matter mastery and the pedagogical skills of current teachers through continuing teacher preparation.

''SEC. 2163. DEFINITIONS.

''In this subpart:

''(1) SIGNIFICANT LOW-INCOME STUDENT POPULATION.—The term 'significant low-income student population' means a student population of which not less than 40 percent of the students included are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act.

''(2) TEACHERS INSTITUTE.—The term 'Teachers Institute' means a partnership or joint venture—

''(A) between or among—

''(i) 1 or more institutions of higher education; and

''(ii) 1 or more local educational agencies that serve 1 or more schools with significant low-income student populations; and

''(B) that improves the effectiveness of teachers in the classroom, and the quality of teaching and learning, through collaborative

seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants.

"SEC. 2164. PROGRAM AUTHORIZED.

''(a) IN GENERAL.—The Secretary is authorized to award grants under this subpart in order to encourage the establishment and operation of Teachers Institutes.

''(b) TECHNICAL ASSISTANCE.—The Secretary may reserve not more than 50 percent of the funds appropriated to carry out this subpart to provide technical assistance to facilitate the establishment and operation of Teachers Institutes. The Secretary may contract with the Yale-New Haven Teachers Institute to provide all or part of the technical assistance under this subsection.

''(c) SELECTION CRITERIA.—In selecting Teachers Institutes to support through grants under this subpart, the Secretary shall consider—

''(1) the extent to which a proposed Teachers Institute will serve schools that have significant low-income student populations;

''(2) the extent to which a proposed Teachers Institute will follow the understandings and necessary procedures described in section 2166;

''(3) the extent to which each local educational agency participating in the Teachers Institute has a high percentage of teachers who are unprepared or underprepared to teach the core academic subjects the teachers are assigned to teach; and

''(4) the extent to which a proposed Teachers Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Institute.

''(d) CONSULTATION.—

''(1) IN GENERAL.—In evaluating applications using the criteria under subsection (c), the Secretary may request the advice and assistance of the Yale-New Haven Teachers Institute or other Teachers Institutes.

''(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for grants under this subpart from local educational agencies within the same State, the Secretary shall consult with the State educational agency regarding the applications.

''(e) FISCAL AGENT.—The fiscal agent for the receipt of grant funds under this subpart shall be an institution of higher education participating in the partnership or joint venture, as described in section 2163(2)(A), that is establishing or operating the Teachers Institute.

''(f) LIMITATIONS.—A grant under this subpart—

''(1) shall provide grant funds for a period of not more than 5 years; and

''(2) shall be in an amount that is not more than 50 percent of the total costs of the eligible activities supported under the grant, as determined by the Secretary.

"SEC. 2165. ELIGIBLE ACTIVITIES.

''Grant funds under this subpart may be used—

''(1) for the planning, development, establishment, and operation of a Teachers Institute;

''(2) for additional assistance to an established Teachers Institute for its further development and for its support of the planning, development, establishment, and operation of a Teachers Institute under paragraph (1);

''(3) for the salary and necessary expenses of a full-time director for a Teachers Institute to plan and manage the Teachers Institute and to act as a liaison between all local educational agencies and institutions of higher education participating in the Teachers Institute;

''(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses, for the Teachers Institute;

''(5) to provide a stipend for teachers participating in the collaborative seminars conducted by the Institute in the sciences and humanities and to provide remuneration for members of the faculty of the participating institution of higher education leading the seminars; and

''(6) to provide for the dissemination, through print and electronic means, of curriculum units prepared in the seminars conducted by the Teachers Institute.

"SEC. 2166. UNDERSTANDINGS AND PROCEDURES.

''A grantee receiving a grant under this subpart shall abide by the following understandings and procedures:

''(1) PARTNERSHIP.—The essential relationship of a Teachers Institute is a partnership between a local educational agency and an institution of higher education. A grantee shall demonstrate a long-term commitment on behalf of the participating local educational agency and institution of higher education to the support, including the financial support, of the work of the Teachers Institute.

''(2) SEMINARS.—A Teachers Institute sponsors seminars led by faculty of the institution of higher education partner and attended by teachers from the local educational agency partner. A grantee shall provide participating teachers the ability to play an essential role in planning, organizing, conducting, and evaluating the seminars and in encouraging the future participation of other teachers.

''(3) CURRICULUM UNIT.—A seminar described in paragraph (2) uses a collaborative process, in a collegial environment, to develop a curriculum unit for use by participating teachers that sets forth the subject matter to be presented and the pedagogical strategies to be employed. A grantee shall enable participating teachers to develop a curriculum unit, based on the subject matter presented, for use in the teachers' classrooms.

''(4) ELIGIBILITY AND REMUNERATION.—Seminars are open to all partnership teachers with teaching assignments relevant to the seminar topics. Seminar leaders receive remuneration for their work and participating teachers receive an honorarium or stipend upon the successful completion of the seminar. A grantee shall provide seminar leaders and participating teachers with remuneration to allow them to participate in the Teachers Institute.

''(5) DIRECTION.—The operations of a Teachers Institute are managed by a full-time director who reports to both partners but is accountable to the institution of higher education partner. A grantee shall appoint a director to manage and coordinate the work of the Teachers Institute.

''(6) EVALUATION.—A grantee shall annually review the activities of the Teachers Institute and disseminate the results to members of the Teachers Institute's partnership community.

"SEC. 2167. APPLICATION, APPROVAL, AND AGREEMENT.

''(a) IN GENERAL.—To receive a grant under this subpart, a Teachers Institute, or a partnership or joint venture described in section 2163(2)(A) that is proposing to establish a Teachers Institute, shall submit an application to the Secretary that—

''(1) meets the requirement of this subpart and any regulations under this subpart;

''(2) includes a description of how the applicant intends to use funds provided under the grant;

''(3) includes such information as the Secretary may require to apply the criteria described in section 2164(c);

''(4) includes measurable objectives for the use of the funds provided under the grant; and

''(5) contains such other information and assurances as the Secretary may require.

''(b) APPROVAL.—The Secretary shall—

''(1) promptly evaluate an application received for a grant under this subpart; and

''(2) notify the applicant, within 90 days of the receipt of a completed application, of the Secretary's determination.

''(c) AGREEMENT.—Upon approval of an application, the Secretary and the applicant shall enter into a comprehensive agreement covering the entire period of the grant.

"SEC. 2168. REPORTS AND EVALUATIONS.

''(a) REPORT.—Each grantee under this subpart shall report annually to the Secretary on the progress of the Teachers Institute in achieving the purpose of this subpart.

''(b) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this subpart and submit an annual report regarding the activities assisted under this subpart to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by Teachers Institutes.

''(c) REVOCATION.—If the Secretary determines that a grantee is not making substantial progress in meeting the purposes of the grant by the end of the second year of the grant under this subpart, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this subpart are used in the most effective manner.

"SEC. 2169. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for grants (including planning grants) and technical assistance under this subpart—

''(1) $4,000,000 for fiscal year 2011;

''(2) $5,000,000 for fiscal year 2012;

''(3) $6,000,000 for fiscal year 2013;

''(4) $7,000,000 for fiscal year 2014; and

''(5) $8,000,000 for fiscal year 2015.''.

(b) TABLE OF CONTENTS.—The table of contents of the Elementary and Secondary Education Act of 1965 is amended by inserting after the item relating to section 2151 the following:

''SUBPART 6—TEACHERS PROFESSIONAL DEVELOPMENT INSTITUTES

''Sec. 2161. Short title.
''Sec. 2162. Findings and purpose.
''Sec. 2163. Definitions.
''Sec. 2164. Program authorized.
''Sec. 2165. Eligible activities.
''Sec. 2166. Understandings and procedures.
''Sec. 2167. Application, approval, and agreement.
''Sec. 2168. Reports and evaluations.''.

By Mr. AKAKA:

S. 3499. A bill to amend title 38, United States Code, to require fiduciaries of individuals receiving benefits under laws administered by the Secretary of Veterans Affairs to authorize the Secretary to obtain financial records with respect to such individuals for purposes of administering such laws, and for other purposes; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I introduce legislation that would provide VA with the means to better protect those VA beneficiaries who have fiduciaries appointed to look after their affairs. This

bill would improve oversight of fiduciaries by authorizing VA to access records at financial institutions for up to 3 years.

Under current law, VA has a 3-month time limit on the authorization to view financial records maintained by a fiduciary, a time period which has proven to be inadequate. In addition, VA lacks the authority to compel a fiduciary to provide a Social Security number or other identifying information needed to track financial records.

The legislation I am introducing today is modeled on Social Security laws and procedures. It will help VA ensure that veterans' monies are not being misused. It would allow VA to require that any person appointed or recognized by VA as a fiduciary be required to sign an authorization for release of records which would be in effect for up to 3 years. If a fiduciary refuses to sign or revokes an authorization, VA would be authorized to remove the fiduciary.

The Committee held a hearing on pending legislation on May 19, 2010, and witnesses from The American Legion and the Veterans of Foreign Wars spoke on the need to strengthen VA's oversight of fiduciaries.

I urge our colleagues to support this bill to protect VA beneficiaries who need assistance with financial management.

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

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

S. 3499

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fiduciary Benefits Oversight Act of 2010''.

SEC. 2. ACCESS BY SECRETARY OF VETERANS AFFAIRS TO FINANCIAL RECORDS OF INDIVIDUALS REPRESENTED BY FIDUCIARIES AND RECEIVING BENEFITS UNDER LAWS ADMINISTERED BY SECRETARY.

Section 5502 of title 38, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) The Secretary may require any person appointed or recognized as a fiduciary for a Department beneficiary under this section to provide authorization for the Secretary to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3415)) from any financial institution any financial record held by the institution with respect to the fiduciary or the beneficiary whenever the Secretary determines that the financial record is necessary—

''(A) for the administration of a program administered by the Secretary; or

''(B) in order to safeguard the beneficiary's benefits against neglect, misappropriation, misuse, embezzlement, or fraud.

''(2) Notwithstanding section 1104(a)(1) of such Act (12 U.S.C. 3404(a)(1)), an authorization provided by a fiduciary under paragraph (1) with respect to a beneficiary shall remain effective until the earliest of—

''(A) the approval by a court or the Secretary of a final accounting of payment of benefits under any law administered by the Secretary to a fiduciary on behalf of such beneficiary;

''(B) in the absence of any evidence of neglect, misappropriation, misuse, embezzlement, or fraud, the express revocation by the fiduciary of the authorization in a written notification to the Secretary; or

''(C) the date that is three years after the date of the authorization.

''(3)(A) An authorization obtained by the Secretary pursuant to this subsection shall be considered to meet the requirements of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) for purposes of section 1103(a) of such Act (12 U.S.C. 3403(a)), and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act (12 U.S.C. 3404(a)), if the Secretary provides a copy of the authorization to the financial institution.

''(B) The certification requirements of section 1103(b) of such Act (12 U.S.C. 3403(b)) shall not apply to requests by the Secretary pursuant to an authorization provided under this subsection.

''(C) A request for a financial record by the Secretary pursuant to an authorization provided by a fiduciary under this subsection is deemed to meet the requirements of section 1104(a)(3) of such Act (12 U.S.C. 3404(a)(3)) and the matter in section 1102 of such Act (12 U.S.C. 3402) that precedes paragraph (1) of such section if such request identifies the fiduciary and the beneficiary concerned.

''(D) The Secretary shall inform any person who provides authorization under this subsection of the duration and scope of the authorization.

''(E) If a fiduciary of a Department beneficiary refuses to provide, or revokes, any authorization to permit the Secretary to obtain from any financial institution any financial record concerning benefits paid by the Secretary for such beneficiary, the Secretary may, on that basis, revoke the appointment or the recognition of the fiduciary for such beneficiary and for any other Department beneficiary for whom such fiduciary has been appointed or recognized. If the appointment or recognition of a fiduciary is revoked, benefits may be paid as provided in subsection (d).

''(4) For purposes of section 1113(d) of such Act (12 U.S.C. 3413(d)), a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.

''(5) In this subsection:

''(A) The term 'fiduciary' includes any person appointed or recognized to receive payment of benefits under any law administered by the Secretary on behalf of a Department beneficiary.

''(B) The term 'financial institution' has the meaning given such term in section 1101 of such Act (12 U.S.C. 3401), except that such term shall also include any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in any State.

''(C) The term 'financial record' has the meaning given such term in such section.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 554—DESIGNATING JULY 24, 2010, AS ''NATIONAL DAY OF THE AMERICAN COWBOY''

Mr. ENZI (for himself, Mr. BARRASSO, Mr. BAUCUS, Mr. BINGAMAN, Mr. CONRAD, Mr. CRAPO, Mr. JOHANNS, Mr. JOHNSON, Mr. REID, and Mr. ROBERTS) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 554

Whereas pioneering men and women, recognized as ''cowboys'', helped establish the American West;

Whereas the cowboy embodies honesty, integrity, courage, compassion, respect, a strong work ethic, and patriotism;

Whereas the cowboy spirit exemplifies strength of character, sound family values, and good common sense;

Whereas the cowboy archetype transcends ethnicity, gender, geographic boundaries, and political affiliations;

Whereas the cowboy is an excellent steward of the land and its creatures, who lives off the land and works to protect and enhance the environment;

Whereas cowboy traditions have been a part of American culture for generations;

Whereas the cowboy continues to be an important part of the economy through the work of many thousands of ranchers across the Nation who contribute to the economic well-being of every State;

Whereas millions of fans watch professional and working ranch rodeo events annually, and rodeo is one of the most-watched sports in the Nation;

Whereas membership and participation in rodeo and other organizations that promote and encompass the livelihood of cowboys span every generation and transcend race and gender;

Whereas the cowboy is a central figure in literature, film, and music and occupies a central place in the public imagination;

Whereas the cowboy is an American icon; and

Whereas the ongoing contributions made by cowboys and cowgirls to their communities should be recognized and encouraged: Now, therefore, be it

Resolved, That the Senate—

(1) designates July 24, 2010, as ''National Day of the American Cowboy''; and

(2) encourages the people of the United States to observe the day with appropriate ceremonies and activities.

SENATE RESOLUTION 555—SUPPORTING THE GOALS AND IDEALS OF NATIONAL OVARIAN CANCER AWARENESS MONTH

Ms. STABENOW (for herself, Mr. VOINOVICH, Mr. SPECTER, Mrs. MURRAY, Mr. BAYH, Mrs. FEINSTEIN, Mr. COCHRAN, Mrs. BOXER, Mr. CARDIN, Mr. MENENDEZ, and Ms. KLOBUCHAR) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 555

Whereas ovarian cancer is the deadliest of all gynecologic cancers;

Whereas ovarian cancer is the 5th leading cause of cancer deaths among women in the United States;

Whereas more than 22,000 women will be diagnosed with ovarian cancer this year, and more than 15,000 will die from it;

Whereas these deaths are those of our mothers, sisters, daughters, family members, and community leaders;

Whereas the mortality rate for ovarian cancer has not significantly decreased since the ''War on Cancer'' was declared, nearly 40 years ago;

Whereas all women are at risk for ovarian cancer, and 90 percent of women diagnosed

with ovarian cancer do not have a family history that puts them at higher risk;

Whereas the Pap test is sensitive and specific to the early detection of cervical cancer, but not to ovarian cancer;

Whereas there is currently no reliable early detection test for ovarian cancer;

Whereas many people are unaware that the symptoms of ovarian cancer often include bloating, pelvic or abdominal pain, difficulty eating or feeling full quickly, urinary symptoms, and several other symptoms that are easily confused with other diseases;

Whereas in June 2007, the first national consensus statement on ovarian cancer symptoms was developed to provide consistency in describing symptoms to make it easier for women to learn and remember them;

Whereas, due to the lack of a reliable early detection test, 75 percent of cases of ovarian cancer are detected at an advanced stage, making the overall 5-year survival rate only 45 percent;

Whereas there are factors that are known to reduce the risk for ovarian cancer and that play an important role in the prevention of the disease;

Whereas awareness of the symptoms of ovarian cancer by women and health care providers can lead to a quicker diagnosis;

Whereas, each year during the month of September, the Ovarian Cancer National Alliance and its partner members holds a number of events to increase public awareness of ovarian cancer; and

Whereas September 2010 should be designated as ''National Ovarian Cancer Awareness Month'' to increase the awareness of the public regarding the cancer: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of National Ovarian Cancer Awareness Month.

SENATE RESOLUTION 556—RECOGNIZING THE IMPORTANT ROLE THAT FATHERS PLAY IN THE LIVES OF THEIR CHILDREN AND FAMILIES AND DESIGNATING 2010 AS ''THE YEAR OF THE FATHER''

Mrs. MURRAY (for herself, Mr. BOND, and Ms. CANTWELL) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 556

Whereas Father's Day was founded in 1910 by Mrs. John B. Dodd, Sonora Smart Dodd, after attending a Mother's Day celebration in 1909 and believing that fathers should receive the same recognition;

Whereas Mrs. Dodd founded the day in celebration of her father, William Smart;

Whereas William Smart, a Civil War veteran, raised 6 children on his own after the death of his wife;

Whereas Spokane, Washington recognized and hosted the first celebration of Father's Day on June 19, 1910;

Whereas in 1924, President Calvin Coolidge recognized Father's Day and urged States to follow suit;

Whereas in 1966, President Lyndon B. Johnson signed a proclamation calling for the third Sunday in June to be recognized as Father's Day and requested that flags be flown that day on all Government buildings;

Whereas President Richard Nixon signed a proclamation in 1972 permanently observing Father's Day on the third Sunday in June;

Whereas Father's Day is celebrated in over 50 countries around the world;

Whereas there are an estimated 64,000,000 fathers in the United States;

Whereas it is well documented that children involved with loving fathers are significantly more likely to have healthy self-esteems, exhibit empathy and pro-social behavior, avoid high risk behaviors, reduce anti-social behavior and delinquency in boys, have better peer relationships, and have higher occupational mobility relative to parents;

Whereas fathers who live with their children are likely to have a close, enduring relationship with their children than those who do not; and

Whereas the 100th anniversary of Father's Day will be celebrated in Spokane, Washington on June 20, 2010: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the important role that fathers play in the lives of their children and families; and

(2) designates 2010 as ''The Year of the Father''.

SENATE RESOLUTION 557—COMMENDING EYECARE AMERICA FOR ITS VOLUNTEERISM AND EFFORTS TO PRESERVE EYESIGHT THROUGHOUT THE PREVIOUS 25 YEARS

Mr. NELSON of Nebraska (for himself and Mr. ISAKSON) submitted the following resolution; which was considered and agreed to:

S. RES. 557

Whereas, according to the National Eye Institute, in public opinion polls, Americans—

(1) have consistently identified the fear of vision loss as second only to the fear of developing cancer; and

(2) have stated that the loss of vision would have the greatest impact on their lives;

Whereas the National Eye Institute estimates that more than 11,000,000 people in the United States have common vision problems;

Whereas, according to the National Eye Institute, approximately 35,000,000 people in the United States experience an age-related eye disease, including age-related macular degeneration (the leading cause of vision loss in older people of the United States), glaucoma, diabetic retinopathy, and cataracts;

Whereas, according to the National Eye Institute, the number of people in the United States who experience an age-related eye disease is expected to grow to 50,000,000 by 2020;

Whereas, according to the National Eye Institute, the Hispanic and African-American populations experience a disproportionate incidence of glaucoma, cataracts, and diabetic retinopathy;

Whereas, according to the National Eye Institute, diabetic retinopathy is the leading cause of blindness in individuals of all races between the ages of 25 and 74;

Whereas vision impairment and eye disease are major public health issues, especially as 2010 begins the decade in which, according to the Census Bureau, more than ½ of the 78,000,000 Baby Boomers will turn 65 and be at greatest risk for developing an age-related eye disease;

Whereas much can be done to preserve eyesight with early detection and treatment;

Whereas EyeCare America, the public service program of the Foundation of the American Academy of Ophthalmology, works to ensure that eye health is not neglected by matching eligible patients with 1 of nearly 7,000 volunteer ophthalmologists across the United States committed to preventing unnecessary blindness in their communities;

Whereas the volunteer ophthalmologists provide eye exams and eyecare for up to 1 year at no out-of-pocket cost to the patient, and seniors who do not have insurance receive the care at no charge;

Whereas individuals may call EyeCare America toll-free at 1–800–222–EYES (3937) to see if they are eligible to be referred to a volunteer ophthalmologist throughout the United States; and

Whereas EyeCare America has helped more than 1,000,000 people since the inception of the organization in 1985 and is the largest public service program of its kind in United States medicine as of the date of agreement to this resolution: Now, therefore, be it

Resolved, That the Senate commends EyeCare America for its volunteerism and efforts to preserve eyesight throughout the 25 years preceding the date of agreement to this resolution.

SENATE RESOLUTION 558—DESIGNATING THE WEEK BEGINNING SEPTEMBER 12, 2010, AS ''NATIONAL DIRECT SUPPORT PROFESSIONALS RECOGNITION WEEK''

Mr. NELSON of Nebraska (for himself, Mr. KERRY, Mr. BROWNBACK, Mr. DODD, Mr. BINGAMAN, Mr. JOHANNS, Ms. COLLINS, Mr. BUNNING, Mr. CARPER, Mr. BROWN of Ohio, and Mr. UDALL of Colorado) submitted the following resolution; which was considered and agreed to:

S. RES. 558

Whereas direct support workers, direct care workers, personal assistants, personal attendants, in-home support workers, and paraprofessionals (referred to in this preamble as ''direct support professionals'') are the primary providers of publicly funded long term support and services for millions of individuals;

Whereas a direct support professional must build a close, trusted relationship with an individual with disabilities;

Whereas a direct support professional assists an individual with disabilities with the most intimate needs, on a daily basis;

Whereas direct support professionals provide a broad range of support, including—

(1) preparation of meals;

(2) helping with medications;

(3) bathing;

(4) dressing;

(5) mobility;

(6) getting to school, work, religious, and recreational activities; and

(7) general daily affairs;

Whereas a direct support professional provides essential support to help keep an individual with disabilities connected to the family and community of the individual;

Whereas direct support professionals enable individuals with disabilities to live meaningful, productive lives;

Whereas direct support professionals are the key to allowing an individual with disabilities to live successfully in the community of the individual, and to avoid more costly institutional care;

Whereas the majority of direct support professionals are female, and many are the sole breadwinners of their families;

Whereas direct support professionals work and pay taxes, but many remain impoverished and are eligible for the same Federal and State public assistance programs on which the individuals with disabilities served by the direct support professionals must depend;

Whereas Federal and State policies, as well as the Supreme Court, in Olmstead v. L.C.,

527 U.S. 581 (1999), assert the right of an individual to live in the home and community of the individual;

Whereas, in 2010, the majority of direct support professionals are employed in home and community-based settings and this trend is projected to increase over the next decade;

Whereas there is a documented critical and growing shortage of direct support professionals in every community throughout the United States; and

Whereas many direct support professionals are forced to leave jobs due to inadequate wages and benefits, creating high turnover and vacancy rates that research demonstrates adversely affects the quality of support to individuals with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 12, 2010, as ''National Direct Support Professionals Recognition Week'';

(2) recognizes the dedication and vital role of direct support professionals in enhancing the lives of individuals with disabilities of all ages;

(3) appreciates the contribution of direct support professionals in supporting the needs that reach beyond the capacities of millions of families in the United States;

(4) commends direct support professionals as integral in supporting the long-term support and services system of the United States; and

(5) finds that the successful implementation of the public policies of the United States depends on the dedication of direct support professionals.

SENATE RESOLUTION 559—OBSERVING THE HISTORICAL SIGNIFICANCE OF JUNETEENTH INDEPENDENCE DAY

Mr. BURRIS (for himself, Mr. DURBIN, Mrs. GILLIBRAND, Mr. LEVIN, Mr. LUGAR, Mr. HARKIN, Ms. MIKULSKI, Mrs. LINCOLN, Ms. LANDRIEU, and Mr. CARDIN) submitted the following resolution; which was considered and agreed to:

S. RES. 559

Whereas news of the end of slavery did not reach frontier areas of the United States, and in particular the southwestern States, for more than 2½ years after President Lincoln's Emancipation Proclamation, which was issued on January 1, 1863, and months after the conclusion of the Civil War;

Whereas, on June 19, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas with news that the Civil War had ended and that the enslaved were free;

Whereas African-Americans who had been slaves in the Southwest celebrated June 19, commonly known as ''Juneteenth Independence Day'', as the anniversary of their emancipation;

Whereas African-Americans from the Southwest continue the tradition of celebrating Juneteenth Independence Day as inspiration and encouragement for future generations;

Whereas, for more than 140 years, Juneteenth Independence Day celebrations have been held to honor African-American freedom while encouraging self-development and respect for all cultures;

Whereas, although Juneteenth Independence Day is beginning to be recognized as a national, and even global, event, the history behind the celebration should not be forgotten; and

Whereas the faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) recognizes the historical significance of Juneteenth Independence Day to the Nation;

(B) supports the continued celebration of Juneteenth Independence Day to provide an opportunity for the people of the United States to learn more about the past and to understand better the experiences that have shaped the Nation; and

(C) encourages the people of the United States to observe Juneteenth Independence Day with appropriate ceremonies, activities, and programs; and

(2) it is the sense of the Senate that—

(A) the celebration of the end of slavery is an important and enriching part of the history and heritage of the United States; and

(B) history should be regarded as a means for understanding the past and solving the challenges of the future.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4366. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 4367. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4368. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4369. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, supra.

SA 4370. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4371. Mr. CASEY (for himself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4372. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4373. Ms. SNOWE (for herself, Mr. ENZI, and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4374. Mr. KYL submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 4375. Mr. KOHL (for himself, Mr. GRASSLEY, Ms. COLLINS, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4366. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 4301 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title II, insert the following:

SEC. 2___. EXTENSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(1) in paragraph (1), by striking ''2009 or 2010'' and inserting ''2009, 2010, 2011, or 2012'', and

(2) in paragraph (2)—

(A) by striking ''after 2010'' and inserting ''after 2012'', and

(B) by striking ''2009 or 2010'' and inserting ''2009, 2010, 2011, or 2012''.

(b) CONFORMING AMENDMENT.—Subsection (j) of section 1603 of division B of such Act is amended by striking ''2011'' and inserting ''2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(d) USE OF STIMULUS FUNDS TO OFFSET SPENDING.—Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009, from the amounts appropriated or made available and remaining unobligated under division A of such Act (other than under title X of such division A), the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the net increase in spending resulting from the amendments made by this section. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4367. Ms. MURKOWSKI (for herself and Mr. BEGICH) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

SEC. 801. SHORT TITLE.

This title may be cited as the ''Western Alaska Community Development Organizations Tax Relief Act''.

SEC. 802. FINDINGS.

Congress finds the following:

(1) In 1990, Congress established a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives to investigate economic and social conditions in rural Alaska communities that are Native villages for the purposes of the Alaska Native Claims Settlement Act; the Commission reported very high unemployment and widespread poverty.

(2) In 1992, the United States Secretary of Commerce approved Amendment 18 to the Bering Sea and Aleutian Island (BSAI) Fishery Management Plan creating the Western Alaska Community Development Quota (CDQ) Program to promote the economic development of the 65 villages of the western Alaska region which were organized as six coalitions.

(3) In 1994, the Commission recommended to Congress that it amend the Magnuson-Stevens Fishery Conservation and Management Act to codify the establishment of the CDQ Program and expand the program to include all commercial fisheries that are conducted in the Bering Sea-Aleutian Islands Management Area.

(4) In 1996, Congress implemented the recommendation of the Commission by enacting section 305(i)(1) of the Magnuson-Stevens Fishery Conservation and Management Act subparagraph (A) of which established the western Alaska community development program—

(A) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;

(B) to support economic development in western Alaska;

(C) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and

(D) to achieve sustainable and diversified local economies in western Alaska.

(5) In 2006, Congress, in section 416 of the Conference Report to Coast Guard and Maritime Transportation Act of 2006, stated its intent that ''all activities of the CDQ groups continue to be considered tax-exempt (as has been the practice since the program's inception in 1992) so that the six CDQ groups can more readily address the pressing economic needs of the region''.

(6) The original six coalitions organized as six corporations and are recognized as tax-exempt under either section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986.

(7) Today, the six CDQ organizations are making important and ongoing contributions to the economic development and the alleviation of poverty in the western Alaska region consistent with the purposes Congress has established for the CDQ Program. As the program was intended, the organizations have become bona fide participants in the BSAI commercial fisheries. The CDQ organizations are using the revenue that their participation generates to create employment and economic development opportunities that would have been impossible in western Alaska prior to the CDQ Program.

(8) The CDQ organizations have paid, and will continue to pay, income tax on income generated from their activities and investments outside of the BSAI area.

(9) Excluding income generated from the CDQ organizations' fishery-related activities and investments inside the BSAI area from unrelated business taxable income is consistent with the intent of Congress.

SEC. 803. CLARIFICATION OF TAX-EXEMPT TREATMENT OF CERTAIN INCOME OF SIX ALASKA COMMUNITY DEVELOPMENT QUOTA (CDQ) PROGRAM ORGANIZATIONS.

(a) CLARIFICATION.—

(1) IN GENERAL.—Section 512(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(20) TREATMENT OF CERTAIN INCOME OF SIX ALASKA COMMUNITY DEVELOPMENT QUOTA (CDQ) PROGRAM ORGANIZATIONS.—There shall be excluded all income derived from a trade or business carried on by a Community Development Quota entity identified in section 305(i)(1)(D) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(D) participating or investing in the harvesting, processing, transportation, sales, or marketing of fish and fish product in the Bering Sea and Aleutian Islands Management Area if the conduct of such trade or business is in furtherance of one or more of the purposes specified in section 305(i)(1)(A) of such Act. Such excluded income received after the date of the enactment of this paragraph shall be reported by such entity on the annual return required under section 6033 and in any annual report required under section 305(i)(1)(F)(ii) of such Act (16 U.S.C. 1855(i)(1)(F)(ii)).''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to income received before, on, or after the date of the enactment of this Act.

(b) APPLICATION TO CERTAIN WHOLLY OWNED SUBSIDIARIES.—If the assets of a trade or business described in section 512(b)(20) of the Internal Revenue Code of 1986 (as added by subsection (a)(1)) of any subsidiary wholly owned by a Community Development Quota entity identified in section 305(i)(1)(D) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)(1)(D) are transferred to such entity (including in liquidation of such subsidiary) not later than 18 months after the date of the enactment of this Act—

(1) no gain resulting from such transfer shall be recognized to either such subsidiary or such entity under such Code, and

(2) all income derived by such subsidiary from such transferred trade or business shall be exempt from taxation under such Code.

SA 4368. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. ELIMINATION OF CERTAIN PROGRAMS RECOMMENDED FOR TERMINATION.

(a) FINDINGS.—Congress finds the following:

(1) Both the Bush and the Obama administrations have reviewed federal programs in recent years to identify those that are ineffective, outdated, or duplicative.

(2) While funding has been terminated for some of the identified programs, many more continue to receive funding each year.

(3) In particular, 17 programs continue to receive funding, even though the programs have been identified by either the Bush or Obama administrations as being ineffective, outdated, or duplicative and recommended for termination in the budgets of the United States Government for fiscal years 2009, 2010, and 2011.

(4) The need to simultaneously assist families hardest hit by the recession while beginning to reduce the nation's record debt levels requires a renewed emphasis on eliminating unnecessary federal spending.

(b) RESCISSIONS.—Any funds that remain available for obligation as of the date of enactment of this Act for the following programs, projects, activities, portions, or accounts are rescinded:

(1) The high energy cost grant program carried out under section 19 of the Rural Electrification Act of 1936 (7 U.S.C. 918a).

(2) The program of grants to broadcasting systems provided under section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)).

(3) The resource conservation and development program established under subtitle H of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.).

(4) The watershed protection and flood prevention operations carried out under section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012).

(5) The public telecommunications facilities, planning, and construction grants under section 392 of the Communications Act of 1934 (47 U.S.C. 392).

(6) The Presidential Academies for Teaching of American History and Civics and the Congressional Academies for Students of American History and Civics under the American History and Civics Education Act of 2004 (20 U.S.C. 6713 note).

(7) The Civic Education Program under subpart 3 of part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6711 et seq.).

(8) The Close Up Fellowship Program under section 1504 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6494).

(9) The William F. Goodling Even Start Family Literacy Programs under subpart 3 of part B of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6381 et seq.).

(10) The Foundations for Learning Grants Program under section 5542 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7269a).

(11) The Jacob K. Javits Gifted and Talented Students Education Program under subpart 6 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7253 et seq.).

(12) The Ready to Teach Program under subpart 8 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7257).

(13) The portion of the State and Tribal Assistance Grants Account of the Environmental Protection Agency for special project grants and technical corrections to prior-year grants for the construction of drinking water, wastewater, and storm water infrastructure, and for water quality protection, pursuant to section 104 of the Federal Water Pollution Control Act (33 U.S.C. 1254) and section 1442 of the Safe Drinking Water Act (42 U.S.C. 300j-1).

(14) The portion of funding provided by the Health Resources and Services Administration to the Denali Commission (under the Denali Commission Act of 1998 (42 U.S.C. 3121 et seq.)).

(15) The Delta Health Initiative administered by the Office of Rural Health Policy of the Department of Health and Human Services.

(16) The construction and renovation (including equipment) of health care and other facilities and for other health-related activities account for the Health Resources and Services Administration of the Department of Health and Human Services.

(17) The Brownfields Economic Development Initiative under section 108(q) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(q)).

(c) TERMINATIONS.—Notwithstanding any other provision of law, the authority for each program, project, activity, portion, and account listed in subsection (b) is terminated. No additional funds shall be authorized or appropriated for any such program, project, activity, portion, or account.

SA 4369. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs and Closing Tax Loopholes Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in titles I, II, and IV of this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—INFRASTRUCTURE INCENTIVES

SEC. 101. EXTENSION OF BUILD AMERICA BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 54AA(d)(1) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

(b) EXTENSION OF PAYMENTS TO ISSUERS.—

(1) IN GENERAL.—Section 6431 is amended—

(A) by striking ''January 1, 2011'' in subsection (a) and inserting ''January 1, 2013''; and

(B) by striking ''January 1, 2011'' in subsection (f)(1)(B) and inserting ''a particular date''.

(2) CONFORMING AMENDMENTS.—Subsection (g) of section 54AA is amended—

(A) by striking ''January 1, 2011'' and inserting ''January 1, 2013''; and

(B) by striking ''QUALIFIED BONDS ISSUED BEFORE 2011'' in the heading and inserting ''CERTAIN QUALIFIED BONDS''.

(c) REDUCTION IN PERCENTAGE OF PAYMENTS TO ISSUERS.—Subsection (b) of section 6431 is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary'';

(2) by striking ''35 percent'' and inserting ''the applicable percentage''; and

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

''(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the term 'applicable percentage' means the percentage determined in accordance with the following table:

''In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2009 or 2010	35 percent
2011	32 percent
2012	30 percent.''.

(d) CURRENT REFUNDINGS PERMITTED.—Subsection (g) of section 54AA is amended by adding at the end the following new paragraph:

''(3) TREATMENT OF CURRENT REFUNDING BONDS.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified bond' includes any bond (or series of bonds) issued to refund a qualified bond if—

''(i) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(ii) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(iii) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

''(B) APPLICABLE PERCENTAGE.—In the case of a refunding bond referred to in subparagraph (A), the applicable percentage with respect to such bond under section 6431(b) shall be the lowest percentage specified in paragraph (2) of such section.

''(C) DETERMINATION OF AVERAGE MATURITY.—For purposes of subparagraph (A)(i), average maturity shall be determined in accordance with section 147(b)(2)(A).''.

(e) CLARIFICATION RELATED TO LEVEES AND FLOOD CONTROL PROJECTS.—Subparagraph (A) of section 54AA(g)(2) is amended by inserting ''(including capital expenditures for levees and other flood control projects)'' after ''capital expenditures''.

SEC. 102. EXEMPT-FACILITY BONDS FOR SEWAGE AND WATER SUPPLY FACILITIES.

(a) BONDS FOR WATER AND SEWAGE FACILITIES EXEMPT FROM VOLUME CAP ON PRIVATE ACTIVITY BONDS.—

(1) IN GENERAL.—Paragraph (3) of section 146(g) is amended by inserting ''(4), (5),'' after ''(2),''.

(2) CONFORMING AMENDMENT.—Paragraphs (2) and (3)(B) of section 146(k) are both amended by striking ''(4), (5), (6),'' and inserting ''(6)''.

(b) TAX-EXEMPT ISSUANCE BY INDIAN TRIBAL GOVERNMENTS.—

(1) IN GENERAL.—Subsection (c) of section 7871 is amended by adding at the end the following new paragraph:

''(4) EXCEPTION FOR BONDS FOR WATER AND SEWAGE FACILITIES.—Paragraph (2) shall not apply to an exempt facility bond 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of which are to be used to provide facilities described in paragraph (4) or (5) of section 142(a).''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 7871(c) is amended by striking ''paragraph (3)'' and inserting ''paragraphs (3) and (4)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 103. EXTENSION OF EXEMPTION FROM ALTERNATIVE MINIMUM TAX TREATMENT FOR CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Clause (vi) of section 57(a)(5)(C) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(b) ADJUSTED CURRENT EARNINGS.—Clause (iv) of section 56(g)(4)(B) is amended—

(1) by striking ''January 1, 2011'' in subclause (I) and inserting ''January 1, 2012''; and

(2) by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

SEC. 104. EXTENSION AND ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY.

(a) EXTENSION OF RECOVERY ZONE BOND AUTHORITY.—Section 1400U–2(b)(1) and section 1400U–3(b)(1)(B) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) ADDITIONAL ALLOCATIONS OF RECOVERY ZONE BOND AUTHORITY BASED ON UNEMPLOYMENT.—Section 1400U–1 is amended by adding at the end the following new subsection:

''(c) ALLOCATION OF 2010 RECOVERY ZONE BOND LIMITATIONS BASED ON UNEMPLOYMENT.—

''(1) IN GENERAL.—The Secretary shall allocate the 2010 national recovery zone economic development bond limitation and the 2010 national recovery zone facility bond limitation among the States in the proportion that each such State's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

''(2) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under paragraph (1) for each State to the extent necessary to ensure that no State (prior to any reduction under paragraph (3)) receives less than 0.9 percent of the 2010 national recovery zone economic development bond limitation and 0.9 percent of the 2010 national recovery zone facility bond limitation.

''(3) ALLOCATIONS BY STATES.—

''(A) IN GENERAL.—Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities (as defined in subsection (a)(3)(B)) in such State in the proportion that each such county's or municipality's 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all the counties and large municipalities (as so defined) in such State.

''(B) 2010 ALLOCATION REDUCED BY AMOUNT OF PREVIOUS ALLOCATION.—Each State shall reduce (but not below zero)—

''(i) the amount of the 2010 national recovery zone economic development bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone economic development bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof), and

''(ii) the amount of the 2010 national recovery zone facility bond limitation allocated to each county or large municipality (as so defined) in such State by the amount of the national recovery zone facility bond limitation allocated to such county or large municipality under subsection (a)(3)(A) (determined without regard to any waiver thereof).

''(C) WAIVER OF SUBALLOCATIONS.—A county or municipality may waive any portion of an allocation made under this paragraph. A county or municipality shall be treated as having waived any portion of an allocation made under this paragraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.

''(D) SPECIAL RULE FOR A MUNICIPALITY IN A COUNTY.—In the case of any large municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

''(4) 2009 UNEMPLOYMENT NUMBER.—For purposes of this subsection, the term '2009 unemployment number' means, with respect to any State, county or municipality, the number of individuals in such State, county, or municipality who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

''(5) 2010 NATIONAL LIMITATIONS.—

''(A) RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS.—The 2010 national recovery zone economic development bond limitation is $10,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–2 in the same manner as an allocation of national recovery zone economic development bond limitation.

''(B) RECOVERY ZONE FACILITY BONDS.—The 2010 national recovery zone facility bond limitation is $15,000,000,000. Any allocation of such limitation under this subsection shall be treated for purposes of section 1400U–3 in the same manner as an allocation of national recovery zone facility bond limitation.''.

(c) AUTHORITY OF STATE TO WAIVE CERTAIN 2009 ALLOCATIONS.—Subparagraph (A) of section 1400U–1(a)(3) is amended by adding at the end the following: ''A county or municipality shall be treated as having waived any portion of an allocation made under this subparagraph which has not been allocated to a bond issued before May 1, 2011. Any allocation waived (or treated as waived) under this subparagraph may be used or reallocated by the State.''.

SEC. 105. ALLOWANCE OF NEW MARKETS TAX CREDIT AGAINST ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Subparagraph (B) of section 38(c)(4), as amended by the Patient Protection and Affordable Care Act, is amended by redesignating clauses (v) through (ix) as clauses (vi) through (x), respectively, and by inserting after clause (iv) the following new clause:

''(v) the credit determined under section 45D, but only with respect to credits determined with respect to qualified equity investments (as defined in section 45D(b)) initially made before January 1, 2012,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined with respect to qualified equity investments (as defined in section 45D(b) of the Internal Revenue Code of 1986) initially made after March 15, 2010.

SEC. 106. EXTENSION OF TAX-EXEMPT ELIGIBILITY FOR LOANS GUARANTEED BY FEDERAL HOME LOAN BANKS.

Clause (iv) of section 149(b)(3)(A) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 107. EXTENSION OF TEMPORARY SMALL ISSUER RULES FOR ALLOCATION OF TAX-EXEMPT INTEREST EXPENSE BY FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Clauses (i), (ii), and (iii) of section 265(b)(3)(G) are each amended by striking ''or 2010'' and inserting '', 2010, or 2011''.

(b) CONFORMING AMENDMENT.—Subparagraph (G) of section 265(b)(3) is amended by striking ''AND 2010'' in the heading and inserting '', 2010, AND 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2010.

TITLE II—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 201. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 202. INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 203. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended—

(1) by striking ''5-year period'' and inserting ''6-year period''; and

(2) by adding at the end the following: ''In the case of the last year of the 6-year period described in the preceding sentence, the credit determined under subsection (a) with respect to electricity produced during such year shall not exceed 80 percent of such credit determined without regard to this sentence.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

SEC. 204. EXTENSION AND MODIFICATION OF CREDIT FOR STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that

is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)''; and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to fuel produced and sold after September 30, 2008.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 205. CREDIT FOR PRODUCING FUEL FROM COKE OR COKE GAS.

(a) IN GENERAL.—Paragraph (1) of section 45K(g) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 206. NEW ENERGY EFFICIENT HOME CREDIT.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2009.

SEC. 207. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of paragraph (2), and

''(C) December 31, 2009, in any other case.''.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) is amended by striking ''after December 31, 2009'' and all that follows and inserting ''after—

''(A) September 30, 2014, in the case of liquefied hydrogen,

''(B) December 31, 2010, in the case of fuels described in subparagraph (A), (C), (F), or (G) of subsection (d)(2), and

''(C) December 31, 2009, in any other case.''.

(c) PAYMENT AUTHORITY.—

(1) IN GENERAL.—Paragraph (6) of section 6427(e) is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting '', and'', and by adding at the end the following new subparagraph:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving fuel described in subparagraph (A), (C), (F), or (G) of section 6426(d)(2) sold or used after December 31, 2010.''.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 6427(e)(6) is amended by inserting ''or (E)'' after ''subparagraph (D)''.

(d) EXCLUSION OF BLACK LIQUOR FROM CREDIT ELIGIBILITY.—The last sentence of section 6426(d)(2) is amended by striking ''or biodiesel'' and inserting ''biodiesel, or any fuel (including lignin, wood residues, or spent pulping liquors) derived from the production of paper or pulp''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 208. SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) MODIFICATION OF DEFINITION OF INDEPENDENT TRANSMISSION COMPANY.—

(1) IN GENERAL.—Clause (i) of section 451(i)(4)(B) is amended to read as follows:

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) or by declaratory order—

''(I) is not itself a market participant as determined by the Commission, and also is not controlled by any such market participant, or

''(II) to be independent from market participants or to be an independent transmission company within the meaning of such Commission's rules applicable to independent transmission providers, and''.

(2) RELATED PERSONS.—Paragraph (4) of section 451(i) is amended by adding at the end the following flush sentence:

''For purposes of subparagraph (B)(i)(I), a person shall be treated as controlled by another person if such persons would be treated as a single employer under section 52.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to dispositions after December 31, 2009.

(2) MODIFICATIONS.—The amendments made by subsection (b) shall apply to dispositions after the date of the enactment of this Act.

SEC. 209. SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 210. DIRECT PAYMENT OF ENERGY EFFICIENT APPLIANCES TAX CREDIT.

In the case of any taxable year which includes the last day of calendar year 2009 or calendar year 2010, a taxpayer who elects to waive the credit which would otherwise be determined with respect to the taxpayer under section 45M of the Internal Revenue Code of 1986 for such taxable year shall be treated as making a payment against the tax imposed under subtitle A of such Code for such taxable year in an amount equal to 85 percent of the amount of the credit which would otherwise be so determined. Such payment shall be treated as made on the later of the due date of the return of such tax or the date on which such return is filed. Elections under this section may be made separately for 2009 and 2010, but once made shall be irrevocable. No amount shall be includible in gross income or alternative minimum taxable income by reason of this section.

SEC. 211. MODIFICATION OF STANDARDS FOR WINDOWS, DOORS, AND SKYLIGHTS WITH RESPECT TO THE CREDIT FOR NONBUSINESS ENERGY PROPERTY.

(a) IN GENERAL.—Paragraph (4) of section 25C(c) is amended by striking ''unless'' and all that follows and inserting ''unless—

''(A) in the case of any component placed in service after the date which is 90 days after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010, such component meets the criteria for such components established by the 2010 Energy Star Program Requirements for Residential Windows, Doors, and Skylights, Version 5.0 (or any subsequent version of such requirements which is in effect after January 4, 2010),

''(B) in the case of any component placed in service after the date of the enactment of the American Jobs and Closing Tax Loopholes Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 221. DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 222. ADDITIONAL STANDARD DEDUCTION FOR STATE AND LOCAL REAL PROPERTY TAXES.

(a) IN GENERAL.—Subparagraph (C) of section 63(c)(1) is amended by striking ''or 2009'' and inserting ''2009, or 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 223. DEDUCTION OF STATE AND LOCAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 224. CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 225. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

(c) TEMPORARY COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS.—In the case of any taxpayer for any taxable year beginning in 2010, no deduction shall be allowed under section 222 of the Internal Revenue Code of 1986 if—

(1) the taxpayer's net Federal income tax reduction which would be attributable to such deduction for such taxable year, is less than

(2) the credit which would be allowed to the taxpayer for such taxable year under section 25A of such Code (determined without regard to sections 25A(e) and 26 of such Code).

SEC. 226. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2009.

SEC. 227. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

SEC. 228. FIRST-TIME HOMEBUYER CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 36(h) is amended by striking ''paragraph (1) shall be applied by substituting 'July 1, 2010'' and inserting ''and who purchases such residence before October 1, 2010, paragraph (1) shall be applied by substituting 'October 1, 2010' ''.

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 36(h)(3) is amended by inserting ''and for 'October 1, 2010'' after ''for 'July 1, 2010' ''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to residences purchased after June 30, 2010.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 231. ELECTION FOR DIRECT PAYMENT OF LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR DIRECT PAYMENT OF CREDIT.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), plus any credits returned to the State attributable to section 1400N(c) (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, plus any credits for 2010 attributable to the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i)

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36C,''.

SEC. 232. LOW-INCOME HOUSING GRANT ELECTION.

(a) CLARIFICATION OF ELIGIBILITY OF LOW-INCOME HOUSING CREDITS FOR LOW-INCOME HOUSING GRANT ELECTION.—Paragraph (1) of section 1602(b) of the American Recovery and Reinvestment Tax Act of 2009 is amended—

(1) by inserting '', plus any increase for 2009 or 2010 attributable to section 1400N(c) of such Code (including credits made available under such section as applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any credits for 2009 attributable to the application of such section 702(d)(2) and 704(b)'' after ''such section'' in subparagraph (B).

(b) APPLICATION OF ADDITIONAL HOUSING CREDIT AMOUNT FOR PURPOSES OF 2009 GRANT ELECTION.—Subsection (b) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009, as amended by subsection (a), is amended by adding at the end the following flush sentence:

''For purposes of paragraph (1)(B), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) of such Code shall be applied without regard to clause (i).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the enactment of section 1602 of the American Recovery and Reinvestment Tax Act of 2009.

Subtitle C—Business Tax Relief

SEC. 241. RESEARCH CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 242. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 243. NEW MARKETS TAX CREDIT.

(a) IN GENERAL.—Subparagraph (F) of section 45D(f)(1) is amended by inserting ''and 2010'' after ''2009''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 45D(f) is amended by striking ''2014'' and inserting ''2015''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2009.

SEC. 244. RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Subsection (f) of section 45G is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2009.

SEC. 245. MINE RESCUE TEAM TRAINING CREDIT.

(a) IN GENERAL.—Subsection (e) of section 45N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4), as amended by section 105, is amended—

(1) by redesignating clauses (vii) through (x) as clauses (viii) through (xi), respectively; and

(2) by inserting after clause (vi) the following new clause:

''(vii) the credit determined under section 45N,''.

(c) EFFECTIVE DATE.—

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

(2) ALLOWANCE AGAINST AMT.—The amendments made by subsection (b) shall apply to credits determined for taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 246. EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) IN GENERAL.—Subsection (f) of section 45P is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2009.

SEC. 247. 5-YEAR DEPRECIATION FOR FARMING BUSINESS MACHINERY AND EQUIPMENT.

(a) IN GENERAL.—Clause (vii) of section 168(e)(3)(B) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 248. 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) Clause (i) of section 168(e)(7)(A) is amended by striking ''if such building is placed in service after December 31, 2008, and before January 1, 2010,''.

(2) Paragraph (8) of section 168(e) is amended by striking subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. 249. 7-YEAR RECOVERY PERIOD FOR MOTORSPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 250. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 251. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 252. ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(D) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2009.

SEC. 253. ENHANCED CHARITABLE DEDUCTION FOR CORPORATE CONTRIBUTIONS OF COMPUTER INVENTORY FOR EDUCATIONAL PURPOSES.

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 254. ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 255. SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2009.

SEC. 256. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

(a) IN GENERAL.—Subsection (h) of section 198 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures paid or incurred after December 31, 2009.

SEC. 257. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking ''first 4 taxable years'' and inserting ''first 5 taxable years''; and

(2) by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 258. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2009.

SEC. 259. EXCLUSION OF GAIN OR LOSS ON SALE OR EXCHANGE OF CERTAIN BROWNFIELD SITES FROM UNRELATED BUSINESS INCOME.

(a) IN GENERAL.—Subparagraph (K) of section 512(b)(19) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired after December 31, 2009.

SEC. 260. TIMBER REIT MODERNIZATION.

(a) IN GENERAL.—Paragraph (8) of section 856(c) is amended by striking ''means'' and all that follows and inserting ''means December 31, 2010.''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (I) of section 856(c)(2) is amended by striking ''the first taxable year beginning after the date of the enactment of this subparagraph'' and inserting ''a taxable year beginning on or before the termination date''.

(2) Clause (iii) of section 856(c)(5)(H) is amended by inserting ''in taxable years beginning'' after ''dispositions''.

(3) Clause (v) of section 857(b)(6)(D) is amended by inserting ''in a taxable year beginning'' after ''sale''.

(4) Subparagraph (G) of section 857(b)(6) is amended by inserting ''in a taxable year beginning'' after ''In the case of a sale''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 261. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) IN GENERAL.—Paragraphs (1)(C) and (2)(C) of section 871(k) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 262. RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

(a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2010. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2009, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code,

such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 263. EXCEPTIONS FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENT.—Section 953(e)(10) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 264. LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) IN GENERAL.—Subparagraph (C) of section 954(c)(6) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2009, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 265. BASIS ADJUSTMENT TO STOCK OF S CORPS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2009.

SEC. 266. EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Section 1391 is amended—

(1) by striking ''December 31, 2009'' in subsection (d)(1)(A)(i) and inserting ''December 31, 2010''; and

(2) by striking the last sentence of subsection (h)(2).

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(2) by striking ''2014'' in the heading and inserting ''2015''.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal

Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2009.

SEC. 267. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010''.

(b) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i)(I) of section 1400B(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 1400B(e) is amended—

(i) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(ii) by striking ''2014'' in the heading and inserting ''2015''.

(B) PARTNERSHIPS AND S-CORPS.—Paragraph (2) of section 1400B(g) is amended by striking ''December 31, 2014'' and inserting ''December 31, 2015''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) TAX-EXEMPT DC EMPOWERMENT ZONE BONDS.—The amendment made by subsection (b) shall apply to bonds issued after December 31, 2009.

(3) ACQUISITION DATES FOR ZERO-PERCENT CAPITAL GAINS RATE.—The amendments made by subsection (c) shall apply to property acquired or substantially improved after December 31, 2009.

(4) HOMEBUYER CREDIT.—The amendment made by subsection (d) shall apply to homes purchased after December 31, 2009.

SEC. 268. RENEWAL COMMUNITY TAX INCENTIVES.

(a) IN GENERAL.—Subsection (b) of section 1400E is amended—

(1) by striking ''December 31, 2009'' in paragraphs (1)(A) and (3) and inserting ''December 31, 2010''; and

(2) by striking ''January 1, 2010'' in paragraph (3) and inserting ''January 1, 2011''.

(b) ZERO-PERCENT CAPITAL GAINS RATE.—

(1) ACQUISITION DATE.—Paragraphs (2)(A)(i), (3)(A), (4)(A)(i), and (4)(B)(i) of section 1400F(b) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(2) LIMITATION ON PERIOD OF GAINS.—Paragraph (2) of section 1400F(c) is amended—

(A) by striking ''December 31, 2014'' and inserting ''December 31, 2015''; and

(B) by striking ''2014'' in the heading and inserting ''2015''.

(3) CLERICAL AMENDMENT.—Subsection (d) of section 1400F is amended by striking ''and 'December 31, 2014' for 'December 31, 2014' ''.

(c) COMMERCIAL REVITALIZATION DEDUCTION.—

(1) IN GENERAL.—Subsection (g) of section 1400I is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1400I(d)(2) is amended by striking ''after 2001 and before 2010'' and inserting ''which begins after 2001 and before the date referred to in subsection (g)''.

(d) INCREASED EXPENSING UNDER SECTION 179.—Subparagraph (A) of section 1400J(b)(1) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(e) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of a renewal community the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A) of section 1400E(b)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation unless, after the date of the enactment of this section, the entity which made such nomination reconfirms such termination date, or amends the nomination to provide for a new termination date, in such manner as the Secretary of the Treasury (or the Secretary's designee) may provide.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to periods after December 31, 2009.

(2) ACQUISITIONS.—The amendments made by subsections (b)(1) and (d) shall apply to acquisitions after December 31, 2009.

(3) COMMERCIAL REVITALIZATION DEDUCTION.—

(A) IN GENERAL.—The amendment made by subsection (c)(1) shall apply to buildings placed in service after December 31, 2009.

(B) CONFORMING AMENDMENT.—The amendment made by subsection (c)(2) shall apply to calendar years beginning after December 31, 2009.

SEC. 269. TEMPORARY INCREASE IN LIMIT ON COVER OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE VIRGIN ISLANDS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2009.

SEC. 270. PAYMENT TO AMERICAN SAMOA IN LIEU OF EXTENSION OF ECONOMIC DEVELOPMENT CREDIT.

The Secretary of the Treasury (or his designee) shall pay $18,000,000 to the Government of American Samoa for purposes of economic development. The payment made under the preceding sentence shall be treated for purposes of section 1324 of title 31, United States Code, as a refund of internal revenue collections to which such section applies.

SEC. 271. ELECTION TO TEMPORARILY UTILIZE UNUSED AMT CREDITS DETERMINED BY DOMESTIC INVESTMENT.

(a) IN GENERAL.—Section 53 is amended by adding at the end the following new subsection:

''(g) ELECTION FOR CORPORATIONS WITH NEW DOMESTIC INVESTMENTS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply for its first taxable year beginning after December 31, 2009, the limitation imposed by subsection (c) for such taxable year shall be increased by the AMT credit adjustment amount.

''(2) AMT CREDIT ADJUSTMENT AMOUNT.—For purposes of paragraph (1), the term 'AMT credit adjustment amount' means, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit for its first taxable year beginning after December 31, 2009, determined under subsection (b), or

''(B) 10 percent of new domestic investments made during such taxable year.

''(3) NEW DOMESTIC INVESTMENTS.—For purposes of this subsection, the term 'new domestic investments' means the cost of qualified property (as defined in section 168(k)(2)(A)(i))—

''(A) the original use of which commences with the taxpayer during the taxable year, and

''(B) which is placed in service in the United States by the taxpayer during such taxable year.

''(4) CREDIT REFUNDABLE.—For purposes of subsection (b) of section 6401, the aggregate increase in the credits allowable under this part for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C (and not under any other subpart). For purposes of section 6425, any amount treated as so allowed shall be treated as a payment of estimated income tax for the taxable year.

''(5) ELECTION.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once made, may be revoked only with the consent of the Secretary. Not later than 90 days after the date of the enactment of this subsection, the Secretary shall issue guidance specifying such time and manner.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, a corporation shall take into account its allocable share of any new domestic investments by a partnership for any taxable year if, and only if, more than 90 percent of the capital and profits interests in such partnership are owned by such corporation (directly or indirectly) at all times during such taxable year.

''(7) NO DOUBLE BENEFIT.—

''(A) IN GENERAL.—A corporation making an election under this subsection may not make an election under subparagraph (H) of section 172(b)(1).

''(B) SPECIAL RULES WITH RESPECT TO TAXPAYERS PREVIOUSLY ELECTING APPLICABLE NET OPERATING LOSSES.—In the case of a corporation which made an election under subparagraph (H) of section 172(b)(1) and elects the application of this subsection—

''(i) ELECTION OF APPLICABLE NET OPERATING LOSS TREATED AS REVOKED.—The election under such subparagraph (H) shall (notwithstanding clause (iii)(II) of such subparagraph) be treated as having been revoked by the taxpayer.

''(ii) COORDINATION WITH PROVISION FOR EXPEDITED REFUND.—The amount otherwise treated as a payment of estimated income tax under the last sentence of paragraph (4) shall be reduced (but not below zero) by the aggregate increase in unpaid tax liability determined under this chapter by reason of the revocation of the election under clause (i).

''(iii) APPLICATION OF STATUTE OF LIMITATIONS.—With respect to the revocation of an election under clause (i)—

''(I) the statutory period for the assessment of any deficiency attributable to such revocation shall not expire before the end of the 3-year period beginning on the date of the election to have this subsection apply, and

''(II) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(C) EXCEPTION FOR ELIGIBLE SMALL BUSINESSES.—Subparagraphs (A) and (B) shall not apply to an eligible small business as defined in section 172(b)(1)(H)(v)(II).

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this subsection, including to prevent fraud and abuse under this subsection.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by inserting ''53(g),'' after ''53(e),''.

(2) Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''53(g),'' after ''53(e),''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 272. STUDY OF EXTENDED TAX EXPENDITURES.

(a) FINDINGS.—Congress finds the following:

(1) Currently, the aggregate cost of Federal tax expenditures rivals, or even exceeds, the amount of total Federal discretionary spending.

(2) Given the escalating public debt, a critical examination of this use of taxpayer dollars is essential.

(3) Additionally, tax expenditures can complicate the Internal Revenue Code of 1986 for taxpayers and complicate tax administration for the Internal Revenue Service.

(4) To facilitate a better understanding of tax expenditures in the future, it is constructive for legislation extending these provisions to include a study of such provisions.

(b) REQUIREMENT TO REPORT.—Not later than November 30, 2010, the Chief of Staff of the Joint Committee on Taxation, in consultation with the Comptroller General of the United States, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each tax expenditure (as defined in section 3(3) of the Congressional Budget Impoundment Control Act of 1974 (2 U.S.C. 622(3)) extended by this title.

(c) ROLLING SUBMISSION OF REPORTS.—The Chief of Staff of the Joint Committee on Taxation shall initially submit the reports for each such tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) in order of the tax expenditure incurring the least aggregate cost to the greatest aggregate cost (determined by reference to the cost estimate of this Act by the Joint Committee on Taxation). Thereafter, such reports may be submitted in such order as the Chief of Staff determines appropriate.

(d) CONTENTS OF REPORT.—Such reports shall contain the following:

(1) An explanation of the tax expenditure and any relevant economic, social, or other context under which it was first enacted.

(2) A description of the intended purpose of the tax expenditure.

(3) An analysis of the overall success of the tax expenditure in achieving such purpose, and evidence supporting such analysis.

(4) An analysis of the extent to which further extending the tax expenditure, or making it permanent, would contribute to achieving such purpose.

(5) A description of the direct and indirect beneficiaries of the tax expenditure, including identifying any unintended beneficiaries.

(6) An analysis of whether the tax expenditure is the most cost-effective method for achieving the purpose for which it was intended, and a description of any more cost-effective methods through which such purpose could be accomplished.

(7) A description of any unintended effects of the tax expenditure that are useful in understanding the tax expenditure's overall value.

(8) An analysis of how the tax expenditure could be modified to better achieve its original purpose.

(9) A brief description of any interactions (actual or potential) with other tax expenditures or direct spending programs in the same or related budget function worthy of further study.

(10) A description of any unavailable information the staff of the Joint Committee on Taxation may need to complete a more thorough examination and analysis of the tax expenditure, and what must be done to make such information available.

(e) MINIMUM ANALYSIS BY DEADLINE.—In the event the Chief of Staff of the Joint Committee on Taxation concludes it will not be feasible to complete all reports by the date specified in subsection (a), at a minimum, the reports for each tax expenditure enacted in this subtitle (relating to business tax relief) and subtitle A (relating to energy) shall be completed by such date.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 281. WAIVER OF CERTAIN MORTGAGE REVENUE BOND REQUIREMENTS.

(a) IN GENERAL.—Paragraph (11) of section 143(k) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) SPECIAL RULE FOR RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—Paragraph (13) of section 143(k), as redesignated by subsection (c), is amended by striking ''January 1, 2010'' in subparagraphs (A)(i) and (B)(i) and inserting ''January 1, 2011''.

(c) TECHNICAL AMENDMENT.—Subsection (k) of section 143 is amended by redesignating the second paragraph (12) (relating to special rules for residences destroyed in federally declared disasters) as paragraph (13).

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendment made by this section shall apply to bonds issued after December 31, 2009.

(2) RESIDENCES DESTROYED IN FEDERALLY DECLARED DISASTERS.—The amendments made by subsection (b) shall apply with respect to disasters occurring after December 31, 2009.

(3) TECHNICAL AMENDMENT.—The amendment made by subsection (c) shall take effect as if included in section 709 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008.

SEC. 282. LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 165(h)(3)(B)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) $500 LIMITATION.—Paragraph (1) of section 165(h) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to federally declared disasters occurring after December 31, 2009.

(2) $500 LIMITATION.—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

SEC. 283. SPECIAL DEPRECIATION ALLOWANCE FOR QUALIFIED DISASTER PROPERTY.

(a) IN GENERAL.—Subclause (I) of section 168(n)(2)(A)(ii) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to disasters occurring after December 31, 2009.

SEC. 284. NET OPERATING LOSSES ATTRIBUTABLE TO FEDERALLY DECLARED DISASTERS.

(a) IN GENERAL.—Subclause (I) of section 172(j)(1)(A)(i) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to losses attributable to disasters occurring after December 31, 2009.

SEC. 285. EXPENSING OF QUALIFIED DISASTER EXPENSES.

(a) IN GENERAL.—Subparagraph (A) of section 198A(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenditures on account of disasters occurring after December 31, 2009.

PART II—REGIONAL PROVISIONS

Subpart A—New York Liberty Zone

SEC. 291. SPECIAL DEPRECIATION ALLOWANCE FOR NONRESIDENTIAL AND RESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 1400L(b)(2) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 292. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2009.

Subpart B—GO Zone

SEC. 295. INCREASE IN REHABILITATION CREDIT.

(a) IN GENERAL.—Subsection (h) of section 1400N is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after December 31, 2009.

SEC. 296. WORK OPPORTUNITY TAX CREDIT WITH RESPECT TO CERTAIN INDIVIDUALS AFFECTED BY HURRICANE KATRINA FOR EMPLOYERS INSIDE DISASTER AREAS.

(a) IN GENERAL.—Paragraph (1) of section 201(b) of the Katrina Emergency Tax Relief Act of 2005 is amended by striking ''4-year'' and inserting ''5-year''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals hired after August 27, 2009.

SEC. 297. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

TITLE III—PENSION FUNDING RELIEF

Subtitle A—Single-Employer Plans

SEC. 301. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) ERISA AMENDMENTS.—

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

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be determined without regard to this subparagraph.

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

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

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971 of the Internal Revenue Code of 1986,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 430(k) of such Code, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c).

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as such Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary of the Treasury, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

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

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

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

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

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

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

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

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

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under subparagraph (D)(iii)).

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

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

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

''(BB) $1,000,000, plus

''(bb) the amount of assets set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary of the Treasury), or transferred to such a trust or other arrangement, during the calendar year by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A of such Code) of the plan sponsor.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, the term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) of the Internal Revenue Code of 1986 for the taxable year ending during such calendar year, and the term 'remuneration' shall include earned income of such an individual.

''(IV) CERTAIN PAYMENTS UNDER EXISTING CONTRACTS.—There shall not be taken into account under subclause (I)(aa) any remuneration consisting of nonqualified deferred compensation, restricted stock (or restricted stock units), stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and which was not modified in any material respect before such remuneration is paid.

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i) of the Internal Revenue Code of 1986) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

''(bb) the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 for the calendar year, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If the amount of any increase under clause (i) is not a multiple of $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

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

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 of the Internal Revenue Code of 1986 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

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

''(II) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

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

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

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

''(H) REGULATIONS AND GUIDANCE.—The Secretary of the Treasury may prescribe such regulations and other guidance of general applicability as such Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

''(k) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 303(c)(2)(D) in connection with a single-employer plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A); and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 303(c)(2)(F)(iii)(I))—

''(i) an explanation of section 303(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f).

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant. The Secretary of the Treasury shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.

''(4) EFFECT OF EGREGIOUS FAILURE.—

''(A) IN GENERAL.—In the case of any egregious failure to meet any requirement of this subsection with respect to any election, such election shall be treated as having not been made.

''(B) EGREGIOUS FAILURE.—For purposes of subparagraph (A), there is an egregious failure to meet the requirements of this subsection if such failure is in the control of the plan sponsor and is—

''(i) an intentional failure (including any failure to promptly provide the required notice or information after the plan administrator discovers an unintentional failure to meet the requirements of this subsection),

''(ii) a failure to provide most of the participants and beneficiaries with most of the information they are entitled to receive under this subsection, or

''(iii) a failure which is determined to be egregious under regulations prescribed by the Secretary of the Treasury.

''(5) USE OF NEW TECHNOLOGIES.—The Secretary of the Treasury may, in consultation with the Secretary, by regulations or other guidance of general applicability, allow any notice under this subsection to be provided using new technologies.''.

(C) SUBSEQUENT SUPPLEMENTAL NOTICES.—Section 101(f)(2)(C) of such Act (29 U.S.C. 1021(f)(2)(C)) is amended—

(i) by striking ''and'' at the end of clause (i);

(ii) by redesignating clause (ii) as clause (iii); and

(iii) by inserting after clause (i) the following new clause:

''(ii) any excess employee compensation amounts and any dividends and redemptions amounts determined under section 303(c)(2)(F) for the preceding plan year with respect to the plan, and''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 303(j)(3) of such Act (29 U.S.C. 1083(j)(3)) is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Section 303(c)(1) of such Act (29 U.S.C. 1083(c)(1)) is amended by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection''.

(b) IRC AMENDMENTS.—

(1) IN GENERAL.—Section 430(c)(2) of the Internal Revenue Code of 1986 is amended by adding at the end the following subparagraphs:

''(D) SPECIAL RULE.—

''(i) IN GENERAL.—In the case of the shortfall amortization base of a plan for any applicable plan year, the shortfall amortization installments are the amounts described in clause (ii) or (iii), if made applicable by an election under clause (iv). In the absence of a timely election, such installments shall be

determined without regard to this subparagraph.

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

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

''(II) in the case of the last 7 plan years in such 9-plan-year period, the amounts necessary to amortize the balance of such shortfall amortization base in level annual installments over such last 7 plan years (determined using the segment rates determined under subparagraph (C) of subsection (h)(2) for the applicable plan year, applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)).

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts under subparagraphs (A) and (B) determined by substituting '15 plan-year period' for '7-plan-year period'.

''(iv) ELECTION.—

''(I) IN GENERAL.—The plan sponsor may, with respect to a plan, elect, with respect to any of not more than 2 applicable plan years, to determine shortfall amortization installments under this subparagraph. An election under either clause (ii) or clause (iii) may be made with respect to either of such applicable plan years.

''(II) ELIGIBILITY FOR ELECTION.—An election may be made to determine shortfall amortization installments under this subparagraph with respect to a plan only if, as of the date of the election—

''(aa) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(bb) there are no unpaid minimum required contributions with respect to the plan for purposes of section 4971,

''(cc) there is no lien in favor of the plan under subsection (k) or under section 303(k) of the Employee Retirement Income Security Act of 1974, and

''(dd) a distress termination has not been initiated for the plan under section 4041(c) of such Act.

''(III) RULES RELATING TO ELECTION.—Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary and shall be irrevocable, except under such limited circumstances, and subject to such conditions, as the Secretary may prescribe.

''(E) APPLICABLE PLAN YEAR.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'applicable plan year' means, subject to the election of the plan sponsor under subparagraph (D)(iv), each of not more than 2 of the plan years beginning in 2008, 2009, 2010, or 2011.

''(ii) SPECIAL RULE RELATING TO 2008.—A plan year may be elected as an applicable plan year pursuant to this subparagraph only if the due date under subsection (j)(1) for the payment of the minimum required contribution for such plan year occurs on or after March 10, 2010.

''(F) INCREASES IN SHORTFALL AMORTIZATION INSTALLMENTS IN CASES OF EXCESS COMPENSATION OR CERTAIN DIVIDENDS OR STOCK REDEMPTIONS.—

''(i) IN GENERAL.—If, with respect to an election for an applicable plan year under subparagraph (D), there is an installment acceleration amount with respect to a plan for any plan year in the restriction period (or if there is an installment acceleration amount carried forward to a plan year not in the restriction period), then the shortfall amortization installment otherwise determined and payable under this paragraph for such plan year shall be increased by such amount.

''(ii) BACK-END ADJUSTMENT TO AMORTIZATION SCHEDULE.—Subject to rules prescribed by the Secretary, if a shortfall amortization installment with respect to any shortfall amortization base for an applicable plan year is required to be increased for any plan year under clause (i), subsequent shortfall amortization installments with respect to such base shall be reduced, in reverse order of the otherwise required installments beginning with the final scheduled installment, to the extent necessary to limit the present value of such subsequent shortfall amortization installments (after application of this subparagraph) to the present value of the remaining unamortized shortfall amortization base.

''(iii) INSTALLMENT ACCELERATION AMOUNT.—For purposes of this subparagraph—

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

''(aa) the aggregate amount of excess employee compensation determined under clause (iv) for the plan year, plus

''(bb) the dividend and redemption amount determined under clause (v) for the plan year.

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

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

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

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

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

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

''(cc) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FORWARD.—No amount shall be carried forward under item (aa) or (bb) to a plan year which begins after the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under subparagraph (D)(iii)).

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

''(iv) EXCESS EMPLOYEE COMPENSATION.—

''(I) IN GENERAL.—For purposes of this paragraph, the term 'excess employee compensation' means the sum of—

''(aa) with respect to any employee, for any plan year, the excess (if any) of—

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

''(BB) $1,000,000, plus

''(bb) the amount of assets set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, during the calendar year by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in section 409A) of the plan sponsor.

''(II) NO DOUBLE COUNTING.—No amount shall be taken into account under subclause (I) more than once.

''(III) EMPLOYEE; REMUNERATION.—For purposes of this clause, the term 'employee' includes, with respect to a calendar year, a self-employed individual who is treated as an employee under section 401(c) for the taxable year ending during such calendar year, and the term 'remuneration' shall include earned income of such an individual.

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

''(V) ONLY REMUNERATION FOR POST-2009 SERVICES COUNTED.—Remuneration shall be taken into account under subclause (I)(aa) only to the extent attributable to services performed by the employee for the plan sponsor after December 31, 2009.

''(VI) COMMISSIONS.—

''(aa) IN GENERAL.—There shall not be taken into account under subclause (I)(aa) any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to whom such remuneration is payable.

''(bb) SPECIFIED EMPLOYEES.—Item (aa) shall not apply in the case of any specified employee (within the meaning of section 409A(a)(2)(B)(i)) or any employee who would be such a specified employee if the plan sponsor were a corporation described in such section.

''(VII) INDEXING OF AMOUNT.—In the case of any calendar year beginning after 2010, the dollar amount under subclause (I)(aa)(BB) shall be increased by an amount equal to—

''(aa) such dollar amount, multiplied by

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

If the amount of any increase under clause (i) is not a multiple of $20,000, such increase shall be rounded to the next lowest multiple of $20,000.

''(v) CERTAIN DIVIDENDS AND REDEMPTIONS.—

''(I) IN GENERAL.—The dividend and redemption amount determined under this clause for any plan year is the lesser of—

''(aa) the excess of—

''(AA) the sum of the dividends paid during the plan year by the plan sponsor, plus the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, over

''(BB) an amount equal to the average of adjusted annual net income of the plan sponsor for the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(bb) the sum of—

''(AA) the amounts paid for the redemption of stock of the plan sponsor redeemed during the plan year, plus

''(BB) the excess of dividends paid during the plan year by the plan sponsor over the dividend base amount.

''(II) DEFINITIONS.—

''(aa) ADJUSTED ANNUAL NET INCOME.—For purposes of subclause (I)(aa)(BB), the term 'adjusted annual net income' with respect to any fiscal year means annual net income, determined in accordance with generally accepted accounting principles (before after-tax gain or loss on any sale of assets), but without regard to any reduction by reason of depreciation or amortization, except that in no event shall adjusted annual net income for any fiscal year be less than zero.

''(bb) DIVIDEND BASE AMOUNT.—For purposes of this clause, the term 'dividend base amount' means, with respect to a plan year, an amount equal to the greater of—

''(AA) the median of the amounts of the dividends paid during each of the last 5 fiscal years of the plan sponsor ending before such plan year, or

''(BB) the amount of dividends paid during such plan year on preferred stock that was issued on or before May 21, 2010, or that is replacement stock for such preferred stock.

''(III) ONLY CERTAIN POST-2009 DIVIDENDS AND REDEMPTIONS COUNTED.—For purposes of subclause (I) (other than for purposes of calculating the dividend base amount), there shall only be taken into account dividends declared, and redemptions occurring, after February 28, 2010.

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

''(V) EXCEPTION FOR STOCK DIVIDENDS.—Any distribution by the plan sponsor to its shareholders of stock issued by the plan sponsor shall not be taken into account under subclause (I).

''(VI) EXCEPTION FOR CERTAIN REDEMPTIONS.—The following shall not be taken into account under subclause (I):

''(aa) Redemptions of securities which, at the time of redemption, are not listed on an established securities market and—

''(AA) are made pursuant to a pension plan that is qualified under section 401 or a shareholder-approved program, or

''(BB) are made on account of an employee's termination of employment with the plan sponsor, or the death or disability of a shareholder.

''(bb) Redemptions of securities which are not, immediately after issuance, listed on an established securities market and are, or had previously been—

''(AA) held, directly or indirectly, by, or for the benefit of, the Federal Government or a Federal reserve bank, or

''(BB) held by a national government (or a government-related entity of such a government) or an employee benefit plan if such shares are substantially identical to shares described in subitem (AA).

''(vi) OTHER DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) PLAN SPONSOR.—The term 'plan sponsor' includes any group of which the plan sponsor is a member and which is treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

''(II) RESTRICTION PERIOD.—The term 'restriction period' means, with respect to any applicable plan year with respect to which an election is made under subparagraph (D)—

''(aa) except as provided in item (bb), the 3-year period beginning with the applicable plan year (or, if later, the first plan year beginning after December 31, 2009), or

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

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

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

''(H) REGULATIONS AND GUIDANCE.—The Secretary may prescribe such regulations and other guidance of general applicability as the Secretary may determine necessary to achieve the purposes of subparagraphs (D) and (F).''.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 4980F of such Code is amended—

(i) by striking ''subsection (e)'' each place it appears in subsection (a) and paragraphs (1) and (3) of subsection (c) and inserting ''subsections (e) and (f)'';

(ii) by striking ''subsection (e)'' in subsection (c)(2)(A) and inserting ''subsection (e), (f), or both, as the case may be''; and

(iii) by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) NOTICE IN CONNECTION WITH SHORTFALL AMORTIZATION ELECTION.—

''(1) IN GENERAL.—Not later 30 days after the date of an election under clause (iv) of section 430(c)(2)(D) in connection with a plan, the plan administrator shall provide notice of such election in accordance with this subsection to each plan participant and beneficiary, each labor organization representing such participants and beneficiaries, and the Pension Benefit Guaranty Corporation.

''(2) MATTERS INCLUDED IN NOTICE.—Each notice provided pursuant to this subsection shall set forth—

''(A) a statement that recently enacted legislation permits employers to delay pension funding;

''(B) with respect to required contributions—

''(i) the amount of contributions that would have been required had the election not been made;

''(ii) the amount of the reduction in required contributions for the applicable plan year that occurs on account of the election; and

''(iii) the number of plan years to which such reduction will apply;

''(C) with respect to a plan's funding status as of the end of the plan year preceding the applicable plan year—

''(i) the liabilities determined under section 4010(d)(1)(A) of the Employee Retirement Income Security Act of 1974; and

''(ii) the market value of assets of the plan; and

''(D) with respect to installment acceleration amounts (as defined in section 430(c)(2)(F)(iii)(I))—

''(i) an explanation of section 430(c)(2)(F) (relating to increases in shortfall amortization installments in cases of excess compensation or certain dividends or stock redemptions); and

''(ii) a statement that increases in required contributions may occur in the event of future payments of excess employee compensation or certain share repurchasing or dividend activity and that subsequent notices of any such payments or activity will be provided in the annual funding notice provided pursuant to section 101(f) of the Employee Retirement Income Security Act of 1974.

''(3) OTHER REQUIREMENTS.—

''(A) FORM.—The notice required by paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall provide sufficient information (as determined in accordance with regulations or other guidance of general applicability prescribed by the Secretary) to allow plan participants and beneficiaries to understand the effect of the election. The Secretary shall prescribe a model notice that a plan administrator may use to satisfy the requirements of paragraph (1).

''(B) PROVISION TO DESIGNATED PERSONS.—Any notice under paragraph (1) may be provided to a person designated, in writing, by the person to which it would otherwise be provided.''.

(B) CONFORMING AMENDMENT.—Subsection (g) of section 4980F of such Code is amended by inserting ''or (f)'' after ''subsection (e)''.

(3) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS IN DETERMINING QUARTERLY CONTRIBUTIONS.—Section 430(j)(3) of such Code is amended by adding at the end the following new subparagraph:

''(F) DISREGARD OF INSTALLMENT ACCELERATION AMOUNTS.—Subparagraph (D) shall be applied without regard to any increase under subsection (c)(2)(F).''.

(4) CONFORMING AMENDMENT.—Paragraph (1) of section 430(c) of such Code is amended by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection''.

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

SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

''SEC. 107. APPLICATION OF FUNDING RELIEF TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) ALTERNATIVE ELECTIONS.—

''(1) IN GENERAL.—Subject to this section, a plan sponsor of a plan to which section 104, 105, or 106 of this Act applies may either elect the application of subsection (b) with respect to the plan for not more than 2 applicable plan years or elect the application of subsection (c) with respect to the plan for 1 applicable plan year.

''(2) ELIGIBILITY FOR ELECTIONS.—An election may be made by a plan sponsor under paragraph (1) with respect to a plan only if at the time of the election—

''(A) the plan sponsor is not a debtor in a case under title 11, United States Code, or similar Federal or State law,

''(B) there are no accumulated funding deficiencies (as defined in section 302(a)(2) of the Employee Retirement Income Security Act of 1974 (as in effect immediately before the enactment of this Act) or in section 412(a) of the Internal Revenue Code of 1986 (as so in effect)) with respect to the plan,

''(C) there is no lien in favor of the plan under section 302(d) (as so in effect) or under section 412(n) of such Code (as so in effect), and

''(D) a distress termination has not been initiated for the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974.

''(b) ALTERNATIVE ADDITIONAL FUNDING CHARGE.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of the Internal Revenue Code of 1986 (as so in effect)—

''(1) the deficit reduction contribution under paragraph (2) of such section 302(d) and paragraph (2) of such section 412(l) for such plan for any applicable plan year, shall be zero, and

''(2) the additional funding charge under paragraph (1) of such section 302(d) and paragraph (1) of such section 412(l) for such plan for any applicable plan year shall be increased by an amount equal to the installment acceleration amount (as defined in sections 303(c)(2)(F)(iii)(I) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 430(c)(2)(F)(iii)(I) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined by treating the later of such plan year or the first plan year beginning after December 31, 2009, as the restriction period.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—If the plan sponsor elects the application of this subsection with respect to the plan, for purposes of applying section 302(d) of such Act (as in effect before the amendments made by this subtitle and subtitle B) and section 412(l) of such Code (as so in effect)—

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

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

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

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

''(3) the additional funding charge with respect to the plan for a plan year shall be increased by an amount equal to the installment acceleration amount (as defined in section 303(c)(2)(F)(iii) of such Act (as amended by the American Jobs and Closing Tax Loopholes Act of 2010 and section 430(c)(2)(F)(iii) of such Code (as so amended)) with respect to the plan sponsor for such plan year, determined without regard to subclause (II) of such sections 303(c)(2)(F)(iii) and 430(c)(2)(F)(iii).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE PLAN YEAR.—

''(A) IN GENERAL.—The term 'applicable plan year' with respect to a plan means, subject to the election of the plan sponsor under subsection (a), a plan year beginning in 2009, 2010, or 2011.

''(B) ELECTION.—

''(i) IN GENERAL.—The election described in subsection (a) shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury.

''(ii) REDUCTION IN YEARS WHICH MAY BE ELECTED.—The number of applicable plan years for which an election may be made under section 303(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) or section 430(c)(2)(D) of the Internal Revenue Code of 1986 (as so amended) shall be reduced by the number of applicable plan years for which an election under this section is made.

''(C) ALLOCATION OF INSTALLMENT ACCELERATION AMOUNT FOR MULTIPLE PLAN ELECTION.—In the case of an election under this section with respect to 2 or more plans by the same plan sponsor, the installment acceleration amount shall be apportioned ratably with respect to such plans in proportion to the deficit reduction contributions of the plans determined without regard to subsection (b)(1).

''(2) PLAN SPONSOR.—The term 'plan sponsor' shall have the meaning provided such term in section 303(c)(2)(F)(vi)(I) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and section 430(c)(2)(F)(vi)(I) of the Internal Revenue Code of 1986 (as so amended).

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

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

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

''(6) ADDITIONAL FUNDING CHARGE INCREASE NOT TO EXCEED RELIEF.—

''(A) ELECTION UNDER SUBSECTION (B).—In the case of an election under subsection (b), an increase resulting from the application of subsection (b)(2) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the deficit reduction contribution under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for such plan year, determined as if the election had not been made, over

''(ii) the deficit reduction contribution under such sections for such plan (determined without regard to any increase under subsection (b)(2)).

''(B) ELECTION UNDER SUBSECTION (C).—An increase resulting from the application of subsection (c)(3) in the additional funding charge with respect to a plan for a plan year shall not exceed the excess (if any) of—

''(i) the sum of the deficit reduction contributions under section 302(d)(2) of such Act (as so in effect) and section 412(l)(2) of such Code (as so in effect) for such plan for such plan year and for all preceding plan years beginning with or after the applicable plan year, determined as if the election had not been made, over

''(ii) the sum of the deficit reduction contributions under such sections for such plan years (determined without regard to any increase under subsection (c)(3)).

''(e) NOTICE.—Not later 30 days after the date of an election under subsection (a) in connection with a plan, the plan administrator shall provide notice pursuant to, and subject to, rules similar to the rules of sections 204(k) of the Employee Retirement Income Security Act of 1974 (as amended by the American Jobs and Closing Tax Loopholes Act of 2010) and 4980F(f) of the Internal Revenue Code of 1986 (as so amended).''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of such Act is amended—

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

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

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if—

''(1) the plan is maintained by one or more employers employing employees who are accruing benefits based on service for the plan year,

''(2) such employees are employed in at least 20 States,

''(3) each such employee (other than a de minimis number of employees) is employed by an employer described in section 501(c)(3) of such Code and the primary exempt purpose of each such employer is to provide services with respect to children, and

''(4) the plan sponsor elects (at such time and in such form and manner as shall be prescribed by the Secretary of the Treasury) to be so treated.

Any election under this subsection may be revoked only with the consent of the Secretary of the Treasury.''.

(c) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as may be necessary to carry out the purposes of the amendments made by this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to plan years beginning on or after January 1, 2009.

(2) ELIGIBLE CHARITY PLANS.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2009.

SEC. 303. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITATIONS.

(a) LIMITATIONS ON BENEFIT ACCRUALS.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 (Public Law 110–458; 122 Stat. 5118) is amended—

(1) by striking ''the first plan year beginning during the period beginning on October 1, 2008, and ending on September 30, 2009'' and inserting ''any plan year beginning during the period beginning on October 1, 2008, and ending on December 31, 2011'';

(2) by striking ''substituting'' and all that follows through ''for such plan year'' and inserting ''substituting for such percentage the plan's adjusted funding target attainment percentage for the last plan year ending before September 30, 2009,''; and

(3) by striking ''for the preceding plan year is greater'' and inserting ''for such last plan year is greater''.

(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—

(1) ERISA AMENDMENT.—Section 206(g)(3)(E) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new sentence: ''For purposes of applying clause (i) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 204(b)(1)(G)).''.

(2) IRC AMENDMENT.—Section 436(d)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following new sentence: ''For purposes of applying subparagraph (A) in the case of payments the annuity starting date for which occurs on or before December 31, 2011, payments under a social security leveling option shall be treated as not in excess of the monthly amount paid under a single life annuity (plus an amount not in excess of a social security supplement described in the last sentence of section 411(a)(9)).''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to annuity payments the annuity starting date for which occurs on or after January 1, 2011.

(B) PERMITTED APPLICATION.—A plan shall not be treated as failing to meet the requirements of sections 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by this subsection) and section 436(d) of the Internal Revenue Code of 1986 (as so amended) if the plan sponsor elects to apply the amendments made by this subsection to payments the annuity starting date for which occurs on or after the date of the enactment of this Act and before January 1, 2011.

(c) APPLICATION OF CREDIT BALANCE WITH RESPECT TO LIMITATIONS ON SHUTDOWN BENEFITS AND UNPREDICTABLE CONTINGENT EVENT BENEFITS.—With respect to plan years beginning on or before December 31, 2011, in applying paragraph (5)(C) of subsection (g) of section 206 of the Employee Retirement Income Security Act of 1974 and subsection (f)(3) of section 436 of the Internal Revenue Code of 1986 in the case of unpredictable contingent events (within the meaning of section 206(g)(1)(C) of such Act and section 436(b)(3) of such Code) occurring on or after January 1, 2010, the references, in clause (i) of such paragraph (5)(C) and subparagraph (A) of such subsection (f)(3), to paragraph (1)(B) of such subsection (g) and subsection (b)(2) of such section 436 shall be disregarded.

SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE.

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

''(D) SPECIAL RULE FOR CERTAIN PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

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

''(II) the ratio for such plan for the plan year beginning after June 30, 2007, and on or before June 30, 2008, as determined under rules prescribed by the Secretary of the Treasury.

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

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and on or before December 31, 2010, and

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

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

''(D) SPECIAL RULE FOR CERTAIN PLAN YEARS.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after June 30, 2009, and on or before December 31, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

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

''(II) the ratio for such plan for the plan year beginning after June 30, 2007, and on or before June 30, 2008, as determined under rules prescribed by the Secretary.

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

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and on or before December 31, 2010, and

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

SEC. 305. INFORMATION REPORTING.

(a) IN GENERAL.—Section 4010(b) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1) and inserting the following:

''(1) either of the following requirements are met:

''(A) the funding target attainment percentage (as defined in subsection (d)(2)(B)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent; or

''(B) the aggregate unfunded vested benefits (as determined under section 4006(a)(3)(E)(iii)) of plans maintained by the contributing sponsor and the members of its controlled group exceed $75,000,000 (disregarding plans with no unfunded vested benefits);''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after 2009.

SEC. 306. ROLLOVER OF AMOUNTS RECEIVED IN AIRLINE CARRIER BANKRUPTCY.

(a) GENERAL RULES.—

(1) ROLLOVER OF AIRLINE PAYMENT AMOUNT.—If a qualified airline employee receives any airline payment amount and transfers any portion of such amount to a traditional IRA within 180 days of receipt of such amount (or, if later, within 180 days of the date of the enactment of this Act), then such amount (to the extent so transferred) shall be treated as a rollover contribution described in section 402(c) of the Internal Revenue Code of 1986. A qualified airline employee making such a transfer may exclude from gross income the amount transferred, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier.

(2) TRANSFER OF AMOUNTS ATTRIBUTABLE TO AIRLINE PAYMENT AMOUNT FOLLOWING ROLLOVER TO ROTH IRA.—A qualified airline employee who has contributed an airline payment amount to a Roth IRA that is treated as a qualified rollover contribution pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008 may transfer to a traditional IRA, in a trustee-to-trustee transfer, all or any part of the contribution (together with any net income allocable to such contribution), and the transfer to the traditional IRA will be deemed to have been made at the time of the rollover to the Roth IRA, if such transfer is made within 180 days of the date of the enactment of this Act. A qualified airline employee making such a transfer may exclude from gross income the airline payment amount previously rolled over to the Roth IRA, to the extent an amount attributable to the previous rollover was transferred to a traditional IRA, in the taxable year in which the airline payment amount was paid to the qualified airline employee by the commercial passenger airline carrier. No amount so transferred to a traditional IRA may be treated as a qualified rollover contribution with respect to a Roth IRA within the 5-taxable year period beginning with the taxable year in which such transfer was made.

(3) EXTENSION OF TIME TO FILE CLAIM FOR REFUND.—A qualified airline employee who excludes an amount from gross income in a prior taxable year under paragraph (1) or (2) may reflect such exclusion in a claim for refund filed within the period of limitation under section 6511(a) (or, if later, April 15, 2011).

(b) TREATMENT OF AIRLINE PAYMENT AMOUNTS AND TRANSFERS FOR EMPLOYMENT TAXES.—For purposes of chapter 21 of the Internal Revenue Code of 1986 and section 209 of the Social Security Act, an airline payment amount shall not fail to be treated as a payment of wages by the commercial passenger airline carrier to the qualified airline employee in the taxable year of payment because such amount is excluded from the qualified airline employee's gross income under subsection (a).

(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) AIRLINE PAYMENT AMOUNT.—

(A) IN GENERAL.—The term ''airline payment amount'' means any payment of any money or other property which is payable by a commercial passenger airline carrier to a qualified airline employee—

(i) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001, and before January 1, 2007; and

(ii) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued), or any other fixed obligation of the carrier to pay a lump sum amount.

The amount of such payment shall be determined without regard to any requirement to deduct and withhold tax from such payment under sections 3102(a) and 3402(a).

(B) EXCEPTION.—An airline payment amount shall not include any amount payable on the basis of the carrier's future earnings or profits.

(2) QUALIFIED AIRLINE EMPLOYEE.—The term ''qualified airline employee'' means an employee or former employee of a commercial passenger airline carrier who was a participant in a defined benefit plan maintained by the carrier which—

(A) is a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust exempt from tax under section 501(a) of such Code; and

(B) was terminated or became subject to the restrictions contained in paragraphs (2) and (3) of section 402(b) of the Pension Protection Act of 2006.

(3) TRADITIONAL IRA.—The term ''traditional IRA'' means an individual retirement

plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) which is not a Roth IRA.

(4) ROTH IRA.—The term ''Roth IRA'' has the meaning given such term by section 408A(b) of such Code.

(d) SURVIVING SPOUSE.—If a qualified airline employee died after receiving an airline payment amount, or if an airline payment amount was paid to the surviving spouse of a qualified airline employee in respect of the qualified airline employee, the surviving spouse of the qualified airline employee may take all actions permitted under section 125 of the Worker, Retiree and Employer Recovery Act of 2008, or under this section, to the same extent that the qualified airline employee could have done had the qualified airline employee survived.

(e) EFFECTIVE DATE.—This section shall apply to transfers made after the date of the enactment of this Act with respect to airline payment amounts paid before, on, or after such date.

Subtitle B—Multiemployer Plans

SEC. 311. OPTIONAL USE OF 30-YEAR AMORTIZATION PERIODS.

(a) ELECTIVE SPECIAL RELIEF RULES.—

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

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

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

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses or gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

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

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) for any plan year—

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

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

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

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

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

''Plan year after the plan year in which the net investment loss was incurred	Allocable portion of net investment loss
1st	½
2nd	0
3rd	⅙
4th	⅙
5th	⅙

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.—For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 305(i)(2), except that the value of the plan's assets referred to in section 305(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 305, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 305(c) or under section 432(c) of the Internal Revenue Code of 1986 or rehabilitation plans adopted under section 305(e) or under section 432(e) of such Code, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date unless—

''(i) the plan actuary certifies that—

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

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

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

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary of the Treasury may prescribe.

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

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

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

(2) IRC AMENDMENT.—Section 431(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

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

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

''(i) IN GENERAL.—The plan sponsor of a multiemployer plan with respect to which the solvency test under subparagraph (B) is met may elect to treat the portion of any experience loss or gain for a plan year that is attributable to the allocable portion of the net investment losses incurred in either or both of the first two plan years ending on or after June 30, 2008, as an experience loss separate from other experience losses and gains to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year for which the allocable portion is determined, and

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

''(ii) COORDINATION WITH EXTENSIONS.—If an election is made under clause (i) for any plan year—

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

''(II) if an extension was granted under subsection (d) for any plan year before the plan year for which the election under this

subparagraph is made, such extension shall not result in such amortization period exceeding 30 years.

''(iii) DEFINITIONS AND RULES.—For purposes of this subparagraph—

''(I) NET INVESTMENT LOSSES.—

''(aa) IN GENERAL.—The net investment loss incurred by a plan in a plan year is equal to the excess of—

''(AA) the expected value of the assets as of the end of the plan year, over

''(BB) the market value of the assets as of the end of the plan year,

including any difference attributable to a criminally fraudulent investment arrangement.

''(bb) EXPECTED VALUE.—For purposes of item (aa), the expected value of the assets as of the end of a plan year is the excess of—

''(AA) the market value of the assets at the beginning of the plan year plus contributions made during the plan year, over

''(BB) disbursements made during the plan year.

The amounts described in subitems (AA) and (BB) shall be adjusted with interest at the valuation rate to the end of the plan year.

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

''(III) AMOUNT ATTRIBUTABLE TO ALLOCABLE PORTION OF NET INVESTMENT LOSS.—The amount attributable to the allocable portion of the net investment loss for a plan year shall be an amount equal to the allocable portion of net investment loss for the plan year under subclauses (IV) and (V), increased with interest at the valuation rate determined from the plan year after the plan year in which the net investment loss was incurred.

''(IV) ALLOCABLE PORTION OF NET INVESTMENT LOSSES.—Except as provided in subclause (V), the net investment loss incurred in a plan year shall be allocated among the 5 plan years following the plan year in which the investment loss is incurred in accordance with the following table:

''Plan year after the plan year in which the net investment loss was incurred	**Allocable portion of net investment loss**
1st	½
2nd	0
3rd	⅙
4th	⅙
5th	⅙

''(V) SPECIAL RULE FOR PLANS THAT ADOPT LONGER SMOOTHER PERIOD.—If a plan sponsor elects an extended smoothing period for its asset valuation method under subsection (c)(2)(B), then the allocable portion of net investment loss for the first two plan years following the plan year the investment loss is incurred is the same as determined under subclause (IV), but the remaining ½ of the net investment loss is allocated ratably over the period beginning with the third plan year following the plan year the net investment loss is incurred and ending with the last plan year in the extended smoothing period.

''(VI) SPECIAL RULE FOR OVERSTATEMENT OF LOSS.—If, for a plan year, there is an experience loss for the plan and the amount described in subclause (III) exceeds the total amount of the experience loss for the plan year, then the excess shall be treated as an experience gain.

''(VII) SPECIAL RULE IN YEARS FOR WHICH OVERALL EXPERIENCE IS GAIN.—If, for a plan year, there is no experience loss for the plan, then, in addition to amortization of net investment losses under clause (i), the amount described in subclause (III) shall be treated as an experience gain in addition to any other experience gain.

''(B) SOLVENCY TEST.—

''(i) IN GENERAL.—An election may be made under this paragraph if the election includes certification by the plan actuary in connection with the election that the plan is projected to have a funded percentage at the end of the first 15 plan years that is not less than 100 percent of the funded percentage for the plan year of the election.

''(ii) FUNDED PERCENTAGE.—For purposes of clause (i), the term 'funded percentage' has the meaning provided in section 432(i)(2), except that the value of the plan's assets referred to in section 432(i)(2)(A) shall be the market value of such assets.

''(iii) ACTUARIAL ASSUMPTIONS.—In making any certification under this subparagraph, the plan actuary shall use the same actuarial estimates, assumptions, and methods as those applicable for the most recent certification under section 432, except that the plan actuary may take into account benefit reductions and increases in contribution rates, under either funding improvement plans adopted under section 432(c) or under section 305(c) of the Employee Retirement Income Security Act of 1974 or rehabilitation plans adopted under section 432(e) or under section 305(e) of such Act, that the plan actuary reasonably anticipates will occur without regard to any change in status of the plan resulting from the election.

''(C) ADDITIONAL RESTRICTION ON BENEFIT INCREASES.—If an election is made under subparagraph (A), then, in addition to any other applicable restrictions on benefit increases, a plan amendment which is adopted on or after March 10, 2010, and which increases benefits may not go into effect during the period beginning on such date and ending with the second plan year beginning after such date unless—

''(i) the plan actuary certifies that—

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

''(II) the plan's funded percentage and projected credit balances for the first 3 plan years ending on or after such date are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

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

''(D) TIME, FORM, AND MANNER OF ELECTION.—An election under this paragraph shall be made not later than June 30, 2011, and shall be made in such form and manner as the Secretary may prescribe.

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

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

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

(b) ASSET SMOOTHING FOR MULTIEMPLOYER PLANS.—

(1) ERISA AMENDMENT.—Section 304(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(c)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary of the Treasury shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(2) IRC AMENDMENT.—Section 431(c)(2) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

''(B) EXTENDED ASSET SMOOTHING PERIOD FOR CERTAIN INVESTMENT LOSSES.—The Secretary shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because such method spreads the difference between expected and actual returns for either or both of the first 2 plan years ending on or after June 30, 2008, over a period of not more than 10 years. Any change in valuation method to so spread such difference shall be treated as approved, but only if, in the case that the plan sponsor has made an election under subsection (b)(8), any resulting change in asset value is treated for purposes of amortization as a net experience loss or gain.''.

(c) EFFECTIVE DATE AND SPECIAL RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the first day of the first plan year beginning after June 30, 2008, except that any election a plan sponsor makes pursuant to this section or the amendments made thereby that affects the plan's funding standard account for any plan year beginning before October 1, 2009, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to that plan year.

(2) DEEMED APPROVAL FOR CERTAIN FUNDING METHOD CHANGES.—In the case of a multiemployer plan with respect to which an election has been made under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 (as amended by this section) or section 431(b)(8) of the Internal Revenue Code of 1986 (as so amended)—

(A) any change in the plan's funding method for a plan year beginning on or after July 1, 2008, and on or before December 31, 2010, from a method that does not establish a base for experience gains and losses to one that does establish such a base shall be treated as approved by the Secretary of the Treasury; and

(B) any resulting funding method change base shall be treated for purposes of amortization as a net experience loss or gain.

SEC. 312. OPTIONAL LONGER RECOVERY PERIODS FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) ERISA AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 305(c)(4) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in

such form and manner as the Secretary of the Treasury may prescribe.''.

(2) REHABILITATION PERIOD.—Section 305(e)(4) of such Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary of the Treasury may prescribe.''.

(b) IRC AMENDMENTS.—

(1) FUNDING IMPROVEMENT PERIOD.—Section 432(c)(4) of the Internal Revenue Code of 1986 is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(2) REHABILITATION PERIOD.—Section 432(e)(4) of such Code is amended—

(A) by redesignating subparagraph (B) as subparagraph (C);

(B) in last sentence of subparagraph (A), by striking ''subparagraph (B)'' each place it appears and inserting ''subparagraph (C)''; and

(C) by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, reduced by any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008. Such an election shall be made not later than June 30, 2011, and in such form and manner as the Secretary may prescribe.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to funding improvement periods and rehabilitation periods in connection with funding improvement plans and rehabilitation plans adopted or updated on or after the date of the enactment of this Act.

SEC. 313. MODIFICATION OF CERTAIN AMORTIZATION EXTENSIONS UNDER PRIOR LAW.

(a) IN GENERAL.—In the case of an amortization extension that was granted to a multiemployer plan under the terms of section 304 of the Employee Retirement Income Security Act of 1974 (as in effect immediately prior to enactment of the Pension Protection Act of 2006) or section 412(e) of the Internal Revenue Code (as so in effect), the determination of whether any financial condition on the amortization extension is satisfied shall be made by assuming that for any plan year that contains some or all of the period beginning June 30, 2008, and ending October 31, 2008, the actual rate of return on the plan assets was equal to the interest rate used for purposes of charging or crediting the funding standard account in such plan year, unless the plan sponsor elects otherwise in such form and manner as shall be prescribed by the Secretary of Treasury.

(b) REVOCATION OF AMORTIZATION EXTENSIONS.—The plan sponsor of a multiemployer plan may, in such form and manner and after such notice as may be prescribed by the Secretary, revoke any amortization extension described in subsection (a), effective for plan years following the date of the revocation.

SEC. 314. ALTERNATIVE DEFAULT SCHEDULE FOR PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) ERISA AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 305(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(c)(7)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 305(e)(3) of such Act (29 U.S.C. 1085(e)(3)) is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(b) INTERNAL REVENUE CODE AMENDMENTS.—

(1) ENDANGERED STATUS.—Section 432(c)(7) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of this paragraph, designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (A).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(2) CRITICAL STATUS.—Section 432(e)(3) of such Code is amended by adding at the end the following new subparagraph:

''(D) ALTERNATIVE DEFAULT SCHEDULE.—

''(i) IN GENERAL.—A plan sponsor may, for purposes of subparagraph (C), designate an alternative schedule of contribution rates and related benefit changes meeting the requirements of clause (ii) as the default schedule, in lieu of the default schedule referred to in subparagraph (C)(i).

''(ii) REQUIREMENTS.—An alternative schedule designated pursuant to clause (i) meets the requirements of this clause if such schedule has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to designations of default schedules by plan sponsors on or after the date of the enactment of this Act.

(d) CROSS-REFERENCE.—For sunset of the amendments made by this section, see section 221(c) of the Pension Protection Act of 2006.

SEC. 315. TRANSITION RULE FOR CERTIFICATIONS OF PLAN STATUS.

(a) IN GENERAL.—A plan actuary shall not be treated as failing to meet the requirements of section 305(b)(3)(A) of the Employee Retirement Income Security Act of 1974 and section 432(b)(3)(A) of the Internal Revenue Code of 1986 in connection with a certification required under such sections the deadline for which is after the date of the enactment of this Act if the plan actuary makes such certification at any time earlier than 75 days after the date of the enactment of this Act.

(b) REVISION OF PRIOR CERTIFICATION.—

(1) IN GENERAL.—If—

(A) a plan sponsor makes an election under section 304(b)(8) of the Employee Retirement Income Security Act of 1974 and section 431(b)(8) of the Internal Revenue Code of 1986, or under section 304(c)(2)(B) of such Act and section 432(c)(2)(B) such Code, with respect to a plan for a plan year beginning on or after October 1, 2009; and

(B) the plan actuary's certification of the plan status for such plan year (hereinafter in this subsection referred to as ''original certification'') did not take into account any election so made,

then the plan sponsor may direct the plan actuary to make a new certification with respect to the plan for the plan year which takes into account such election (hereinafter in this subsection referred to as ''new certification'') if the plan's status under section 305 of such Act and section 432 of such Code would change as a result of such election. Any such new certification shall be treated as the most recent certification referred to in section 304(b)(3)(B)(iii) of such Act and section 431(b)(8)(B)(iii) of such Code.

(2) DUE DATE FOR NEW CERTIFICATION.—Any such new certification shall be made pursuant to section 305(b)(3) of such Act and section 432(b)(3) of such Code; except that any such new certification shall be made not later than 75 days after the date of the enactment of this Act.

(3) NOTICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any such new certification shall be treated as the original certification for purposes of section 305(b)(3)(D) of such Act and section 432(b)(3)(D) of such Code.

(B) NOTICE ALREADY PROVIDED.—In any case in which notice has been provided under such sections with respect to the original certification, not later than 30 days after the new certification is made, the plan sponsor shall provide notice of any change in status under rules similar to the rules such sections.

(4) EFFECT OF CHANGE IN STATUS.—If a plan ceases to be in critical status pursuant to the new certification, then the plan shall, not later than 30 days after the due date described in paragraph (2), cease any restriction of benefit payments, and imposition of contribution surcharges, under section 305 of such Act and section 432 of such Code by reason of the original certification.

TITLE IV—REVENUE OFFSETS

Subtitle A—Foreign Provisions

SEC. 401. RULES TO PREVENT SPLITTING FOREIGN TAX CREDITS FROM THE INCOME TO WHICH THEY RELATE.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

''SEC. 909. SUSPENSION OF TAXES AND CREDITS UNTIL RELATED INCOME TAKEN INTO ACCOUNT.

''(a) IN GENERAL.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

''(b) SPECIAL RULES WITH RESPECT TO SECTION 902 CORPORATIONS.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

''(1) for purposes of section 902 or 960, or

''(2) for purposes of determining earnings and profits under section 964(a),

before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

''(c) SPECIAL RULES.—For purposes of this section—

''(1) APPLICATION TO PARTNERSHIPS, ETC.—In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

''(2) TREATMENT OF FOREIGN TAXES AFTER SUSPENSION.—In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

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

''(1) FOREIGN TAX CREDIT SPLITTING EVENT.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

''(2) FOREIGN INCOME TAX.—The term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(3) RELATED INCOME.—The term 'related income' means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

''(4) COVERED PERSON.—The term 'covered person' means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the 'payor')—

''(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

''(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

''(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

''(D) any other person specified by the Secretary for purposes of this paragraph.

''(5) SECTION 902 CORPORATION.—The term 'section 902 corporation' means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

''(e) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

''(1) appropriate exceptions from the provisions of this section, and

''(2) for the proper application of this section with respect to hybrid instruments.''.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 909. Suspension of taxes and credits until related income taken into account.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or accrued after May 20, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

SEC. 402. DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.

(a) IN GENERAL.—Section 901 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.—

''(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

''(A) shall not be taken into account in determining the credit allowed under subsection (a), and

''(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

''(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term 'covered asset acquisition' means—

''(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

''(B) any transaction which—

''(i) is treated as an acquisition of assets for purposes of this chapter, and

''(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,

''(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and

''(D) to the extent provided by the Secretary, any other similar transaction.

''(3) DISQUALIFIED PORTION.—For purposes of this section—

''(A) IN GENERAL.—The term 'disqualified portion' means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—

''(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by

''(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).

''(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

''(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

''(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

''(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

''(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.

''(C) BASIS DIFFERENCE.—

''(i) IN GENERAL.—The term 'basis difference' means, with respect to any relevant foreign asset, the excess of—

''(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

''(II) the adjusted basis of such asset immediately before the covered asset acquisition.

''(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

''(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).

''(4) RELEVANT FOREIGN ASSETS.—For purposes of this section, the term 'relevant foreign asset' means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

''(5) FOREIGN INCOME TAX.—For purposes of this section, the term 'foreign income tax' means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

''(6) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

''(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after—

(A) May 20, 2010, if the transferor and the transferee are related; and

(B) the date of the enactment of this Act in any other case.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

SEC. 403. SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES.

(a) IN GENERAL.—Subsection (d) of section 904 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

''(A) IN GENERAL.—If—

''(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

''(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

''(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each such item.

''(B) COORDINATION WITH OTHER PROVISIONS.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

''(C) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 404. LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED PAID WITH RESPECT TO SECTION 956 INCLUSIONS.

(a) IN GENERAL.—Section 960 is amended by adding at the end the following new subsection:

''(c) LIMITATION WITH RESPECT TO SECTION 956 INCLUSIONS.—

''(1) IN GENERAL.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

''(2) AUTHORITY TO PREVENT ABUSE.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use of the foreign corporation's foreign income taxes not deemed paid by reason of paragraph (1).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions of United States property (as defined in section 956(c) of the Internal Revenue Code of 1986) after May 20, 2010.

SEC. 405. SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES.

(a) IN GENERAL.—Paragraph (5) of section 304(b) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) SPECIAL RULE IN CASE OF FOREIGN ACQUIRING CORPORATION.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A) shall not apply) if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would not—

''(i) be subject to tax under this chapter for the taxable year in which the dividends arise, or

''(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after May 20, 2010.

SEC. 406. MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE.

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) is amended by adding at the end the following: ''Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

''(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

''(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 407. TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.

(a) IN GENERAL.—Paragraph (1) of section 861(a) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) is amended to read as follows:

''(B) The active foreign business percentage of—

''(i) any dividend paid by an existing 80/20 company, and

''(ii) any interest paid by an existing 80/20 company.''.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

''(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

''(1) EXISTING 80/20 COMPANY.—

''(A) IN GENERAL.—The term 'existing 80/20 company' means any corporation if—

''(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the enactment of this subsection) for such corporation's last taxable year beginning before January 1, 2011,

''(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

''(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.

''(B) FOREIGN BUSINESS REQUIREMENTS.—

''(i) IN GENERAL.—A corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

''(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term 'active foreign business income' means gross income which—

''(I) is derived from sources outside the United States (as determined under this subchapter), and

''(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

''(iii) TESTING PERIOD.—For purposes of this subsection, the term 'testing period' means the 3-year period ending with the close of the taxable year of the corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

''(iv) TRANSITION RULE.—In the case of a testing period which includes a taxable year beginning before January 1, 2011, for purposes of determining whether a corporation meets the 80 percent foreign business requirements of this subparagraph for such taxable year, the requirements of subparagraphs (A) and (B) of section 861(c)(1) (as in effect before the enactment of this subsection) shall apply in lieu of clause (i) to such taxable years .

''(2) ACTIVE FOREIGN BUSINESS PERCENTAGE.—The term 'active foreign business percentage' means, with respect to any existing 80/20 company, the percentage which—

''(A) the active foreign business income of such company for the testing period, is of

''(B) the gross income of such company for the testing period from all sources.

''(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraphs (A)(i) and (B)(iv) thereof) and paragraph (2)—

''(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation's subsidiaries shall be treated as one corporation.

''(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term 'subsidiary' means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears and without regard to section 1504(b)(3)).

''(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).''.

(c) CONFORMING AMENDMENTS.—

(1) Section 861 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Paragraph (9) of section 904(h) is amended to read as follows:

''(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this subsection as a United States-owned foreign corporation.''.

(3) Subsection (c) of section 2104 is amended in the last sentence by striking ''or to a debt obligation of a domestic corporation'' and all that follows and inserting a period.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.

(B) EXCEPTION FOR RELATED PARTY DEBT.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) SIGNIFICANT MODIFICATIONS TREATED AS NEW ISSUES.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

SEC. 408. SOURCE RULES FOR INCOME ON GUARANTEES.

(a) AMOUNTS SOURCED WITHIN THE UNITED STATES.—Subsection (a) of section 861 is amended by adding at the end the following new paragraph:

''(9) GUARANTEES.—Amounts received, directly or indirectly, from—

''(A) a noncorporate resident or domestic corporation for the provision of a guarantee of any indebtedness of such resident or corporation, or

''(B) any foreign person for the provision of a guarantee of any indebtedness of such person, if such amount is connected with income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.''.

(b) AMOUNTS SOURCED WITHOUT THE UNITED STATES.—Subsection (a) of section 862 is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ''; and'', and by adding at the end the following new paragraph:

''(9) amounts received for the provision of a guarantee of indebtedness other than amounts which are derived from sources within the United States as provided in section 861(a)(9).''.

(c) CONFORMING AMENDMENT.—Clause (ii) of section 864(c)(4)(B) is amended by striking ''dividends or interest'' and inserting ''dividends, interest, or amounts received for the provision of guarantees of indebtedness''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued after the date of the enactment of this Act.

SEC. 409. LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) is amended—

(1) by striking ''In the case of any information'' and inserting the following:

''(A) IN GENERAL.—In the case of any information''; and

(2) by adding at the end the following:

''(B) APPLICATION TO FAILURES DUE TO REASONABLE CAUSE.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

Subtitle B—Personal Service Income Earned in Pass-thru Entities

SEC. 411. PARTNERSHIP INTERESTS TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES.

(a) MODIFICATION TO ELECTION TO INCLUDE PARTNERSHIP INTEREST IN GROSS INCOME IN YEAR OF TRANSFER.—Subsection (c) of section 83 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) PARTNERSHIP INTERESTS.—Except as provided by the Secretary, in the case of any transfer of an interest in a partnership in connection with the provision of services to (or for the benefit of) such partnership—

''(A) the fair market value of such interest shall be treated for purposes of this section as being equal to the amount of the distribution which the partner would receive if the partnership sold (at the time of the transfer) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership, and

''(B) the person receiving such interest shall be treated as having made the election under subsection (b)(1) unless such person makes an election under this paragraph to have such subsection not apply.''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 83(b) is amended by inserting ''or subsection (c)(4)(B)'' after ''paragraph (1)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interests in partnerships transferred after the date of the enactment of this Act.

SEC. 412. INCOME OF PARTNERS FOR PERFORMING INVESTMENT MANAGEMENT SERVICES TREATED AS ORDINARY INCOME RECEIVED FOR PERFORMANCE OF SERVICES.

(a) IN GENERAL.—Part I of subchapter K of chapter 1 is amended by adding at the end the following new section:

''SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING INVESTMENT MANAGEMENT SERVICES TO PARTNERSHIP.

''(a) TREATMENT OF DISTRIBUTIVE SHARE OF PARTNERSHIP ITEMS.—For purposes of this title, in the case of an investment services partnership interest—

''(1) IN GENERAL.—Notwithstanding section 702(b)—

''(A) any net income with respect to such interest for any partnership taxable year shall be treated as ordinary income, and

''(B) any net loss with respect to such interest for such year, to the extent not disallowed under paragraph (2) for such year, shall be treated as an ordinary loss.

All items of income, gain, deduction, and loss which are taken into account in computing net income or net loss shall be treated as ordinary income or ordinary loss (as the case may be).

''(2) TREATMENT OF LOSSES.—

''(A) LIMITATION.—Any net loss with respect to such interest shall be allowed for any partnership taxable year only to the extent that such loss does not exceed the excess (if any) of—

''(i) the aggregate net income with respect to such interest for all prior partnership taxable years, over

''(ii) the aggregate net loss with respect to such interest not disallowed under this subparagraph for all prior partnership taxable years.

''(B) CARRYFORWARD.—Any net loss for any partnership taxable year which is not allowed by reason of subparagraph (A) shall be treated as an item of loss with respect to such partnership interest for the succeeding partnership taxable year.

''(C) BASIS ADJUSTMENT.—No adjustment to the basis of a partnership interest shall be made on account of any net loss which is not allowed by reason of subparagraph (A).

''(D) PRIOR PARTNERSHIP YEARS.—Any reference in this paragraph to prior partnership taxable years shall only include prior partnership taxable years to which this section applies.

''(3) NET INCOME AND LOSS.—For purposes of this section—

''(A) NET INCOME.—The term 'net income' means, with respect to any investment services partnership interest for any partnership taxable year, the excess (if any) of—

''(i) all items of income and gain taken into account by the holder of such interest under section 702 with respect to such interest for such year, over

''(ii) all items of deduction and loss so taken into account.

''(B) NET LOSS.—The term 'net loss' means, with respect to such interest for such year, the excess (if any) of the amount described in subparagraph (A)(ii) over the amount described in subparagraph (A)(i).

''(4) SPECIAL RULE FOR DIVIDENDS.—Any dividend taken into account in determining net income or net loss for purposes of paragraph (1) shall not be treated as qualified dividend income for purposes of section 1(h).

''(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

''(1) GAIN.—Any gain on the disposition of an investment services partnership interest shall be—

''(A) treated as ordinary income, and

''(B) recognized notwithstanding any other provision of this subtitle.

''(2) LOSS.—Any loss on the disposition of an investment services partnership interest shall be treated as an ordinary loss to the extent of the excess (if any) of—

''(A) the aggregate net income with respect to such interest for all partnership taxable years to which this section applies, over

''(B) the aggregate net loss with respect to such interest allowed under subsection (a)(2)

for all partnership taxable years to which this section applies.

''(3) ELECTION WITH RESPECT TO CERTAIN EXCHANGES.—Paragraph (1)(B) shall not apply to the contribution of an investment services partnership interest to a partnership in exchange for an interest in such partnership if—

''(A) the taxpayer makes an irrevocable election to treat the partnership interest received in the exchange as an investment services partnership interest, and

''(B) the taxpayer agrees to comply with such reporting and recordkeeping requirements as the Secretary may prescribe.

''(4) DISPOSITION OF PORTION OF INTEREST.—In the case of any disposition of an investment services partnership interest, the amount of net loss which otherwise would have (but for subsection (a)(2)(C)) applied to reduce the basis of such interest shall be disregarded for purposes of this section for all succeeding partnership taxable years.

''(5) DISTRIBUTIONS OF PARTNERSHIP PROPERTY.—In the case of any distribution of property by a partnership with respect to any investment services partnership interest held by a partner—

''(A) the excess (if any) of—

''(i) the fair market value of such property at the time of such distribution, over

''(ii) the adjusted basis of such property in the hands of the partnership,

shall be taken into account as an increase in such partner's distributive share of the taxable income of the partnership (except to the extent such excess is otherwise taken into account in determining the taxable income of the partnership),

''(B) such property shall be treated for purposes of subpart B of part II as money distributed to such partner in an amount equal to such fair market value, and

''(C) the basis of such property in the hands of such partner shall be such fair market value.

Subsection (b) of section 734 shall be applied without regard to the preceding sentence. In the case of a taxpayer which satisfies requirements similar to the requirements of subparagraphs (A) and (B) of paragraph (4), this paragraph and paragraph (1)(B) shall not apply to the distribution of a partnership interest if such distribution is in connection with a contribution (or deemed contribution) of any property of the partnership to which section 721 applies pursuant to a transaction described in paragraph (1)(B) or (2) of section 708(b).

''(6) APPLICATION OF SECTION 751.—

''(A) IN GENERAL.—In applying section 751, an investment services partnership interest shall be treated as an inventory item.

''(B) EXCEPTION FOR CERTAIN DISPOSITIONS OF INTERESTS IN A PUBLICLY TRADED PARTNERSHIP.—Except as provided by the Secretary, this paragraph shall not apply in the case of any disposition of an interest in a publicly traded partnership (as defined in section 7704) which is not an investment services partnership interest in the hands of the person disposing of such interest.

''(c) INVESTMENT SERVICES PARTNERSHIP INTEREST.—For purposes of this section—

''(1) IN GENERAL.—The term 'investment services partnership interest' means any interest in a partnership which is held (directly or indirectly) by any person if it was reasonably expected (at the time that such person acquired such interest) that such person (or any person related to such person) would provide (directly or, to the extent provided by the Secretary, indirectly) a substantial quantity of any of the following services with respect to assets held (directly or indirectly) by the partnership:

''(A) Advising as to the advisability of investing in, purchasing, or selling any specified asset.

''(B) Managing, acquiring, or disposing of any specified asset.

''(C) Arranging financing with respect to acquiring specified assets.

''(D) Any activity in support of any service described in subparagraphs (A) through (C).

''(2) SPECIFIED ASSET.—The term 'specified asset' means securities (as defined in section 475(c)(2) without regard to the last sentence thereof), real estate held for rental or investment, interests in partnerships, commodities (as defined in section 475(e)(2)), or options or derivative contracts with respect to any of the foregoing.

''(3) EXCEPTION FOR FAMILY FARMS.—The term 'specified asset' shall not include any farm used for farming purposes if such farm is held by a partnership all of the interests in which are held (directly or indirectly) by members of the same family. Terms used in the preceding sentence which are also used in section 2032A shall have the same meaning as when used in such section.

''(4) RELATED PERSONS.—A person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b).

''(d) EXCEPTION FOR CERTAIN CAPITAL INTERESTS.—

''(1) IN GENERAL.—In the case of any portion of an investment services partnership interest which is a qualified capital interest, all items of income, gain, loss, and deduction which are allocated to such qualified capital interest shall not be taken into account under subsection (a) if—

''(A) allocations of items are made by the partnership to such qualified capital interest in the same manner as such allocations are made to other qualified capital interests held by partners who do not provide any services described in subsection (c)(1) and who are not related to the partner holding the qualified capital interest, and

''(B) the allocations made to such other interests are significant compared to the allocations made to such qualified capital interest.

''(2) AUTHORITY TO PROVIDE EXCEPTIONS TO ALLOCATION REQUIREMENTS.—To the extent provided by the Secretary in regulations or other guidance—

''(A) ALLOCATIONS TO PORTION OF QUALIFIED CAPITAL INTEREST.—Paragraph (1) may be applied separately with respect to a portion of a qualified capital interest.

''(B) NO OR INSIGNIFICANT ALLOCATIONS TO NONSERVICE PROVIDERS.—In any case in which the requirements of paragraph (1)(B) are not satisfied, items of income, gain, loss, and deduction shall not be taken into account under subsection (a) to the extent that such items are properly allocable under such regulations or other guidance to qualified capital interests.

''(C) ALLOCATIONS TO SERVICE PROVIDERS' QUALIFIED CAPITAL INTERESTS WHICH ARE LESS THAN OTHER ALLOCATIONS.—Allocations shall not be treated as failing to meet the requirement of paragraph (1)(A) merely because the allocations to the qualified capital interest represent a lower return than the allocations made to the other qualified capital interests referred to in such paragraph.

''(3) SPECIAL RULE FOR CHANGES IN SERVICES.—In the case of an interest in a partnership which is not an investment services partnership interest and which, by reason of a change in the services with respect to assets held (directly or indirectly) by the partnership, would (without regard to the reasonable expectation exception of subsection (c)(1)) have become such an interest—

''(A) notwithstanding subsection (c)(1), such interest shall be treated as an investment services partnership interest as of the time of such change, and

''(B) for purposes of this subsection, the qualified capital interest of the holder of such partnership interest immediately after such change shall not be less than the fair market value of such interest (determined immediately before such change).

''(4) SPECIAL RULE FOR TIERED PARTNERSHIPS.—Except as otherwise provided by the Secretary, in the case of tiered partnerships, all items which are allocated in a manner which meets the requirements of paragraph (1) to qualified capital interests in a lower-tier partnership shall retain such character to the extent allocated on the basis of qualified capital interests in any upper-tier partnership.

''(5) EXCEPTION FOR NO-SELF-CHARGED CARRY AND MANAGEMENT FEE PROVISIONS.—Except as otherwise provided by the Secretary, an interest shall not fail to be treated as satisfying the requirement of paragraph (1)(A) merely because the allocations made by the partnership to such interest do not reflect the cost of services described in subsection (c)(1) which are provided (directly or indirectly) to the partnership by the holder of such interest (or a related person).

''(6) SPECIAL RULE FOR DISPOSITIONS.—In the case of any investment services partnership interest any portion of which is a qualified capital interest, subsection (b) shall not apply to so much of any gain or loss as bears the same proportion to the entire amount of such gain or loss as—

''(A) the distributive share of gain or loss that would have been allocated to the qualified capital interest (consistent with the requirements of paragraph (1)) if the partnership had sold all of its assets at fair market value immediately before the disposition, bears to

''(B) the distributive share of gain or loss that would have been so allocated to the investment services partnership interest of which such qualified capital interest is a part.

''(7) QUALIFIED CAPITAL INTEREST.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified capital interest' means so much of a partner's interest in the capital of the partnership as is attributable to—

''(i) the fair market value of any money or other property contributed to the partnership in exchange for such interest (determined without regard to section 752(a)),

''(ii) any amounts which have been included in gross income under section 83 with respect to the transfer of such interest, and

''(iii) the excess (if any) of—

''(I) any items of income and gain taken into account under section 702 with respect to such interest, over

''(II) any items of deduction and loss so taken into account.

''(B) ADJUSTMENT TO QUALIFIED CAPITAL INTEREST.—

''(i) DISTRIBUTIONS AND LOSSES.—The qualified capital interest shall be reduced by distributions from the partnership with respect to such interest and by the excess (if any) of the amount described in subparagraph (A)(iii)(II) over the amount described in subparagraph (A)(iii)(I).

''(ii) SPECIAL RULE FOR CONTRIBUTIONS OF PROPERTY.—In the case of any contribution of property described in subparagraph (A)(i) with respect to which the fair market value of such property is not equal to the adjusted basis of such property immediately before such contribution, proper adjustments shall be made to the qualified capital interest to take into account such difference consistent with such regulations or other guidance as the Secretary may provide.

''(8) TREATMENT OF CERTAIN LOANS.—

''(A) PROCEEDS OF PARTNERSHIP LOANS NOT TREATED AS QUALIFIED CAPITAL INTEREST OF SERVICE PROVIDING PARTNERS.—For purposes of this subsection, an investment services partnership interest shall not be treated as a qualified capital interest to the extent that such interest is acquired in connection with the proceeds of any loan or other advance made or guaranteed, directly or indirectly, by any other partner or the partnership (or any person related to any such other partner or the partnership).

''(B) REDUCTION IN ALLOCATIONS TO QUALIFIED CAPITAL INTERESTS FOR LOANS FROM NONSERVICE- PROVIDING PARTNERS TO THE PARTNERSHIP.—For purposes of this subsection, any loan or other advance to the partnership made or guaranteed, directly or indirectly, by a partner not providing services described in subsection (c)(1) to the partnership (or any person related to such partner) shall be taken into account in determining the qualified capital interests of the partners in the partnership.

''(e) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—

''(1) IN GENERAL.—If—

''(A) a person performs (directly or indirectly) investment management services for any entity,

''(B) such person holds (directly or indirectly) a disqualified interest with respect to such entity, and

''(C) the value of such interest (or payments thereunder) is substantially related to the amount of income or gain (whether or not realized) from the assets with respect to which the investment management services are performed,

any income or gain with respect to such interest shall be treated as ordinary income. Rules similar to the rules of subsections (a)(4) and (d) shall apply for purposes of this subsection.

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) DISQUALIFIED INTEREST.—

''(i) IN GENERAL.—The term 'disqualified interest' means, with respect to any entity—

''(I) any interest in such entity other than indebtedness,

''(II) convertible or contingent debt of such entity,

''(III) any option or other right to acquire property described in subclause (I) or (II), and

''(IV) any derivative instrument entered into (directly or indirectly) with such entity or any investor in such entity.

''(ii) EXCEPTIONS.—Such term shall not include—

''(I) a partnership interest,

''(II) except as provided by the Secretary, any interest in a taxable corporation, and

''(III) except as provided by the Secretary, stock in an S corporation.

''(B) TAXABLE CORPORATION.—The term 'taxable corporation' means—

''(i) a domestic C corporation, or

''(ii) a foreign corporation substantially all of the income of which is—

''(I) effectively connected with the conduct of a trade or business in the United States, or

''(II) subject to a comprehensive foreign income tax (as defined in section 457A(d)(2)).

''(C) INVESTMENT MANAGEMENT SERVICES.—The term 'investment management services' means a substantial quantity of any of the services described in subsection (c)(1).

''(f) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance to—

''(1) provide modifications to the application of this section (including treating related persons as not related to one another) to the extent such modification is consistent with the purposes of this section,

''(2) prevent the avoidance of the purposes of this section, and

''(3) coordinate this section with the other provisions of this title.

''(g) SPECIAL RULES FOR INDIVIDUALS.—In the case of an individual—

''(1) IN GENERAL.—Subsection (a)(1) shall apply only to the applicable percentage of the net income or net loss referred to in such subsection.

''(2) DISPOSITIONS, ETC.—The amount which (but for this paragraph) would be treated as ordinary income by reason of subsection (b) or (e) shall be the applicable percentage of such amount.

''(3) PRO RATA ALLOCATION TO ITEMS.—For purposes of applying subsections (a) and (e), the aggregate amount treated as ordinary income for any such taxable year shall be allocated ratably among the items of income, gain, loss, and deduction taken into account in determining such amount.

''(4) SPECIAL RULE FOR RECOGNITION OF GAIN.—Gain which (but for this section) would not be recognized shall be recognized by reason of subsection (b) only to the extent that such gain is treated as ordinary income after application of paragraph (2).

''(5) COORDINATION WITH LIMITATION ON LOSSES.—For purposes of applying paragraph (2) of subsection (a) with respect to any net loss for any taxable year—

''(A) such paragraph shall only apply with respect to the applicable percentage of such net loss for such taxable year,

''(B) in the case of a prior partnership taxable year referred to in clause (i) or (ii) of subparagraph (A) of such paragraph, only the applicable percentage (as in effect for such prior taxable year) of net income or net loss for such prior partnership taxable year shall be taken into account, and

''(C) any net loss carried forward to the succeeding partnership taxable year under subparagraph (B) of such paragraph shall—

''(i) be taken into account in such succeeding year without reduction under this subsection, and

''(ii) in lieu of being taken into account as an item of loss in such succeeding year, shall be taken into account—

''(I) as an increase in net loss or as a reduction in net income (including below zero), as the case may be, and

''(II) after any reduction in the amount of such net loss or net income under this subsection.

A rule similar to the rule of the preceding sentence shall apply for purposes of subsection (b)(2)(A).

''(6) COORDINATION WITH TREATMENT OF DIVIDENDS.—Subsection (a)(4) shall only apply to the applicable percentage of dividends described therein.

''(7) APPLICABLE PERCENTAGE.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'applicable percentage' means 75 percent.

''(B) EXCEPTIONS FOR SALES OF INTERESTS AND ASSETS HELD AT LEAST 5 YEARS.—

''(i) IN GENERAL.—The applicable percentage shall be 50 percent with respect to—

''(I) any net income or net loss under subsection (a)(1), or any income or gain under subsection (e) which is properly allocable to gain or loss from the sale or exchange of any asset which has been held at least 5 years, and

''(II) to the extent provided under clause (ii), gain or loss under subsection (b) on the disposition of an investment services partnership interest or gain under subsection (e) with respect to a disqualified interest, but only if such interest has been held for at least 5 years.

''(ii) LOOK THROUGH IN THE CASE OF DISPOSITION OF INTEREST.—Except as provided by the Secretary, in the case of a disposition of an interest in an entity described in clause (i)(II), clause (i) shall be applied only to the portion of the gain or loss attributable to the assets of such entity which have been held for at least 5 years, unless substantially all of such assets have been held for at least 5 years. In the case of tiered entities, the preceding sentence shall be applied by reference to the assets of such entities rather than to an interest in such entities.

''(iii) SPECIAL RULE FOR SECTION 197 INTANGIBLE GAIN OF MANAGEMENT ENTITIES.—

''(I) IN GENERAL.—In the case of the disposition of an investment services partnership interest in a management entity which has been held for at least 5 years, any section 197 intangible gain with respect to such interest shall be treated as gain from an asset held for at least 5 years. In the case of tiered management entities, the holding period requirement under the preceding sentence shall apply with respect to interests in each such management entity.

''(II) VALUATION BURDEN ON THE TAXPAYER.—This clause shall not apply to any gain from the disposition of an investment services partnership interest unless the taxpayer establishes (in such manner as the Secretary shall provide) the amount of the section 197 intangible gain with respect to such disposition.

''(C) MANAGEMENT ENTITY.—For purposes of this paragraph, the term 'management entity' means a partnership the principal activity of which is providing the services described in subsection (c) with respect to assets held (directly or indirectly) by such partnership.

''(D) SECTION 197 INTANGIBLE GAIN.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'section 197 intangible gain' means, with respect to any management entity, gain recognized on the disposition of an investment services partnership interest in such entity which is attributable to any section 197 intangible (within the meaning of section 197(d)).

''(ii) VALUE OF INVESTMENT SERVICES PARTNERSHIP INTEREST DISREGARDED.—Except as provided by the Secretary, no portion of the value of an investment services partnership interest (other than the interest being disposed of) shall be taken into account in determining section 197 intangible gain.

''(iii) LIMITATION.—For purposes of clause (i), gain from the disposition of an investment services partnership interest shall in no event be treated as attributable to a section 197 intangible (within the meaning of section 197(d)) if such gain would be included in the amount of the distribution which the partner disposing of such interest would receive if the partnership sold (at the time of the disposition) all of its assets at fair market value and distributed the proceeds of such sale (reduced by the liabilities of the partnership) to its partners in liquidation of the partnership.

''(iv) REGULATIONS.—The Secretary shall prescribe regulations or guidance which provide—

''(I) the acceptable valuation methods for purposes of this subparagraph, except that such methods shall not include any valuation method which is inconsistent with the method used by the taxpayer for other purposes (including reporting asset valuations to partners or marketing the partnership or any lower-tier partnership to prospective partners) if such inconsistent valuation method would result in a greater amount of section 197 intangible gain than would result

under the valuation method used by the taxpayer for such other purposes,

''(II) circumstances under which valuations are sufficiently independent to provide an accurate determination of fair market value, and

''(III) any information required to be furnished to the Secretary by the parties to the disposition with respect to such valuation.

''(h) CROSS REFERENCE.—For 40 percent penalty on certain underpayments due to the avoidance of this section, see section 6662.''.

(b) TREATMENT FOR PURPOSES OF SECTION 7704.—Subsection (d) of section 7704 is amended by adding at the end the following new paragraph:

''(6) INCOME FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS NOT QUALIFIED.—

''(A) IN GENERAL.—Items of income and gain shall not be treated as qualifying income if such items are treated as ordinary income by reason of the application of section 710 (relating to special rules for partners providing investment management services to partnership). The preceding sentence shall not apply to any item described in paragraph (1)(E) (or so much of paragraph (1)(F) as relates to paragraph (1)(E)).

''(B) SPECIAL RULES FOR CERTAIN PARTNERSHIPS.—

''(i) CERTAIN PARTNERSHIPS OWNED BY REAL ESTATE INVESTMENT TRUSTS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Such partnership is treated as publicly traded under this section solely by reason of interests in such partnership being convertible into interests in a real estate investment trust which is publicly traded.

''(II) 50 percent or more of the capital and profits interests of such partnership are owned, directly or indirectly, at all times during the taxable year by such real estate investment trust (determined with the application of section 267(c)).

''(III) Such partnership meets the requirements of paragraphs (2), (3), and (4) of section 856(c).

''(ii) CERTAIN PARTNERSHIPS OWNING OTHER PUBLICLY TRADED PARTNERSHIPS.—Subparagraph (A) shall not apply in the case of a partnership which meets each of the following requirements:

''(I) Substantially all of the assets of such partnership consist of interests in one or more publicly traded partnerships (determined without regard to subsection (b)(2)).

''(II) Substantially all of the income of such partnership is ordinary income or section 1231 gain (as defined in section 1231(a)(3)).

''(C) TRANSITIONAL RULE.—Subparagraph (A) shall not apply to any taxable year of the partnership beginning before the date which is 10 years after the date of the enactment of this paragraph.''.

(c) IMPOSITION OF PENALTY ON UNDERPAYMENTS.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (7) the following new paragraph:

''(8) The application of subsection (e) of section 710, the regulations or other guidance prescribed under section 710(f) to prevent the avoidance of the purposes of section 710, or the regulations or other guidance prescribed under section 710(g)(7)(D)(iv).''.

(2) AMOUNT OF PENALTY.—

(A) IN GENERAL.—Section 6662 is amended by adding at the end the following new subsection:

''(k) INCREASE IN PENALTY IN CASE OF PROPERTY TRANSFERRED FOR INVESTMENT MANAGEMENT SERVICES.—In the case of any portion of an underpayment to which this section applies by reason of subsection (b)(8), subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.''.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended by striking ''or (i)'' and inserting '', (i), or (k)''.

(3) SPECIAL RULES FOR APPLICATION OF REASONABLE CAUSE EXCEPTION.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(B) by striking ''paragraph (3)'' in paragraph (5)(A), as so redesignated, and inserting ''paragraph (4)''; and

(C) by inserting after paragraph (2) the following new paragraph:

''(3) SPECIAL RULE FOR UNDERPAYMENTS ATTRIBUTABLE TO INVESTMENT MANAGEMENT SERVICES.—

''(A) IN GENERAL.—Paragraph (1) shall not apply to any portion of an underpayment to which section 6662 applies by reason of subsection (b)(8) unless—

''(i) the relevant facts affecting the tax treatment of the item are adequately disclosed,

''(ii) there is or was substantial authority for such treatment, and

''(iii) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

''(B) RULES RELATING TO REASONABLE BELIEF.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of subparagraph (A)(iii).''.

(d) INCOME AND LOSS FROM INVESTMENT SERVICES PARTNERSHIP INTERESTS TAKEN INTO ACCOUNT IN DETERMINING NET EARNINGS FROM SELF-EMPLOYMENT.—

(1) INTERNAL REVENUE CODE.—Section 1402(a) is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ''; and'', and by inserting after paragraph (17) the following new paragraph:

''(18) notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(2) SOCIAL SECURITY ACT.—Section 211(a) of the Social Security Act is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ''; and'', and by inserting after paragraph (16) the following new paragraph:

''(17) Notwithstanding the preceding provisions of this subsection, in the case of any individual engaged in the trade or business of providing services described in section 710(c)(1) of the Internal Revenue Code of 1986 with respect to any entity, any amount treated as ordinary income or ordinary loss of such individual under section 710 of such Code with respect to such entity shall be taken into account in determining the net earnings from self-employment of such individual.''.

(e) CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 731 is amended by inserting ''section 710(b)(4) (relating to distributions of partnership property),'' after ''to the extent otherwise provided by''.

(2) Section 741 is amended by inserting ''or section 710 (relating to special rules for partners providing investment management services to partnership)'' before the period at the end.

(3) The table of sections for part I of subchapter K of chapter 1 is amended by adding at the end the following new item:

''Sec. 710. Special rules for partners providing investment management services to partnership.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 2010.

(2) PARTNERSHIP TAXABLE YEARS WHICH INCLUDE EFFECTIVE DATE.—In applying section 710(a) of the Internal Revenue Code of 1986 (as added by this section) in the case of any partnership taxable year which includes December 31, 2010, the amount of the net income referred to in such section shall be treated as being the lesser of the net income for the entire partnership taxable year or the net income determined by only taking into account items attributable to the portion of the partnership taxable year which is after such date.

(3) DISPOSITIONS OF PARTNERSHIP INTERESTS.—Section 710(b) of the Internal Revenue Code of 1986 (as added by this section) shall apply to dispositions and distributions after December 31, 2010.

(4) OTHER INCOME AND GAIN IN CONNECTION WITH INVESTMENT MANAGEMENT SERVICES.—Section 710(e) of such Code (as added by this section) shall take effect on December 31, 2010.

SEC. 413. EMPLOYMENT TAX TREATMENT OF PROFESSIONAL SERVICE BUSINESSES.

(a) IN GENERAL.—Section 1402 is amended by adding at the end the following new subsection:

''(m) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary, the shareholder's pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1)) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(13) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting,

athletics, investment advice or management, or brokerage services.

''(4) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which prevent the avoidance of the purposes of this subsection through tiered entities or otherwise.

''(5) CROSS REFERENCE.—For employment tax treatment of wages paid to shareholders of S corporations, see subtitle C.''.

(b) CONFORMING AMENDMENT.—Section 211 of the Social Security Act is amended by adding at the end the following new subsection:

''(l) SPECIAL RULES FOR PROFESSIONAL SERVICE BUSINESSES.—

''(1) SHAREHOLDERS PROVIDING SERVICES TO DISQUALIFIED S CORPORATIONS.—

''(A) IN GENERAL.—In the case of any disqualified S corporation, each shareholder of such disqualified S corporation who provides substantial services with respect to the professional service business referred to in subparagraph (C) shall take into account such shareholder's pro rata share of all items of income or loss described in section 1366 of the Internal Revenue Code of 1986 which are attributable to such business in determining the shareholder's net earnings from self-employment.

''(B) TREATMENT OF FAMILY MEMBERS.—Except as otherwise provided by the Secretary of the Treasury, the shareholder's pro rata share of items referred to in subparagraph (A) shall be increased by the pro rata share of such items of each member of such shareholder's family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) who does not provide substantial services with respect to such professional service business.

''(C) DISQUALIFIED S CORPORATION.—For purposes of this subsection, the term 'disqualified S corporation' means—

''(i) any S corporation which is a partner in a partnership which is engaged in a professional service business if substantially all of the activities of such S corporation are performed in connection with such partnership, and

''(ii) any other S corporation which is engaged in a professional service business if 80 percent or more of the gross income of such business is attributable to service of 3 or fewer shareholders of such corporation.

''(2) PARTNERS.—In the case of any partnership which is engaged in a professional service business, subsection (a)(12) shall not apply to any partner who provides substantial services with respect to such professional service business.

''(3) PROFESSIONAL SERVICE BUSINESS.—For purposes of this subsection, the term 'professional service business' means any trade or business (or portion thereof) providing services in the fields of health, law, lobbying, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, investment advice or management, or brokerage services.''.

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

Subtitle C—Corporate Provisions

SEC. 421. TREATMENT OF SECURITIES OF A CONTROLLED CORPORATION EXCHANGED FOR ASSETS IN CERTAIN REORGANIZATIONS.

(a) IN GENERAL.—Section 361 (relating to nonrecognition of gain or loss to corporations; treatment of distributions) is amended by adding at the end the following new subsection:

''(d) SPECIAL RULES FOR TRANSACTIONS INVOLVING SECTION 355 DISTRIBUTIONS.—In the case of a reorganization described in section 368(a)(1)(D) with respect to which stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under section 355—

''(1) this section shall be applied by substituting 'stock other than nonqualified preferred stock (as defined in section 351(g)(2))' for 'stock or securities' in subsections (a) and (b)(1), and

''(2) the first sentence of subsection (b)(3) shall apply only to the extent that the sum of the money and the fair market value of the other property transferred to such creditors does not exceed the adjusted bases of such assets transferred (reduced by the amount of the liabilities assumed (within the meaning of section 357(c))).''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 361(b) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on March 15, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SEC. 422. TAXATION OF BOOT RECEIVED IN REORGANIZATIONS.

(a) IN GENERAL.—Paragraph (2) of section 356(a) is amended—

(1) by striking ''If an exchange'' and inserting ''Except as otherwise provided by the Secretary—

''(A) IN GENERAL.—If an exchange'';

(2) by striking ''then there shall be'' and all that follows through ''February 28, 1913'' and inserting ''then the amount of other property or money shall be treated as a dividend to the extent of the earnings and profits of the corporation''; and

(3) by adding at the end the following new subparagraph:

''(B) CERTAIN REORGANIZATIONS.—In the case of a reorganization described in section 368(a)(1)(D) to which section 354(b)(1) applies or any other reorganization specified by the Secretary, in applying subparagraph (A)—

''(i) the earnings and profits of each corporation which is a party to the reorganization shall be taken into account, and

''(ii) the amount which is a dividend (and source thereof) shall be determined under rules similar to the rules of paragraphs (2) and (5) of section 304(b).''.

(b) EARNINGS AND PROFITS.—Paragraph (7) of section 312(n) is amended by adding at the end the following: ''A similar rule shall apply to an exchange to which section 356(a)(1) applies.''.

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 356(a) is amended by striking ''then the gain'' and inserting ''then (except as provided in paragraph (2)) the gain''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to exchanges after the date of the enactment of this Act.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange between unrelated persons pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on May 20, 2010, and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described in a public announcement or filing with the Securities and Exchange Commission on or before such date.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section 267 or 707(b) of the Internal Revenue Code of 1986.

Subtitle D—Other Provisions

SEC. 431. MODIFICATIONS WITH RESPECT TO OIL SPILL LIABILITY TRUST FUND.

(a) EXTENSION OF APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4611(f) is amended by striking ''December 31, 2017'' and inserting ''December 31, 2020''.

(b) INCREASE IN OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—Subparagraph (B) of section 4611(c)(2) is amended to read as follows:

''(B) the Oil Spill Liability Trust Fund financing rate is 49 cents a barrel.''.

(c) INCREASE IN PER INCIDENT LIMITATIONS ON EXPENDITURES.—Subparagraph (A) of section 9509(c)(2) is amended—

(1) by striking ''$1,000,000,000'' in clause (i) and inserting ''$5,000,000,000'';

(2) by striking ''$500,000,000'' in clause (ii) and inserting ''$2,500,000,000''; and

(3) by striking ''$1,000,000,000 PER INCIDENT, ETC'' in the heading and inserting ''PER INCIDENT LIMITATIONS''.

(d) EFFECTIVE DATE.—

(1) EXTENSION OF FINANCING RATE.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INCREASE IN FINANCING RATE.—The amendment made by subsection (b) shall apply to crude oil received and petroleum products entered during calendar quarters beginning more than 60 days after the date of the enactment of this Act.

SEC. 432. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

SEC. 433. DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.

(a) DISALLOWANCE OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(B) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

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

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(2) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(b) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(1) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's

liability (or agreement) to pay punitive damages.''.

(2) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(3) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to damages paid or incurred after December 31, 2011.

TITLE V—UNEMPLOYMENT, HEALTH, AND OTHER ASSISTANCE

Subtitle A—Unemployment Insurance and Other Assistance

SEC. 501. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''November 30, 2010'';

(B) in the heading for subsection (b)(2), by striking ''JUNE 2, 2010'' and inserting ''NOVEMBER 30, 2010''; and

(C) in subsection (b)(3), by striking ''November 6, 2010'' and inserting ''April 30, 2011''.

(2) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''June 2, 2010'' each place it appears and inserting ''December 1, 2010''; and

(B) in subsection (c), by striking ''November 6, 2010'' and inserting ''May 1, 2011''.

(3) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''November 6, 2010'' and inserting ''April 30, 2011''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (D), by striking ''and'' at the end; and

(2) by inserting after subparagraph (E) the following:

''(F) the amendments made by section 501(a)(1) of the American Jobs and Closing Tax Loopholes Act of 2010; and''.

(c) CONDITIONS FOR RECEIVING EMERGENCY UNEMPLOYMENT COMPENSATION.—Section 4001(d)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended, in the matter preceding subparagraph (A), by inserting before ''shall apply'' the following: ''(including terms and conditions relating to availability for work, active search for work, and refusal to accept work)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Continuing Extension Act of 2010 (Public Law 111–157).

SEC. 502. COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.

(a) CERTAIN INDIVIDUALS NOT INELIGIBLE BY REASON OF NEW ENTITLEMENT TO REGULAR BENEFITS.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following:

''(g) COORDINATION OF EMERGENCY UNEMPLOYMENT COMPENSATION WITH REGULAR COMPENSATION.—

''(1) If—

''(A) an individual has been determined to be entitled to emergency unemployment compensation with respect to a benefit year,

''(B) that benefit year has expired,

''(C) that individual has remaining entitlement to emergency unemployment compensation with respect to that benefit year, and

''(D) that individual would qualify for a new benefit year in which the weekly benefit amount of regular compensation is at least either $100 or 25 percent less than the individual's weekly benefit amount in the benefit year referred to in subparagraph (A),

then the State shall determine eligibility for compensation as provided in paragraph (2).

''(2) For individuals described in paragraph (1), the State shall determine whether the individual is to be paid emergency unemployment compensation or regular compensation for a week of unemployment using one of the following methods:

''(A) The State shall, if permitted by State law, establish a new benefit year, but defer the payment of regular compensation with respect to that new benefit year until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph (1)(A);

''(B) The State shall, if permitted by State law, defer the establishment of a new benefit year (which uses all the wages and employment which would have been used to establish a benefit year but for the application of this paragraph), until exhaustion of all emergency unemployment compensation payable with respect to the benefit year referred to in paragraph(1)(A);

''(C) The State shall pay, if permitted by State law—

''(i) regular compensation equal to the weekly benefit amount established under the new benefit year, and

''(ii) emergency unemployment compensation equal to the difference between that weekly benefit amount and the weekly benefit amount for the expired benefit year; or

''(D) The State shall determine rights to emergency unemployment compensation without regard to any rights to regular compensation if the individual elects to not file a claim for regular compensation under the new benefit year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to individuals whose benefit years, as described in section 4002(g)(1)(B) the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by this section, expire after the date of enactment of this Act.

SEC. 503. EXTENSION OF THE EMERGENCY CONTINGENCY FUND.

(a) IN GENERAL.—Section 403(c) of the Social Security Act (42 U.S.C. 603(c)) is amended—

(1) in paragraph (2)(A), by inserting '', and for fiscal year 2011, $2,500,000,000'' before ''for payment'';

(2) by striking paragraph (2)(B) and inserting the following:

''(B) AVAILABILITY AND USE OF FUNDS.—

''(i) FISCAL YEARS 2009 AND 2010.—The amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2009 shall remain available through fiscal year 2010 and shall be used to make grants to States in each of fiscal years 2009 and 2010 in accordance with paragraph (3), except that the amounts shall remain available through fiscal year 2011 to make grants and payments to States in accordance with paragraph (3)(C) to cover expenditures to subsidize employment positions held by individuals placed in the positions before fiscal year 2011.

''(ii) FISCAL YEAR 2011.—Subject to clause (iii), the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011 shall remain available through fiscal year 2012 and shall be used to make grants to States based on expenditures in fiscal year 2011 for benefits and services provided in fiscal year 2011 in accordance with the requirements of paragraph (3).

''(iii) RESERVATION OF FUNDS.—Of the amounts appropriated to the Emergency Fund under subparagraph (A) for fiscal year 2011, $500,000 shall be placed in reserve for use in fiscal year 2012, and shall be used to award grants for any expenditures described in this subsection incurred by States after September 30, 2011.'';

(3) in paragraph (2)(C), by striking ''2010'' and inserting ''2012'';

(4) in paragraph (3)—

(A) in clause (i) of each of subparagraphs (A), (B), and (C)—

(i) by striking ''year 2009 or 2010'' and inserting ''years 2009 through 2011'';

(ii) by striking ''and'' at the end of subclause (I);

(iii) by striking the period at the end of subclause (II) and inserting ''; and''; and

(iv) by adding at the end the following:

''(III) if the quarter is in fiscal year 2011, has provided the Secretary with such information as the Secretary may find necessary in order to make the determinations, or take any other action, described in paragraph (5)(C).''; and

(B) in subparagraph (C), by adding at the end the following:

''(iv) LIMITATION ON EXPENDITURES FOR SUBSIDIZED EMPLOYMENT.—An expenditure for subsidized employment shall be taken into account under clause (ii) only if the expenditure is used to subsidize employment for—

''(I) a member of a needy family (without regard to whether the family is receiving assistance under the State program funded under this part); or

''(II) an individual who has exhausted (or, within 60 days, will exhaust) all rights to receive unemployment compensation under Federal and State law, and who is a member of a needy family.'';

(5) by striking paragraph (5) and inserting the following:

''(5) LIMITATIONS ON PAYMENTS; ADJUSTMENT AUTHORITY.—

''(A) FISCAL YEARS 2009 AND 2010.—The total amount payable to a single State under subsection (b) and this subsection for fiscal years 2009 and 2010 combined shall not exceed 50 percent of the annual State family assistance grant.

''(B) FISCAL YEAR 2011.—Subject to subparagraph (C), the total amount payable to a single State under subsection (b) and this subsection for fiscal year 2011 shall not exceed 30 percent of the annual State family assistance grant.

''(C) ADJUSTMENT AUTHORITY.—If the Secretary determines that the Emergency Fund is at risk of being depleted before September 30, 2011, or that funds are available to accommodate additional State requests under this subsection, the Secretary may, through program instructions issued without regard to the requirements of section 553 of title 5, United States Code—

''(i) specify priority criteria for awarding grants to States during fiscal year 2011; and

''(ii) adjust the percentage limitation applicable under subparagraph (B) with respect to the total amount payable to a single State for fiscal year 2011.''; and

(6) in paragraph (6), by inserting ''or for expenditures described in paragraph (3)(C)(iv)'' before the period.

(b) CONFORMING AMENDMENTS.—Section 2101 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(2)—

(A) by striking ''2010'' and inserting ''2011''; and

(B) by striking all that follows ''repealed'' and inserting a period; and

(2) in subsection (d)(1), by striking ''2010'' and inserting ''2011''.

(c) PROGRAM GUIDANCE.—The Secretary of Health and Human Services shall issue program guidance, without regard to the requirements of section 553 of title 5, United States Code, which ensures that the funds provided under the amendments made by this section to a jurisdiction for subsidized employment do not support any subsidized employment position the annual salary of which is greater than, at State option—

(1) 200 percent of the poverty line (within the meaning of section 673(2) of the Omnibus Budget Reconciliation Act of 1981, including any revision required by such section 673(2)) for a family of 4; or

(2) the median wage in the jurisdiction.

SEC. 504. REQUIRING STATES TO NOT REDUCE REGULAR COMPENSATION IN ORDER TO BE ELIGIBLE FOR FUNDS UNDER THE EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

Section 4001 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by adding at the end the following new subsection:

''(g) NONREDUCTION RULE.—An agreement under this section shall not apply (or shall cease to apply) with respect to a State upon a determination by the Secretary that the method governing the computation of regular compensation under the State law of that State has been modified in a manner such that—

''(1) the average weekly benefit amount of regular compensation which will be payable during the period of the agreement occurring on or after June 2, 2010 (determined disregarding any additional amounts attributable to the modification described in section 2002(b)(1) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438)), will be less than

''(2) the average weekly benefit amount of regular compensation which would otherwise have been payable during such period under the State law, as in effect on June 2, 2010.''.

Subtitle B—Health Provisions

SEC. 511. EXTENSION OF SECTION 508 RECLASSIFICATIONS.

(a) IN GENERAL.—Section 106(a) of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395 note), as amended by section 117 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), and sections 3137(a) and 10317 of Public Law 111–148, is amended by striking ''September 30, 2010'' and inserting ''September 30, 2011''.

(b) CONFORMING AMENDMENT.—Section 117(a)(3) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173)), is amended by inserting ''in fiscal years 2008 and 2009'' after ''For purposes of implementation of this subsection''.

SEC. 512. REPEAL OF DELAY OF RUG-IV.

Effective as if included in the enactment of Public Law 111–148, section 10325 of such Act is repealed.

SEC. 513. LIMITATION ON REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Section 3122 of Public Law 111–148 is repealed and the provision of law amended by such section is restored as if such section had not been enacted.

SEC. 514. FUNDING FOR CLAIMS REPROCESSING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to title XVIII of the Social Security Act, and other provisions of such title that involve reprocessing of claims, there are appropriated to the Secretary of Health and Human Services for the Centers for Medicare & Medicaid Services Program Management Account, from amounts in the general fund of the Treasury not otherwise appropriated, $175,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 515. MEDICAID AND CHIP TECHNICAL CORRECTIONS.

(a) REPEAL OF EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM MEDICAID.—Section 6502 of Public Law 111–148 is repealed and the provisions of law amended by such section are restored as if such section had never been enacted. Nothing in the previous sentence shall affect the execution or placement of the insertion made by section 6503 of such Act.

(b) INCOME LEVEL FOR CERTAIN CHILDREN UNDER MEDICAID.—Effective as if included in the enactment of Public Law 111–148, section 2001(a)(5)(B) of such Act is amended by striking all that follows ''is amended'' and inserting the following: ''by inserting after '100 percent' the following: '(or, beginning January 1, 2014, 133 percent)'.''.

(c) CALCULATION AND PUBLICATION OF PAYMENT ERROR RATE MEASUREMENT FOR CERTAIN YEARS.—Section 601(b) of the Children's Health Insurance Program Reauthorization Act of 2009 (Public Law 111–3) is amended by adding at the end the following: ''The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.''.

(d) CORRECTIONS TO EXCEPTIONS TO EXCLUSION OF CHILDREN OF CERTAIN EMPLOYEES.—Section 2110(b)(6) of the Social Security Act (42 U.S.C. 1397jj(b)(6)) is amended—

(1) in subparagraph (B)—

(A) by striking ''PER PERSON'' in the heading; and

(B) by striking ''each employee'' and inserting ''employees''; and

(2) in subparagraph (C), by striking '', on a case-by-case basis,''.

(e) ELECTRONIC HEALTH RECORDS.—Effective as if included in the enactment of section 4201(a)(2) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), section 1903(t) of the Social Security Act (42 U.S.C. 1396b(t)) is amended—

(1) in paragraph (3)(E), by striking ''reduced by any payment that is made to such Medicaid provider from any other source (other than under this subsection or by a State or local government)'' and inserting ''reduced by the average payment the Secretary estimates will be made to such Medicaid providers (determined on a percentage or other basis for such classes or types of providers as the Secretary may specify) from other sources (other than under this subsection, or by the Federal government or a State or local government)''; and

(2) in paragraph (6)(B), by inserting before the period the following: ''and shall be determined to have met such responsibility to the extent that the payment to the Medicaid provider is not in excess of 85 percent of the net average allowable cost''.

(f) CORRECTIONS OF DESIGNATIONS.—

(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10), in the matter following subparagraph (G), by striking ''and'' before ''(XVI) the medical'' and by striking ''(XVI) if'' and inserting ''(XVII) if''; and

(B) in subsection (ii)(2), by striking ''(XV)'' and inserting ''(XVI)''.

(2) Section 2107(e)(1) of the Social Security Act (42 U.S.C. 1397gg(e)(1)) is amended by redesignating the subparagraph (N) of that section added by 2101(e) of Public Law 111–148 as subparagraph (O).

SEC. 516. ADDITION OF INPATIENT DRUG DISCOUNT PROGRAM TO 340B DRUG DISCOUNT PROGRAM.

(a) ADDITION OF INPATIENT DRUG DISCOUNT.—Title III of the Public Health Service Act is amended by inserting after section 340B (42 U.S.C. 256b) the following:

''SEC. 340B–1. DISCOUNT INPATIENT DRUGS FOR INDIVIDUALS WITHOUT PRESCRIPTION DRUG COVERAGE.

''(a) REQUIREMENTS FOR AGREEMENTS WITH THE SECRETARY.—

''(1) IN GENERAL.—

''(A) AGREEMENT.—The Secretary shall enter into an agreement with each manufacturer of covered inpatient drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered inpatient drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after January 1, 2011, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2). For a covered inpatient drug that also is a covered outpatient drug under section 340B, the amount required to be paid under the preceding sentence shall be equal to the amount required to be paid under section 340B(a)(1) for such drug. The agreement with a manufacturer under this subparagraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B.

''(B) CEILING PRICE.—Each such agreement shall require that the manufacturer furnish the Secretary with reports, on a quarterly basis, of the price for each covered inpatient drug subject to the agreement that, according to the manufacturer, represents the maximum price that covered entities may permissibly be required to pay for the drug (referred to in this section as the 'ceiling price'), and shall require that the manufacturer offer each covered entity covered inpatient drugs for purchase at or below the applicable ceiling price if such drug is made available to any other purchaser at any price.

''(C) ALLOCATION METHOD.—Each such agreement shall require that, if the supply of a covered inpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section.

''(2) REBATE PERCENTAGE DEFINED.—

''(A) IN GENERAL.—For a covered inpatient drug purchased in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

''(i) the average total rebate required under section 1927(c) of the Social Security Act (or the average total rebate that would be required if the drug were a covered outpatient drug under such section) with respect to the drug (for a unit of the dosage

form and strength involved) during the preceding calendar quarter; divided by

''(ii) the average manufacturer price for such a unit of the drug during such quarter.

''(B) OVER THE COUNTER DRUGS.—

''(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the 'rebate percentage' shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(3) of such Act.

''(ii) DEFINITION.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

''(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

''(4) REQUIREMENTS FOR COVERED ENTITIES.—

''(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

''(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

''(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism under the previous sentence within 12 months of the enactment of this section, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

''(iii) PROHIBITING DISCLOSURE TO GROUP PURCHASING ORGANIZATIONS.—In the event that a covered entity is a member of a group purchasing organization, such entity shall not disclose the price or any other information pertaining to any purchases under this section directly or indirectly to such group purchasing organization.

''(B) PROHIBITING RESALE, DISPENSING, OR ADMINISTRATION OF DRUGS EXCEPT TO CERTAIN PATIENTS.—With respect to any covered inpatient drug that is subject to an agreement under this subsection, a covered entity shall not dispense, administer, resell, or otherwise transfer the covered inpatient drug to a person unless—

''(i) such person is a patient of the entity; and

''(ii) such person does not have health plan coverage (as defined in subsection (c)(3)) that provides prescription drug coverage in the inpatient setting with respect to such covered inpatient drug.

For purposes of clause (ii), a person shall be treated as having health plan coverage (as defined in subsection (c)(3)) with respect to a covered inpatient drug if benefits are not payable under such coverage with respect to such drug for reasons such as the application of a deductible or cost sharing or the use of utilization management.

''(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered inpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraph (A) or (B) with respect to drugs of the manufacturer. The use or disclosure of information for performance of such an audit shall be treated as a use or disclosure required by law for purposes of section 164.512(a) of title 45, Code of Federal Regulations.

''(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraph (A) or (B), the covered entity shall be liable to the manufacturer of the covered inpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the Secretary and the manufacturer under this subsection.

''(E) MAINTENANCE OF RECORDS.—

''(i) IN GENERAL.—A covered entity shall establish and maintain an effective record-keeping system to comply with this section and shall certify to the Secretary that such entity is in compliance with subparagraphs (A) and (B). The Secretary shall require that hospitals that purchase covered inpatient drugs for inpatient dispensing or administration under this subsection appropriately segregate inventory of such covered inpatient drugs, either physically or electronically, from drugs for outpatient use, as well as from drugs for inpatient dispensing or administration to individuals who have (for purposes of subparagraph (B)) health plan coverage described in clause (ii) of such subparagraph.

''(ii) CERTIFICATION OF NO THIRD-PARTY PAYER.—A covered entity shall maintain records that contain certification by the covered entity that no third party payment was received for any covered inpatient drug that is subject to an agreement under this subsection and that was dispensed to an inpatient.

''(5) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the distinct part of the hospital shall not be considered a covered entity under this subsection unless the hospital is otherwise a covered entity under this subsection.

''(6) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered inpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this subsection, and of entities that no longer meet the requirements of paragraph (4), by means of timely updates of the Internet website supported by the Department of Health and Human Services relating to this section.

''(7) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

''(b) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that meets the requirements described in subsection (a)(4) and is one of the following:

''(1) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

''(A) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private nonprofit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan for medical assistance under title XIX of such Act; and

''(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined using the methodology under section 1886(d)(5)(F) of the Social Security Act as in effect on the date of enactment of this section) greater than 20.20 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act (as so in effect on the date of enactment of this section).

''(2) A children's hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(iii) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(3) A free-standing cancer hospital excluded from the Medicare prospective payment system pursuant to section 1886(d)(1)(B)(v) of the Social Security Act that would meet the requirements of paragraph (1), including the disproportionate share adjustment percentage requirement under subparagraph (B) of such paragraph, if the hospital were a subsection (d) hospital as defined by section 1886(d)(1)(B) of the Social Security Act.

''(4) An entity that is a critical access hospital (as determined under section 1820(c)(2) of the Social Security Act), and that meets the requirements of paragraph (1)(A).

''(5) An entity that is a rural referral center, as defined by section 1886(d)(5)(C)(i) of the Social Security Act, or a sole community hospital, as defined by section 1886(d)(5)(C)(iii) of such Act, and that both meets the requirements of paragraph (1)(A) and has a disproportionate share adjustment percentage equal to or greater than 8 percent.

''(c) OTHER DEFINITIONS.—In this section:

''(1) AVERAGE MANUFACTURER PRICE.—

''(A) IN GENERAL.—The term 'average manufacturer price'—

''(i) has the meaning given such term in section 1927(k) of the Social Security Act, except that such term shall be applied under this section with respect to covered inpatient drugs in the same manner (as applicable) as such term is applied under such section 1927(k) with respect to covered outpatient drugs (as defined in such section); and

''(ii) with respect to a covered inpatient drug for which there is no average manufacturer price (as defined in clause (i)), shall be the amount determined under regulations promulgated by the Secretary under subparagraph (B).

''(B) RULEMAKING.—The Secretary shall by regulation, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, establish a method for determining the average manufacturer price for covered inpatient drugs for which there is no average manufacturer price (as defined in subparagraph (A)(i)). Regulations promulgated with respect to covered inpatient drugs under the preceding sentence shall provide for the application of methods for determining the average manufacturer price that are the same as the methods used to determine such price in calculating rebates required for such drugs under an agreement between a manufacturer and a State that satisfies the requirements of section 1927(b) of the Social Security Act, as applicable.

''(2) COVERED INPATIENT DRUG.—The term 'covered inpatient drug' means a drug—

''(A) that is described in section 1927(k)(2) of the Social Security Act;

''(B) that, notwithstanding paragraph (3)(A) of section 1927(k) of such Act, is used in connection with an inpatient service provided by a covered entity that is enrolled to participate in the drug discount program under this section; and

''(C) that is not purchased by the covered entity through or under contract with a group purchasing organization.

''(3) HEALTH PLAN COVERAGE.—The term 'health plan coverage' means—

''(A) health insurance coverage (as defined in section 2791, and including coverage under a State health benefits risk pool);

''(B) coverage under a group health plan (as defined in such section, and including coverage under a church plan, a governmental plan, or a collectively bargained plan);

''(C) coverage under a Federal health care program (as defined by section 1128B(f) of the Social Security Act); or

''(D) such other health benefits coverage as the Secretary recognizes for purposes of this section.

''(4) MANUFACTURER.—The term 'manufacturer' has the meaning given such term in section 1927(k) of the Social Security Act.

''(d) PROGRAM INTEGRITY.—

''(1) MANUFACTURER COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by manufacturers with the requirements of this section in order to prevent overcharges and other violations of the discounted pricing requirements specified in this section.

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The establishment of a process to enable the Secretary to verify the accuracy of ceiling prices calculated by manufacturers under subsection (a)(1) and charged to covered entities, which shall include the following:

''(I) Developing and publishing through an appropriate policy or regulatory issuance, precisely defined standards and methodology for the calculation of ceiling prices under such subsection.

''(II) Comparing regularly the ceiling prices calculated by the Secretary with the quarterly pricing data that is reported by manufacturers to the Secretary.

''(III) Conducting periodic monitoring of sales transactions by covered entities.

''(IV) Inquiring into any discrepancies between ceiling prices and manufacturer pricing data that may be identified and taking, or requiring manufacturers to take, corrective action in response to such discrepancies, including the issuance of refunds pursuant to the procedures set forth in clause (ii).

''(ii) The establishment of procedures for manufacturers to issue refunds to covered entities in the event that there is an overcharge by the manufacturers, including the following:

''(I) Providing the Secretary with an explanation of why and how the overcharge occurred, how the refunds will be calculated, and to whom the refunds will be issued.

''(II) Oversight by the Secretary to ensure that the refunds are issued accurately and within a reasonable period of time.

''(iii) The provision of access through the Internet website supported by the Department of Health and Human Services to the applicable ceiling prices for covered inpatient drugs as calculated and verified by the Secretary in accordance with this section, in a manner (such as through the use of password protection) that limits such access to covered entities and adequately assures security and protection of privileged pricing data from unauthorized re-disclosure.

''(iv) The development of a mechanism by which—

''(I) rebates, discounts, or other price concessions provided by manufacturers to other purchasers subsequent to the sale of covered inpatient drugs to covered entities are reported to the Secretary; and

''(II) appropriate credits and refunds are issued to covered entities if such discounts, rebates, or other price concessions have the effect of lowering the applicable ceiling price for the relevant quarter for the drugs involved.

''(v) Selective auditing of manufacturers and wholesalers to ensure the integrity of the drug discount program under this section.

''(vi) The establishment of a requirement that manufacturers and wholesalers use the identification system developed by the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(vii) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations to be promulgated by the Secretary not later than January 1, 2011;

''(II) shall not exceed $10,000 per single dosage form of a covered inpatient drug purchased by a covered entity where a manufacturer knowingly charges such covered entity a price for such drug that exceeds the ceiling price under subsection (a)(1); and

''(III) shall not exceed $100,000 for each instance where a manufacturer withholds or provides materially false information to the Secretary or to covered entities under this section or knowingly violates any provision of this section (other than subsection (a)(1)).

''(2) COVERED ENTITY COMPLIANCE.—

''(A) IN GENERAL.—From amounts appropriated under subsection (f), the Secretary shall provide for improvements in compliance by covered entities with the requirements of this section in order to prevent diversion and violations of the duplicate discount provision and other requirements specified under subsection (a)(4).

''(B) IMPROVEMENTS.—The improvements described in subparagraph (A) shall include the following:

''(i) The development of procedures to enable and require covered entities to update at least annually the information on the Internet website supported by the Department of Health and Human Services relating to this section.

''(ii) The development of procedures for the Secretary to verify the accuracy of information regarding covered entities that is listed on the website described in clause (i).

''(iii) The development of more detailed guidance describing methodologies and options available to covered entities for billing covered inpatient drugs to State Medicaid agencies in a manner that avoids duplicate discounts pursuant to subsection (a)(4)(A).

''(iv) The establishment of a single, universal, and standardized identification system by which each covered entity site and each covered entity's purchasing status under sections 340B and this section can be identified by manufacturers, distributors, covered entities, and the Secretary for purposes of facilitating the ordering, purchasing, and delivery of covered inpatient drugs under this section, including the processing of chargebacks for such drugs.

''(v) The imposition of sanctions in the form of civil monetary penalties, which—

''(I) shall be assessed according to standards and procedures established in regulations promulgated by the Secretary; and

''(II) shall not exceed $10,000 for each instance where a covered entity knowingly violates subsection (a)(4)(B) or knowingly violates any other provision of this section.

''(vi) The termination of a covered entity's participation in the program under this section, for a period of time to be determined by the Secretary, in cases in which the Secretary determines, in accordance with standards and procedures established by regulation, that—

''(I) the violation by a covered entity of a requirement of this section was repeated and knowing; and

''(II) imposition of a monetary penalty would be insufficient to reasonably ensure compliance with the requirements of this section.

''(vii) The referral of matters, as appropriate, to the Food and Drug Administration, the Office of the Inspector General of the Department of Health and Human Services, or other Federal or State agencies.

''(3) ADMINISTRATIVE DISPUTE RESOLUTION PROCESS.—From amounts appropriated under subsection (f), the Secretary may establish and implement an administrative process for the resolution of the following:

''(A) Claims by covered entities that manufacturers have violated the terms of their agreement with the Secretary under subsection (a)(1).

''(B) Claims by manufacturers that covered entities have violated subsection (a)(4)(A) or (a)(4)(B).

''(e) AUDIT AND SANCTIONS.—

''(1) AUDIT.—From amounts appropriated under subsection (f), the Inspector General of the Department of Health and Human Services (referred to in this subsection as the 'Inspector General') shall audit covered entities under this section to verify compliance with criteria for eligibility and participation under this section, including the antidiversion prohibitions under subsection (a)(4)(B), and take enforcement action or provide information to the Secretary who shall take action to ensure program compliance, as appropriate. A covered entity shall provide to the Inspector General, upon request, records relevant to such audits.

''(2) REPORT.—For each audit conducted under paragraph (1), the Inspector General shall prepare and publish in a timely manner a report which shall include findings and recommendations regarding—

''(A) the appropriateness of covered entity eligibility determinations and, as applicable, certifications;

''(B) the effectiveness of antidiversion prohibitions; and

''(C) the effectiveness of restrictions on inpatient dispensing and administration.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2011 and each succeeding fiscal year.''.

(b) RULEMAKING.—Not later than January 1, 2011, the Secretary shall promulgate regulations implementing section 340B–1 of the Public Health Service Act (as added by subsection (a)).

(c) CONFORMING AMENDMENT TO SECTION 340B.—Paragraph (1) of section 340B(a) of the Public Health Service Act (42 U.S.C. 256b(a)) is amended by adding at the end the following: ''Such agreement shall further require that, if the supply of a covered outpatient drug is insufficient to meet demand, then the manufacturer may use an allocation method that is reported in writing to, and approved by, the Secretary and does not discriminate on the basis of the price paid by covered entities or on any other basis related to the participation of an entity in the program under this section. The agreement with a manufacturer under this paragraph may, at the discretion of the Secretary, be included in the agreement with the same manufacturer under section 340B–1.''.

(d) CONFORMING AMENDMENTS TO MEDICAID.—Section 1927 of the Social Security Act (42 U.S.C. 1396r–8) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the first sentence, by striking ''and paragraph (6)'' and inserting '', paragraph (6), and paragraph (8)''; and

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

''(8) LIMITATION ON PRICES OF DRUGS PURCHASED BY 340B–1-COVERED ENTITIES.—

''(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B–1 of the Public Health Service Act with respect to covered inpatient drugs (as defined in such section) purchased by a 340B–1-covered entity on or after January 1, 2011.

''(B) 340B–1-COVERED ENTITY DEFINED.—In this subsection, the term '340B–1-covered entity' means an entity described in section 340B–1(b) of the Public Health Service Act.''; and

(2) in subsection (c)(1)(C)(i)(I)—

(A) by striking ''or'' before ''a covered entity''; and

(B) by inserting before the semicolon the following: '', or a covered entity for a covered inpatient drug (as such terms are defined in section 340B–1of the Public Health Service Act)''.

SEC. 517. CONTINUED INCLUSION OF ORPHAN DRUGS IN DEFINITION OF COVERED OUTPATIENT DRUGS WITH RESPECT TO CHILDREN'S HOSPITALS UNDER THE 340B DRUG DISCOUNT PROGRAM.

(a) DEFINITION OF COVERED OUTPATIENT DRUG.—

(1) AMENDMENT.—Subsection (e) of section 340B of the Public Health Service Act (42 U.S.C. 256b) is amended by striking ''covered entities described in subparagraph (M)''and inserting ''covered entities described in subparagraph (M) (other than a children's hospital described in subparagraph (M))''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of section 2302 of the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1927(a)(5) of the Social Security Act (42 U.S.C. 1396r–8(a)(5)) is amended by striking ''and a children's hospital'' and all that follows through the end of the subparagraph and inserting a period.

SEC. 518. CONFORMING AMENDMENT RELATED TO WAIVER OF COINSURANCE FOR PREVENTIVE SERVICES.

Effective as if included in section 10501(i)(2)(A) of Public Law 111–148, section 1833(a)(3)(A) of the Social Security Act (42 U.S.C. 1395l(a)(3)(A)) is amended by striking ''section 1861(s)(10)(A)'' and inserting ''section 1861(ddd)(3)''.

SEC. 519. ESTABLISH A CMS–IRS DATA MATCH TO IDENTIFY FRAUDULENT PROVIDERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 520. CLARIFICATION OF EFFECTIVE DATE OF PART B SPECIAL ENROLLMENT PERIOD FOR DISABLED TRICARE BENEFICIARIES.

Effective as if included in the enactment of Public Law 111–148, section 3110(a)(2) of such Act is amended to read as follows:

''(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to elections made after the date of the enactment of this Act.''.

SEC. 521. PHYSICIAN PAYMENT UPDATE.

(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. 522. ADJUSTMENT TO MEDICARE PAYMENT LOCALITIES.

(a) IN GENERAL.—Section 1848(e) of the Social Security Act (42 U.S.C.1395w–4(e)) is amended by adding at the end the following new paragraph:

''(6) TRANSITION TO USE OF MSAS AS FEE SCHEDULE AREAS IN CALIFORNIA.—

''(A) IN GENERAL.—

''(i) REVISION.—Subject to clause (ii) and notwithstanding the previous provisions of this subsection, for services furnished on or after January 1, 2012, the Secretary shall revise the fee schedule areas used for payment under this section applicable to the State of California using the Metropolitan Statistical Area (MSA) iterative Geographic Adjustment Factor methodology as follows:

''(I) The Secretary shall configure the physician fee schedule areas using the Metropolitan Statistical Areas (each in this paragraph referred to as an 'MSA'), as defined by the Director of the Office of Management and Budget as of the date of the enactment of this paragraph, as the basis for the fee schedule areas.

''(II) For purposes of this clause, the Secretary shall treat all areas not included in an MSA as a single rest-of-State MSA and any reference in this paragraph to an MSA shall be deemed to include a reference to such rest-of-State MSA.

''(III) The Secretary shall list all MSAs within the State by Geographic Adjustment Factor described in paragraph (2) (in this paragraph referred to as a 'GAF') in descending order.

''(IV) In the first iteration, the Secretary shall compare the GAF of the highest cost MSA in the State to the weighted-average GAF of all the remaining MSAs in the State. If the ratio of the GAF of the highest cost MSA to the weighted-average of the GAF of remaining lower cost MSAs is 1.05 or greater, the highest cost MSA shall be a separate fee schedule area.

''(V) In the next iteration, the Secretary shall compare the GAF of the MSA with the second-highest GAF to the weighted-average GAF of the all the remaining MSAs (excluding MSAs that become separate fee schedule areas). If the ratio of the second-highest MSA's GAF to the weighted-average of the remaining lower cost MSAs is 1.05 or greater, the second-highest MSA shall be a separate fee schedule area.

''(VI) The iterative process shall continue until the ratio of the GAF of the MSA with highest remaining GAF to the weighted-average of the remaining MSAs with lower GAFs is less than 1.05, and the remaining group of MSAs with lower GAFs shall be treated as a single rest-of-State fee schedule area.

''(VII) For purposes of the iterative process described in this clause, if two MSAs have identical GAFs, they shall be combined.

''(ii) TRANSITION.—For services furnished on or after January 1, 2012, and before January 1, 2017, in the State of California, after calculating the work, practice expense, and malpractice geographic indices that would otherwise be determined under clauses (i), (ii), and (iii) of paragraph (1)(A) for a fee schedule area determined under clause (i), if the index for a county within a fee schedule area is less than the index that would otherwise be in effect for such county, the Secretary shall instead apply the index that would otherwise be in effect for such county.

''(B) SUBSEQUENT REVISIONS.—After the transition described in subparagraph (A)(ii), not less than every 3 years the Secretary shall review and update the fee schedule areas using the methodology described in subparagraph (A)(i) and any updated MSAs as defined by the Director of the Office of Management and Budget. The Secretary shall review and make any changes pursuant to such reviews concurrent with the application of the periodic review of the adjustment factors required under paragraph (1)(C) for California.

''(C) REFERENCES TO FEE SCHEDULE AREAS.—Effective for services furnished on or after January 1, 2012, for the State of California, any reference in this section to a fee schedule area shall be deemed a reference to a fee schedule area established in accordance with this paragraph.''.

(b) CONFORMING AMENDMENT TO DEFINITION OF FEE SCHEDULE AREA.—Section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w(j)(2)) is amended by striking ''The term'' and inserting ''Except as provided in subsection (e)(6)(C), the term''.

SEC. 523. CLARIFICATION OF 3-DAY PAYMENT WINDOW.

(a) IN GENERAL.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) by adding at the end of subsection (a)(4) the following new sentence: ''In applying the first sentence of this paragraph, the term 'other services related to the admission' includes all services that are not diagnostic services (other than ambulance and maintenance renal dialysis services) for which payment may be made under this title that are provided by a hospital (or an entity wholly owned or operated by the hospital) to a patient—

''(A) on the date of the patient's inpatient admission; or

''(B) during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of such admission unless the hospital demonstrates (in a form and manner, and at a time, specified by the Secretary) that such services are not related (as determined by the Secretary) to such admission.''; and

(2) in subsection (d)(7)—

(A) in subparagraph (A), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(C) the determination of whether services provided prior to a patient's inpatient admission are related to the admission (as described in subsection (a)(4)).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after the date of the enactment of this Act.

(c) NO REOPENING OF PREVIOUSLY BUNDLED CLAIMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not reopen a claim, adjust a claim, or make a payment pursuant to any request for payment under title XVIII of the Social Security Act, submitted by an entity (including a hospital or an entity wholly owned or operated by the hospital) for services described in paragraph (2) for purposes of treating, as unrelated to a patient's inpatient admission, services provided during the 3 days (or, in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of the patient's inpatient admission.

(2) SERVICES DESCRIBED.—For purposes of paragraph (1), the services described in this paragraph are other services related to the admission (as described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by subsection (a)) which were previously included on a claim or request for payment submitted under part A of title XVIII of such Act for which a reopening, adjustment, or request for payment under part B of such title, was not submitted prior to the date of the enactment of this Act.

(d) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of this section (and amendments made by this section) by program instruction or otherwise.

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed as changing the policy described in section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as applied by the Secretary of Health and Human Services before the date of the enactment of this Act, with respect to diagnostic services.

SEC. 524. EXTENSION OF ARRA INCREASE IN FMAP.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(1) in subsection (a)(3), by striking ''first calendar quarter'' and inserting ''first 3 calendar quarters'';

(2) in subsection (c)—

(A) in paragraph (2)(B), by striking ''July 1, 2010'' and inserting ''January 1, 2011'';

(B) in paragraph (3)(B)(i), by striking ''July 1, 2010'' and inserting ''January 1, 2011'' each place it appears; and

(C) in paragraph (4)(C)(ii), by striking ''the 3-consecutive-month period beginning with January 2010'' and inserting ''any 3-consecutive-month period that begins after December 2009 and ends before January 2011'';

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

''Notwithstanding paragraph (5), effective for payments made on or after January 1, 2010, the increases in the FMAP for a State under this section shall apply to payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to nonpregnant childless adults made eligible under a State plan under such title (including under any waiver under such title or under section 1115 of such Act (42 U.S.C. 1315)) who would have been eligible for child health assistance or other health benefits under eligibility standards in effect as of December 31, 2009, of a waiver of the State child health plan under the title XXI of such Act.'';

(4) in subsection (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2), by inserting ''of such Act'' after ''1923''; and

(C) by adding at the end the following:

''(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.''; and

(5) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

SEC. 525. CLARIFICATION FOR AFFILIATED HOSPITALS FOR DISTRIBUTION OF ADDITIONAL RESIDENCY POSITIONS.

Effective as if included in the enactment of section 5503(a) of Public Law 111–148, section 1886(h)(8) of the Social Security Act (42 U.S.C. 1395ww(h)(8)), as added by such section 5503(a), is amended by adding at the end the following new subparagraph:

''(I) AFFILIATION.—The provisions of this paragraph shall be applied to hospitals which are members of the same affiliated group (as defined by the Secretary under paragraph (4)(H)(ii)) and the reference resident level for each such hospital shall be the reference resident level with respect to the cost reporting period that results in the smallest difference between the reference resident level and the otherwise applicable resident limit.''.

TITLE VI—OTHER PROVISIONS

SEC. 601. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 7(a) of Public Law 111–157, is amended by striking ''by substituting'' and all that follows through the period at the end, and inserting ''by substituting December 31, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on May 31, 2010.

SEC. 602. ALLOCATION OF GEOTHERMAL RECEIPTS.

Notwithstanding any other provision of law, for fiscal year 2010 only, all funds received from sales, bonuses, royalties, and rentals under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) shall be deposited in the Treasury, of which—

(1) 50 percent shall be used by the Secretary of the Treasury to make payments to States within the boundaries of which the leased land and geothermal resources are located;

(2) 25 percent shall be used by the Secretary of the Treasury to make payments to the counties within the boundaries of which the leased land or geothermal resources are located; and

(3) 25 percent shall be deposited in miscellaneous receipts.

SEC. 603. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Small Business Administration—Business Loans Program Account'', $505,000,000, to remain available through December 31, 2010, for the cost of—

(1) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this section; and

(2) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this section.

Such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF PROGRAMS.—

(1) FEES.—Section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking ''September 30, 2010'' each place it appears and inserting ''December 31, 2010''.

(2) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking ''May 31, 2010'' and inserting ''December 31, 2010''.

(c) APPROPRIATION.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), $5,000,000, to remain available until expended, which may be transferred and merged with the appropriation for ''Small Business Administration—Salaries and Expenses''.

SEC. 604. EMERGENCY AGRICULTURAL DISASTER ASSISTANCE.

(a) DEFINITIONS.—Except as otherwise provided in this section, in this section:

(1) DISASTER COUNTY.—

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration for the 2009 crop year.

(B) EXCLUSION.—The term ''disaster county'' does not include a contiguous county.

(2) ELIGIBLE AQUACULTURE PRODUCER.—The term ''eligible aquaculture producer'' means an aquaculture producer that during the 2009 calendar year, as determined by the Secretary—

(A) produced an aquaculture species for which feed costs represented a substantial percentage of the input costs of the aquaculture operation; and

(B) experienced a substantial price increase of feed costs above the previous 5-year average.

(3) ELIGIBLE PRODUCER.—The term ''eligible producer'' means an agricultural producer in a disaster county.

(4) ELIGIBLE SPECIALTY CROP PRODUCER.—The term ''eligible specialty crop producer'' means an agricultural producer that, for the 2009 crop year, as determined by the Secretary—

(A) produced, or was prevented from planting, a specialty crop; and

(B) experienced specialty crop losses in a disaster county due to drought, excessive rainfall, or a related condition.

(5) QUALIFYING NATURAL DISASTER DECLARATION.—The term ''qualifying natural disaster declaration'' means a natural disaster declared by the Secretary for production losses under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)).

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(7) SPECIALTY CROP.—The term ''specialty crop'' has the meaning given the term in section 3 of the Specialty Crops Competitiveness Act of 2004 (Public Law 108–465; 7 U.S.C. 1621 note).

(b) SUPPLEMENTAL DIRECT PAYMENT.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use such sums as are necessary to make supplemental payments under sections 1103 and 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753) to eligible producers on farms located in disaster counties that had at least 1 crop of economic significance (other than specialty crops or crops intended for grazing) suffer at least a 5-percent crop loss on a farm due to a natural disaster, including quality losses, as determined by the Secretary, in an amount equal to 90 percent of the direct payment the eligible producers received for the 2009 crop year on the farm.

(2) ACRE PROGRAM.—Eligible producers that received direct payments under section 1105 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8715) for the 2009 crop year and that otherwise meet the requirements of paragraph (1) shall be eligible to receive supplemental payments under that paragraph in an amount equal to 112.5 percent of the reduced direct payment the eligible producers received for the 2009 crop year under section 1103 or 1303 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8713, 8753).

(3) RELATIONSHIP TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(c) SPECIALTY CROP ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $300,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible specialty crop producers for losses due to a natural disaster affecting the 2009 crops, of which not more than—

(A) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of drought; and

(B) $150,000,000 shall be used to assist eligible specialty crop producers in counties that have been declared a disaster as the result of excessive rainfall or a related condition.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible specialty crop producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible specialty crop producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States for disaster counties on a pro rata basis based on the value of specialty crop losses in those counties during the 2009 calendar year, as determined by the Secretary.

(B) ADMINISTRATIVE COSTS.—State Secretary of Agriculture may not use more than five percent of the funds provided for costs associated with the administration of the grants provided in paragraph (1).

(C) ADMINISTRATION OF GRANTS.—State Secretary of Agriculture may enter into a contract with the Department of Agriculture to administer the grants provided in paragraph (1).

(D) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(E) MAXIMUM GRANT.—The maximum amount of a grant made to a State for counties described in paragraph (1)(B) may not exceed $40,000,000.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to issue payments to eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible specialty crop producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided by type of specialty crop; and

(iii) the process by which the State determined the levels of assistance to eligible specialty crop producers.

(D) RELATION TO OTHER LAW.—Assistance received under this subsection shall be included in the calculation of farm revenue for the 2009 crop year under section 531(b)(4)(A) of the Federal Crop Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

(d) COTTONSEED ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $42,000,000 to provide supplemental assistance to eligible producers and first-handlers of the 2009 crop of cottonseed in a disaster county.

(2) GENERAL TERMS.—Except as otherwise provided in this subsection, the Secretary shall provide disaster assistance under this subsection under the same terms and conditions as assistance provided under section 3015 of the Emergency Agricultural Disaster Assistance Act of 2006 (title III of Public Law 109–234; 120 Stat. 477).

(3) DISTRIBUTION OF ASSISTANCE.—The Secretary shall distribute assistance to first handlers for the benefit of eligible producers in a disaster county in an amount equal to the product obtained by multiplying—

(A) the payment rate, as determined under paragraph (4); and

(B) the county-eligible production, as determined under paragraph (5).

(4) PAYMENT RATE.—The payment rate shall be equal to the quotient obtained by dividing—

(A) the total funds made available to carry out this subsection; by

(B) the sum of the county-eligible production, as determined under paragraph (5).

(5) COUNTY-ELIGIBLE PRODUCTION.—The county-eligible production shall be equal to the product obtained by multiplying—

(A) the number of acres planted to cotton in the disaster county, as reported to the Secretary by first handlers;

(B) the expected cotton lint yield for the disaster county, as determined by the Secretary based on the best available information; and

(C) the national average seed-to-lint ratio, as determined by the Secretary based on the best available information for the 5 crop years immediately preceding the 2009 crop, excluding the year in which the average ratio was the highest and the year in which the average ratio was the lowest in such period.

(e) AQUACULTURE ASSISTANCE.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $25,000,000, to remain available until September 30, 2011, to carry out a program of grants to States to assist eligible aquaculture producers for losses associated with high feed input costs during the 2009 calendar year.

(2) NOTIFICATION.—Not later than 45 days after the date of enactment of this Act, the Secretary shall notify the State department of agriculture (or similar entity) in each State of the availability of funds to assist eligible aquaculture producers, including such terms as are determined by the Secretary to be necessary for the equitable treatment of eligible aquaculture producers.

(3) PROVISION OF GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States under this subsection on a pro rata basis based on the amount of aquaculture feed used in each State during the 2009 calendar year, as determined by the Secretary.

(B) TIMING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(4) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(A) use grant funds to assist eligible aquaculture producers;

(B) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(C) not later than 30 days after the date on which the State provides assistance to eligible aquaculture producers, submit to the Secretary a report that describes—

(i) the manner in which the State provided assistance;

(ii) the amounts of assistance provided per species of aquaculture; and

(iii) the process by which the State determined the levels of assistance to eligible aquaculture producers.

(5) REDUCTION IN PAYMENTS.—An eligible aquaculture producer that receives assistance under this subsection shall not be eligible to receive any other assistance under the supplemental agricultural disaster assistance program established under section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and section 901 of the Trade Act of 1974 (19 U.S.C. 2497) for any losses in 2009 relating to the same species of aquaculture.

(6) REPORT TO CONGRESS.—Not later than 240 days after the date of enactment of this Act, the Secretary shall submit to the appropriate committees of Congress a report that—

(A) describes in detail the manner in which this subsection has been carried out; and

(B) includes the information reported to the Secretary under paragraph (4)(C).

(f) HAWAII TRANSPORTATION COOPERATIVE.—Notwithstanding any other provision of law, the Secretary shall use $21,000,000 of funds of the Commodity Credit Corporation to make a payment to an agricultural transportation cooperative in the State of Hawaii, the members of which are eligible to participate in the commodity loan program of the Farm Service Agency, for assistance to maintain and develop employment.

(g) LIVESTOCK FORAGE DISASTER PROGRAM.—

(1) DEFINITION OF DISASTER COUNTY.—In this subsection:

(A) IN GENERAL.—The term ''disaster county'' means a county included in the geographic area covered by a qualifying natural disaster declaration announced by the Secretary in calendar year 2009.

(B) INCLUSION.—The term ''disaster county'' includes a contiguous county.

(2) PAYMENTS.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $50,000,000 to carry out a program to make payments to eligible producers that had grazing losses in disaster counties in calendar year 2009.

(3) CRITERIA.—

(A) IN GENERAL.—Except as provided in subparagraph (B), assistance under this subsection shall be determined under the same criteria as are used to carry out the programs under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(B) DROUGHT INTENSITY.—For purposes of this subsection, an eligible producer shall not be required to meet the drought intensity requirements of section 531(d)(3)(D)(ii) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(D)(ii)).

(4) AMOUNT.—Assistance under this subsection shall be in an amount equal to 1 monthly payment using the monthly payment rate under section 531(d)(3)(B) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

(5) RELATION TO OTHER LAW.—An eligible producer that receives assistance under this subsection shall be ineligible to receive assistance for 2009 grazing losses under the program carried out under section 531(d) of the Federal Crop Insurance Act (7 U.S.C. 1531(d)) and section 901(d) of the Trade Act of 1974 (19 U.S.C. 2497(d)).

(h) EMERGENCY LOANS FOR POULTRY PRODUCERS.—

(1) DEFINITIONS.—In this subsection:

(A) ANNOUNCEMENT DATE.—The term ''announcement date'' means the date on which the Secretary announces the emergency loan program under this subsection.

(B) POULTRY INTEGRATOR.—The term ''poultry integrator'' means a poultry integrator that filed proceedings under chapter 11 of title 11, United States Code, in United States Bankruptcy Court during the 30-day period beginning on December 1, 2008.

(2) LOAN PROGRAM.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use not more than $75,000,000, to remain available until expended, for the cost of making no-interest emergency loans available to poultry producers that meet the requirements of this subsection.

(B) TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, emergency loans under this subsection shall be subject to such terms and conditions as are determined by the Secretary.

(3) LOANS.—

(A) IN GENERAL.—An emergency loan made to a poultry producer under this subsection shall be for the purpose of providing financing to the poultry producer in response to financial losses associated with the termination or nonrenewal of any contract between the poultry producer and a poultry integrator.

(B) ELIGIBILITY.—

(i) IN GENERAL.—To be eligible for an emergency loan under this subsection, not later than 90 days after the announcement date, a poultry producer shall submit to the Secretary evidence that—

(I) the contract of the poultry producer described in subparagraph (A) was not continued; and

(II) no similar contract has been awarded subsequently to the poultry producer.

(ii) REQUIREMENT TO OFFER LOANS.—Notwithstanding any other provision of law, if a poultry producer meets the eligibility requirements described in clause (i), subject to the availability of funds under paragraph (2)(A), the Secretary shall offer to make a loan under this subsection to the poultry producer with a minimum term of 2 years.

(4) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—A poultry producer that receives an emergency loan under this subsection may use the emergency loan proceeds only to repay the amount that the poultry producer owes to any lender for the purchase, improvement, or operation of the poultry farm.

(B) CONVERSION OF THE LOAN.—A poultry producer that receives an emergency loan under this subsection shall be eligible to have the balance of the emergency loan converted, but not refinanced, to a loan that has the same terms and conditions as an operating loan under subtitle B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941 et seq.).

(i) STATE AND LOCAL GOVERNMENTS.—Section 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(f)(6)(A)) is amended by inserting ''(other than the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of this Act)'' before the period at the end.

(j) ADMINISTRATION.—

(1) REGULATIONS.—

(A) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to implement this section and the amendment made by this section.

(B) PROCEDURE.—The promulgation of the regulations and administration of this section and the amendment made by this section shall be made without regard to—

(i) the notice and comment provisions of section 553 of title 5, United States Code;

(ii) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(iii) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act'').

(C) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this paragraph, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(2) ADMINISTRATIVE COSTS.—Of the funds of the Commodity Credit Corporation, the Secretary may use up to $10,000,000 to pay administrative costs incurred by the Secretary that are directly related to carrying out this Act.

(3) PROHIBITION.—None of the funds of the Agricultural Disaster Relief Trust Fund established under section 902 of the Trade Act of 1974 (19 U.S.C. 2497a) may be used to carry out this Act.

SEC. 605. SUMMER EMPLOYMENT FOR YOUTH.

There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for ''Department of Labor—Employment and Training Administration—Training and Employment Services'' for activities under the Workforce Investment Act of 1998 (''WIA''), $1,000,000,000 shall be available for obligation on the date of enactment of this Act for grants to States for youth activities, including summer employment for youth: *Provided*, That no portion of such funds shall be reserved to carry out section 127(b)(1)(A) of the WIA: *Provided further*, That for purposes of section 127(b)(1)(C)(iv) of the WIA, funds available for youth activities shall be allotted as if the total amount available for youth activities in the fiscal year does not exceed $1,000,000,000: *Provided further*, That with respect to the youth activities provided with

such funds, section 101(13)(A) of the WIA shall be applied by substituting ''age 24'' for ''age 21'': *Provided further*, That the work readiness performance indicator described in section 136(b)(2)(A)(ii)(I) of the WIA shall be the only measure of performance used to assess the effectiveness of summer employment for youth provided with such funds: *Provided further*, That an amount that is not more than 1 percent of such amount may be used for the administration, management, and oversight of the programs, activities, and grants carried out with such funds, including the evaluation of the use of such funds: *Provided further*, That funds available under the preceding proviso, together with funds described in section 801(a) of division A of the American Recovery and reinvestment Act of 2009 (Public Law 111–5), and funds provided in such Act under the heading ''Department of Labor–Departmental Management–Salaries and Expenses'', shall remain available for obligation through September 30, 2011.

SEC. 606. HOUSING TRUST FUND.

(a) FUNDING.—There is hereby appropriated for the Housing Trust Fund established pursuant to section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568), $1,065,000,000, for use under such section: *Provided*, That of the total amount provided under this heading, $65,000,000 shall be available to the Secretary of Housing and Urban Development only for incremental project-based voucher assistance to be allocated to States to be used solely in conjunction with grant funds awarded under such section 1338, pursuant to the formula established under section 1338 and taking into account different per unit subsidy needs among states, as determined by the Secretary.

(b) AMENDMENTS.—Section 1338 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4568) is amended—

(1) in subsection (c)—

(A) in paragraph (4)(A) by inserting after the period at the end the following: ''Notwithstanding any other provision of law, for the fiscal year following enactment of this sentence and thereafter, the Secretary may make such notice available only on the Internet at the appropriate government website or websites or through other electronic media, as determined by the Secretary.'';

(B) in paragraph (5)(C), by striking ''(8)'' and inserting ''(9)''; and

(C) in paragraph (7)(A)—

(i) by striking ''section 1335(a)(2)(B)'' and inserting ''section 1335(a)(1)(B)''; and

(ii) by inserting ''the units funded under'' after ''75 percent of''; and

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

''(k) ENVIRONMENTAL REVIEW.—For the purpose of environmental compliance review, funds awarded under this section shall be subject to section 288 of the HOME Investment Partnerships Act (12 U.S.C. 12838) and shall be treated as funds under the program established by such Act.''.

SEC. 607. THE INDIVIDUAL INDIAN MONEY ACCOUNT LITIGATION SETTLEMENT ACT OF 2010.

(a) SHORT TITLE.—This section may be cited as the ''Individual Indian Money Account Litigation Settlement Act of 2010''.

(b) DEFINITIONS.—In this section:

(1) AMENDED COMPLAINT.—The term ''Amended Complaint'' means the Amended Complaint attached to the Settlement.

(2) LAND CONSOLIDATION PROGRAM.—The term ''Land Consolidation Program'' means a program conducted in accordance with the Settlement and the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) under which the Secretary may purchase fractional interests in trust or restricted land.

(3) LITIGATION.—The term ''Litigation'' means the case entitled Elouise Cobell et al. v. Ken Salazar et al., United States District Court, District of Columbia, Civil Action No. 96–1285 (JR).

(4) PLAINTIFF.—The term ''Plaintiff'' means a member of any class certified in the Litigation.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SETTLEMENT.—The term ''Settlement'' means the Class Action Settlement Agreement dated December 7, 2009, in the Litigation, as modified by the parties to the Litigation.

(7) TRUST ADMINISTRATION CLASS.—The term ''Trust Administration Class'' means the Trust Administration Class as defined in the Settlement.

(c) PURPOSE.—The purpose of this section is to authorize the Settlement.

(d) AUTHORIZATION.—The Settlement is authorized, ratified, and confirmed.

(e) JURISDICTIONAL PROVISIONS.—

(1) IN GENERAL.—Notwithstanding the limitation of jurisdiction of district courts contained in section 1346(a)(2) of title 28, United States Code, the United States District Court for the District of Columbia shall have jurisdiction over the claims asserted in the Amended Complaint for purposes of the Settlement.

(2) CERTIFICATION OF TRUST ADMINISTRATION CLASS.—

(A) IN GENERAL.—Notwithstanding the requirements of the Federal Rules of Civil Procedure, the court overseeing the Litigation may certify the Trust Administration Class.

(B) TREATMENT.—On certification under subparagraph (A), the Trust Administration Class shall be treated as a class under Federal Rule of Civil Procedure 23(b)(3) for purposes of the Settlement.

(f) TRUST LAND CONSOLIDATION.—

(1) TRUST LAND CONSOLIDATION FUND.—

(A) ESTABLISHMENT.—On final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Trust Land Consolidation Fund''.

(B) AVAILABILITY OF AMOUNTS.—Amounts in the Trust Land Consolidation Fund shall be made available to the Secretary during the 10-year period beginning on the date of final approval of the Settlement—

(i) to conduct the Land Consolidation Program; and

(ii) for other costs specified in the Settlement.

(C) DEPOSITS.—

(i) IN GENERAL.—On final approval (as defined in the Settlement) of the Settlement, the Secretary of the Treasury shall deposit in the Trust Land Consolidation Fund $2,000,000,000 of the amounts appropriated by section 1304 of title 31, United States Code.

(ii) CONDITIONS MET.—The conditions described in section 1304 of title 31, United States Code, shall be considered to be met for purposes of clause (i).

(D) TRANSFERS.—In a manner designed to encourage participation in the Land Consolidation Program, the Secretary may transfer, at the discretion of the Secretary, not more than $60,000,000 of amounts in the Trust Land Consolidation Fund to the Indian Education Scholarship Holding Fund established under paragraph 2.

(2) INDIAN EDUCATION SCHOLARSHIP HOLDING FUND.—

(A) ESTABLISHMENT.—On the final approval (as defined in the Settlement) of the Settlement, there shall be established in the Treasury of the United States a fund, to be known as the ''Indian Education Scholarship Holding Fund''.

(B) AVAILABILITY.—Notwithstanding any other provision of law governing competition, public notification, or Federal procurement or assistance, amounts in the Indian Education Scholarship Holding Fund shall be made available, without further appropriation, to the Secretary to contribute to an Indian Education Scholarship Fund, as described in the Settlement, to provide scholarships for Native Americans.

(3) ACQUISITION OF TRUST OR RESTRICTED LAND.—The Secretary may acquire, at the discretion of the Secretary and in accordance with the Land Consolidation Program, any fractional interest in trust or restricted land.

(4) TREATMENT OF UNLOCATABLE PLAINTIFFS.—A Plaintiff the whereabouts of whom are unknown and who, after reasonable efforts by the Secretary, cannot be located during the 5 year period beginning on the date of final approval (as defined in the Settlement) of the Settlement shall be considered to have accepted an offer made pursuant to the Land Consolidation Program.

(g) TAXATION AND OTHER BENEFITS.—

(1) INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement—

(A) shall not be included in gross income; and

(B) shall not be taken into consideration for purposes of applying any provision of the Internal Revenue Code of 1986 that takes into account excludable income in computing adjusted gross income or modified adjusted gross income, including section 86 of that Code (relating to Social Security and tier 1 railroad retirement benefits).

(2) OTHER BENEFITS.—Notwithstanding any other provision of law, for purposes of determining initial eligibility, ongoing eligibility, or level of benefits under any Federal or federally assisted program, amounts received by an individual Indian as a lump sum or a periodic payment pursuant to the Settlement shall not be treated for any household member, during the 1-year period beginning on the date of receipt—

(A) as income for the month during which the amounts were received; or

(B) as a resource.

SEC. 608. APPROPRIATION OF FUNDS FOR FINAL SETTLEMENT OF CLAIMS FROM IN RE BLACK FARMERS DISCRIMINATION LITIGATION.

(a) DEFINITIONS.—In this section:

(1) SETTLEMENT AGREEMENT.—The term ''Settlement Agreement'' means the settlement agreement dated February 18, 2010 (including any modifications agreed to by the parties and approved by the court under that agreement) between certain plaintiffs, by and through their counsel, and the Secretary of Agriculture to resolve, fully and forever, the claims raised or that could have been raised in the cases consolidated in *In re Black Farmers Discrimination Litigation*, No. 08–511 (D.D.C.), including Pigford claims asserted under section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209).

(2) PIGFORD CLAIM.—The term ''Pigford claim'' has the meaning given that term in section 14012(a)(3) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2210).

(b) APPROPRIATION OF FUNDS.—There is hereby appropriated to the Secretary of Agriculture $1,150,000,000, to remain available until expended, to carry out the terms of the Settlement Agreement if the Settlement Agreement is approved by a court order that is or becomes final and nonappealable. The

funds appropriated by this subsection are in addition to the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2212) and shall be available for obligation only after those Commodity Credit Corporation funds are fully obligated. If the Settlement Agreement is not approved as provided in this subsection, the $100,000,000 of funds of the Commodity Credit Corporation made available by section 14012(i) of the Food, Conservation, and Energy Act of 2008 shall be the sole funding available for Pigford claims.

(c) USE OF FUNDS.—The use of the funds appropriated by subsection (b) shall be subject to the express terms of the Settlement Agreement.

(d) TREATMENT OF REMAINING FUNDS.—If any of the funds appropriated by subsection (b) are not obligated and expended to carry out the Settlement Agreement, the Secretary of Agriculture shall return the unused funds to the Treasury and may not make the unused funds available for any purpose related to section 14012 of the Food, Conservation, and Energy Act of 2008, for any other settlement agreement executed in *In re Black Farmers Discrimination Litigation*, No. 08–511 (D.D.C.), or for any other purpose.

(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed as requiring the United States, any of its officers or agencies, or any other party to enter into the Settlement Agreement or any other settlement agreement. Nothing in this section shall be construed as creating the basis for a Pigford claim.

(f) CONFORMING AMENDMENTS.—Section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) is amended—

(1) in subsection (c)(1)—

(A) by striking ''subsection (h)'' and inserting ''subsection (g)''; and

(B) by striking ''subsection (i)'' and inserting ''subsection (h)'';

(2) by striking subsection (e);

(3) in subsection (g), by striking ''subsection (f)'' and inserting ''subsection (e)'';

(4) in subsection (i)—

(A) by striking ''(1) IN GENERAL.—Of the funds'' and inserting ''Of the funds''; and

(B) by striking paragraph (2);

(5) by striking subsection (j); and

(6) by redesignating subsections (f), (g), (h), (i), and (k) as subsections (e), (f), (g), (h), and (i), respectively.

SEC. 609. EXPANSION OF ELIGIBILITY FOR CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS' DISABILITY COMPENSATION TO INCLUDE ALL CHAPTER 61 DISABILITY RETIREES REGARDLESS OF DISABILITY RATING PERCENTAGE OR YEARS OF SERVICE.

(a) PHASED EXPANSION CONCURRENT RECEIPT.—Subsection (a) of section 1414 of title 10, United States Code, is amended to read as follows:

''(a) PAYMENT OF BOTH RETIRED PAY AND DISABILITY COMPENSATION.—

''(1) PAYMENT OF BOTH REQUIRED.—

''(A) IN GENERAL.—Subject to subsection (b), a member or former member of the uniformed services who is entitled for any month to retired pay and who is also entitled for that month to veterans' disability compensation for a qualifying service-connected disability (in this section referred to as a 'qualified retiree') is entitled to be paid both for that month without regard to sections 5304 and 5305 of title 38.

''(B) APPLICABILITY OF FULL CONCURRENT RECEIPT PHASE-IN REQUIREMENT.—During the period beginning on January 1, 2004, and ending on December 31, 2013, payment of retired pay to a qualified retiree is subject to subsection (c).

''(C) PHASE-IN EXCEPTION FOR 100 PERCENT DISABLED RETIREES.—The payment of retired pay is subject to subsection (c) only during the period beginning on January 1, 2004, and ending on December 31, 2004, in the case of the following qualified retirees:

''(i) A qualified retiree receiving veterans' disability compensation for a disability rated as 100 percent.

''(ii) A qualified retiree receiving veterans' disability compensation at the rate payable for a 100 percent disability by reason of a determination of individual unemployability.

''(D) TEMPORARY PHASE-IN EXCEPTION FOR CERTAIN CHAPTER 61 DISABILITY RETIREES; TERMINATION.—Subject to subsection (b), during the period beginning on January 1, 2011, and ending on September 30, 2012, subsection (c) shall not apply to a qualified retiree described in subparagraph (B) or (C) of paragraph (2).

''(2) QUALIFYING SERVICE-CONNECTED DISABILITY DEFINED.—In this section:

''(A) 50 PERCENT RATING THRESHOLD.—In the case of a member or former member receiving retired pay under any provision of law other than chapter 61 of this title, or under chapter 61 with 20 years or more of service otherwise creditable under section 1405 or computed under section 12732 of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated as not less than 50 percent disabling by the Secretary of Veterans Affairs. However, during the period specified in paragraph (1)(D), members or former members receiving retired pay under chapter 61 with 20 years or more of creditable service computed under section 12732 of this title, but not otherwise entitled to retired pay under any other provision of this title, shall qualify in accordance with subparagraphs (B) and (C).

''(B) INCLUSION OF MEMBERS NOT OTHERWISE ENTITLED TO RETIRED PAY.—In the case of a member or former member receiving retired pay under chapter 61 of this title, but who is not otherwise entitled to retired pay under any other provision of this title, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2011, rated 100 percent, or a rate payable at 100 percent by reason of individual unemployability or rated 90 percent.

''(ii) January 1, 2012, rated 80 percent or 70 percent.

''(iii) January 1, 2013, rated 60 percent or 50 percent.

''(C) ELIMINATION OF RATING THRESHOLD.—In the case of a member or former member receiving retired pay under chapter 61 regardless of being otherwise eligible for retirement, the term 'qualifying service-connected disability' means a service-connected disability or combination of service-connected disabilities that is rated by the Secretary of Veterans Affairs at the disabling level specified in one of the following clauses (which, subject to paragraph (3), is effective on or after the date specified in the applicable clause):

''(i) January 1, 2014, rated 40 percent or 30 percent.

''(ii) January 1, 2015, any rating.

''(3) LIMITED DURATION.—Notwithstanding the effective date specified in each clause of subparagraphs (B) and (C) of paragraph (2), the clause—

''(A) shall apply only if the termination date specified in paragraph (1)(D) would occur during or after the calendar year specified in the clause; and

''(B) shall not apply beyond the termination date specified in paragraph (1)(D).''.

(b) CONFORMING AMENDMENT TO SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—Subsection (b) of such section is amended to read as follows:

''(b) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES WHEN ELIGIBILITY HAS BEEN ESTABLISHED FOR SUCH RETIREES.—

''(1) GENERAL REDUCTION RULE.—The retired pay of a member retired under chapter 61 of this title is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the members retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member's service in the uniformed services if the member had not been retired under chapter 61 of this title.

''(2) CHAPTER 61 RETIREES NOT OTHERWISE ENTITLED TO RETIRED PAY.—

''(A) BEFORE TERMINATION DATE.—If a member with a qualifying service-connected disability (as defined in subsection (a)(2)) is retired under chapter 61 of this title, but is not otherwise entitled to retired pay under any other provision of this title, and the termination date specified in subsection (a)(1)(D) has not occurred, the retired pay of the member is subject to reduction under sections 5304 and 5305 of title 38, but only to the extent that the amount of the member's retired pay under chapter 61 of this title exceeds the amount equal to 2½ percent of the member's years of creditable service multiplied by the member's retired pay base under section 1406(b)(1) or 1407 of this title, whichever is applicable to the member.

''(B) AFTER TERMINATION DATE.—Subsection (a) does not apply to a member described in subparagraph (A) if the termination date specified in subsection (a)(1)(D) has occurred.''.

(c) CONFORMING AMENDMENT TO FULL CONCURRENT RECEIPT PHASE-IN.—Subsection (c) of such section is amended by striking ''the second sentence of''.

(d) CLERICAL AMENDMENTS.—

(1) SECTION HEADING.—The heading of such section is amended to read as follows:

''§ 1414. Concurrent receipt of retired pay and veterans' disability compensation''.

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 71 of such title is amended by striking the item related to section 1414 and inserting the following new item:

''1414. Concurrent receipt of retired pay and veterans' disability compensation.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2011.

SEC. 610. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 6 of the Continuing Extension Act of 2010 (Public Law 111–157), is amended—

(1) by striking ''before May 31, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 611. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.

''(b) TERMINATION.—Subsection (a) shall not apply to any amount received after December 31, 2010.''.

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 6409. Refunds disregarded in the administration of Federal programs and federally assisted programs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 2009.

SEC. 612. STATE COURT IMPROVEMENT PROGRAM.

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended—

(1) in subsection (c)(2)(A), by striking ''2010'' and inserting ''2011''; and

(2) in subsection (e), by striking ''2010'' and inserting ''2011''.

SEC. 613. QUALIFYING TIMBER CONTRACT OPTIONS.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING CONTRACT.—The term ''qualifying contract'' means a contract that has not been terminated by the Bureau of Land Management for the sale of timber on lands administered by the Bureau of Land Management that meets all of the following criteria:

(A) The contract was awarded during the period beginning on January 1, 2005, and ending on December 31, 2008.

(B) There is unharvested volume remaining for the contract.

(C) The contract is not a salvage sale.

(D) The Secretary determined there is not an urgent need to harvest under the contract due to deteriorating timber conditions that developed after the award of the contract.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) TIMBER PURCHASER.—The term ''timber purchaser'' means the party to the qualifying contract for the sale of timber from lands administered by the Bureau of Land Management.

(b) MARKET-RELATED CONTRACT EXTENSION OPTION.—Upon a timber purchaser's written request, the Secretary may make a one-time modification to the qualifying contract to add 3 years to the contract expiration date if the written request—

(1) is received by the Secretary not later than 90 days after the date of enactment of this Act; and

(2) contains a provision releasing the United States from all liability, including further consideration or compensation, resulting from the modification under this subsection of the term of a qualifying contract.

(c) REPORTING.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report detailing a plan and timeline to promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(d) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall promulgate new regulations authorizing the Bureau of Land Management to extend timber contracts due to changes in market conditions.

(e) NO SURRENDER OF CLAIMS.—This section shall not have the effect of surrendering any claim by the United States against any timber purchaser that arose under a timber sale contract, including a qualifying contract, before the date on which the Secretary adjusts the contract term under subsection (b).

SEC. 614. EXTENSION AND FLEXIBILITY FOR CERTAIN ALLOCATED SURFACE TRANSPORTATION PROGRAMS.

(a) MODIFICATION OF ALLOCATION RULES.—Section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 80) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''1301, 1302,''; and

(ii) by striking ''1198, 1204,''; and

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking ''apportioned under sections 104(b) and 144 of title 23, United States Code,'' and inserting ''specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program),''; and

(ii) in clause (ii) by striking ''apportioned under such sections of such Code'' and inserting ''specified in such section 105(a)(2) (except the high priority projects program)''; and

(3) by adding at the end the following:

''(5) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE AND NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAMS.—

''(A) REDISTRIBUTION AMONG STATES.—Notwithstanding sections 1301(m) and 1302(e) of SAFETEA–LU (119 Stat. 1202 and 1205), the Secretary shall apportion funds authorized to be appropriated under subsection (b) for the projects of national and regional significance program and the national corridor infrastructure improvement program among all States such that each State's share of the funds so apportioned is equal to the State's share for fiscal year 2009 of funds apportioned or allocated for the programs specified in section 105(a)(2) of title 23, United States Code.

''(B) DISTRIBUTION AMONG PROGRAMS.—Funds apportioned to a State pursuant to subparagraph (A) shall be—

''(i) made available to the State for the programs specified in section 105(a)(2) of title 23, United States Code (except the high priority projects program), and in the same proportion for each such program that—

''(I) the amount apportioned to the State for that program for fiscal year 2009; bears to

''(II) the amount apportioned to the State for fiscal year 2009 for all such programs; and

''(ii) administered in the same manner and with the same period of availability as funding is administered under programs identified in clause (i).''.

(b) EXPENDITURE AUTHORITY FROM HIGHWAY TRUST FUND.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended by striking ''Surface Transportation Extension Act of 2010'' and inserting ''American Jobs and Closing Tax Loopholes Act of 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of enactment of the Surface Transportation Extension Act of 2010 (Public Law 111–147; 124 Stat. 78 et seq.) and shall be treated as being included in that Act at the time of the enactment of that Act.

(d) SAVINGS CLAUSE.—

(1) IN GENERAL.—For fiscal year 2010 and for the period beginning on October 1, 2010, and ending on December 31, 2010, the amount of funds apportioned to each State under section 411(d) of the Surface Transportation Extension Act of 2010 (Public Law 111–147) that is determined by the amount that the State received or was authorized to receive for fiscal year 2009 to carry out the projects of national and regional significance program and national corridor infrastructure improvement program shall be the greater of—

(A) the amount that the State was authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program according to the provisions of that Act, as in effect on the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive under section 411(d) of the Surface Transportation Extension Act of 2010 with respect to each such program pursuant to the provisions of that Act, as amended by the amendments made by this section.

(2) OBLIGATION AUTHORITY.—For fiscal year 2010, the amount of obligation authority distributed to each State shall be the greater of—

(A) the amount that the State was authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the day before the date of enactment of this Act; or

(B) the amount that the State is authorized to receive pursuant to section 120(a)(4)(A) (as it pertains to the Appalachian Development Highway System program) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117) and sections 120(a)(4)(B) and 120(a)(6) of such title, as of the date of enactment of this Act.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection.

(4) INCREASE IN OBLIGATION LIMITATION.—The limitation under the heading ''Federal-aid Highways (Limitation on Obligations) (Highway Trust Fund)'' in Public Law 111–117 is increased by such sums as may be necessary to carry out this subsection.

(5) CONTRACT AUTHORITY.—Funds made available to carry out this subsection shall be available for obligation and administered in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(6) AMOUNTS.—The dollar amount specified in section 105(d)(1) of title 23, United States Code, the dollar amount specified in section 120(a)(4)(B) of title I of division A of the Consolidated Appropriations Act, 2010 (Public Law 111–117), and the dollar amount specified in section 120(b)(10) of such title shall each

be increased as necessary to carry out this subsection.

SEC. 615. COMMUNITY COLLEGE AND CAREER TRAINING GRANT PROGRAM.

(a) IN GENERAL.—Section 278(a) of the Trade Act of 1974 (19 U.S.C. 2372(a)) is amended by adding at the end the following:

''(3) RULE OF CONSTRUCTION.—For purposes of this section, any reference to 'workers', 'workers eligible for training under section 236', or any other reference to workers under this section shall be deemed to include individuals who are, or are likely to become, eligible for unemployment compensation as defined in section 85(b) of the Internal Revenue Code of 1986, or who remain unemployed after exhausting all rights to such compensation.''.

(b) DEFINITION OF ELIGIBLE INSTITUTION.—Section 278(b)(1) of the Trade Act of 1974 (19 U.S.C. 2372(b)(1)) is amended—

(1) by striking ''section 102'' and inserting ''section 101(a)''; and

(2) by striking ''1002'' and inserting ''1001(a)''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 279 of the Trade Act of 1974 (19 U.S.C. 2372a) is amended—

(1) in subsection (a), by striking the last sentence; and

(2) by adding at the end the following:

''(c) ADMINISTRATIVE AND RELATED COSTS.—The Secretary may retain not more than 5 percent of the funds appropriated under subsection (b) for each fiscal year to administer, evaluate, and establish reporting systems for the Community College and Career Training Grant program under section 278.

''(d) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under subsection (b) shall be used to supplement and not supplant other Federal, State, and local public funds expended to support community college and career training programs.

''(e) AVAILABILITY.—Funds appropriated under subsection (b) shall remain available for the fiscal year for which the funds are appropriated and the subsequent fiscal year.''.

SEC. 616. EXTENSIONS OF DUTY SUSPENSIONS ON COTTON SHIRTING FABRICS AND RELATED PROVISIONS.

(a) EXTENSIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective date column and inserting ''12/31/2013'':

(1) Heading 9902.52.08 (relating to woven fabrics of cotton).

(2) Heading 9902.52.09 (relating to woven fabrics of cotton).

(3) Heading 9902.52.10 (relating to woven fabrics of cotton).

(4) Heading 9902.52.11 (relating to woven fabrics of cotton).

(5) Heading 9902.52.12 (relating to woven fabrics of cotton).

(6) Heading 9902.52.13 (relating to woven fabrics of cotton).

(7) Heading 9902.52.14 (relating to woven fabrics of cotton).

(8) Heading 9902.52.15 (relating to woven fabrics of cotton).

(9) Heading 9902.52.16 (relating to woven fabrics of cotton).

(10) Heading 9902.52.17 (relating to woven fabrics of cotton).

(11) Heading 9902.52.18 (relating to woven fabrics of cotton).

(12) Heading 9902.52.19 (relating to woven fabrics of cotton).

(13) Heading 9902.52.20 (relating to woven fabrics of cotton).

(14) Heading 9902.52.21 (relating to woven fabrics of cotton).

(15) Heading 9902.52.22 (relating to woven fabrics of cotton).

(16) Heading 9902.52.23 (relating to woven fabrics of cotton).

(17) Heading 9902.52.24 (relating to woven fabrics of cotton).

(18) Heading 9902.52.25 (relating to woven fabrics of cotton).

(19) Heading 9902.52.26 (relating to woven fabrics of cotton).

(20) Heading 9902.52.27 (relating to woven fabrics of cotton).

(21) Heading 9902.52.28 (relating to woven fabrics of cotton).

(22) Heading 9902.52.29 (relating to woven fabrics of cotton).

(23) Heading 9902.52.30 (relating to woven fabrics of cotton).

(24) Heading 9902.52.31 (relating to woven fabrics of cotton).

(b) EXTENSION OF DUTY REFUNDS AND PIMA COTTON TRUST FUND; MODIFICATION OF AFFIDAVIT REQUIREMENTS.—Section 407 of title IV of division C of the Tax Relief and Health Care Act of 2006 (Public Law 109–432; 120 Stat. 3060) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''amounts determined by the Secretary'' and all that follows through ''5208.59.80'' and inserting ''amounts received in the general fund that are attributable to duties received since January 1, 2004, on articles classified under heading 5208''; and

(B) in paragraph (2), by striking ''October 1, 2008'' and inserting ''December 31, 2013'';

(2) in subsection (d)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''imported cotton fabric''; and

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ''annually'' after ''provided''; and

(B) in paragraph (1), by inserting ''during the year in which the affidavit is filed and'' after ''United States''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and apply with respect to affidavits filed on or after such date of enactment.

SEC. 617. MODIFICATION OF WOOL APPAREL MANUFACTURERS TRUST FUND.

(a) IN GENERAL.—Section 4002(c)(2)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429; 118 Stat. 2600) is amended by striking ''chapter 51'' and inserting ''chapter 62''.

(b) FULL RESTORATION OF PAYMENT LEVELS IN FISCAL YEAR 2010.—

(1) TRANSFER OF AMOUNTS.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Treasury shall transfer to the Wool Apparel Manufacturers Trust Fund, out of the general fund of the Treasury of the United States, amounts determined by the Secretary of the Treasury to be equivalent to amounts received in the general fund that are attributable to the duty received on articles classified under chapter 62 of the Harmonized Tariff Schedule of the United States, subject to the limitation in subparagraph (B).

(B) LIMITATION.—The Secretary of the Treasury shall not transfer more than the amount determined by the Secretary to be necessary for—

(i) U.S. Customs and Border Protection to make payments to eligible manufacturers under section 4002(c)(3) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amount of such payments, when added to any other payments made to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010, equal the total amount of payments authorized to be provided to eligible manufacturers under section 4002(c)(3) of such Act for calendar year 2010; and

(ii) the Secretary of Commerce to provide grants to eligible manufacturers under section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004 so that the amounts of such grants, when added to any other grants made to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010, equal the total amount of grants authorized to be provided to eligible manufacturers under section 4002(c)(6) of such Act for calendar year 2010.

(2) PAYMENT OF AMOUNTS.—U.S. Customs and Border Protection shall make payments described in paragraph (1) to eligible manufacturers not later than 30 days after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund. The Secretary of Commerce shall promptly provide grants described in paragraph (1) to eligible manufacturers after such transfer of amounts from the general fund of the Treasury of the United States to the Wool Apparel Manufacturers Trust Fund.

(c) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of amounts transferred to the Wool Apparel Manufacturers Trust Fund before the date of the enactment of this Act.

SEC. 618. DEPARTMENT OF COMMERCE STUDY.

Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall report to Congress detailing—

(1) the pattern of job loss in the New England, Mid-Atlantic, and Midwest States over the past 20 years;

(2) the role of the off-shoring of manufacturing jobs in overall job loss in the regions; and

(3) recommendations to attract industries and bring jobs to the region.

SEC. 619. ARRA PLANNING AND REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) in subsection (d)—

(A) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(B) by striking ''Not later than'' and inserting the following:

''(1) DEFINITION.—In this subsection, the term 'covered program' means a program for which funds are appropriated under this division—

''(A) in an amount that is—

''(i) more than $2,000,000,000; and

''(ii) more than 150 percent of the funds appropriated for the program for fiscal year 2008; or

''(B) that did not exist before the date of enactment of this Act.

''(2) PLANS.—Not later than July 1, 2010, the head of each agency that distributes recovery funds shall submit to Congress and make available on the website of the agency a plan for each covered program, which shall, at a minimum, contain—

''(A) a description of the goals for the covered program using recovery funds;

''(B) a discussion of how the goals described in subparagraph (A) relate to the goals for ongoing activities of the covered program, if applicable;

''(C) a description of the activities that the agency will undertake to achieve the goals described in subparagraph (A);

''(D) a description of the total recovery funding for the covered program and the recovery funding for each activity under the covered program, including identifying whether the activity will be carried out using grants, contracts, or other types of funding mechanisms;

''(E) a schedule of milestones for major phases of the activities under the covered program, with planned delivery dates;

''(F) performance measures the agency will use to track the progress of each of the activities under the covered program in meeting the goals described in subparagraph (A), including performance targets, the frequency of measurement, and a description of the methodology for each measure;

''(G) a description of the process of the agency for the periodic review of the progress of the covered program towards meeting the goals described in subparagraph (A); and

''(H) a description of how the agency will hold program managers accountable for achieving the goals described in subparagraph (A).

''(3) REPORTS.—

''(A) IN GENERAL.—Not later than''; and

(C) by adding at the end the following:

''(B) REPORTS ON PLANS.—Not later than 30 days after the end of the calendar quarter ending September 30, 2010, and every calendar quarter thereafter during which the agency obligates or expends recovery funds, the head of each agency that developed a plan for a covered program under paragraph (2) shall submit to Congress and make available on a website of the agency a report for each covered program that—

''(i) discusses the progress of the agency in implementing the plan;

''(ii) describes the progress towards achieving the goals described in paragraph (2)(A) for the covered program;

''(iii) discusses the status of each activity carried out under the covered program, including whether the activity is completed;

''(iv) details the unobligated and unexpired balances and total obligations and outlays under the covered program;

''(v) discusses—

''(I) whether the covered program has met the milestones for the covered program described in paragraph (2)(E);

''(II) if the covered program has failed to meet the milestones, the reasons why; and

''(III) any changes in the milestones for the covered program, including the reasons for the change;

''(vi) discusses the performance of the covered program, including—

''(I) whether the covered program has met the performance measures for the covered program described in paragraph (2)(F);

''(II) if the covered program has failed to meet the performance measures, the reasons why; and

''(III) any trends in information relating to the performance of the covered program; and

''(vii) evaluates the ability of the covered program to meet the goals of the covered program given the performance of the covered program.'';

(2) in subsection (f)—

(A) by striking ''Within 180 days'' and inserting the following:

''(1) IN GENERAL.—Within 180 days''; and

(B) by adding at the end the following:

''(2) PENALTIES.—

''(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the Attorney General may bring a civil action in an appropriate United States district court against a recipient of recovery funds from an agency that does not provide the information required under subsection (c) or knowingly provides information under subsection (c) that contains a material omission or misstatement. In a civil action under this paragraph, the court may impose a civil penalty on a recipient of recovery funds in an amount not more than $250,000. Any amounts received from a civil penalty under this paragraph shall be deposited in the general fund of the Treasury.

''(B) NOTIFICATION.—

''(i) IN GENERAL.—The head of an agency shall provide a written notification to a recipient of recovery funds from the agency that fails to provide the information required under subsection (c). A notification under this subparagraph shall provide the recipient with information on how to comply with the necessary reporting requirements and notice of the penalties for failing to do so.

''(ii) LIMITATION.—A court may not impose a civil penalty under subparagraph (A) relating to the failure to provide information required under subsection (c) if, not later than 31 days after the date of the notification under clause (i), the recipient of the recovery funds provides the information.

''(C) CONSIDERATIONS.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, a court shall consider—

''(i) the number of times the recipient has failed to provide the information required under subsection (c);

''(ii) the amount of recovery funds provided to the recipient;

''(iii) whether the recipient is a government, nonprofit entity, or educational institution; and

''(iv) whether the recipient is a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)), with particular consideration given to businesses with not more than 50 employees.

''(D) APPLICABILITY.—This paragraph shall apply to any report required to be submitted on or after the date of enactment of this paragraph.

''(E) NONEXCLUSIVITY.—The imposition of a civil penalty under this subsection shall not preclude any other criminal, civil, or administrative remedy available to the United States or any other person under Federal or State law.

''(3) TECHNICAL ASSISTANCE.—Each agency distributing recovery funds shall provide technical assistance, as necessary, to assist recipients of recovery funds in complying with the requirements to provide information under subsection (c), which shall include providing recipients with a reminder regarding each reporting requirement.

''(4) PUBLIC LISTING.—

''(A) IN GENERAL.—Not later than 45 days after the end of each calendar quarter, and subject to the notification requirements under paragraph (2)(B), the Board shall make available on the website established under section 1526 a list of all recipients of recovery funds that did not provide the information required under subsection (c) for the calendar quarter.

''(B) CONTENTS.—A list made available under subparagraph (A) shall, for each recipient of recovery funds on the list, include the name and address of the recipient, the identification number for the award, the amount of recovery funds awarded to the recipient, a description of the activity for which the recovery funds were provided, and, to the extent known by the Board, the reason for noncompliance.

''(5) REGULATIONS AND REPORTING.—

''(A) REGULATIONS.—Not later than 90 days after the date of enactment of this paragraph, the Attorney General, in consultation with the Director of the Office of Management and Budget and the Chairperson, shall promulgate regulations regarding implementation of this section.

''(B) REPORTING.—

''(i) IN GENERAL.—Not later than July 1, 2010, and every 3 months thereafter, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall submit to Congress a report on the extent of noncompliance by recipients of recovery funds with the reporting requirements under this section.

''(ii) CONTENTS.—Each report submitted under clause (i) shall include—

''(I) information, for the quarter and in total, regarding the number and amount of civil penalties imposed and collected under this subsection, sorted by agency and program;

''(II) information on the steps taken by the Federal Government to reduce the level of noncompliance; and

''(III) any other information determined appropriate by the Director.''; and

(3) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

SEC. 620. AMENDMENT OF TRAVEL PROMOTION ACT OF 2009.

(a) TRAVEL PROMOTION FUND FEES.—Section 217(h)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)) is amended—

(1) by striking ''subsection (d) of section 11 of the Travel Promotion Act of 2009.'' in clause (ii) and inserting ''subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)).''; and

(2) by striking ''September 30, 2014.'' in clause (iii) and inserting ''September 30, 2015.''.

(b) IMPLEMENTATION BEGINNING IN FISCAL YEAR 2011.—Subsection (d) of the Travel Promotion Act of 2009 (22 U.S.C. 2131(d)) is amended—

(1) by striking ''For fiscal year 2010, the'' in paragraph (2)(A) and inserting ''The'';

(2) by striking ''quarterly, beginning on January 1, 2010,'' in paragraph (2)(A) and inserting ''monthly, immediately following the collection of fees under section 217(h)(3)(B)(i)(I) of the Immigration and Nationality Act (8 U.S.C. 1187(h)(3)(B)(i)(I),'';

(3) by striking ''fiscal years 2011 through 2014,'' in paragraph (2)(B) and inserting ''fiscal years 2012 through 2015,'';

(4) by striking ''fiscal year 2010,'' in paragraph (3)(A) and inserting ''fiscal year 2011,'';

(5) by striking ''fiscal year 2011,'' each place it appears in paragraph (3)(A) and inserting ''fiscal year 2012,''; and

(6) by striking ''fiscal year 2010, 2011, 2012, 2013, or 2014'' in paragraph (4)(B) and inserting ''fiscal year 2011, 2012, 2013, 2014, or 2015''.

SEC. 621. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

''(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

''(A) in the case of a listed transaction, $200,000 ($100,000 in the case of a natural person), or

''(B) in the case of any other reportable transaction, $50,000 ($10,000 in the case of a natural person).

''(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than $10,000 ($5,000 in the case of a natural person).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

SEC. 622. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.

TITLE VII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. 701. SHORT TITLE.

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

SEC. 702. DEFINITIONS.

In this title:

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

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

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

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

SEC. 703. SENSE OF CONGRESS.

It is the sense of Congress that—

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

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

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

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

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

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

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

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

SEC. 704. QUARTERLY REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

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

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

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

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

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

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

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

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

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

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

SEC. 705. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

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

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

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

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

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

SEC. 706. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE AND UNSUSTAINABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

In any case in which the President determines under section 704(b)(4)(C) that a foreign country's holdings of debt instruments of the United States pose an unacceptable risk to the long-term national security or economic stability of the United States, the President shall, within 30 days of the determination—

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

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

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

TITLE VIII—TRANSPARENCY REQUIREMENTS FOR FOREIGN-HELD DEBT

SEC. 801. SHORT TITLE.

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

SEC. 802. DEFINITIONS.

In this title:

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

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

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

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

SEC. 803. SENSE OF CONGRESS.

It is the sense of Congress that—

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

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

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

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

SEC. 804. ANNUAL REPORT ON RISKS POSED BY FOREIGN HOLDINGS OF DEBT INSTRUMENTS OF THE UNITED STATES.

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

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

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

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

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

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

SEC. 805. ANNUAL REPORT ON RISKS POSED BY THE FEDERAL DEBT OF THE UNITED STATES.

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

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

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

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

SEC. 806. CORRECTIVE ACTION TO ADDRESS UNACCEPTABLE RISKS TO UNITED STATES NATIONAL SECURITY AND ECONOMIC STABILITY.

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

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

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

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

TITLE IX—OFFICE OF THE HOMEOWNER ADVOCATE

SEC. 901. OFFICE OF THE HOMEOWNER ADVOCATE.

(a) ESTABLISHMENT.—There is established in the Department of the Treasury an office to be known as the ''Office of the Homeowner Advocate'' (in this title referred to as the ''Office'').

(b) DIRECTOR.—

(1) IN GENERAL.—The Director of the Office of the Homeowner Advocate (in this title referred to as the ''Director'') shall report directly to the Assistant Secretary of the Treasury for Financial Stability, and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code.

(2) APPOINTMENT.—The Director shall be appointed by the Secretary, after consultation with the Secretary of the Department of Housing and Urban Development, and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

(3) QUALIFICATIONS.—An individual appointed under paragraph (2) shall have—

(A) experience as an advocate for homeowners; and

(B) experience dealing with mortgage servicers.

(4) RESTRICTION ON EMPLOYMENT.—An individual may be appointed as Director only if such individual was not an officer or employee of either a mortgage servicer or the Department of the Treasury during the 4-year period preceding the date of such appointment.

(5) HIRING AUTHORITY.—The Director shall have the authority to hire staff, obtain support by contract, and manage the budget of the Office of the Homeowner Advocate.

SEC. 902. FUNCTIONS OF THE OFFICE.

(a) IN GENERAL.—It shall be the function of the Office—

(1) to assist homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary, authorized under the Emergency Economic Stabilization Act of 2008 (in this title referred to as the ''Home Affordable Modification Program'')

(2) to identify areas, both individual and systematic, in which homeowners, housing counselors, and housing lawyers have problems in dealings with the Home Affordable Modification Program;

(3) to the extent possible, to propose changes in the administrative practices of the Home Affordable Modification Program, to mitigate problems identified under paragraph (2);

(4) to identify potential legislative changes which may be appropriate to mitigate such problems; and

(5) to implement other programs and initiatives that the Director deems important to assisting homeowners, housing counselors, and housing lawyers in resolving problems with the Home Affordable Modification Program, which may include—

(A) running a triage hotline for homeowners at risk of foreclosure;

(B) providing homeowners with access to housing counseling programs of the Department of Housing and Urban Development at no cost to the homeowner;

(C) developing Internet tools related to the Home Affordable Modification Program; and

(D) developing training and educational materials.

(b) AUTHORITY.—

(1) IN GENERAL.—Staff designated by the Director shall have the authority to implement servicer remedies, on a case-by-case basis, subject to the approval of the Assistant Secretary of the Treasury for Financial Stability.

(2) RESOLUTION OF HOMEOWNER CONCERNS.—The Office shall, to the extent possible, resolve all homeowner concerns not later than 30 days after the opening of a case with such homeowner.

(c) COMMENCEMENT OF OPERATIONS.—The Office shall commence its operations, as required by this title, not later than 3 months after the date of enactment of this Act.

(d) SUNSET.—The Office shall cease operations as of the date on which the Home Affordable Modification Program ceases to operate.

SEC. 903. RELATIONSHIP WITH EXISTING ENTITIES.

(a) TRANSFER.—The Office shall coordinate and centralize all complaint escalations relating to the Home Affordable Modification Program.

(b) HOTLINE.—The HOPE hotline (or any successor triage hotline) shall reroute all complaints relating to the Home Affordable Modification Program to the Office.

(c) COORDINATION.—The Office shall coordinate with the compliance office of the Office of Financial Stability of the Department of the Treasury and the Homeownership Preservation Office of the Department of the Treasury.

SEC. 904. RULE OF CONSTRUCTION.

Nothing in this section shall prohibit a mortgage servicer from evaluating a homeowner for eligibility under the Home Affordable Foreclosure Alternatives Program while a case is still open with the Office of the Homeowner Advocate. Nothing in this section may be construed to relieve any loan services from otherwise applicable rules, directives, or similar guidance under the Home Affordable Modification Program relating to the continuation or completion of foreclosure proceedings.

SEC. 905. REPORTS TO CONGRESS.

(a) TESTIMONY.—The Director shall be available to testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not less frequently than 4 times a year, or at any time at the request of the Chairs of either committee.

(b) REPORTS.—Once annually, the Director shall provide a detailed report to Congress on the Home Affordable Modification Program. Such report shall contain full and substantive analysis, in addition to statistical information, including, at a minimum—

(1) data and analysis of the types and volume of complaints received from homeowners, housing counselors, and housing lawyers, broken down by category of servicer, except that servicers may not be identified by name in the report;

(2) a summary of not fewer than 20 of the most serious problems encountered by Home Affordable Modification Program participants, including a description of the nature of such problems;

(3) to the extent known, identification of the 10 most litigated issues for Home Affordable Modification Program participants, including recommendations for mitigating such disputes;

(4) data and analysis on the resolutions of the complaints received from homeowners, housing counselors, and housing lawyers;

(5) identification of any programs or initiatives that the Office has taken to improve the Home Affordable Modification Program;

(6) recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by Home Affordable Modification Program participants; and

(7) such other information as the Director may deem advisable.

SEC. 906. FUNDING.

Amounts made available for the costs of administration of the Home Affordable Modification Program that are not otherwise obligated shall be available to carry out the duties of the Office. Funding shall be maintained at levels adequate to reasonably carry out the functions of the Office.

SEC. 907. PROHIBITION ON PARTICIPATION IN MAKING HOME AFFORDABLE FOR BORROWERS WHO STRATEGICALLY DEFAULT.

No mortgage may be modified under the Making Home Affordable Program, or with any funds from the Troubled Asset Relief Program, unless the servicer of the mortgage loan has determined, in accordance with standards and requirements established by the Secretary of the Treasury, that the mortgagor cannot afford to make payments under the terms of the existing mortgage loan. The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall issue rules to carry out this section not later than 90 days after the date of enactment of this Act.

SEC. 908. PUBLIC AVAILABILITY OF INFORMATION.

(a) PUBLIC AVAILABILITY OF DATA.—The Secretary of the Treasury shall revise the guidelines for the Home Affordable Modification Program of the Making Home Affordable initiative of the Secretary of the Treasury, authorized under the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), to establish that the data collected by the Secretary of the Treasury from each mortgage servicer and lender participating in the Program is made public in accordance with subsection (b).

(b) CONTENT.—Not more than 60 days after each monthly deadline for submission of data by mortgage servicers and lender participating in the program, the Treasury shall make all data tables available to the public at the individual record level. This data shall include but not be limited to—

(1) higher risk loans, including loans made in connection with any program to provide expanded loan approvals, shall be reported separately;

(2) disclose—

(A) the rate or pace at which such mortgages are becoming seriously delinquent;

(B) whether such rate or pace is increasing or decreasing;

(C) if there are certain subsets within the loans covered by this section that have greater or lesser rates or paces of delinquency; and

(D) if such subsets exist, the characteristics of such subset of mortgages;

(3) with respect to the loss mitigation efforts of the loan—

(A) the processes and practices that the reporter has in effect to minimize losses on mortgages covered by this section; and

(B) the manner and methods by which such processes and practices are being monitored for effectiveness;

(4) disclose, with respect to loans that are or become 60 or more days past due, (provided that for purposes of disclosure under this paragraph that each loan should have a unique number that is not the same as any loan number the borrower, originator, or servicer uses), the following attributes—

(A) the original loan amount;

(B) the current loan amount;

(C) the loan-to-value ratio and combined loan-to-value ratio, both at origination and currently, and the number of liens on the property;

(D) the property valuation at the time of origination of the loan, and all subsequent property valuations and the date of each valuation;

(E) each relevant credit score of each borrower obtained at any time in connection with the loan, with the date of the credit score, to the extent allowed by existing law;

(F) whether the loan has any mortgage or other credit insurance or guarantee;

(G) the current interest rate on such loan;

(H) any rate caps and floors if the loan is an adjustable rate mortgage loan;

(I) the adjustable rate mortgage index or indices for such loan;

(J) whether the loan is currently past due, and if so how many days such loan is past due;

(K) the total number of days the loan has been past due at any time;

(L) whether the loan is subject to a balloon payment;

(M) the date of each modification of the loan;

(N) whether any amounts of loan principal has been deferred or written off, and if so, the date and amount of each deferral and the date and amount of each writedown;

(O) whether the interest rate was changed from a rate that could adjust to a fixed rate, and if so, the period of time for which the rate will be fixed;

(P) the amount by which the interest rate on the loan was reduced, and for what period of time it was reduced;

(Q) if the interest rate was reduced or fixed for a period of time less than the remaining loan term, on what dates, and to what rates, could the rate potentially increase in the future;

(R) whether the loan term was modified, and if so, whether it was extended or shortened, and by what amount of time;

(S) whether the loan is in the process of foreclosure or similar procedure, whether judicial or otherwise; and

(T) whether a foreclosure or similar procedure, whether judicial or otherwise, has been completed.

(c) GUIDELINES AND REGULATIONS.—The Secretary of the Treasury shall establish guidelines and regulations necessary—

(1) to ensure that the privacy of individual consumers is appropriately protected in the reports under this section;

(2) to make the data reported under this subsection available on a public website with no cost to access the data, in a consistent format;

(3) to update the data no less frequently than monthly;

(4) to establish procedures for disclosing such data to the public on a public website with no cost to access the data; and

(5) to allow the Secretary to make such deletions as the Secretary may determine to be appropriate to protect any privacy interest of any loan modification applicant, including the deletion or alteration of the applicant's name and identification number.

(d) EXCEPTION.—No data shall have to be disclosed if it voids or violates existing contracts between the Secretary of Treasury and mortgage servicers as part of the Making Home Affordable Program.

TITLE X—BUDGETARY PROVISIONS

SEC. 1001. BUDGETARY PROVISIONS.

(a) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled 'Budgetary Effects of PAYGO Legislation' for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

(b) EMERGENCY DESIGNATIONS.—Sections 501 and 524—

(1) are designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 2 U.S.C. 933(g));

(2) in the House of Representatives, are designated as an emergency for purposes of pay-as-you-go principles; and

(3) in the Senate, are designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

SA 4370. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 421(c)(2) and insert the following:

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any exchange pursuant to a transaction which is—

(A) made pursuant to a written agreement which was binding on May 28, 2010 and at all times thereafter;

(B) described in a ruling request submitted to the Internal Revenue Service on or before such date; or

(C) described on or before such date in a public announcement or in a filing with the Securities and Exchange Commission.

SA 4371. Mr. CASEY (for himself and Mr. BROWN of Ohio) submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the amendment, insert the following:

SEC. ___. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) IN GENERAL.—

(1) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3(a) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by striking ''May 31, 2010'' and inserting ''November 30, 2010''.

(2) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), as amended by section 3(b) of the Continuing Extension Act of 2010 (Public Law 111–157), is amended by adding at the end the following:

''(19) ADDITIONAL RULES RELATED TO 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after June 1, 2010, and prior to the date of the enactment of this paragraph—

''(A) paragraph (2)(A)(ii)(I) shall be applied by substituting '6 months' for '15 months'; and

''(B) rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.''.

(3) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009.

(b) ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.—

(1) IN GENERAL.—Section 3507, subsection (g) of section 32, and paragraph (7) of section 6051(a) are repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(B) Section 6302 is amended by striking subsection (i).

(3) EFFECTIVE DATE.—The repeals and amendments made by this subsection shall apply to taxable years beginning after December 31, 2010.

SA 4372. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title V, insert the following:

SEC. —. QUALIFYING THERAPEUTIC DISCOVERY PROJECT GRANTS TO PARTNERSHIPS WITH TAX EXEMPT PARTNERS WITH LESS THAN 10 PERCENT INTEREST.

(a) IN GENERAL.—Subparagraph (D) of section 9023(e)(6) of the Patient Protection and Affordable Care Act is amended by inserting before the period the following: '', other than a partnership or entity in which the aggregate equity and profits interests held by all such partners and other holders so described, at any time during a taxable year beginning in 2009 or 2010, does not exceed 10 percent of all of the total equity or profits interests in the partnership''.

(b) REGULATIONS.—Subsection (e) of section 9023 of the Patient Protection and Affordable Care Act is amended by adding at the end the following new paragraph:

''(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out this subsection, including regulations to prevent the abuse of, or results inconsistent with the intent of, this subsection.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 9023 of the Patient Protection and Affordable Care Act.

SA 4373. Ms. SNOWE (for herself, Mr. ENZI, and Mr. ENSIGN) submitted an amendment intended to be proposed to amendment SA 4369 by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 413.

SA 4374. Mr. KYL submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE __—MEDICARE ACCESS IMPROVEMENTS

Subtitle A—Physician Payment Update and Repeal of the Independent Payment Advisory Board

SEC. __01. PHYSICIAN PAYMENT UPDATE.

(a) REPEAL.—The provisions of, and amendments made by, section 521 of this Act are hereby deemed null, void, and of no effect.

(b) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended—

(1) in paragraph (10), in the heading, by striking ''PORTION'' and inserting ''THE FIRST 5 MONTHS ''; and

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

''(11) UPDATE FOR THE LAST 7 MONTHS OF 2010.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), and (10)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2010 for the period beginning on June 1, 2010, and ending on December 31, 2010, the update to the single conversion factor shall be 1.0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2011 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2011 and subsequent years as if subparagraph (A) had never applied.

''(12) UPDATE FOR 2011.—

''(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), and (11)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2011, the update to the single conversion factor shall be 1.0 percent.

''(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2012 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2012 and subsequent years as if subparagraph (A) had never applied.''.

(c) LIMITATION ON REDUCTION OF CONVERSION FACTOR FOR 2012.—Section 1848(d)(4) of the Social Security Act (42 U.S.C. 1395w–4(d)(4)) is amended—

(1) in subparagraph (A), by striking ''adjustment under subparagraph (F)'' and inserting ''the succeeding provisions of this paragraph''; and

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

''(G) LIMITATION ON REDUCTION OF CONVERSION FACTOR FOR 2012.—In no case may the update determined under subparagraph (A) for 2012 result in a reduction in the conversion factor of more than 9 percent.''.

SEC. __02. REPEAL OF THE INDEPENDENT PAYMENT ADVISORY BOARD.

Effective as if included in the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), the provisions of, and amendments made by, sections 3403 and 10320 of such Act are repealed.

Subtitle B—Offsets

PART I—MEDICAL LIABILITY REFORM

SEC. __11. SHORT TITLE.

This part may be cited as the ''Medical Care Access Protection Act of 2010'' or the ''MCAP Act''.

SEC. __12. FINDINGS AND PURPOSE.

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this part to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of ''defensive medicine'' and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

SEC. __13. DEFINITIONS.

In this part:

(1) ALTERNATIVE DISPUTE RESOLUTION SYSTEM; ADR.—The term ''alternative dispute resolution system'' or ''ADR'' means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) CLAIMANT.—The term ''claimant'' means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) COLLATERAL SOURCE BENEFITS.—The term ''collateral source benefits'' means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products,

such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. Such term includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term ''contingent fee'' includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term ''economic damages'' means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE GOODS OR SERVICES.—The term ''health care goods or services'' means any goods or services provided by a health care institution, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, care, or treatment of any human disease or impairment, or the assessment of the health of human beings.

(8) HEALTH CARE INSTITUTION.—The term ''health care institution'' means any entity licensed under Federal or State law to provide health care services (including but not limited to ambulatory surgical centers, assisted living facilities, emergency medical services providers, hospices, hospitals and hospital systems, nursing homes, or other entities licensed to provide such services).

(9) HEALTH CARE LAWSUIT.—The term ''health care lawsuit'' means any health care liability claim concerning the provision of health care goods or services affecting interstate commerce, or any health care liability action concerning the provision of (or the failure to provide) health care goods or services affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim.

(10) HEALTH CARE LIABILITY ACTION.—The term ''health care liability action'' means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider or a health care institution regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(11) HEALTH CARE LIABILITY CLAIM.—The term ''health care liability claim'' means a demand by any person, whether or not pursuant to ADR, against a health care provider or health care institution, including third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(12) HEALTH CARE PROVIDER.—

(A) IN GENERAL.—The term ''health care provider'' means any person (including but not limited to a physician (as defined by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)), registered nurse, dentist, podiatrist, pharmacist, chiropractor, or optometrist) required by State or Federal law to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(B) TREATMENT OF CERTAIN PROFESSIONAL ASSOCIATIONS.—For purposes of this part, a professional association that is organized under State law by an individual physician or group of physicians, a partnership or limited liability partnership formed by a group of physicians, a nonprofit health corporation certified under State law, or a company formed by a group of physicians under State law shall be treated as a health care provider under subparagraph (A).

(13) MALICIOUS INTENT TO INJURE.—The term ''malicious intent to injure'' means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) NONECONOMIC DAMAGES.—The term ''noneconomic damages'' means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(15) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider or health care institution. Punitive damages are neither economic nor noneconomic damages.

(16) RECOVERY.—The term ''recovery'' means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(17) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. __14. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.

(a) IN GENERAL.—Except as otherwise provided for in this section, the time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first.

(b) GENERAL EXCEPTION.—The time for the commencement of a health care lawsuit shall not exceed 3 years after the date of manifestation of injury unless the tolling of time was delayed as a result of—

(1) fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

(c) MINORS.—An action by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that if such minor is under the full age of 6 years, such action shall be commenced within 3 years of the manifestation of injury, or prior to the eighth birthday of the minor, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care institution have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

(d) RULE 11 SANCTIONS.—Whenever a Federal or State court determines (whether by motion of the parties or whether on the motion of the court) that there has been a violation of Rule 11 of the Federal Rules of Civil Procedure (or a similar violation of applicable State court rules) in a health care liability action to which this part applies, the court shall impose upon the attorneys, law firms, or pro se litigants that have violated Rule 11 or are responsible for the violation, an appropriate sanction, which shall include an order to pay the other party or parties for the reasonable expenses incurred as a direct result of the filing of the pleading, motion, or other paper that is the subject of the violation, including a reasonable attorneys' fee. Such sanction shall be sufficient to deter repetition of such conduct or comparable conduct by others similarly situated, and to compensate the party or parties injured by such conduct.

SEC. __15. COMPENSATING PATIENT INJURY.

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this part shall limit the recovery by a claimant of the full amount of the available economic damages, notwithstanding the limitation contained in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—

(1) HEALTH CARE PROVIDERS.—In any health care lawsuit where final judgment is rendered against a health care provider, the amount of noneconomic damages recovered from the provider, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties other than a health care institution against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(2) HEALTH CARE INSTITUTIONS.—

(A) SINGLE INSTITUTION.—In any health care lawsuit where final judgment is rendered against a single health care institution, the amount of noneconomic damages recovered from the institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence.

(B) MULTIPLE INSTITUTIONS.—In any health care lawsuit where final judgment is rendered against more than one health care institution, the amount of noneconomic damages recovered from each institution, if otherwise available under applicable Federal or State law, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same occurrence, except that the total amount recovered from all such institutions in such lawsuit shall not exceed $500,000.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—In any health care lawsuit—

(1) an award for future noneconomic damages shall not be discounted to present value;

(2) the jury shall not be informed about the maximum award for noneconomic damages under subsection (b);

(3) an award for noneconomic damages in excess of the limitations provided for in subsection (b) shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law; and

(4) if separate awards are rendered for past and future noneconomic damages and the combined awards exceed the limitations described in subsection (b), the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. A separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

SEC. __16. MAXIMIZING PATIENT RECOVERY.

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—

(1) IN GENERAL.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants.

(2) CONTINGENCY FEES.—

(A) IN GENERAL.—In any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity.

(B) LIMITATION.—The total of all contingent fees for representing all claimants in a health care lawsuit shall not exceed the following limits:

(i) 40 percent of the first $50,000 recovered by the claimant(s).

(ii) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(iii) 25 percent of the next $500,000 recovered by the claimant(s).

(iv) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—

(1) IN GENERAL.—The limitations in subsection (a) shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution.

(2) MINORS.—In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section.

(c) EXPERT WITNESSES.—

(1) REQUIREMENT.—No individual shall be qualified to testify as an expert witness concerning issues of negligence in any health care lawsuit against a defendant unless such individual—

(A) except as required under paragraph (2), is a health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the diagnosis or condition or provides the type of treatment under review; and

(B) can demonstrate by competent evidence that, as a result of training, education, knowledge, and experience in the evaluation, diagnosis, and treatment of the disease or injury which is the subject matter of the lawsuit against the defendant, the individual was substantially familiar with applicable standards of care and practice as they relate to the act or omission which is the subject of the lawsuit on the date of the incident.

(2) PHYSICIAN REVIEW.—In a health care lawsuit, if the claim of the plaintiff involved treatment that is recommended or provided by a physician (allopathic or osteopathic), an individual shall not be qualified to be an expert witness under this subsection with respect to issues of negligence concerning such treatment unless such individual is a physician.

(3) SPECIALTIES AND SUBSPECIALTIES.—With respect to a lawsuit described in paragraph (1), a court shall not permit an expert in one medical specialty or subspecialty to testify against a defendant in another medical specialty or subspecialty unless, in addition to a showing of substantial familiarity in accordance with paragraph (1)(B), there is a showing that the standards of care and practice in the two specialty or subspecialty fields are similar.

(4) LIMITATION.—The limitations in this subsection shall not apply to expert witnesses testifying as to the degree or permanency of medical or physical impairment.

SEC. __17. ADDITIONAL HEALTH BENEFITS.

(a) IN GENERAL.—The amount of any damages received by a claimant in any health care lawsuit shall be reduced by the court by the amount of any collateral source benefits to which the claimant is entitled, less any insurance premiums or other payments made by the claimant (or by the spouse, parent, child, or legal guardian of the claimant) to obtain or secure such benefits.

(b) PRESERVATION OF CURRENT LAW.—Where a payor of collateral source benefits has a right of recovery by reimbursement or subrogation and such right is permitted under Federal or State law, subsection (a) shall not apply.

(c) APPLICATION OF PROVISION.—This section shall apply to any health care lawsuit that is settled or resolved by a fact finder.

SEC. __18. PUNITIVE DAMAGES.

(a) PUNITIVE DAMAGES PERMITTED.—

(1) IN GENERAL.—Punitive damages may, if otherwise available under applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer.

(2) FILING OF LAWSUIT.—No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages.

(3) SEPARATE PROCEEDING.—At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(A) whether punitive damages are to be awarded and the amount of such award; and

(B) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(4) LIMITATION WHERE NO COMPENSATORY DAMAGES ARE AWARDED.—In any health care lawsuit where no judgment for compensatory damages is rendered against a person, no punitive damages may be awarded with respect to the claim in such lawsuit against such person.

(b) DETERMINING AMOUNT OF PUNITIVE DAMAGES.—

(1) FACTORS CONSIDERED.—In determining the amount of punitive damages under this section, the trier of fact shall consider only the following:

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) MAXIMUM AWARD.—The amount of punitive damages awarded in a health care lawsuit may not exceed an amount equal to two times the amount of economic damages awarded in the lawsuit or $250,000, whichever is greater. The jury shall not be informed of the limitation under the preceding sentence.

(c) LIABILITY OF HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a drug, biological product, or medical device approved by the Food and Drug Administration, for an approved indication of the drug, biological product, or medical device, shall not be named as a party to a product liability lawsuit invoking such drug, biological product, or medical device and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or product seller of such drug, biological product, or medical device.

(2) MEDICAL PRODUCT.—The term ''medical product'' means a drug or device intended for humans. The terms ''drug'' and ''device'' have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321), respectively, including any component or raw material used therein, but excluding health care services.

SEC. __19. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) IN GENERAL.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments in accordance with the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) APPLICABILITY.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this part.

SEC. __20. EFFECT ON OTHER LAWS.

(a) GENERAL VACCINE INJURY.—

(1) IN GENERAL.—To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this part shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this part in conflict with a rule of law of such title XXI shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this part or otherwise applicable law (as determined under this part) will apply to such aspect of such action.

(b) SMALLPOX VACCINE INJURY.—

(1) IN GENERAL.—To the extent that part C of title II of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a smallpox vaccine-related injury or death—

(A) this part shall not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this part in conflict with a rule of law of such part C shall not apply to such action.

(2) EXCEPTION.—If there is an aspect of a civil action brought for a smallpox vaccine-related injury or death to which a Federal rule of law under part C of title II of the Public Health Service Act does not apply, then this part or otherwise applicable law (as determined under this part) will apply to such aspect of such action.

(c) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this part shall be deemed to affect any defense available, or any limitation on liability that applies to, a defendant in a health care lawsuit or action under any other provision of Federal law.

SEC. __21. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this part shall preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this part. The provisions governing health care lawsuits set forth in this part supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this part; or

(2) prohibits the introduction of evidence regarding collateral source benefits.

(b) PREEMPTION OF CERTAIN STATE LAWS.—No provision of this part shall be construed to preempt any State law (whether effective before, on, or after the date of the enactment of this part) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this part, notwithstanding section __15(a).

(c) PROTECTION OF STATE'S RIGHTS AND OTHER LAWS.—

(1) IN GENERAL.—Any issue that is not governed by a provision of law established by or under this part (including the State standards of negligence) shall be governed by otherwise applicable Federal or State law.

(2) RULE OF CONSTRUCTION.—Nothing in this part shall be construed to—

(A) preempt or supersede any Federal or State law that imposes greater procedural or substantive protections (such as a shorter statute of limitations) for a health care provider or health care institution from liability, loss, or damages than those provided by this part;

(B) preempt or supercede any State law that permits and provides for the enforcement of any arbitration agreement related to a health care liability claim whether enacted prior to or after the date of enactment of this part;

(C) create a cause of action that is not otherwise available under Federal or State law; or

(D) affect the scope of preemption of any other Federal law.

SEC. __22. APPLICABILITY; EFFECTIVE DATE.

This part shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this part, except that any health care lawsuit arising from an injury occurring prior to the date of enactment of this part shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

PART II—ADDITIONAL PROVISIONS

SEC. __31. EXPANSION OF AFFORDABILITY EXCEPTION TO INDIVIDUAL MANDATE.

Section 5000A(e)(1)(A) of the Internal Revenue Code of 1986, as added by section 1501(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), is amended by striking ''8 percent'' and inserting ''5 percent''.

SEC. __32. REDUCING EXCESSIVE DUPLICATION, OVERHEAD AND SPENDING WITHIN THE FEDERAL GOVERNMENT.

(a) REDUCING DUPLICATION.—The Director of the Office of Management Budget and the Secretary of each department (or head of each independent agency) shall work with the Chairman and ranking member of the relevant congressional appropriations subcommittees and the congressional authorizing committees and the Director of the Office of Management Budget to consolidate programs with duplicative goals, missions, and initiatives.

(b) CONTROLLING BUREAUCRATIC OVERHEAD COSTS.—Each Federal department and agency shall reduce annual administrative expenses by at least five percent in fiscal year 2011.

(c) RESCISSIONS OF EXCESSIVE SPENDING.—There is hereby rescinded an amount equal to 5 percent of—

(1) the budget authority provided (or obligation limit imposed) for fiscal year 2010 for any discretionary account in any other fiscal year 2010 appropriation Act;

(2) the budget authority provided in any advance appropriation for fiscal year 2010 for any discretionary account in any prior fiscal year appropriation Act; and

(3) the contract authority provided in fiscal year 2010 for any program subject to limitation contained in any fiscal year 2010 appropriation Act.

(d) PROPORTIONATE APPLICATION.—Any rescission made by subsection (a) shall be applied proportionately—

(1) to each discretionary account and each item of budget authority described in such subsection; and

(2) within each such account and item, to each program, project, and activity (with programs, projects, and activities as delineated in the appropriation Act or accompanying reports for the relevant fiscal year covering such account or item, or for accounts and items not included in appropriation Acts, as delineated in the most recently submitted President's budget)

(e) EXCEPTIONS.—This section shall not apply to discretionary authority appropriated or otherwise made available to the Department of Veterans Affairs and the Department of Defense.

(f) OMB REPORT.—Within 30 days after the date of enactment of this section, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a report specifying the account and amount of each rescission made pursuant to this section and the report shall be posted on the public website of the Office of Management and Budget.

SEC. __33. REDUCING BUDGETS OF MEMBERS OF CONGRESS.

(a) IN GENERAL.—Of the funds made available under Public Law 111–68 for the legislative branch, $100,000,000 in unobligated balances are permanently rescinded on a pro rata basis: *Provided*, That the rescissions made by the section shall not apply to funds made available to the Capitol Police.

(b) REPORTING.—The Director of the Office of Management and Budget shall report to Congress the amounts rescinded under subsection (a).

SEC. __34. RESCINDING UNSPENT FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, $80,000,000,000 in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

(c) EXCEPTION.—This section shall not apply to the unobligated Federal funds of the Department of Defense or the Department of Veterans Affairs.

SEC. __35. USE OF STIMULUS FUNDS TO OFFSET SPENDING.

The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) (other than under title X of division A of such Act) is rescinded such that the aggregate amount of such rescissions equal $37,500,000,000 in order to offset the net increase in spending resulting from the provisions of, and amendments made by, this Act. The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

SA 4375. Mr. KOHL (for himself, Mr. GRASSLEY, Ms. COLLINS, and Mr. FRANKEN) submitted an amendment intended to be proposed to amendment SA 4369 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE _____—PRESERVE ACCESS TO AFFORDABLE GENERICS ACT

SEC. __01. SHORT TITLE.

This title be cited as the ''Preserve Access to Affordable Generics Act''.

SEC. __02. UNLAWFUL COMPENSATION FOR DELAY.

(a) IN GENERAL.—The Federal Trade Commission Act (15 U.S.C. 44 et seq.) is amended by—

(1) redesignating section 28 as section 29; and

(2) inserting before section 29, as redesignated, the following:

''SEC. 28. PRESERVING ACCESS TO AFFORDABLE GENERICS.

''(a) IN GENERAL.—

''(1) ENFORCEMENT PROCEEDING.—The Federal Trade Commission may initiate a proceeding to enforce the provisions of this section against the parties to any agreement resolving or settling, on a final or interim basis, a patent infringement claim, in connection with the sale of a drug product.

''(2) PRESUMPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), in such a proceeding, an agreement shall be presumed to have anticompetitive effects and be unlawful if—

''(i) an ANDA filer receives anything of value; and

''(ii) the ANDA filer agrees to limit or forego research, development, manufacturing, marketing, or sales of the ANDA product for any period of time.

''(B) EXCEPTION.—The presumption in subparagraph (A) shall not apply if the parties to such agreement demonstrate by clear and convincing evidence that the procompetitive benefits of the agreement outweigh the anticompetitive effects of the agreement.

''(b) COMPETITIVE FACTORS.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall consider—

''(1) the length of time remaining until the end of the life of the relevant patent, compared with the agreed upon entry date for the ANDA product;

''(2) the value to consumers of the competition from the ANDA product allowed under the agreement;

''(3) the form and amount of consideration received by the ANDA filer in the agreement resolving or settling the patent infringement claim;

''(4) the revenue the ANDA filer would have received by winning the patent litigation;

''(5) the reduction in the NDA holder's revenues if it had lost the patent litigation;

''(6) the time period between the date of the agreement conveying value to the ANDA filer and the date of the settlement of the patent infringement claim; and

''(7) any other factor that the fact finder, in its discretion, deems relevant to its determination of competitive effects under this subsection.

''(c) LIMITATIONS.—In determining whether the settling parties have met their burden under subsection (a)(2)(B), the fact finder shall not presume—

''(1) that entry would not have occurred until the expiration of the relevant patent or statutory exclusivity; or

''(2) that the agreement's provision for entry of the ANDA product prior to the expiration of the relevant patent or statutory exclusivity means that the agreement is procompetitive, although such evidence may be relevant to the fact finder's determination under this section.

''(d) EXCLUSIONS.—Nothing in this section shall prohibit a resolution or settlement of a patent infringement claim in which the consideration granted by the NDA holder to the ANDA filer as part of the resolution or settlement includes only one or more of the following:

''(1) The right to market the ANDA product in the United States prior to the expiration of—

''(A) any patent that is the basis for the patent infringement claim; or

''(B) any patent right or other statutory exclusivity that would prevent the marketing of such drug.

''(2) A payment for reasonable litigation expenses not to exceed $7,500,000.

''(3) A covenant not to sue on any claim that the ANDA product infringes a United States patent.

''(e) REGULATIONS AND ENFORCEMENT.—

''(1) REGULATIONS.—The Federal Trade Commission may issue, in accordance with section 553 of title 5, United States Code, regulations implementing and interpreting this section. These regulations may exempt certain types of agreements described in subsection (a) if the Commission determines such agreements will further market competition and benefit consumers. Judicial review of any such regulation shall be in the United States District Court for the District of Columbia pursuant to section 706 of title 5, United States Code.

''(2) ENFORCEMENT.—A violation of this section shall be treated as a violation of section 5.

''(3) JUDICIAL REVIEW.—Any person, partnership or corporation that is subject to a final order of the Commission, issued in an administrative adjudicative proceeding under the authority of subsection (a)(1), may, within 30 days of the issuance of such order, petition for review of such order in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the ultimate parent entity, as defined at 16 C.F.R. 801.1(a)(3), of the NDA holder is incorporated as of the date that the NDA is filed with the Secretary of the Food and Drug Administration, or the United States Court of Appeals for the circuit in which the ultimate parent entity of the ANDA filer is incorporated as of the date that the ANDA is filed with the Secretary of the Food and Drug Administration. In such a review proceeding, the findings of the Commission as to the facts, if supported by evidence, shall be conclusive.

''(f) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair or supersede the applicability of the antitrust laws as defined in subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) and of section __05 of this title to the extent that section 5 applies to unfair methods of competition. Nothing in this section shall modify, impair, limit or supersede the right of an ANDA filer to assert claims or counterclaims against any person, under the antitrust laws or other laws relating to unfair competition.

''(g) PENALTIES.—

''(1) FORFEITURE.—Each person, partnership or corporation that violates or assists in the violation of this section shall forfeit and pay to the United States a civil penalty sufficient to deter violations of this section, but in no event greater than 3 times the value received by the party that is reasonably attributable to a violation of this section. If no such value has been received by the NDA holder, the penalty to the NDA holder shall be shall be sufficient to deter violations, but in no event greater than 3 times the value given to the ANDA filer reasonably attributable to the violation of this section. Such penalty shall accrue to the United States and may be recovered in a civil action brought by the Federal Trade Commission, in its own name by any of its attorneys designated by it for such purpose, in a district court of the United States against any person, partnership or corporation that violates this section. In such actions, the United States district courts are empowered to grant mandatory injunctions and such other and further equitable relief as they deem appropriate.

''(2) CEASE AND DESIST.—

''(A) IN GENERAL.—If the Commission has issued a cease and desist order with respect to a person, partnership or corporation in an administrative adjudicative proceeding under the authority of subsection (a)(1), an action brought pursuant to paragraph (1) may be commenced against such person, partnership or corporation at any time before the expiration of one year after such order becomes final pursuant to section 5(g).

''(B) EXCEPTION.—In an action under subparagraph (A), the findings of the Commission as to the material facts in the administrative adjudicative proceeding with respect to such person's, partnership's or corporation's violation of this section shall be conclusive unless—

''(i) the terms of such cease and desist order expressly provide that the Commission's findings shall not be conclusive; or

''(ii) the order became final by reason of section 5(g)(1), in which case such finding shall be conclusive if supported by evidence.

''(3) CIVIL PENALTY.—In determining the amount of the civil penalty described in this section, the court shall take into account—

''(A) the nature, circumstances, extent, and gravity of the violation;

''(B) with respect to the violator, the degree of culpability, any history of violations, the ability to pay, any effect on the ability to continue doing business, profits earned by the NDA holder, compensation received by the ANDA filer, and the amount of commerce affected; and

''(C) other matters that justice requires.

''(4) REMEDIES IN ADDITION.—Remedies provided in this subsection are in addition to, and not in lieu of, any other remedy provided by Federal law. Nothing in this paragraph shall be construed to affect any authority of the Commission under any other provision of law.

''(h) DEFINITIONS.—In this section:

''(1) AGREEMENT.—The term 'agreement' means anything that would constitute an agreement under section 1 of the Sherman Act (15 U.S.C. 1) or section 5 of this Act.

''(2) AGREEMENT RESOLVING OR SETTLING A PATENT INFRINGEMENT CLAIM.—The term 'agreement resolving or settling a patent infringement claim' includes any agreement that is entered into within 30 days of the resolution or the settlement of the claim, or any other agreement that is contingent upon, provides a contingent condition for, or is otherwise related to the resolution or settlement of the claim.

''(3) ANDA.—The term 'ANDA' means an abbreviated new drug application, as defined under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)).

''(4) ANDA FILER.—The term 'ANDA filer' means a party who has filed an ANDA with the Food and Drug Administration.

''(5) ANDA PRODUCT.—The term 'ANDA product' means the product to be manufactured under the ANDA that is the subject of the patent infringement claim.

''(6) DRUG PRODUCT.—The term 'drug product' means a finished dosage form (e.g., tablet, capsule, or solution) that contains a drug substance, generally, but not necessarily, in association with 1 or more other ingredients, as defined in section 314.3(b) of title 21, Code of Federal Regulations.

''(7) NDA.—The term 'NDA' means a new drug application, as defined under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)).

''(8) NDA HOLDER.—The term 'NDA holder' means—

''(A) the party that received FDA approval to market a drug product pursuant to an NDA;

''(B) a party owning or controlling enforcement of the patent listed in the Approved Drug Products With Therapeutic Equivalence Evaluations (commonly known as the 'FDA Orange Book') in connection with the NDA; or

''(C) the predecessors, subsidiaries, divisions, groups, and affiliates controlled by, controlling, or under common control with

any of the entities described in subparagraphs (A) and (B) (such control to be presumed by direct or indirect share ownership of 50 percent or greater), as well as the licensees, licensors, successors, and assigns of each of the entities.

''(9) PATENT INFRINGEMENT.—The term 'patent infringement' means infringement of any patent or of any filed patent application, extension, reissue, renewal, division, continuation, continuation in part, reexamination, patent term restoration, patents of addition and extensions thereof.

''(10) PATENT INFRINGEMENT CLAIM.—The term 'patent infringement claim' means any allegation made to an ANDA filer, whether or not included in a complaint filed with a court of law, that its ANDA or ANDA product may infringe any patent held by, or exclusively licensed to, the NDA holder of the drug product.

''(11) STATUTORY EXCLUSIVITY.—The term 'statutory exclusivity' means those prohibitions on the approval of drug applications under clauses (ii) through (iv) of section 505(c)(3)(E) (5- and 3-year data exclusivity), section 527 (orphan drug exclusivity), or section 505A (pediatric exclusivity) of the Federal Food, Drug, and Cosmetic Act .''.

(b) EFFECTIVE DATE.—Section 28 of the Federal Trade Commission Act, as added by this section, shall apply to all agreements described in section 28(a)(1) of that Act entered into after November 15, 2009. Section 28(g) of the Federal Trade Commission Act, as added by this section, shall not apply to agreements entered into before the date of enactment of this title.

SEC. __03. NOTICE AND CERTIFICATION OF AGREEMENTS.

(a) NOTICE OF ALL AGREEMENTS.—Section 1112(c)(2) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (21 U.S.C. 355 note) is amended by—

(1) striking ''the Commission the'' and inserting the following: ''the Commission—

''(1) the'';

(2) striking the period and inserting ''; and''; and

(3) inserting at the end the following:

''(2) any other agreement the parties enter into within 30 days of entering into an agreement covered by subsection (a) or (b).''.

(b) CERTIFICATION OF AGREEMENTS.—Section 1112 of such Act is amended by adding at the end the following:

''(d) CERTIFICATION.—The Chief Executive Officer or the company official responsible for negotiating any agreement required to be filed under subsection (a), (b), or (c) shall execute and file with the Assistant Attorney General and the Commission a certification as follows: 'I declare that the following is true, correct, and complete to the best of my knowledge: The materials filed with the Federal Trade Commission and the Department of Justice under section 1112 of subtitle B of title XI of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, with respect to the agreement referenced in this certification: (1) represent the complete, final, and exclusive agreement between the parties; (2) include any ancillary agreements that are contingent upon, provide a contingent condition for, or are otherwise related to, the referenced agreement; and (3) include written descriptions of any oral agreements, representations, commitments, or promises between the parties that are responsive to subsection (a) or (b) of such section 1112 and have not been reduced to writing.'.''.

SEC. __04. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

Section 505(j)(5)(D)(i)(V) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 355(j)(5)(D)(i)(V)) is amended by inserting ''section 28 of the Federal Trade Commission Act or'' after ''that the agreement has violated''.

SEC. __05. COMMISSION LITIGATION AUTHORITY.

Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (D), by striking ''or'' after the semicolon;

(2) in subparagraph (E), by inserting ''or'' after the semicolon; and

(3) inserting after subparagraph (E) the following:

''(F) under section 28;''.

SEC. __06. STATUTE OF LIMITATIONS.

The Commission shall commence any enforcement proceeding described in section 28 of the Federal Trade Commission Act, as added by section 3, except for an action described in section 28(g)(2) of the Federal Trade Commission Act, not later than 3 years after the date on which the parties to the agreement file the Notice of Agreement as provided by sections 1112(c)(2) and (d) of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (21 U.S.C. 355 note).

SEC. __07. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such title or amendments to any person or circumstance shall not be affected thereby.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, June 22, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on policies to reduce oil consumption through the promotion of accelerated deployment of electric-drive vehicles, as proposed in S. 3495, the Promoting Electric Vehicles Act of 2010.

For further information, please contact Mike Carr or Abigail Campbell.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on June 16, 2010.

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

COMMITTEE ON ARMED SERVICES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on June 16, 2010, at 9 a.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on June 16, 2010, at 11 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on June 16, 2010, at 9:30 a.m., to hold a hearing entitled ''The New START Treaty (Treaty Doc. 111–5): Views from the Pentagon.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on June 16, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 9:30 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on June 16, 2010, from 2–5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on June 16, 2010, at 3 p.m. to conduct a hearing entitled, ''The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery.''

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate to conduct a hearing on June 16, 2010, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Juliana

Manzanarez and Jonquilyn Hill, who are interns in my office, be given floor privileges during the pendency on this tax extenders bill, H.R. 4213.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that Anders Landgren, an intern on the Finance Committee staff, be granted the privileges of the floor for the duration of the debate on the American Jobs and Closing Tax Loopholes Act.

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

RECOGNIZING THE 60TH ANNIVERSARY OF THE OUTBREAK OF THE KOREAN WAR

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S.J. Res. 32, introduced earlier today.

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

The assistant editor of the Daily Digest read as follows:

A joint resolution (S.J. Res. 32) recognizing the 60th anniversary of the outbreak of the Korean War and reaffirming the United States-Korea alliance.

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

Mr. BURR. Mr. President, this joint resolution recognizes the 60th anniversary of the outbreak of the Korean war, as well as honoring the strong friendship between the United States and the Republic of Korea.

June 25 is a very important day, not only in Korean history, but also in U.S. history. On that day 60 years ago, Communist troops from the Soviet-occupied north crossed the invisible border at the 38th parallel to invade their free brethren to the south—killing thousands of civilians and forcing streams of refugees to flee their advance.

Under the leadership of President Harry S. Truman, the United States responded to its first military challenge of the Cold War by dispatching U.S. forces to lead 15 other countries of a United Nations force to defend against the spread of communism. President Truman made his commitment to the war very clear:

In the simplest terms, what we are doing in Korea is this: We are trying to prevent a third world war. . . . If history has taught us anything, it is that aggression anywhere in the world is a threat to peace everywhere in the world. When that aggression is supported by the cruel and selfish rulers of a powerful nation who are bent on conquest, it becomes a clear and present danger to the security and independence of every free nation.

During the 3 years of the Korean war, 5.7 million Americans answered the call to duty, and almost 1.8 million of these men and women deployed across the Pacific to serve in some of the most harsh and unforgiving conditions along the rugged peninsula, in the skies above the Yalu River, on carriers and other surface ships at sea, or from staging and support areas in Japan. By the official cease fire on July 27, 1953, 54,246 American servicemen and servicewomen had sacrificed their lives to defeat Korean and Chinese Communist troops and push them north of what is known as the Demilitarized Zone. Since then, a stalemate has existed on the Korean Peninsula, with the United States supporting a free and prosperous Republic of Korea, while keeping a wary eye on the brutally repressive regime across the border. In the last 60 years, there have been several confrontational episodes and potential flashpoints between the two Koreas, and events of the last few weeks show us that the conflict continues today.

Although we are hopeful that the swell of military action 60 years ago will be the most profound fighting in the Korean war, North Korea has shown a propensity to provoke its sister country in the South. This is clearly evident in the brutal murder of 46 South Korean sailors of the South Korean Navy ship, the Cheowan, on May 20. Compelling evidence points toward North Korean culpability in this latest episode. Such an act of aggression only serves to underscore and reaffirm the importance of the alliance between the United States and the Republic of Korea.

Today, U.S. Forces Korea—the combined American air, ground, and naval forces of roughly 28,500 American servicemembers—still stand ready to assist in the safety and security of South Korea near the Demilitarized Zone, DMZ, and throughout the rest of the peninsula below the 38th Parallel.

This mutual and enduring friendship has been in evidence since September 11, 2001. South Korea has been an able and willing ally in the global war on terror, dispatching the 100th Engineer Group and 924th Medical Group to both Iraq and Afghanistan. Their forces have been integral in providing humanitarian and medical aid to soldiers and civilians alike, as well as working to rebuild infrastructure in Afghanistan and Iraq.

I ask all of my esteemed colleagues to stand with me and pass this joint resolution, to not only commemorate the 60th anniversary of the beginning of the Korean war and properly honor those Americans who served proudly in that conflict, but also to recognize the continued resilience and vibrancy of the alliance between our nations.

Mr. DURBIN. Mr. President, I ask unanimous consent to be added as a cosponsor to this measure.

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

Mr. DURBIN. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the preamble be agreed to, the motions to reconsider be laid upon the table, and any statements relating to the joint resolution be printed in the RECORD.

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

The joint resolution (S.J. Res. 32) was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

S. J. RES. 32

Whereas, on June 25, 1950, communist North Korea invaded the Republic of Korea with approximately 135,000 troops, thereby initiating the Korean War;

Whereas, on June 27, 1950, President Harry Truman ordered the United States Armed Forces to help the Republic of Korea defend itself against the North Korean invasion;

Whereas the hostilities ended in a cease-fire marked by the signing of the armistice at Panmunjom on July 27, 1953, and the peninsula still technically remains in a state of war;

Whereas, during the Korean War, approximately 1,789,000 members of the United States Armed Forces served in theater along with the forces of the Republic of Korea and 20 other members of the United Nations to defend freedom and democracy;

Whereas casualties of the United States during the Korean War included 54,246 dead (of whom 33,739 were battle deaths), more than 103,284 wounded, and approximately 8,055 listed as missing in action or prisoners of war;

Whereas the Korean War Veterans Recognition Act (Public Law 111–41) was enacted on July 27, 2009, so that the honorable service and noble sacrifice by members of the United States Armed Forces in the Korean War will never be forgotten;

Whereas President Barack Obama issued a proclamation to designate July 27, 2009, as the National Korean War Veterans Armistice Day and called upon Americans to display flags at half-staff in memory of the Korean War veterans;

Whereas since 1975, the Republic of Korea has invited thousands of American Korean War veterans, including members of the Korean War Veterans Association, to revisit Korea in appreciation for their sacrifices;

Whereas in the 60 years since the outbreak of the Korean War, the Republic of Korea has emerged from a war-torn economy into one of the major economies in the world and one of the largest trading partners of the United States;

Whereas the Republic of Korea is among the closest allies of the United States, having contributed troops in support of United States operations during the Vietnam war, Gulf war, and operations in Iraq and Afghanistan, while also supporting numerous United Nations peacekeeping missions throughout the world;

Whereas since the end of the Korean War era, more than 28,500 members of the United States Armed Forces have served annually in the United States Forces Korea to defend the Republic of Korea against external aggression, and to promote regional peace;

Whereas North Korea's sinking of the South Korean naval ship, Cheonan, on March 26, 2010, which resulted in the killing of 46 sailors, necessitates a reaffirmation of the United States-Korea alliance in safeguarding the stability of the Korean Peninsula;

Whereas from the ashes of war and the sharing of spilled blood on the battlefield, the United States and the Republic of Korea have continuously stood shoulder-to-shoulder to promote and defend international peace and security, economic prosperity, human rights, and the rule of law both on the Korean Peninsula and beyond; and

Whereas beginning in June 2010, various ceremonies are being planned in the United States and the Republic of Korea to commemorate the 60th anniversary of the outbreak of the Korean War and to honor all Korean War veterans, including the Korean War Veterans Appreciation Ceremony in the hometown of President Harry S. Truman, which will express the commitment of the United States to remember and honor all veterans of the Korean War: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) recognizes the historical importance of the 60th anniversary of the outbreak of the Korean War, which began on June 25, 1950;

(2) honors the noble service and sacrifice of the United States Armed Forces and the armed forces of allied countries that served in Korea since 1950 to the present;

(3) encourages all Americans to participate in commemorative activities to pay solemn tribute to, and to never forget, the veterans of the Korean War; and

(4) reaffirms the commitment of the United States to its alliance with the Republic of Korea for the betterment of peace and prosperity on the Korean Peninsula.

COMMENDING EYECARE AMERICA

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 557, submitted earlier today.

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

The assistant editor of the Daily Digest read as follows:

A resolution (S. Res. 557) commending EyeCare America for its volunteerism and efforts to preserve eyesight throughout the previous 25 years.

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

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

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

The resolution (S. Res. 557) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 557

Whereas, according to the National Eye Institute, in public opinion polls, Americans—

(1) have consistently identified the fear of vision loss as second only to the fear of developing cancer; and

(2) have stated that the loss of vision would have the greatest impact on their lives;

Whereas the National Eye Institute estimates that more than 11,000,000 people in the United States have common vision problems;

Whereas, according to the National Eye Institute, approximately 35,000,000 people in the United States experience an age-related eye disease, including age-related macular degeneration (the leading cause of vision loss in older people of the United States), glaucoma, diabetic retinopathy, and cataracts;

Whereas, according to the National Eye Institute, the number of people in the United States who experience an age-related eye disease is expected to grow to 50,000,000 by 2020;

Whereas, according to the National Eye Institute, the Hispanic and African-American populations experience a disproportionate incidence of glaucoma, cataracts, and diabetic retinopathy;

Whereas, according to the National Eye Institute, diabetic retinopathy is the leading cause of blindness in individuals of all races between the ages of 25 and 74;

Whereas vision impairment and eye disease are major public health issues, especially as 2010 begins the decade in which, according to the Census Bureau, more than ½ of the 78,000,000 Baby Boomers will turn 65 and be at greatest risk for developing an age-related eye disease;

Whereas much can be done to preserve eyesight with early detection and treatment;

Whereas EyeCare America, the public service program of the Foundation of the American Academy of Ophthalmology, works to ensure that eye health is not neglected by matching eligible patients with 1 of nearly 7,000 volunteer ophthalmologists across the United States committed to preventing unnecessary blindness in their communities;

Whereas the volunteer ophthalmologists provide eye exams and eyecare for up to 1 year at no out-of-pocket cost to the patient, and seniors who do not have insurance receive the care at no charge;

Whereas individuals may call EyeCare America toll-free at 1–800–222–EYES (3937) to see if they are eligible to be referred to a volunteer ophthalmologist throughout the United States; and

Whereas EyeCare America has helped more than 1,000,000 people since the inception of the organization in 1985 and is the largest public service program of its kind in United States medicine as of the date of agreement to this resolution: Now, therefore, be it

Resolved, That the Senate commends EyeCare America for its volunteerism and efforts to preserve eyesight throughout the 25 years preceding the date of agreement to this resolution.

NATIONAL DIRECT SUPPORT PROFESSIONALS RECOGNITION WEEK

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 558, submitted earlier today.

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

The assistant editor of the Daily Digest read as follows:

A resolution (S. Res. 558) designating the week beginning September 12, 2010, as ''National Direct Support Professionals Recognition Week.''

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

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

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

The resolution (S. Res. 558) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 558

Whereas direct support workers, direct care workers, personal assistants, personal attendants, in-home support workers, and paraprofessionals (referred to in this preamble as ''direct support professionals'') are the primary providers of publicly funded long term support and services for millions of individuals;

Whereas a direct support professional must build a close, trusted relationship with an individual with disabilities;

Whereas a direct support professional assists an individual with disabilities with the most intimate needs, on a daily basis;

Whereas direct support professionals provide a broad range of support, including—

(1) preparation of meals;

(2) helping with medications;

(3) bathing;

(4) dressing;

(5) mobility;

(6) getting to school, work, religious, and recreational activities; and

(7) general daily affairs;

Whereas a direct support professional provides essential support to help keep an individual with disabilities connected to the family and community of the individual;

Whereas direct support professionals enable individuals with disabilities to live meaningful, productive lives;

Whereas direct support professionals are the key to allowing an individual with disabilities to live successfully in the community of the individual, and to avoid more costly institutional care;

Whereas the majority of direct support professionals are female, and many are the sole breadwinners of their families;

Whereas direct support professionals work and pay taxes, but many remain impoverished and are eligible for the same Federal and State public assistance programs on which the individuals with disabilities served by the direct support professionals must depend;

Whereas Federal and State policies, as well as the Supreme Court, in Olmstead v. L.C., 527 U.S. 581 (1999), assert the right of an individual to live in the home and community of the individual;

Whereas, in 2010, the majority of direct support professionals are employed in home and community-based settings and this trend is projected to increase over the next decade;

Whereas there is a documented critical and growing shortage of direct support professionals in every community throughout the United States; and

Whereas many direct support professionals are forced to leave jobs due to inadequate wages and benefits, creating high turnover and vacancy rates that research demonstrates adversely affects the quality of support to individuals with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week beginning September 12, 2010, as ''National Direct Support Professionals Recognition Week'';

(2) recognizes the dedication and vital role of direct support professionals in enhancing the lives of individuals with disabilities of all ages;

(3) appreciates the contribution of direct support professionals in supporting the needs that reach beyond the capacities of millions of families in the United States;

(4) commends direct support professionals as integral in supporting the long-term support and services system of the United States; and

(5) finds that the successful implementation of the public policies of the United

States depends on the dedication of direct support professionals.

OBSERVING THE HISTORICAL SIGNIFICANCE OF JUNETEENTH INDEPENDENCE DAY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 559, submitted earlier today.

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

The assistant editor of the Daily Digest read as follows:

A resolution (S. Res. 559) observing the historical significance of Juneteenth Independence Day.

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

Mr. BURRIS. Mr. President, on a hot day in the summer of 1776, delegates from across the American Colonies gathered in Philadelphia to cast off the yoke of tyranny and assert the fundamental right of self-government.

At that moment, when our Republic was born, our Founders ratified a document unique in human history which contained the landmark words:

We hold these truths to be self-evident, that all men are created equal.

This simple creed became the justification of a great Revolutionary War, which gave rise to the thriving democracy we inhabit today. That is why we celebrate every Fourth of July as Independence Day—because of the principles laid out in that remarkable Declaration.

But, tragically, for almost a century after that document was ratified, the equality of all men remained an unfulfilled promise. It began to seem that the Declaration of Independence defined our aspirations rather than our core beliefs.

Slavery, brutal and unjust, remained legal throughout the majority of the 19th century and helped set the stage for the bloodiest war we have ever known. But, as President Lincoln had dearly hoped, out of that terrible violence was born a new and more complete freedom—a freedom that wiped out the scourge of slavery once and for all and realized the promise our Founding Fathers documented for all Americans.

That is why, on Saturday, many in this country observe another independence day known as Juneteenth. Slavery ended in the Confederate States of America when President Lincoln signed the Emancipation Proclamation on January 1, 1863. But many slaves did not learn of their freedom until much later.

Finally, on June 19, 1865—more than 2 years after the Emancipation Proclamation—Union soldiers led by Major General Gordon Granger arrived in Galveston, TX. They brought news that must have been almost unbelievable to all who heard it. The Civil War was over, they announced, and all slaves were free.

From that day on, former slaves in the Southwest celebrated June 19 as the anniversary of their emancipation. That is why I have submitted this resolution observing the historical significance of this date—Juneteenth Independence Day.

Over the past 145 years, Juneteenth celebrations have been held to honor African-American freedom. But this date has come to hold even greater significance. Throughout the world, Juneteenth celebrations lift the spirit of freedom and rail against the forces of oppression. At long last, this day is beginning to be recognized as both a national event and a global celebration.

But just as the Fourth of July marks the beginning of a journey that continues even today, we must not forget that the long march to freedom that started on June 19, 1865, is far from over.

Our country has made great strides in the century and a half since slavery was abolished, but deep wounds are slow to heal. We will never be able to rewrite this terrible history. But we can, and we must, do everything we can to rise above it—to seek constructive solutions to the problems that time alone cannot wash away, problems that still affect the African-American community on a daily basis, from discrimination, to crime, to health care disparities, to unemployment, to substance abuse, and so on.

So let's pay tribute to the suffering of our forefathers by seeking justice for our children. Let's remember our past by looking to our future and confronting these problems with bold, new solutions.

This is a day for all of us to stand together and lift up the liberties we hold so dear—a day to look forward, to look ahead to tomorrow, and continue the fight for freedom and equality.

So I ask my colleagues to stand with me. I ask them to support my resolution observing the historical significance of Juneteenth Independence Day. I invite them to share the joy of those who greeted Union soldiers in Galveston more than 140 years ago.

Mr. UDALL of Colorado. Mr. President, I rise to highlight the celebration of Juneteenth throughout my State of Colorado.

One hundred forty-five years ago, Black slaves in Galveston, TX, heard the contents of ''General Order No. 3,'' which proclaimed their freedom from slavery. Though the announcement in Galveston in 1865 came over 2 years after President Lincoln's Emancipation Proclamation, for the first time, Black slaves learned of their freedom from a shameful policy of early America that threatened the wellbeing of the entire Union. June 19, 1865, was a joyous day for these men, women and children and has since become a day of reflection and celebration as the day when Lincoln's words in the Emancipation Proclamation were finally realized. As African Americans migrated west and out of Texas, they carried with them the memories and message they had heard on that great day in June.

Communities in Colorado come together every year to continue a tradition that highlights a notable turning point in our country's history; a point at which our country's hard fought efforts to empower a segment of America's population materialized. Today, just as before, this community has continued to make powerful and positive contributions to our common quality of life. That is why it is no surprise to me that this tradition carries on. In Colorado, citizens of various backgrounds gather in Pueblo, Colorado Springs, Denver and in the backyards of communities across our State to celebrate Juneteenth.

I am particularly proud to mention that in Pueblo, CO, they are celebrating the 30th anniversary of their first official Juneteenth celebration with the theme ''Growing the Community.'' And just as in Colorado Springs, Denver and other places across the State, it is an event that shares this history and time of reflection with the entire community.

To all my fellow Coloradans who will gather this June 19 to celebrate an important event in America's history, I wish you a safe and joyous occasion. And I am proud that you continue to instill a sense of history and community that provides rich cultural and historical knowledge of our country's fight to ensure freedom for all.

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

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

The resolution (S. Res. 559) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 559

Whereas news of the end of slavery did not reach frontier areas of the United States, and in particular the southwestern States, for more than 2½ years after President Lincoln's Emancipation Proclamation, which was issued on January 1, 1863, and months after the conclusion of the Civil War;

Whereas, on June 19, 1865, Union soldiers led by Major General Gordon Granger arrived in Galveston, Texas with news that the Civil War had ended and that the enslaved were free;

Whereas African-Americans who had been slaves in the Southwest celebrated June 19, commonly known as ''Juneteenth Independence Day'', as the anniversary of their emancipation;

Whereas African-Americans from the Southwest continue the tradition of celebrating Juneteenth Independence Day as inspiration and encouragement for future generations;

Whereas, for more than 140 years, Juneteenth Independence Day celebrations

have been held to honor African-American freedom while encouraging self-development and respect for all cultures;

Whereas, although Juneteenth Independence Day is beginning to be recognized as a national, and even global, event, the history behind the celebration should not be forgotten; and

Whereas the faith and strength of character demonstrated by former slaves remains an example for all people of the United States, regardless of background, religion, or race: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) recognizes the historical significance of Juneteenth Independence Day to the Nation;

(B) supports the continued celebration of Juneteenth Independence Day to provide an opportunity for the people of the United States to learn more about the past and to understand better the experiences that have shaped the Nation; and

(C) encourages the people of the United States to observe Juneteenth Independence Day with appropriate ceremonies, activities, and programs; and

(2) it is the sense of the Senate that—

(A) the celebration of the end of slavery is an important and enriching part of the history and heritage of the United States; and

(B) history should be regarded as a means for understanding the past and solving the challenges of the future.

ORDERS FOR THURSDAY, JUNE 17, 2010

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, June 17; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and that following any leader remarks, there be a period of morning business until 10 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate resume consideration of the House message to accompany H.R. 4213, tax extenders, as provided for under the previous order.

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

PROGRAM

Mr. DURBIN. Mr. President, at approximately 12 noon, the Senate will proceed to a vote in relation to the Thune amendment No. 4333, the Republican alternative to the tax extenders legislation. Additional votes are expected to occur throughout the day in relation to amendments to the bill.

ORDER FOR ADJOURNMENT

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the previous order following the remarks of Senator GRASSLEY.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I wish to speak as in morning business.

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

MUST-DO LEGISLATION

Mr. GRASSLEY. Mr. President, the legislative business before the Senate deals with the so-called tax extenders. These extenders, as important as they are, represent only a small portion of the time-sensitive tax legislative business that needs to be completed.

I have a chart that I have used the last few days illustrating the status of several pieces of absolutely must-do tax legislation.

Earlier this week, I discussed the lack of action on this year's alternative minimum tax. I refer to that as an AMT patch. In a day or two, I will discuss the failure of Congress to act on the bipartisan 2001 and 2003 marginal rate cuts and Family Tax Relief Act.

This evening, I want to discuss the lack of action on estate tax reform.

Most of my colleagues know this about me—for as many years as I have been a representative of the people of Iowa, I have never believed that death—a person dying—should be a taxable event.

Taxing people's assets upon their death is plain wrong, and their heirs should not be forced to sell a single asset in order to meet this arbitrary tax due date caused by death.

Company assets should not have to be sold to pay taxes. The market, in fact, should determine when things are bought and sold because that is the very best measurement when a willing buyer meets a willing seller and they agree on a price and a time when a company should be sold. In other words, if you have to do it because somebody died, a fire-sale approach probably does not determine the true value of that property and, consequently, less money to the heirs and even less tax money coming in.

That is where I come from. We ought to repeal the death tax. But that is not political reality. The political reality is that there are not 60 votes in the Senate for that policy. Unfortunately, while repeal is the law of the land today, in a few months the law will take a sharp turn in the other direction—a wrong direction.

Under current law, in 2011, we will once again have an estate tax due and owing within 9 months of death of 55 percent and even in some cases 60 percent. That is not right. We force many unwilling sellers to have to deal with a very willing shark of a buyer waiting in the murky waters of tax uncertainty.

Some people wonder why I care so much about this issue. Pundits might say that Iowa is poor compared to places such as New York City and that land and companies are not worth much.

Much of the press attention has been paid to what the current law does this year. For instance, the New York Times printed an article on how the current law repeal of the estate tax applies to a Texas billionaire who died a few weeks ago.

We are almost half a year away from a tax policy that a supermajority of Senators say they do not support. Yet we are stuck in a mud hole. This time-sensitive issue has taken a back seat in this body to everything else.

My colleagues may not know that Iowa has 99 counties, and I have visited each of the 99 counties every year for the last 29 years to hold town meetings and to get people's opinions. Let me give a couple examples I have learned of why I think this issue of doing something quickly about the estate tax is a very important issue and a very timely issue.

I want to talk about some people who live in Iowa. Not only do they live in Iowa, they have devoted their entire life for multiple generations to build businesses and create good jobs for the people of rural Iowa.

Over 44 years ago, Eugene and Mary Sukup started a grain handling and storage manufacturing company in Sheffield, IA. Today, the Sukups and their two sons and their families are still headquartered in Sheffield, IA, population of a whopping 990 people, about 300 more than the town in which I live. They employ over 300 people from five different counties in good-paying jobs with a good retirement plan.

In fact, the original employee team that started with them almost 40 years ago is still there today and, in many cases, the next generation has also joined the team.

This chart depicts one of the main products they make and sell. For city folks who are watching, this piece of equipment is a building called a grain bin. I have some grain bins such as this on my family farm that my son Robin operates.

I ask unanimous consent to have printed in the RECORD a short history of the innovative efforts of the Sukup family.

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

Sukup Manufacturing Co is a family-owned and operated company located in Sheffield, Iowa—right in the heart of Midwest farmland. The company manufactures a full line of grain storage, drying and handling equipment, as well as a line of implements.

The Sukup Grain Handling and Storage Solutions line includes grain bins for both on-farm and commercial storage, grain dryers for on-farm and commercial operations, axial and centrifugal fans and heaters, stirring machines, unloading equipment, bin floors and supports, drive-over hoppers, grain spreaders and Airway® Tubes. The implement line includes cultivators, flail shredders, a wild game food plot planter and grain drills.

Sukup's focus in manufacturing has been to hire local, reliable employees and provide them with top quality tools with which to do their jobs. Sukup has made a considerable investment in manufacturing technologies. The manufacturing facilities in Sheffield house a number of welding robots, Computer Numeric Control (CNC) Machining Center, CNC Punching Centers, Mazak Lasers, and numerous roll forming machines. The company also utilizes progressive dies to speed production of high-usage parts. Sukup's bin production line is the most advanced and efficient in the industry. When Sukup entered the bin manufacturing business, they had the bin sidewall sheet and roof sheet lines built to their strict specifications by the leader in roll forming equipment. These machines are computer-controlled and maintain extremely tight tolerances that make Sukup Bins the best fitting and easiest to put together in the industry.

Ultimately, the key to Sukup Manufacturing Co's success has been its innovative ideas that have resulted in over 70 U.S. patents. Sukup Manufacturing Co currently produces a broad line of grain handling and storage systems as well as innovative tillage equipment. Sukup is a market leader with many of their products holding either the number one or number two spot in terms of market share for their respective product categories. In addition, Sukup products are sold not only throughout the U.S., but also in over 50 foreign countries.

One of the other factors in Sukup Manufacturing Co's success is their long-term employees. Nearly 30% of their full-time employees have been with the company for more than 10 years. Sukup equipment is built by people who understand their jobs and the important role they play in producing a successful product. In the past, to reward their employees for their dedication, Sukup has invited employees with 10 years of full-time employment with Sukup on a 7–day trip to the Hawaiian islands with their spouse. It is a great opportunity for co-workers to relax and get to know each other away from the workplace, which leads to tighter bonds when they return to their positions within the company.

If you're ever in the Sheffield, Iowa area (approx. 100 miles north of Des Moines or 150 miles south of Minneapolis, just off of I–35), stop in for a visit. We'll be more than happy to give you a tour of our facilities and introduce you to some of our employees. We're sure you'll be impressed by what you see.

Mr. GRASSLEY. Mr. President, in addition, they have facilities in six other States also contributing to those States' rural economies, such as Defiance, OH, Jonesboro, AR, Arcola, IL, Aurora, NE, and Watertown, SD—places where good jobs and hard work that is not flashy and does not make the scandal page of the big city newspapers are valued in those towns as important places of employment and contribute to the economy, places where people invest in the local economy and contribute as good citizens to community improvement and betterment.

They used to call these kinds of folks the ''pillars of the community,'' in old-fashioned terms. But in today's economy, these are folks devoted to American values and small town America. They may sell their products all over the United States. They also sell their products—would you believe it—all over the world. But you know what, they manufacture those products right there in that small community of Sheffield, IA. As a family farmer, the Sukups have been successful because they make a great product, and this is one of their products.

I wish to move on to another little Iowa town, somewhat larger than Sheffield, the town of Shenandoah. That is where Lloyd Inc. is located. Shenandoah is a community of almost 5,000 people—4,944 to be precise. Our colleague Senator ENSIGN is the lone practitioner of animal medicine in the Senate. He might be familiar with the products that Lloyd Inc. in Shenandoah, IA, puts out.

It, too, is not a flashy company. They started making animal dietary mixes in 1958, and now they are a significant provider of veterinary drugs. The chart depicts one of Lloyd Inc.'s products. These are different animals. I am not going to go into too much detail about them.

Eugene Lloyd is a doctor of veterinary medicine. He is the CEO of the company. Dr. Lloyd has told me the company has never let go of any employees due to poor business cycles.

Lloyd Inc. employs well over 90 well-educated people in this community of Shenandoah in southwest Iowa. The company has also provided generous health care and retirement plans to their employees, and as I said, in rural America, those benefits are very important.

Finally, both the company and Dr. Lloyd and his family have given generously throughout the years to educational scholarships, unrestricted grants to Dr. Lloyd's and his wife's alma mater, and provided financial and product support to address disasters, both locally and internationally.

Unfortunately, even after vigilant estate planning, these two families, the Lloyd and the Sukup family-owned companies will be facing a very large combined estate tax bill. That bill could total tens of millions of dollars between the two companies. That is tens of millions of dollars that will leave the State of Iowa. These companies might face a fire sale, and so often in this circumstance a company is sold to someone with no interest or no desire to maintain the current location or contributions to the community.

There are two companies, two towns, six counties, four families, and hundreds of employees, and all will be hurt if we do not do something about the death tax. Businesses will be sold, locations will be shut down, real people will lose good jobs. The State of Iowa will lose tens of millions of dollars of hard capital invested for over 90 years between these two companies. I barely even mentioned how much salary, retirement plans, and charitable contributions they have made to those little Iowa communities.

The multinational or foreign companies will come calling. They will be circling these home-grown businesses. Trust me, they will. We have seen it before. Perhaps they will be accompanied by sharpie hedge-fund types from big cities, such as New York, Boston or Chicago. They will go to places such as Sheffield and Shenandoah, but they will not go there to live. When they arrive we will have no one else to blame but us, right here in the Congress, for letting these family-owned companies committed to the community go away.

The punitive death tax policy passionately pushed by my liberal friends will have greased the skids. It will have killed the local roots of these successful small town businesses. All of us from rural America are trying to battle what is called out-migration. If we leave the death tax in place in its punitive form, in 2011 it will take away jobs, businesses, and people out of rural America. That is why I care about this death tax debate: because of real people in real Iowa communities invested in expanding in those rural counties.

It is strange, in New York City, how many multimillionaires live in any one block in Manhattan. But those so-called multimillionaires seem a little different when you check out the Iowa corn crop or you sit together at church or at a grandson's baseball game. They are, as the popular book says, ''The Millionaire Next Door.'' They are the pillars who help hold up all those 99 counties that I visit every year.

I know these are not the kinds of stories that make the front pages of our big city newspapers. When family businesses are sold and shut down or move out of the State or even move out of the United States, it certainly makes the front pages of the newspapers that I really care about. So when you hear about the number of estates affected, keep in mind to some extent that statistic is only a snapshot. The estate tax return is filed by the representative of a dead person. Those statistics so often dwelled on by many of the proponents of the death tax do not capture the full picture. The statistic is only a look at the dead person who owned the business or farm. It does not take into account the dead person's family, the dead person's employees, the dead person's neighbors. All of those folks are affected if the death tax burdens that family's business or farm and causes it to move on to some other owner and maybe out of the community.

There seems to be a strategy by the bicameral Democratic leadership to slow-walk a resolution of this vexing problem. The slow-walk strategy will leave the American people with the current law, and that current law is $1 million compared to the zero today or what we could have as a compromise between the House and Senate: $3.5 million on the one hand, $5 million on the other.

The junior Senator from Vermont as always is passionate and transparent about what he thinks and believes. He has said we should retain current law. His position is that $253 billion in revenue gained from current law is better spent by those of us in Washington, no doubt spent on what the junior Senator believes are valuable programs, probably some programs that I support.

Should his view prevail, however, we will see the essence of the economic policy of the Democratic leadership over the past 18 months. It will be another income redistribution policy. The President defined it a couple of years ago. It will be a program designed to ''spread the wealth around.'' More taxes for those who have saved and sacrificed during life, more spending on those who are demanding ever more generous tax-funded subsidies. That is basically what redistribution is all about. It is about folks in this city of Washington ''spreading the wealth around.''

I have heard rumors and read press reports that indicate that various Senators have a lot of company in the House and Senate Democratic caucuses. For instance, maybe the position taken by the Senator from Vermont might have that support. But those who share his view or views like that have not been as transparent as the junior Senator from Vermont, who is very transparent. You know exactly where he stands, and that is an honorable position for any Senator to take. I say that even though I disagree with him some.

The number of quiet supporters of the junior Senator from Vermont may be high enough to prevent the Democratic leadership from allowing a clean vote on a bipartisan compromise. I believe that bipartisan compromise is one of a $5 million exemption and a 35-percent tax rate compared to the $3.5 million and 45 percent tax rate in the House of Representatives.

The American people need to hear some data about how current law will apply when it goes to that million-dollar exemption. They need to know where the revenue will come from. So we always go, around this Senate, to the Joint Committee on Taxation. That is a nonpartisan official congressional scorekeeper on the issue of taxes—and all taxes. We need to also know about the number of affected estates.

Under current law it will be at least—can you believe it—at least 10 times higher than what it would be under the Lincoln-Kyl bipartisan compromise that I just described, the compromise that would cap the death tax rate at 35 percent. It would also provide that unified credit equivalent amount of about $5 million.

So here is that data from that nonpartisan Joint Committee on Taxation that you see right here. We are going to talk about current law, which is the tax law that is right now going to take effect in 2011 if we do not do anything. That is going to arrive in just a little over 6 months.

Under current law, 44,000 estates will be taxable. Under the Lincoln-Kyl compromise, 4,000 estates would be taxable. You can see here, for the year 2011, Lincoln-Kyl, 4,000; current law, with a $1 million exemption, 44,400 estates. That is quite a big difference.

It means that current law, the path on which we seem to be slow-walking, means 10 times the number of estates will be hit by the tax. The Lincoln-Kyl compromise means that only the top 10 percent, the wealthiest estates, will be hit by the death tax.

If you project that out, as this chart does, 8 years of current law over the 10 years, you will find that roughly 616,000 estates will be taxed over that period, and under the Lincoln-Kyl compromise, roughly 54,000 estates would be taxable over that period of time.

To give everyone a bit of perspective, I wish to share some Iowa farm data. It is from the U.S. Department of Agriculture. Under current law, in a bit over 6 months, with the $1 million exemption that is on the law now taking place, the line between a taxable farm and nontaxable farm will be that $1 million.

The U.S. Department of Agriculture reports that there were 92,800 farms covering 86 percent of Iowa in 2007. In 2007, the average Iowa farm was 331 acres. According to a survey conducted by Iowa State University in 2009, the average acre was worth $3,371. That means that a farm the size of the 2007 Iowa average, at average 2009 prices in Iowa, is going to be worth $1,446,801. In 2007, there were 19,302 Iowa farms with 500 or more acres worth at least $2.1 million at average 2009 prices. Now, keep in mind that farmers sometimes carry debt. That would reduce the value of the farm. But, on the other hand, farmers have other farm-related assets, such as the farm machinery to operate it, that are not included in the figures I just cited.

This data shows that the current-law estate tax could hit many Iowa farmers. For those folks working the lands, this is an unwelcome certainty. As I indicated earlier, the tax is an impediment to passing on the family business—in this case, the family farm. Current-law death taxes, quietly supported by, apparently, many Members on the other side—and that is that $1 million figure—will act as an incentive to break down many family farms and small businesses. These family farms and small businesses form the economic backbone of their hard-working heartland communities.

What amazes me is the zeal by some to use tax policy to inflict this kind of damage on family farms and small businesses such as the two I pointed out in Shenandoah, IA, and Sheffield, IA. All of this is somehow supposed to fund an ever-expanding set of Federal benefits to many who do not pay any income tax. The signal sent is that those who work hard, save, and want to pass something on to their family exist solely to fund these bloated Federal programs. So why work hard? Why save? Why not work less? Why not go into debt and live beyond your means? In the end, the government levels everyone out at death by, as the President said, ''spreading the wealth around.''

I have not touched on the damage being inflicted now by our inaction on estate tax reform. At every townhall, I hear from folks—in fact, I just finished a half hour monthly television program I do back in the State of Iowa. And one of the callers called in: When are you going to do something about the estate tax? Kind of embarrassing to tell him. I told him to watch my speech that I was going to give just as soon as the program is over. So here I am. But everybody at my townhalls—I hear from folks who ask these kinds of questions. They ask: What is the law going to be? Will it be retroactive? When will the Congress address this action? Why delay?

Recently, I received a letter that was signed by 750 Iowa attorneys asking for a resolution of this issue. At a time when families are dealing with the emotional and financial stress of the death of a family member, why do we add this additional confusion and anxiety for the family or for a counselor who cannot even advise his clients on what they should do in planning an estate?

I am afraid I do not have a good answer for these folks, just as a few minutes ago on my television program I did not have an answer for that person who called in from Pocahontas, IA, wanting to know what we are going to do about this. But we do need to get an answer. Hopefully, it is one that will be bipartisan, such as Lincoln-Kyl, and limits the reach of the death tax to at least the top 10 percent of the wealthiest estates. At the very least, we owe the American people an open and intellectually honest debate and votes up or down on a very fair policy.

Resolving the estate tax nightmare with real reform is time-sensitive tax legislation business. It is nowhere on the Senate's radar screen. As I point to this checklist once again that I bring to the Senate almost every day, I urge my friends in the Democratic leadership to put it on the Senate's radar screen.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m., Thursday, June 17, 2010.

Thereupon, the Senate, at 8:27 p.m., adjourned until Thursday, June 17, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF STATE

SUZAN D. JOHNSON COOK, OF NEW YORK, TO BE AMBASSADOR AT LARGE FOR INTERNATIONAL RELIGIOUS FREEDOM, VICE JOHN V. HANFORD III, RESIGNED.

JUDITH R. FERGIN, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE.