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Senate

The Senate met at 2 p.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Gracious God, today inspire and encourage our lawmakers to do the work of justice and mercy so that all citizens will be bound together in respecting one another. Give our Senators an awareness of this Nation's rich diversity and heritage as well as the mutual goals that unite us as a people.

Lord, lead us all away from any self-sufficiency that makes us not feel our need for Your redeeming and refreshing grace. And Lord, we praise You for Your healing mercies that have been felt by our leader's wife and daughter, Mrs. Landra Reid and Lana.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 15, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

OUTPOURING OF SUPPORT

Mr. REID. Mr. President, last Thursday my wife was involved in a violent car accident.

We often say this Senate is a family. I am reminded of it time and time again when both triumph and tragedy unite us. Over the past few days, I learned all over again just how close, how genuine, how meaningful that family is. The tremendous outpouring of support for my wife and daughter from people across Nevada and the Nation and from my Senate family has deeply touched all of us. We have received literally hundreds and hundreds of e-mails and phone calls. We very much appreciate all the thoughts for Landra and every prayer on her behalf. The kindness and concern are overwhelming and really humbling.

It really was a close call, but we are grateful it wasn't worse, and we are confident she will be making a full recovery. It won't be tomorrow or the next day, but she will be back on her feet as soon as she can. My wife Landra and I have been married for 50 years. She is the strongest and most selfless person I know. If anyone can recover, it is she.

Before we begin this week's work, I wish to say to my Senate family and all of those watching: Thank you very much.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will turn to a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each. Following morning business, the Senate will resume consideration of the House message on H.R. 2847, the HIRE Act or the Jobs I bill. At 5:30 p.m., we will have a cloture vote on the motion to concur in the House amendments with respect to that bill.

RECOGNITION OF THE MINORITY LEADER

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

SPEEDY RECOVERY

Mr. MCCONNELL. Mr. President, let me first say to my good friend from Nevada how good it is to hear such a positive report on Landra's recovery. We are all grateful that hopefully she will be home sometime soon and on her way to a speedy recovery.

HEALTH CARE

Mr. MCCONNELL. Mr. President, the debate over health care continues, and this week all eyes are on the House. All we hear about is the arm-twisting and the horse-trading going on over there behind the scenes—the mad dash ahead of the big vote—and once again Americans just can't believe what they are hearing.

Behind all of these stories is a simple truth: Democratic leaders are doing everything they can to convince a handful of lawmakers that they should vote for a bill they don't really like and which their constituents overwhelmingly oppose. They are scrambling to get these wavering House Members to vote for a bill which claims to be reform but which promises to lead to

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

higher health care costs, higher insurance premiums, and a vast expansion of government's role in our daily lives. They are pulling out all the stops. They are doing everything they can to jam this bill through, and they don't even seem to care anymore about how ugly it all looks.

What we are seeing is nothing more than a replay of the same revolting process Democrats used to pass this bill in the Senate, a process that completely outraged the public. The same deals they used to get this bill through the Senate are back. As if voting on these deals the first time wasn't bad enough, Democrats in the House are now getting ready to vote for them again. Every one of the deals that were so revolting to the American people will still be in the bill House Members are expected to vote on later this week. That means that anybody who votes for this bill will be voting in favor of the special deals that were put there for no other reason than to sway votes.

A handful of Democrats have stood up in opposition to these deals and this entire process. One longtime Democratic Congressman said last week that he won't be voting for the bill as a result of the deals. Here is what he had to say. This Democratic Congressman said:

> I reject unequivocally the unsavory deal making that took place in the Senate where Nebraska, Florida, and Louisiana obtained special benefits that do not apply to the other States and those special benefits provided to those States at the expense of the residents of all other States. I simply cannot support legislation that contains those unwarranted giveaways to a select few States at the expense of others.

That was a Democratic Member of the House of Representatives.

But others are keeping quiet. They are still on the fence. That is why this week's vote promises to be even uglier than the last one, because this bill goes beyond things such as the ''Cornhusker kickback'' and the ''Louisiana purchase'' and the ''Gator aid.''

I was disappointed to see the White House reverse itself over the weekend and endorse many of these sweetheart deals after the President said he would try to have them removed. Apparently, they determined that removing the deals might jeopardize efforts to pass the bill. So now the White House says it won't object to all of the special deals, just some of them. The White House says it won't object to all the special deals, just some of them. What that means, of course, is that some Senators and House Members are getting special deals on top of special deals.

But that is not all the White House is willing to do to jam this bill through. According to press reports, it is also promising to raise campaign cash for House Members who vote for the House bill. We read in one of the papers today that the White House is openly signaling that those lawmakers will go to the top of the list for fundraisers and Presidential visits ahead of the November elections. So if press accounts are accurate, lawmakers who support the bill are being told they get repaid with Presidential visits and big-money fundraisers from the President or the Vice President—vote for the bill and you get a special visit for your reelection campaign.

We also read this morning in the Politico Pulse that the drug lobbyists were here in the Capitol over the weekend huddling with Democratic staffers to make sure their interests would be protected in the final bill.

This is precisely the kind of thing Americans rebelled against after the last vote on this bill. This debate should be about the substance of a bill that would restructure one-sixth of our economy and the direction Americans want to go in as a country, not how much money such-and-such Senator or Congressman needs in order to vote for it.

It is especially disappointing that this particular White House is supporting all this. After the ''Cornhusker kickback'' and the other special deals, the administration had an opportunity to distance itself from this process, to hit the reset button, and to work toward a bill Americans could be proud of. Unfortunately, in its desperation to force this bill through, the White House is reverting to the anything-goes approach, and the result is predictable: Americans won't like this bill any more than they liked the last one. They have issued their verdict about this bill and this process. They don't like either one. And once again, the only people who don't seem to get it are the Democrats here in Washington.

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 for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Arizona.

HEALTH CARE

Mr. KYL. Mr. President, I wish to pick up on the comments of my colleague, the Republican leader.

There is another distressing story in the paper today reported by the Associated Press. They report that all of the special deals that last week the President said he was going to try to remove from the legislation, now—except for the ''Cornhusker kickback''—they are going to leave them in there because they need the votes. If that is correct, this process is even sicker than we thought it was.

Part of the reason for the Democratic leadership using the reconciliation provision to fix the Senate bill was to take all of these special provisions out, but now it appears, according to the Associated Press, that they are going to be kept in there because they need the votes.

Let me detail what a couple of these are. Last week, there was a story in Politico that detailed six specific items. Of course, there was the ''Cornhusker kickback'' that got such bad publicity and everybody agreed it had to go, including the Senator who voted for the legislation after he was promised that in his State there would be no cost for the coverage of additional Medicaid patients. Now that is apparently going to be ''fixed,'' at great expense, I might add, to the taxpayers of the United States, but apparently unfixed are six other items, and there are more, by the way.

Quote:

> ''We have defended it and we will defend it,'' said Senator Bernie Sanders of Vermont, whose state picked up $600 million in extra Medicaid funding . . .

Again, I am quoting from a March 10 Politico story.

Second:

> In a letter to congressional leaders last week, Obama targeted the Nebraska and Florida deals for elimination. The Florida provision could also shield some seniors in California, New York, New Jersey, and Pennsylvania, according to Senator Bill Nelson's office.

This provision deals with Medicare patients. The reason it is important to me is because there are 330,000-plus Arizona seniors who have Medicare Advantage plans. These are the plans that would suffer under the legislation proposed by the President. Because they would have benefits they currently enjoy taken away from them, the seniors in all of the States are obviously complaining to their Senators. So Democrats have said: Well, OK, if seniors are upset about having these benefits taken away, then we will shield the seniors in our States who have these Medicare Advantage policies so that they don't have to give up their benefits—the biggest set of beneficiaries, and there are over 800,000 of them in the State of Florida but apparently also some in California, New York, New Jersey, and Pennsylvania. All right. Special deal for them.

If this bill, by the way, is so great, why do we have to protect our citizens from its provisions? But that is the way it works. However, my senior citizen constituents in Arizona don't get grandfathered as do those in other States. It just shows you how bad the bill policy is in the area generally that you have to protect your constituents from suffering the effects of the bill but also the bad policy that does that to the detriment of other constituencies. Apparently, now that is going to stay in the bill.

Then there was the so-called ''Louisiana purchase,'' $300 million to Louisiana. Then there was the $1.1 billion

in extra Medicaid funding to Massachusetts and Vermont. This Politico article quotes Senator PATRICK LEAHY of Vermont:

What I told Harry Reid is that Vermont does the right thing, and I don't want Vermont to be penalized for doing the right thing.

Of course, that is the kind of argument that is made in response to provisions in the bill that are bad provisions because they hurt the people in your State. But the solution is not to exempt your State's constituents from the bad effects of the bill. Don't pass the bill. It is a bad bill.

Here is a fifth example. There is a $100 million hospital grant program requested by our colleague from Connecticut, Senator DODD, ''who has acknowledged that the University of Connecticut would qualify for the money.''

Here is a sixth one that is being promoted by the chairman of the Finance Committee, Senator BAUCUS, on behalf of the residents of Libby, MT.

There is another one not mentioned here, but I am aware of it. It protects two insurance companies—Blue Cross/Blue Shield and Mutual of Omaha in Nebraska, again at the request of the Senator from Nebraska. I believe there is another company in the State of Wisconsin protected.

My point is, first, if this bill is so wonderful, why do we have to have all these separate carve-outs, special deals, for Representatives or for constituents in the States of certain Democrats in order, presumably, in the House of Representatives, to help the Speaker of the House get her vote total up to where she can actually pass the bill? Why don't we just fix the bill in the first place so none of these bad effects are visited on the constituents whom I represent, for example, or anybody else's constituents for that matter?

At a minimum, the President should follow through on his plan last week to try to get these provisions out of the bill. It turns out now that apparently this week, according to David Axlerod, during the rotations of the Sunday morning talk shows he was on, that is no longer part of the plan.

The last thing I would like to do is comment briefly on a Washington Post column by Robert Samuelson this morning.

Mr. President, I ask unanimous consent to have printed in the RECORD a Washington Post column by Robert Samuelson.

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

(See exhibit 1.)

Mr. KYL. Mr. President, I will briefly summarize it. The President is visiting in Ohio, I believe, today to highlight the case of a particular Ohio resident. I believe she is a breast cancer survivor. Her insurance eventually became too expensive for her to keep up. She now has a diagnosis of another disease, and the President is highlighting this type of case. I think it is important to highlight it for another reason.

I presume the President or the Senators or Representatives of Ohio are finding an alternative way to ensure she is cared for. Frequently, we have constituents come to us with situations such as this. They represent very heartrending situations, problems with which you want to deal. The real question is how to deal with it. The answer to her problem is not to pass this health care bill. There are alternatives.

For example, for those who cannot get insurance that is affordable to them because of preexisting conditions—Republicans have put ideas on the table, as have Democrats, but that is a specific kind of problem that can be solved with a specific solution rather than this entire health care bill the President is trying to sell to us.

What Robert Samuelson points out in his article is there are a lot of different situations such as this, where people who are not insured nevertheless get care. In fact, the argument is made that we need this kind of health care bill because there are too many people who are uninsured and get expensive and ineffective treatment at the emergency room. He says: ''Unfortunately it's not true.''

He quotes a study by the Robert Wood Johnson Foundation that finds that the insured population ''accounted for 83 percent of emergency-room visits, reflecting their share of the population.'' In other words, there is not a difference of who visits the emergency room and who does not depending on whether you are insured.

He goes on to say:

After Massachusetts adopted universal insurance, emergency-room use remained higher than the national average, an Urban Institute study found.

The point is, even after you get the so-called universal coverage, you do not find any difference in terms of emergency room visits. If anything, with universal coverage, you had even higher emergency room visits. His point is, and I quote Robert Samuelson:

If universal coverage makes appointments harder to get, emergency-room use may increase.

So you are not making the problem better; if anything, you are making it worse. My guess is, you are not affecting it much one way or the other. It is simply not an argument that because people who are uninsured go to the emergency room, therefore, we have to pass some kind of nationwide health care bill such as has been suggested to us.

He goes on to point out:

You probably think that insuring the uninsured will dramatically improve the nation's health.

He goes on to debunk that myth:

I've written before that expanding health insurance would result, at best, in modest health gains.

He goes on to point out that studies have validated the fact it does not make a difference one way or another. Claims that the uninsured suffer tens of thousands of premature deaths are ''open to question.'' Conceivably, the ''lack of health insurance has no more impact on your health than lack of flood insurance.

He goes on to detail the reasons why that is so.

He concludes with this point:

Though it seems compelling, covering the uninsured is not the health-care system's major problem. The big problem is uncontrolled spending.

That is a point Republicans have been trying to make from the very beginning, to point out we ought to first focus on dealing with what is driving up health care costs. That will, if we are successful, have a positive impact on getting people insured because it will reduce the cost of insurance they have to buy or their employer is buying on their behalf.

That is what we should be focusing on rather than this rather elusive issue of coverage of the uninsured. To be sure, nobody is arguing we should not help cover the uninsured. That is not the argument we are making. The argument we are making is, it does not justify a $2.5 trillion expenditure and that, in any event, if you focus first on dealing with costs, you are going to reduce costs, which is a good thing in and of itself, and, thereby, also enhance coverage because the cost is less expensive.

Here is the penultimate paragraph in the piece. I will quote him and close. What Samuelson said is the President is:

. . . telling people what they want to hear, not what they need to know. Whatever their sins, insurers are mainly intermediaries; they pass along the costs of the delivery system. In 2009, the largest 14 insurers had profits of roughly $9 billion; that approached 0.4 percent of total health spending of $2.472 trillion.

Four tenths of 1 percent.

He goes on to say:

This hardly explains high health costs. What people need to know is that Obama's plan evades health care's major problems and would worsen the budget outlook. It's a big new spending program when government hasn't paid for the spending programs it already has.

His point is, instead of trying to make insurance companies the villain, the President should be honest about what their true cost is.

Somebody pointed out—my colleague, LAMAR ALEXANDER—if you take all the profits of all the insurance companies, it pays for 2 days' worth of health care expenditures in the country. What about the other 363 days? Nobody is defending the insurance companies, but you cannot say they are responsible for the high costs of health care in this country, since they are primarily just passing those costs on.

The bottom line is, we need to be honest and explain to the American people what we are trying to accomplish or what we should be trying to accomplish is reducing health care costs. That will have the salutary effect of making access easier for people

because they will be able to afford the insurance that now may be unaffordable for them. But the idea that the insurance companies are the reason we have the problem or that emergency rooms are used more because of the uninsured are two myths that are dispelled in this piece by Robert Samuelson.

I yield to my colleague from Oklahoma.

EXHIBIT 1

[From the Washington Post, Mar. 15, 2010]

OBAMA'S ILLUSIONS OF COST-CONTROL

(By Robert J. Samuelson)

''What we need from the next president is somebody who will not just tell you what they think you want to hear but will tell you what you need to hear.''—Barack Obama, Feb. 27, 2008

One job of presidents is to educate Americans about crucial national problems. On health care, Barack Obama has failed. Almost everything you think you know about health care is probably wrong or, at least, half wrong. Great simplicities and distortions have been peddled in the name of achieving ''universal health coverage.'' The miseducation has worsened as the debate approaches its climax.

There's a parallel here: housing. Most Americans favor homeownership, but uncritical pro-homeownership policies (lax lending standards, puny down payments, hefty housing subsidies) helped cause the financial crisis. The same thing is happening with health care. The appeal of universal insurance—who, by the way, wants to be uninsured?—justifies half-truths and dubious policies. That the process is repeating itself suggests that our political leaders don't learn even from proximate calamities.

How often, for example, have you heard the emergency-room argument? The uninsured, it's said, use emergency rooms for primary care. That's expensive and ineffective. Once they're insured, they'll have regular doctors. Care will improve; costs will decline. Everyone wins. Great argument. Unfortunately, it's untrue.

A study by the Robert Wood Johnson Foundation found that the insured accounted for 83 percent of emergency-room visits, reflecting their share of the population. After Massachusetts adopted universal insurance, emergency-room use remained higher than the national average, an Urban Institute study found. More than two-fifths of visits represented non-emergencies. Of those, a majority of adult respondents to a survey said it was ''more convenient'' to go to the emergency room or they couldn't ''get [a doctor's] appointment as soon as needed.'' If universal coverage makes appointments harder to get, emergency-room use may increase.

You probably think that insuring the uninsured will dramatically improve the nation's health. The uninsured don't get care or don't get it soon enough. With insurance, they won't be shortchanged; they'll be healthier. Simple.

Think again. I've written before that expanding health insurance would result, at best, in modest health gains. Studies of insurance's effects on health are hard to perform. Some find benefits; others don't. Medicare's introduction in 1966 produced no reduction in mortality; some studies of extensions of Medicaid for children didn't find gains. In the Atlantic recently, economics writer Megan McArdle examined the literature and emerged skeptical. Claims that the uninsured suffer tens of thousands of premature deaths are ''open to question.'' Conceivably, the ''lack of health insurance has no more impact on your health than lack of flood insurance,'' she writes.

How could this be? No one knows, but possible explanations include: (a) many uninsured are fairly healthy—about two-fifths are age 18 to 34; (b) some are too sick to be helped or have problems rooted in personal behaviors—smoking, diet, drinking or drug abuse; and (c) the uninsured already receive 50 to 70 percent of the care of the insured from hospitals, clinics and doctors, estimates the Congressional Budget Office.

Though it seems compelling, covering the uninsured is not the health-care system's major problem. The big problem is uncontrolled spending, which prices people out of the market and burdens government budgets. Obama claims his proposal checks spending. Just the opposite. When people get insurance, they use more health services. Spending rises. By the government's latest forecast, health spending goes from 17 percent of the economy in 2009 to 19 percent in 2019. Health ''reform'' would probably increase that.

Unless we change the fee-for-service system, costs will remain hard to control because providers are paid more for doing more. Obama might have attempted that by proposing health-care vouchers (limited amounts to be spent on insurance), which would force a restructuring of delivery systems to compete on quality and cost. Doctors, hospitals and drug companies would have to reorganize care. Obama refrained from that fight and instead cast insurance companies as the villains.

He's telling people what they want to hear, not what they need to know. Whatever their sins, insurers are mainly intermediaries; they pass along the costs of the delivery system. In 2009, the largest 14 insurers had profits of roughly $9 billion; that approached 0.4 percent of total health spending of $2.472 trillion. This hardly explains high health costs. What people need to know is that Obama's plan evades health care's major problems and would worsen the budget outlook. It's a big new spending program when government hasn't paid for the spending programs it already has.

''If not now, when? If not us, who?'' Obama asks. The answer is: It's not now, and it's not ''us.'' Pass or not, Obama's proposal is the illusion of ''reform,'' not the real thing.

The ACTING PRESIDENT PRO TEMPORE. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the Senator from Arizona for yielding.

I ask unanimous consent that I be recognized in morning business for such time as I may consume.

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

GLOBAL WARMING

Mr. INHOFE. Mr. President, after weeks of the global warming scandal—and we talked about it on the floor, what happened with climategate just prior to the Copenhagen convention—I had the opportunity to visit and to uncover some of the things we had suspected were going on for a long period of time. Five years ago, I had occasion to give a speech on this floor, where I outlined, from information that had come through the backdoor to me from scientists, how bad the science was and how it had been, in fact, cooked. Then, of course, along came climategate.

After weeks of the global warming scandal, the world's first potential climate billionaire is running for cover. Yes, I am talking about Al Gore. He is under siege these days. The credibility of the IPCC is eroding, EPA's endangerment finding is collapsing, and belief that anthropogenic global warming is leading to catastrophe is evaporating. Gore seems to be drowning in a sea of his own global warming illusions. Nevertheless, he is desperately trying to keep global warming alarmism alive.

It is my understanding that tonight he is having a high-level meeting of all his global warming alarmists around the country to see how they can resurrect this issue and regroup.

Consider Gore's nearly 2,000-word oped piece that recently appeared in the New York Times. It is a sure-fire sign of desperation. Gore's piece was about China, solar and wind power, globalization, rising sea levels, big polluters, melting glaciers, and cap and trade. One searches in vain for any explanation of the IPCC's errors and mistakes or of Phil Jones, the former director of the Climate Research Unit. That is in East Anglia. We heard a lot about him. He was the one who was actually assembling a lot of the science—or so-called science—or creating the science, I should say, to support the position of those who believe anthropogenic gases cause global warming.

Seven years ago, I believe this month, I had occasion to study on the floor and find out that, in fact, we had spent so much time on this issue that everyone was believing this to be true. When we realized the science was not there, I made the statement that the notion that anthropogenic gases are causing catastrophic global warming is the greatest hoax ever perpetrated on the American people.

What is Gore's take on the climategate scandal? Climate scientists, he wrote, were ''besieged'' by an ''onslaught'' of hostile information requests from climate ''skeptics.'' That is it, nothing else. Even the IPCC announced last week an independent review of its process and procedures.

You see, former Vice President Gore was saying: Oh, that was nothing; that was just a few comments. I might add, one of the largest and most respected publications in the UK, which is called the UK Telegraph, said this is the worst scientific scandal of our generation.

The Atlantic Monthly, the Financial Times, the New York Times, the Chicago Tribune, Newsweek and Time and many others are saying this is a legitimate scandal and reform of the IPCC is absolutely essential. Let's keep in mind, IPCC, the Intergovernmental Panel on Climate Change, is the United Nations. They put this together back in 1988 to try to scare people into changing our policy in this country.

By the way, I mentioned Time magazine as one of the many magazines and publications that have now said, looking at climategate, this investigation

should be there. This is the same Time magazine—and I don't blame them for doing this; I would have done the same thing—that back in 1975, on the cover they had: Another Ice Age is coming, we are all going to die. A couple years ago, you might remember the last polar bear standing on the last cube of ice and it said: Global warming is coming; we are all going to die. Anyway, the publications are coming around.

When it comes to reform, openness, transparency, and peer review, when it comes to practicing good science, Gore stands alone. He wants the world to put its head in the sand and pretend nothing is happening.

It reminds me of the story of the two boy ostriches chasing two girl ostriches through the woods, and they were catching them. One girl ostrich said to the other, when they came up to a clearing: What do we do? Well, let's hide. Each of the girl ostriches stuck their heads in a respective hole, and the boy ostriches came galloping up to the clearing and one looked at the other and said: Where did the girls go?

That is what we are looking at here. They are hiding their heads in the sand. Then Gore is writing in this op-ed piece, even if all these disasters will not happen, we still have to deal with national security risks and energy independence. Of course, Gore fails to mention that the United States leads the world in technically recoverable resources of oil, coal, and natural gas. According to a recent release from a report from the Congressional Research Service, America's combined recoverable natural gas, oil, and coal endowment is the largest on Earth. America's recoverable resources are far greater than those of Saudi Arabia, China, and Canada combined, and that is without including America's absolute immense oil shale and methane hydrate deposits.

It is always kind of humorous when people say: We have to get rid of our oil and gas and our coal. Yet those are the things which we are using to generate the energy necessary to run America.

They say: Well, we have to become independent. But they want to do away with all of that. We have enough oil and gas and coal—and now nuclear, which we are expanding—to take care of our needs so we wouldn't have to be dependent upon any foreign country for any of our energy. The problem is a political problem. Democrats will not allow us to go ahead and explore our own resources and exploit them. We are the only country that doesn't do that.

Gore has to know the edifice of alarmism is starting to crumble, so he is swinging for the fences, hoping for a home run to change the game. But Gore is striking out, as he loses his support almost daily in Congress and from the American people. Let's face it; Gore's side of the argument is collapsing. He and his allies are running short on facts, and Gore's criticism of recent events rings hollow. For example, after the climategate scandal broke, Gore was asked by an online publication called Slate as to what he thought of it.

Gore's response: Well, I haven't read all of the e-mails, but the most recent one is more than 10 years old. Obviously, of course, that is not true because they go all the way up to 2009. So all he is left with is a two-pronged fork of anger and attack. Just read the New York Times op-ed piece.

By the way, I was told his op-ed piece in the New York Times was three times larger than that which they normally will receive. He wrote that those who question climate alarmism are members of a ''criminal generation.'' That is me—a criminal? Is Roger Pielke, Jr., a criminal? How about Dr. John Christy of the University of Alabama, Richard Lindzen of MIT, Chris Landsea of the National Hurricane Center? No, they haven't committed any crimes. They just want honest, open scientific debate.

I might add that thus far the only scientists who commit crimes are those at the CRU. Again, that is the collection point of all the science that the United Nations has put together in this thing called IPCC—those involved in climategate, according to findings of the UK's Information Commissioner.

The Weekly Standard recently placed Al Gore on its cover—we have that right here—showing that the emperor has no clothes. The cover story, by Steven Hayward, of the Weekly Standard is entitled, ''In Denial: The Meltdown of the Climate Campaign.''

Hayward writes a compelling narrative of climategate and its consequences. This story is a must read for anyone interested in the recent implosion of global warming alarmism.

Let me mention this: If you look at the movie ''An Inconvenient Truth,'' the one where he made, I guess, most of his money, the last sentence says, I believe: Are you willing to change the way you live?

Well, we thought that was probably a good idea, so let's put that up here. It has now been 1,009 days since we have invited Al Gore to sign this pledge. Here is what it says:

> As a believer that human-caused global warming is a moral, ethical, and spiritual issue affecting our survival; that home energy use is a key component of overall energy use; that reducing my fossil fuel-based home energy usage will lead to lower greenhouse gas emissions; and that leaders on moral issues should lead by example; therefore, I pledge to consume no more energy for use in my home, my residence, than the average American household 1 year from today.

Well, it hasn't been a year; it was 3 years ago. It was 1,009 days ago.

Then, of course, there is always the question: What if we are wrong? What if we should do something? Since the Kyoto treaty failed—and we came this close, Mr. President. You weren't in your current position at that time, but this is how close we came to actually signing on and ratifying the Kyoto treaty. We didn't do it.

Then along came Members of Congress in 2003, where we had the McCain-Lieberman bill—cap-and-trade bill—and in 2005 we had the McCain-Lieberman bill, then the Warner-Lieberman bill in 2008, we had the Boxer-Sanders bill in 2009, and now it looks as if we are going to have the John Kerry and Lindsay Graham bill that is up. What do they all have in common? It is all cap and trade.

Mr. President, I have some respect for James Hansen. But the one thing I really respect is that he has made this statement about cap and trade. He said cap and trade is a devious way of getting away from the issue. The main issue is that we have to do something about greenhouse gas emissions, anthropogenic gas, CO_2. Well, why not just go ahead and have a tax on them? There is a good reason the cap and traders don't want a tax. Because then the American people would know what it is costing them.

What is the cost of cap and trade? With any of these bills I just mentioned, it is approximately the same because cap and trade is cap and trade. You have to somehow make everyone think they are winners and everyone else is a loser. So we had the ranges come from the Wharton School of Economics, from MIT, from the CRA, and the range is always somewhere between $300 billion and $400 billion a year. Now, that is significant—$300 to $400 billion a year.

Mr. President, if you are like I am, it is kind of hard to relate to billions and trillions of dollars. So what I try to do is relate it to what it would cost the average family that pays taxes in my State of Oklahoma. How much would this cost that family? It comes out to be a little over $3,000 a year. Now, $3,000 a year is an awful lot of money.

What do we get for that? Let's get the other chart up here. I had occasion the other day to hear from Lisa Jackson, who is President Obama's Administrator of the EPA, the Environmental Protection Agency—a fine lady whom I think an awful lot of—when she was testifying before us. Now, this chart—and people are not questioning this chart's reliability—reflects what would happen: U.S. action without international action will have no effect on world CO_2. It just stands to reason. And these are the bills that have been introduced that I mentioned before—the McCain-Lieberman bill in 2003, McCain-Lieberman in 2005, Warner-Lieberman in 2008, and some of the rest of them. It reflects what would happen if we had passed those and what would happen if we don't pass them. The chart shows nothing.

I asked the question of Lisa Jackson, President Obama's Administrator of the EPA. I said: This chart up here, is this an accurate chart? In other words, to put it in plain words, to better understand it, if we were to pass—at that time it might have been the Markey bill. I am not sure which one it was, but it doesn't matter because cap and

trade is cap and trade. If we had passed that bill or any of the Senate bills we have talked about, how would that have reduced CO_2 worldwide?

Her response: Well, it wouldn't really reduce it because we are doing that unilaterally in the United States of America.

What happens when we take away our ability to have energy in America? We have to manufacture it somewhere, and they have estimated how many thousands of manufacturing jobs if we were to pass any of these bills.

Those are polar bears, by the way, and they are all smiling in case you can't see that too well, Mr. President.

We would lose our manufacturing jobs to countries such as China and Mexico and India. Right now, in China, they are cranking out two new coal-fired generating plants every week. Some people are saying: Oh, they are going to follow us and our example and start restricting their CO_2. No, they are not. They are preparing right now to be able to generate the electricity necessary as the people start coming in. So that is what is happening right now.

I would say this, though. I don't want you to feel—even though his world is crumbling, don't feel sorry for Al Gore because he is doing all right. There is actually an article that just came out—this is the National Review—at the same time a New York Times article did, and I have kind of put together things from both of them. This from the New York Times says:

Former Vice President Al Gore thought he had spotted a winner last year when a small California firm sought financing for an energy-saving technology from the venture capital firm where Al Gore is a partner. The company, the Silver Spring Networks, produces hardware and software to make the electricity grid more efficient. It came to Mr. Gore's firm, Kleiner Perkins Caufield & Byers, one of Silicon Valley's top venture capital providers, looking for $75 million to expand its partnership with utilities seeking to install millions of so-called smart meters in homes and businesses.

Mr. Gore and his partners decided to back the company, and in gratitude Silver Spring retained him and John Doerr, another Kleiner Perkins partner, as unpaid corporate advisers. The deal appeared to pay off in a big way last week, when the Energy Department announced $3.4 billion in smart grid grants. Of the total, more than $560 million went to utilities with which Silver Spring has contacts.

Wait a minute, we are talking about Silver Spring, the company with which Al Gore is connected.

Kleiner Perkins and its partners, including Mr. Gore, could recoup their investment many times over in the coming years.

Silver Spring Networks is a foot soldier in the global green energy revolution Mr. Gore hopes to lead. Few people have been as vocal about the urgency of global warming and the need to reinvent the way the world produces and consumes energy. And few have put as much money behind their advocacy as Mr. Gore and are as well positioned to profit from this green transformation if and when it comes.

Critics, mostly the political right and among global warming skeptics, say Mr. Gore is poised to become the world's first ''carbon billionaire,'' profiteering from government policies he supports that would direct billions of dollars to the business ventures that he has invested in.

Representative Marsha Blackburn, a Republican from Tennessee, asserted at a hearing this year that Mr. Gore stood to benefit personally from the energy and climate policies he was urging Congress to adopt.

Mr. Gore says that he is simply putting his money where his mouth is. ''Do you think there is something wrong with being active in business in this country?'' Mr. Gore said. ''I am proud of it. I am proud of it.''

In an e-mail message this week, he said his investment activities were consistent with his public advocacy over the decades. ''I have advocated policies to promote renewable energy and accelerate reductions in global warming pollution for decades, including all the time I was in public service.'' Mr. Gore wrote: ''As a private citizen, I have continued to advocate the same policies. Even though the vast majority of my business career has been in areas that do not involve renewable energy or global warming pollution reductions, I absolutely believe in investing in ways that are consistent with my values and beliefs. I encourage others to invest in the same way.''

Mr. Gore has invested a significant portion of the tens of millions of dollars that he has earned since leaving government in 2001 in a broad array of environmentally friendly energy and technology business ventures, like carbon trading markets, solar cells, and waterless urinals. He has also given away millions more to finance the nonprofit he founded, the Alliance for Climate Protection, and to another group, the Climate Project, which trains people to present the slide show that was the basis of his documentary ''An Inconvenient Truth.'' Royalties from his new book on climate change, ''Our Choice,'' printed on 100 percent recycled paper, will go to the alliance, an aide said.

Other public figures, like speaker Nancy Pelosi and Robert F. Kennedy, Jr., who have vocally supported government financing of energy-saving technologies have investments in alternative energy ventures. Some scientists and policy advocates also promote energy policies that personally enrich them.

As a private citizen, Mr. Gore asked not to have to disclose his income and assets, as he did—

as I do, as others do in this Chamber in his years in Congress and the White House. When he left government in 2001, he listed assets of less than $2 million, including homes in suburban Washington and in Tennessee. Since then his net worth has skyrocketed, helped by timely investments in Apple and Google, profits from books and his movie, and the scores of speeches for which he can be paid more than $100,000 . . .

a speech. I suggest now that price may be going down a little bit for Al Gore.

Mr. Gore's spokeswoman would not give a figure for his current net worth, but the scale of his wealth is evident in a single investment of $35 million in Capricorn Investment Group. . . .

It goes on and on. I ask unanimous consent to submit the rest of this for the RECORD because it is pretty good reading.

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

Mr. Gore's spokeswoman would not give a figure for his current net worth, but the scale of his wealth is evident in a single investment of $35 million in Capricorn Investment Group, a private equity fund started by his friend Jeffrey Skoll, the first president of eBay.

Ion Yadigároglu, a co-founder of Capricorn, said that Mr. Gore does not sit on the fund's investment committee, but obviously agrees with the partners' strategy of putting long-term money into promising ventures in energy, technology and health care around the globe.

''Aspirationally,'' said Mr. Yadigároglu, who holds a doctorate from Stanford in astrophysics, ''we're trying to make more money than others doing the same thing and do it in a way that is superior in ethics and impacts.''

Mr. Gore has said he invested in partnerships and funds that try to identify and support companies that are advancing cutting-edge green technologies and are paving the way toward a low-carbon economy.

He has a stake in the world's pre-eminent carbon credit trading market and in an array of companies in bio-fuels, sustainable fish farming, electric vehicles and solar power.

Capricorn holds a major stake in Falcon Waterfree Technologies, the world's leading maker of waterless urinals. Generation has holdings in Ausra, a solar energy company based in California, and Camco, a British firm that develops carbon dioxide emissions reduction projects. Kleiner Perkins has a green ventures fund with nearly $1 billion invested in renewable energy and efficiency concerns.

Mr. Gore also has substantial interests in technology, media and biotechnology ventures that have no direct tie to his environmental advocacy, an aide said.

Mr. Gore is not a lobbyist, and he has never asked Congress or the administration for an earmark or policy decision that would directly benefit one of his investments. But he has been a tireless advocate for policies that would move the country away from the use of coal and oil, and he has begun a $300 million campaign to end the use of fossil fuels in electricity production in 10 years.

But Marc Morano, a climate change skeptic who until recently was a top aide to Senator James M. Inhofe, Republican of Oklahoma, said that what he saw as Mr. Gore's alarmism and occasional exaggerations distorted the debate and also served his personal financial interests.

Mr. Gore has testified numerous times in support of legislation to address climate change and to revamp the nation's energy policies.

He appeared before the House Energy and Commerce Committee in April to support an energy and climate change bill that was intended to reduce global warming emissions through a cap-and-trade program for major polluting industries.

Mr. Gore, who shared the 2007 Nobel Peace Prize for his climate advocacy, is generally received on Capitol Hill as something of an oracle, at least by Democrats.

But at the hearing in April, he was challenged by Ms. Blackburn, who echoed some of the criticism of Mr. Gore that has swirled in conservative blogs and radio talk shows. She noted that Mr. Gore is a partner at Kleiner Perkins, which has hundreds of millions of dollars invested in firms that could benefit from any legislation that limits carbon dioxide emissions.

''I believe that the transition to a green economy is good for our economy and good for all of us, and I have invested in it,'' Mr. Gore said, adding that he had put ''every penny'' he has made from his investments into the Alliance for Climate Protection.

''And, Congresswoman,'' he added, ''if you believe that the reason I have been working on this issue for 30 years is because of greed, you don't know me.''

Mr. INHOFE. ''Marc Morano, a climate change skeptic who was recently a top aide to [me], Senator James M. Inhofe, Republican of Oklahoma, said that what he saw as Mr. Gore's alarmism and occasional exaggerations distorted the debate and also served his personal financial interests.''

I say don't feel sorry for Al Gore. He is doing fine right now.

Last, on this subject, my wife and I have been married for 50 years. We have 20 kids and grandkids. They are achievers. They are great people. All 20 of them, all but 6, live within walking distance of my home in Tulsa, OK. Not many people can say that. The one who doesn't is the family of six of my daughter Molly, her husband, and four children.

It happens one of these children you can't see very well right here, Zegita Marie, actually was one we found in Ethiopia. My daughter adopted her. Molly only had three boys and always wanted a girl so she adopted this cute little girl. This little girl, by the way, is 9 years old. She is reading at college level. She came up to Washington to speak to a group I sponsor every year. It is called the African Dinner, about 400 or so of them.

Anyway, when they are up here, I say to my friend in the chair, they found, because of the global warming problem we had, we had all these snowstorms and blizzards and consequently the airport was closed and they were stuck here. What do you do with a family of six when they are stuck? They went out and built, of all things, an igloo. They are kind of engineering oriented. This is not an igloo. It sleeps four people with ice bricks and all that. On top of that they put ''Al Gore's New Home.'' It is right next to the Library of Congress. This is a picture of it. I thought that was fun.

I regret to say one of the real liberal stations, Keith Olbermann, declared my daughter's family as ''The Worst Family in America.''

One last subject here I want to address. I want to compliment Sean Hannity for something I saw last night. I happened to get in at the last of it, so I found out what this guy is up to. What he has done is he has taken—there is a lot of wasteful, stupid spending in America. He has taken 102 of the ridiculous things that we spend money on around here and he has listed them. He started several days ago.

No. 102: Protecting a Michigan insect collection from other insects—$187,00O;

No. 101: Highway beautified by fish art in Washington—$10,000.

It goes on and on.

Over those last few evenings he listed these. Last night was the last 20 of them. Let me quickly run over these in reverse order.

No. 20: Researching how paying attention improves performance of difficult tasks in Connecticut.

That was just $850,000.

No. 19: Kentucky Transportation Department awarded contracts to companies associated with the road contractor accused of bribing the previous state transportation secretary—$24 million.

No. 18: Amtrak losing $32 per passenger nationally but rewarded with windfall—$1.3 billion.

No. 17: Widening an Arizona interstate even though the company that won the contract has a history of tax fraud and pollution—$21.8 million.

I am going to submit this for the RECORD. To get on down to the last items—

No. 9: Resurfacing a tennis court in Montana—$50,000;

No. 8: University in Indiana studying why young men do not like to wear—

I will not say that.

No. 7: Funds for Massachusetts roadway construction, to companies that have defrauded taxpayers, polluted the environment, and have paid tens of thousands of dollars in fines for violating workplace safety laws

—in the millions of dollars.

No. 6: Sending 11 students and 4 teachers from an Arkansas university to the U.N. climate change convention in Copenhagen, using almost 54,000 pounds of carbon dioxide from air travel alone—$50,000.

No. 5: Storytelling festival in Utah—$15,000.

No. 4: Door mats to the Department of the Army in Texas—$14,000;

No. 3: University in New York researching young adults who drink malt liquor and smoke pot—

that is only $389,000;

No. 2: Solar panels for a climbing gym in Colorado—$157,800;

No. 1: Grant for one Massachusetts university for ''robobees''—miniature flying robot bees.

That was $2 million.

I want to ask you, Mr. President, what do you think all 102 of these projects have in common? Do you think they are congressional earmarks? A lot of people probably believe they are. They are not. The one thing they have in common is they are all done by the President, President Obama. He said back when they passed the $787 billion stimulus bill, there would not be one earmark in this bill. Everything you are looking at there was all in this bill. That was not done by Members of Congress, that was done by unelected bureaucrats.

The inconvenient truth is that we do have a problem with earmarks in America, but it is not congressional earmarks. I was distressed, the other day, last Thursday, when I saw my fellow Republicans over in the House did something they should not have done. They actually said we are going to stop, we are going to put a permanent moratorium on all earmarks that we in the Republican Party have over there.

Let's stop and think about that. One of the things people do not understand is if you kill what they call—what people think is a Congressional earmark, it does not save a penny. What happens to it, because it is part of an underlying bill, is it goes to the bureaucracies, the unelected bureaucrats, the President, President Obama. I suggest there is a serious problem with what the House did. They resolved that it is the policy of the Republican conference that no Member shall request a Congressional earmark, limited tax benefit, and so forth, all in conjunction with clause 9, rule XXI of the Rules of the House of the 111th Congress.

Let's see what that is. Clause 9 of rule XXI applies to all legislation in the House of Representatives, whether it be authorization, appropriation, tax or tariff.

That is what we are supposed to be doing here, and then said we are not going to do it. I think that is rather interesting because we all, everyone in this room who serves here—I have done it four times—takes an oath of office. In that oath of office we solemnly swear we will support and bear true allegiance to the Constitution of the United States.

Here they have come out and said we are not going to do that. This is mind boggling, that this can take place. It is something that will have to be reversed. When you go back and look at the Federalist Papers, James Madison, the father of the Constitution, made it very clear. He is the one who coined the phrase ''power of the purse.'' That is what we do here in the Constitution. In article I, section 9 it says what we are supposed to do. We are supposed to do the appropriations and spend the money that comes in. That is what we are supposed to do. That is our constitutional responsibility.

We have a serious problem in this, what they are talking about, the moratorium. I think there are some of those who want the Senate to do it. I am hoping we will not follow that course. I respect my friends over in the House but they made a mistake and we do not want to march down that same path. I think it is very important for us to understand earmarks, what they call appropriations over here; that is what an earmark is, if you want to define it. They do not save any money. That money merely goes to the bureaucracy so they can spend it. All 102 of the things I mentioned were bureaucratic earmarks. Not one of them was a congressional earmark.

We have this as a very serious problem right now. One of the reasons I have always said I do not like the idea of the earmark discussion is that people do not understand. They think they are something if you eliminate you save money. You don't save a cent. By the way, earmarks of the spending that takes place are discretionary, not mandatory spending. It constitutes 1.5 percent. I am concerned about the 98.5 percent. For that reason I have introduced a bill that is very similar to something President Obama said. Everyone rejoiced during the State of the Union Message when he stood up and said I am going to freeze nondefense discretionary spending at the 2010 level. Everyone applauded. They thought that was a great statement to make until I went back and I looked and found out that this nondiscretionary spending had increased between 2008 and 2010 by

act of this President, Obama, by 20 percent. So what he is saying is we are going to increase discretionary spending by 20 percent and then we are going to freeze it. I do not want to freeze it. I want to bring it back down. So I have taken the same bill and said we are going to freeze that at 2008 levels.

I encourage my friends, we have now about 40-some cosponsors of that legislation. That being the case, I hope we will look very carefully and consider not just what people are thinking out there but do them a great service and tell them in fact what the real issue is on earmarks.

With that, 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.

Ms. KLOBUCHAR. 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.

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent to speak up to 10 minutes.

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

EXPORT PROMOTION

Ms. KLOBUCHAR. We have been working and focused very much in the last few weeks on the economy with our tax extender bill as well as the jobs bill we passed, and I, for one, am glad. My State is glad, because that is what I have been hearing all around my State, especially from small businesspeople who have been troubled, are having trouble getting credit. Mr. President, as someone who has worked so much on this issue, you know how important that is to the strength of our economy, as 65 percent of our jobs have come from small businesses.

Today, I would like to take a few minutes to discuss two bipartisan bills I recently introduced that I hope will do more to add to the creation of jobs, to innovation, to exports. The first one is called the Export Promotion Act of 2010, and the second is the Travel Restriction Reform and Export Enhancement Act of 2010.

Export promotion is a topic of special interest to me. I chair the Subcommittee on Competitiveness, Innovation, and Export Promotion. The Export Promotion Act is cosponsored with my good friend on the subcommittee, the Republican ranking member, GEORGE LEMIEUX, and also by Senators SHAHEEN and WYDEN, who have taken an active interest in export promotion.

We have an important national interest in promoting exports. Access to new markets can make the difference between expansion and stagnation of a new and developing business. The President recognizes this, and that is why I am pleased he called for a doubling of exports in his State of the Union speech, a doubling in the next 5 years.

One way to do this, to take this opportunity to open new markets, is going to be Cuba. A bipartisan bill I introduced with Senator ENZI, a second bill, would do just that. The bill makes it easier for American farmers to export agricultural products to Cuba—currently a closed market—by relaxing the restrictions on financial transactions between the two countries and by making it easier for American farmers to travel there to promote their products. The sponsor of the bill in the House is Minnesota Congressman and chair of the Agriculture Committee, COLIN PETERSON.

Another way to promote American exports is to make sure businesses know about the potential export opportunities available to them. Currently, the United States derives the smallest percentage of its GDP from exports compared to all other major countries. America has always been ''the world's customer,'' buying our way and in effect buying our way to huge trade deficits. But it is clear that exports will be increasingly important to our economy as people in China, India, and other developing countries gain more purchasing power and they become our potential customers. Right now, more than 95 percent of the world's customers are outside our borders. Think of it; with the growing economic power of customers in these new developing nations—I was just in India a few months ago, and you see that mass of humanity, the potential, as that country builds itself up, of people who can buy our products from all over our country. More exports will mean more business, more jobs, and more growth for the American economy.

Exports are also important for small businesses for several reasons. First and most obviously, exports allow a company to increase its sales and grow its business. Second, a diversified base of customers helps a business weather the economic ups and downs.

So there is a world of opportunity out there. I can tell you, I have seen it in my own State.

Mattracks, a company in Karlstad, MN—population 900, known as the Moose Capital of Minnesota—is a little company named after a little second-grade boy named Matt who came home and drew a picture of tank tracks on each wheel instead of going between the wheels. His dad, a mechanic, decided to build this product in his machine shop, and they now export to dozens and dozens of countries all over the world. They started with 5 employees and they are now up to 50. How did they do it? They went over to Fargo, ND, which covered this area of Minnesota, and talked to a woman named Heather at the Foreign Commercial Service Department. They went over there, and she matched them up, like a business match.com, with potential countries, from Kazakhstan to Turkey, that were interested in their product. That is how they grew their business in Karlstad, MN.

Akkerman, down by Austin, MN, really in the middle of cornfields, is a longstanding family business—different from Mattracks—where they actually do trenchless digging. They put major steel pipes underground, and they have the machinery to push those pipes underground. They can dig major trenches underground without actually digging up the landscape, without digging up the ground. They have done it in Los Angeles, but they are doing it in India. Why? Highly populated areas like digging this way; they do not have to dig up over ground to do it. Again, as you look at these countries with the kind of infrastructure they need, Akkerman is now up to 77 employees—again, in the middle of the farmland in southern Minnesota.

But for so many businesses, it is very difficult to do this because for them the world looks like one of those ancient maps that contain only the outlines of the continents and a few coastline features. But the rest of it is blank space, vast unknown and unexplored territory. They know there is something more, they know accessing these markets will help them expand their profits, open new facilities, and hire more people, but they do not really know how to find out about opportunities.

Fortunately, there is help available. There are a number of Federal programs through the Small Business Administration, the Commerce Department, and the Export-Import Bank that assist U.S. companies in promoting their products abroad. The idea here is to give that kind of help to small and medium-sized businesses so they can vet a potential customer, so they can find out what is available. They don't have a full-time trade department or full-time person looking at each continent like a company such as 3M or Cargill—very successful businesses in my home State—would have. So they need this help.

Another example: Epicurean in Duluth, a company that makes commercial and home-kitchen cutting surfaces. With 40 employees, it has customers in 45 countries. I invited Epicurean's owner, Dave Benson, to join me for this year's State of the Union Address, and he thinks we are right on track in focusing on the export market.

What does our bill do? Our bill focuses on expanding the Commerce Department programs that help these companies get the word out. It does three major things:

First, it expands the scope of existing Department of Commerce programs that help America's small and medium-sized businesses commercialize and manufacture new technologies that export abroad.

Second, it increases the people at the Department of Commerce who are responsible for identifying new export opportunities abroad and matching these markets with American companies. For the past 2 years, the program that specializes in matching small business with potential export markets has not replaced retiring officials, losing roughly 200 people since 2004 even as demand for their assistance continues to increase. This bill would restore staffing levels in this program to their 2004 levels. I talked to Secretary Locke this morning. I know he is focused on this. He is doing reshuffling of people in his own department. That is the key to this.

Finally, the legislation will expand the Commerce Department's Rural Export Initiative to ensure that small and medium-sized businesses located in rural areas know about all of the available export opportunities for them. Why is this cost-worthy? Well, look at this: a return of approximately $213 on each dollar—$213 on each dollar. That is what we are talking about here.

What we are trying to do here, Senator LEMIEUX and I, with this bill and also with our bill regarding Cuba is to open these markets and say: You know what, if we can give our small and medium-sized businesses and our farmers a little help, either getting in the door, knowing whether a customer is real, letting them know where their product is hot, what countries are interested, they are going to do the work. These are private sector jobs. Our idea here is not to create the jobs ourselves but to help them to get into these markets, to make them on an even playing field with the big businesses that already have the resources to do it.

The ability to envision creative new products and then develop them, commercialize them, and sell them has been part of the American dream as long as there has been an American dream. That spirit of innovation has gotten us everything in my State from the Post-it note to the pacemaker. Those companies—Medtronic started in a garage, and 3M started up in Two Harbors, MN, a tiny little town. Target started as a dry goods storefront on Nicollet Mall in Minneapolis, and they grew to what they were. But they can only do this now if they get that kind of help. It is no longer only America that is their market; it is India, it is Kazakhstan, it is Turkey, it is China.

So it is not as easy now to build to the point that they need to build to. That is why Senator LEMIEUX and I are introducing this bill, to assist the Commerce Department to assist these small and medium-size businesses. As we continue to fight through this economic crisis, it is important to keep the end game in mind, an end game where the United States is again the world leader in job creation by virtue of developing and selling the world's most innovative products. This bill will help us get there.

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

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

The bill clerk proceeded to call the roll.

Mr. MCCAIN. 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. MCCAIN. Mr. President, I ask unanimous consent that I be allowed to engage in a colloquy with the Senator from Connecticut.

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

U.S.-ISRAELI RELATIONS

Mr. MCCAIN. Mr. President, I say to my friend, I know he has been observing in the last few days the events that have transpired in regard to the situation in Israel and the reaction of the United States to the announcement that there would be additional housing construction in areas the Israelis believe are within the boundaries that will exist once peace is settled, and that the Palestinians are of the view that it is their area—as there are many territorial disputes between the Palestinians and the Israelis, which is one of the reasons there is a compelling argument for a peace process.

I know my friend from Connecticut is disturbed, as I am, about the level of tension in the public discourse that has been going on, which cannot only not be helpful to Israeli-U.S. relations but also to the ability of Israel to deal with other tensions in the region and the existential threats they face from their neighbors who have threatened their extinction.

So I have had the great pleasure and honor of travelling to Israel on numerous occasions with my friend from Connecticut. I would state for the record that no one has a closer relationship and a better understanding of the Israeli-Palestinian situation and the urgency of the peace process.

I would just ask my friend, doesn't he think if we want the Israeli Government to act in a way that would be more in keeping with our objectives, that it does not help them to have public disparagement by the Secretary of State, by the President's political adviser on the Sunday shows? On the contrary, shouldn't we lower the dialog, talk quietly among friends, and work together toward the mutual goals we share?

Mr. LIEBERMAN. Mr. President, I thank my friend from Arizona for the question and for the opportunity to engage in this dialog on the important and troubling course of relations at this moment between the United States and Israel.

Mr. President, I ask unanimous consent that this colloquy be conducted as in morning business.

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

Mr. LIEBERMAN. I thank the Chair.

I say to my friend from Arizona what not only he knows, but what he has helped to bring about throughout his career, are two things: that the American relationship with Israel is one of the strongest, most important, most steadfast bilateral alliances we have in the world because it is not based on temporal matters—that is, matters that come and go and politics or diplomacy—it is based on shared values, shared strategic interests in the world, and, unfortunately, now on the fact that we in the United States and the Israelis are also targets of the Islamist extremists, the terrorists who threaten the security of so much of the world. So we have a strong bilateral relationship.

The second thing to say, in answering my friend's question, is that the Israelis depend, to a very large degree, on America's friendship as they approach the world. The Senator is absolutely right, without a confidence—not that everything Israel does America will support, but that underlying we are heading in the same direction, we are allies, we are friends, it is as if we are part of the same family. Without that confidence in the U.S.-Israel relationship, the Israelis will not have the confidence to take the risks necessary for peace. So the uproar over the last several days is very troubling in that regard.

Vice President BIDEN, as my friend knows, went to Israel to reset the relationship. Unfortunately, at that time, from all the Israeli Government says—I have no reason to doubt them—a bureaucratic decision was made within one department of the government, the Ministry of the Interior, to issue a permit—I gather one of seven permits necessary within the next few years for this building project to take place. It has become not just a bureaucratic mistake but a major, for the moment, source of division between our ally, Israel, and ourselves, and it does not help anyone to continue this.

I just want to say briefly to my friend because he said something most people do not know—and this is my understanding of the situation—the permits for this housing are in an area of Jerusalem that is today mostly Jewish. The Israeli Government has taken the position, however, since 1967 that anybody ought to be able to buy property and build and live in any section of Jerusalem they choose to regardless of their religion or nationality or anything else. That is a very American concept.

Secondly, this particular part of Jerusalem is, in most anybody's vision of a possible peace settlement, going to be part of Israel. A lot of Israelis believe all of Jerusalem should remain the eternal unified capital of Israel. But going to the negotiations that occurred between President Clinton, Prime Minister Barak, Chairman Arafat in 2000, which were about as detailed as any recent negotiations, this

particular neighborhood of Jerusalem, in the document that was almost accepted by Arafat, was part of Israel.

So it is not a violation of that. It is not a violation of the moratorium on new settlements that Prime Minister Netanyahu adopted, and it ought not to be—I tell you, that first wave of reaction, when Vice President BIDEN was there, I understood. He was upset. It was embarrassing. Maybe some of the words—''condemn'' was a little strong for a bureaucratic mistake. But why this continues now, including on the Sunday talk shows, with Mr. Axelrod saying it was an affront and an insult by Israel to the United States, serves nobody's good. It does not serve our interests; it does not serve Israel's interests. It helps those like the people in Tehran who want to cause difficulty throughout the region.

Mr. MCCAIN. Could I ask my colleague, shouldn't we be emphasizing what I very much appreciated? Vice President BIDEN—and I quote him—said:

> In my experience one necessary precondition for progress [toward peace in the Middle East] is that every time progress is made, it's made when the rest of the world knows there is absolutely no space between the United States and Israel when it comes to security, none.

I thought the Vice President had it exactly right, and as the Senator says: Look, mistakes are made. It is a government in Israel which is sometimes interesting to watch, particularly when you watch the proceedings in the Knesset, the parliamentary proceedings.

But somehow it seems that the rhetoric has escalated and maybe given the impression to the wrong people—the neighbors of Israel who have stated time after time they are bent on Israel's extinction; the statements by Ahmadinejad that he wants to ''wipe Israel off the map''—and that perhaps there may be sufficient space, as the Vice President pointed out, that they could exploit that in a way that would be harmful to the State of Israel. I know that was not the intention of the President's political adviser on Sunday, and it is not the intention of the Secretary of State. But the Secretary of State knows the Israelis very well. She has had dealings with all of the countries in the region. She is very knowledgeable and experienced.

I hope all of us would realize, let's lower the rhetoric. Let's try and fix the problems that exist amongst the close friends we are rather than escalate the tensions that exist in a very dangerous time.

The Senator from Connecticut and I were recently briefed about perhaps increased tensions in southern Lebanon, the possibility of attacks from southern Lebanon into Israel, the continued nuclear buildup on the part of the Iranians, the continued statements of assertiveness by the President of Syria, al-Assad.

There are increased tensions in the region, and this is not the time—certainly, most importantly, not the time—that we give the impression that there is such differences between ourselves and Israel that it could be exploited by Israel's enemies.

Mr. LIEBERMAN. Mr. President, I thank my friend from Arizona. I agree totally with what he said. I think it is very important the Senator from Arizona has gone to the speech that Vice President BIDEN made. I believe it was on Wednesday of last week in Tel Aviv at Tel Aviv University.

What is interesting is, that speech came after the first date he was there. When this bureaucratic announcement of housing permits being issued in Jerusalem was made, Vice President BIDEN put out a statement condemning that action. I understand why he was upset by it, that it had been happening when he came. Prime Minister Netanyahu outright apologized in public for it. He said he is appointing a review committee to look at how it happened so they could set up a mechanism within the Israeli Government so a decision such as that would not be made, if I understood what their intention is, without the Prime Minister's office being notified. Then Vice President BIDEN made quite an important speech at Tel Aviv University.

The Senator from Arizona is absolutely right. The Vice President said the relationship between the United States and Israel is unbreakable, and there is no space between us. When there is space between us, it only helps our shared enemies, not the two of us, the two great democracies.

Vice President BIDEN also made clear that while we are committed to the Israeli-Palestinian peace process, it is very important for both—and Prime Minister Netanyahu has too. He has taken his Likud Party to a place it has never been before. In a speech he gave at Bar-Ilan University, he said for the first time, very clearly, as the Likud Prime Minister, that he supports the two-state solution: two countries, two peoples side by side. Then he issued that moratorium on settlement expansion in a whole series of areas which Secretary Clinton, in an earlier visit, described as unprecedented.

Then we go to the Vice President's speech. There, he focuses on Iran and the threat of a nuclear Iran, the threat of an Iran that suppresses the rights of its people, and he says not only is Iran explicitly a threat to Israel—as Ahmadinejad has said, threatening Israel's existence—Vice President BIDEN made very clear our concern about an Iranian nuclear weapon is not because of what Ahmadinejad said about Israel, although, obviously, that concerns us; it is because a nuclear, autocratic, tyrannical, totalitarian Iran threatens the short-, medium-, and long-term security of the United States of America.

After that speech, I thought this whole business about the permits for housing was over. Yet then the State Department spokesman comes out on Friday with very strong language about the phone conversation with the Secretary of State whom, of course, the Senator from Arizona and I not only respect but like very much. She is our friend, our colleague. She has a long record of support for the United States-Israel relationship. But Friday afternoon's press statement seemed to be dredging up again something that seemed to have been calmed and ought to be calmed.

The Senator from Arizona is absolutely right. I take it that is the point the Senator is making: There is too much that ties us together with Israel, too much on the line for both countries, to continue to make a mistake, for which the Prime Minister of Israel has apologized, into a division between two great allies.

Mr. MCCAIN. Mr. President, wouldn't my colleague agree that the original purpose of the Vice President's trip, as I understand it, was a precursor or even an announcement of indirect talks between the Palestinians and the Israelis, using the good auspices of Senator George Mitchell? So the trip was a signal to the world that the process of peace between Israelis and the Palestinians was on track, and a beginning, albeit a modest one, was taking place.

So it might be good if our friends in the administration—and other places in the United States—could start refocusing our efforts on the peace process, which came very close to the beginning—again, modest, indirect but still beginning—of peace talks and emphasize the need to commence those, assure our Arab friends in the region of our commitment to the Palestinian-Israeli peace talks, and move forward in that direction. We need to understand that the Prime Minister of Israel has apologized and is trying, as the Senator from Connecticut pointed out, to put a mechanism in place to make sure that an incident of this nature would not arise again.

So we could go back—I will not—and be very critical of the Obama administration's initial demand of a complete freeze of settlements which was, in my view, an unnecessary precondition and an impediment, but that is done also. So now we have had our spat, we have had our family fight, and it is time for us to now stop. We have to get our eye back on the goal, which is the commencement of Israeli-Palestinian peace talks, and move forward with that—and I know the Senator from Connecticut shares my view—particularly with the leadership we are seeing on the Palestinian side. The chances for fruitful negotiations are better than they have been since the time the Senator from Connecticut cited back when President Clinton had Arafat and Ehud Barak to Camp David.

Mr. LIEBERMAN. Mr. President, I agree totally with my friend. Let's cut the family fighting, the family feud. It is unnecessary, and it is destructive of our shared national interests, the

United States and Israel, and it takes our eye off the two balls we have to focus on. One is the Israeli-Palestinian peace process and the other is the threat of a nuclear Iran, which is not only a threat to us and Israel, it is a threat to Palestinian leadership because Iran is the No. 1 supporter of Hamas, which is the foremost antagonist to the leadership of the Palestinian Authority.

The Senator from Arizona is absolutely right. Peace between the Israelis and the Palestinians requires very difficult, delicate negotiations. But we are at a moment—and my friend and I were together in Israel and the Palestinian areas in January of this year and we met with the leadership. It is an interesting moment, because in both countries the economy is doing pretty well. The Palestinians have seen a real surge in economic growth. Security is better on both sides. We have leadership on both sides: Netanyahu in Israel and the President of the Palestinian Authority, Abu Mazen, and Prime Minister Salam Fayyad. We have three leaders there committed to the two-state solution, renouncing terrorism, a peaceful process. If, for some reason, people in the American Government continue this dispute, frankly, it makes it hard for not just the Israelis but the Palestinians to get into the peace process because we can't be more demanding than they are, if you will. I think Abu Mazen and Salam Fayyad want to move the peace process forward, I am convinced, as Prime Minister Netanyahu said.

So it is time to lower voices and get over the family feud between the United States and Israel. It doesn't serve anybody's interests but our enemies: George Mitchell—I will say it here—is a saint. Whoever the saint of patience is, George works under that saint's aegis. Through his patience and persistence, the proximity talks between Israel and the Palestinian leadership are about to begin, and they have the prospect of making some real progress.

Mr. MCCAIN. Mr. President, I thank my friend from Connecticut.

I rise today to address the very concerning, and unfortunately very public, tensions that have broken out recently between the governments of the United States and Israel. I am not here to take sides or to call out one party at the expense of the other. There have been enough accusations, recriminations, and bad blood.

I certainly understand the anger felt by members of the U.S. administration that the announcement of new settlement construction in East Jerusalem by Israel's Interior Ministry simply seemed intended to embarrass Vice President BIDEN in the middle of his visit. I can also understand the anger felt by Israelis that the U.S. reaction to this announcement has been out of step with the announcement itself. At this point, there is little to be gained by either side by focusing on their anger, however justified they feel it is. It is now time to focus on what matters most: the common interests we share, the urgent need for cooperation between us, and the large capacity within our alliance to move beyond differences and work together.

Vice President Biden spoke to exactly these themes in his excellent speech in Tel Aviv during his recent visit to Israel—a speech, I would add, that was delivered 2 days after the Interior Ministry's announcement. Perhaps the most correct and important thing the Vice President said was this: ''In my experience one necessary precondition for progress toward peace in the Middle East is that every time progress is made, it's made when the rest of the world knows there is absolutely no space between the United States and Israel when it comes to security, none.'' This is absolutely correct, and we all need to remember it right now.

We now have a conservative Israeli leader who is committed to the goal of two States for two peoples, living side by side in peace and security. We have a leadership in the Palestinian Authority that is committed to beginning negotiations while also building the institutions of a democratic Palestinian state, including effective security forces that can enforce the rule of law and fight terrorism. We have a U.S. administration, and U.S. Congress, that is committed to being engaged in and supportive of the pursuit of peace in the Middle East.

So let us focus on the opportunity we have, the United States and Israel together, as historic allies, to achieve goals that serve both our interests. The United States is completely committed to Israel's security, so Israel can feel totally confident in taking on the large and difficult decisions that peace requires. As the Vice President said, there should be no space between these allies—none.

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

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

The bill clerk proceeded to call the roll.

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

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

SUPERFUND SITES

Mr. NELSON of Florida. Mr. President, the House is on my mind right now, since the House seems to have something important going on with regard to something known as health care reform and health insurance reform. We are waiting expectantly to hear information that the House will get the votes together and pass the Senate-passed bill on health reform that we passed on Christmas Eve.

But I came to speak about another subject today, something I voted on when I was a young Congressman, way back in 1980, and that something was known as the Clean Water and Clean Air Act. One of the parts of that legislation—it has a fancy name, but in essence that is what it was, clean air and clean water—one of the major thrusts of the legislation was that we had these toxic waste dumps all over the country. They were first exposed by a toxic canal, called Love Canal, in the State of New York. The cause for the toxic dump, the company, was long since gone, probably bankrupt, and, therefore, there was no financial means by which we could go about cleaning it up. We couldn't get to the responsible party because they had long since left town or they had long since gone through a series of bankruptcies and there were no funds available to clean it up, and that left it on all the rest of us—the taxpayers.

What we found was there were a lot of these places all over the country. This was particularly true in my State of Florida. All of these sites are now called Superfund sites, named after the trust fund that was being set up, filled with trust fund money that would come from a fee being imposed upon the industries that were doing the polluting. The concept was that the polluter was going to pay instead of the average taxpayer, and they called this trust fund the Superfund. So they called these sites the Superfund sites. In my State, we have 52 of these sites, and we have another 13 identified. But nationwide there are over 1,200 of these sites that have already been named and which need to be cleaned up.

Here is the problem. Why aren't they cleaned up? Well, as I said, when I was a young Congressman and we passed this new law, we were going to have the financial means to clean up these sites by having the industries that were polluting pay a fee that annually would go into this trust fund and, in return, they were getting something. They were getting relieved of any financial liability. That was the deal. This law operated along fine for about 15 years, and it came up for renewal, and lo and behold, those industries activated their lobbyists and they killed the reimposition of that fee in the mid-1990s. So they got off scot free because they don't have any more liability, but they are not paying their fair share.

The industries were the petroleum industry—and it was a minor tax that was imposed on the production of oil and the importation of foreign oil into this country—and the chemical industry, in 42 chemicals that were produced, and there was a small fee that was assessed for that which went in and filled up this fund basically to the tune of about $1.3 billion a year. But along come the mid-1990s and those industries activate their lobbyists and they kill the fees on a going-forward basis—but they didn't kill their relief from liability.

What we have now is a trust fund that is depleted of money. We have

over 1,200 sites all over the country that desperately need to be cleaned up. There is no money except going to the American taxpayer and getting the money to keep cleaning up these sites.

What we need to do is to reimpose the fee so we go back to the original agreement with these polluting industries; in other words, the polluters paid into the trust fund and they got that in exchange for relieving them of liability for the pollution that left these toxic dumps.

I am introducing legislation that would cause this to occur. The President has recommended it. He has recommended a provision by which it would fill the trust fund partially by $1.3 billion in the first year from these fees and thereafter $2.5 billion a year. I am changing the recommendation from the President a little bit because the President is imposing a corporate fee as well and I do not think that corporations that did not have anything to do with polluting ought to be paying this fee. I think it ought to be assessed only on those corporations that were a part of the polluting under the original theory of the law back in 1980, so that is how I have changed the legislation from what the President has recommended. I will be introducing this shortly. I am going to send it around to our colleagues and I hope they will join me as cosponsors.

I want to tell you about one of these sites I visited this morning in Jacksonville, FL. It is right on the St. Johns River. It is right next to one of the main sites of the Port of Jacksonville, which is a major national seaport. It is 31 acres and it is all fenced, with signs with a skull and crossbones that say: Don't go on the property because you could get cancer.

As a matter of fact, EPA has done an analysis of this. They say the toxic chemicals on this site, if somebody were to drink the water, if somebody were to live there, if somebody were to go and scratch around in the sand, they could be exposed to cancer-causing agents. Can you imagine. That is right in the middle of a big city, next to the St. Johns River where the runoff is going into the St. Johns River, and guess who is ingesting that? The fish in the river and the mammals in the river.

What we need to do is clean up these sites. This site is a typical one. It started over a century ago, in the late 1890s. It was a fertilizer plant. It operated for almost a century. It was shut down in the 1980s and then it was declared a Superfund site a few years ago. Analysis showed just what kind of toxic things were there. EPA, doing an analysis of this, has said it could affect nervous disorders; it could cause cancer. They have gone through a whole list of potential terrible health effects that could occur from something that could come from somebody being exposed to this site.

There is another reason we want to close up this site. That is that this 31 acres is sitting right next to the major part of the Port of Jacksonville, which is going to significantly expand once the Panama Canal is widened and the superships that have these cargo containers on them are able to come from Asia, through the Panama Canal to the east coast of the United States. The Port of Jacksonville will significantly expand and this particular location called the Talleyrand part of the Port of Jacksonville will be able to expand by 31 acres, right on the St. Johns River, right next to the Port of Jacksonville. That is highly desirable real estate, of which you cannot dare even go through the fence and walk on the land because of the potential toxic exposure.

Remember, this is just one of 1,200 sites across America that needs to be cleaned up. That is the reason people now should clearly understand, under the theory that the polluter pays, why we need to reinstitute the original agreement struck in 1980 for the trust fund to be filled by the fee associated with these toxic substances and therefore be able to clean up these sites for the benefit of the American taxpayer.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the House message to accompany H.R. 2847, which the clerk will report.

The legislative clerk read as follows:

House message to accompany H.R. 2847, an act making appropriations for the Departments of Commerce, and Justice and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Durbin amendment No. 3498 (to the motion to concur in the amendments of the House to the amendment of the Senate to the amendment of the House to the amendment of the Senate), of a perfecting nature.

Durbin amendment No. 3499 (to amendment No. 3498), of a perfecting nature.

Durbin amendment No. 3500, to provide for a study.

Durbin amendment No. 3501 (to amendment No. 3500), of a perfecting nature.

Durbin amendment No. 3502 (to amendment No. 3501), of a perfecting nature.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senate returns today to creating jobs. Today, we return to the HIRE Act.

This bill provides incentives for businesses to hire new employees, and it encourages businesses to invest in building their operations.

It has a payroll tax exemption for newly hired employees. It provides continued funding for the vital Federal highway program. It expands the successful Build America Bonds program. And it extends the tax incentive in section 179 of the Tax Code, which allows small businesses to expense capital expenditures, instead of depreciating them over time.

These proposals will help to get Americans back to work.

The Senate passed the HIRE Act last month, with strong bipartisan support.

Since then, the House of Representatives considered the legislation and returned it to the Senate with some modifications.

The HIRE Act includes the Schumer-Hatch payroll tax exemption for newly hired employees. This is a straightforward tax cut: If you hire a person who has been unemployed for 60 days, you don't have to pay your share of the Social Security payroll taxes for that person for the rest of the year.

And if you keep the newly hired person employed for 1 year, you get an additional income tax credit.

The House modified the Schumer-Hatch payroll tax exemption to allow employers to receive the exemption if they pay the railroad retirement tax instead of the Social Security payroll tax.

The House also included modifications to ease implementation of the payroll tax exemption.

This payroll tax exemption provides a simple and immediate tax incentive for businesses to employ new workers, right away. A business can use the cash that it saves from the payroll tax cut to help pay the wages of the new employee. Or it can invest in equipment. Either way, the incentive will help boost hiring and help businesses.

The HIRE Act will also create jobs in the transportation sector, by extending the 2009 highway funding level through the end of 2010.

Highway construction plays a vital role in our economy. The Department of Transportation estimates that every $1 billion in Federal highway spending—when coupled with the State or local matching share—creates or sustains 34,500 jobs. These are jobs in construction, engineering, manufacturing and other sectors hard-hit by the recession.

The HIRE Act keeps the program working.

The HIRE Act also expands the successful Build America Bonds program. Last month, Treasury Secretary Geithner testified before the Finance Committee that the Build America Bonds program is the most successful

stimulus program based on jobs per dollar.

And the HIRE Act extends the enhanced expensing provision in section 179 of the Tax Code. This valuable tax incentive allows small business taxpayers to write off up to $250,000 of certain capital expenditures in 2010, instead of depreciating those costs over time.

This helps small businesses to pay less in taxes now, and thus meet their needs for cash in this difficult time.

The American economy has lost more than 7 million jobs. And the unemployment rate is near 10 percent.

We need to help people to get jobs. We need to do more to help businesses to hire more workers. The HIRE Act does just that.

And so, let us help America's businesses to create more jobs. Let us complete our work on this commonsense legislation. And let us send the HIRE Act to the President, so that this law can start creating jobs right away.

PEOS

Mr. NELSON of Florida. Mr. President, I would like to ask the chairman of the Finance Committee and its ranking member a question on the application of the pending legislation, H.R. 2847, the Hiring Incentives to Restore Employment Act, to Professional Employer Organizations or PEOs.

In my State we have over 700,000 workers in Florida who are working in PEO arrangements regulated by Florida law. PEOs in my State work with over 50,000 businesses, most of them small, providing a range of human resource-related services. I would like to ask the Senators to confirm that for purposes of the retention credit for newly hired individuals contained in the legislation the rules for eligibility and calculating the credits would be applied to each business working with a PEO as if the business was not in a PEO relationship. In other words, the retention credit would be claimed by the business in these cases.

Mr. BAUCUS. The Senator from Florida is correct.

Mr. GRASSLEY. I agree with the chairman.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill 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 amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847, the Commerce, Justice, Science Appropriations Act.

Byron L. Dorgan, Carl Levin, Dianne Feinstein, Jack Reed, Mark R. Warner, Patrick J. Leahy, Benjamin L. Cardin, Debbie Stabenow, Daniel K. Akaka, Robert P. Casey, Jr., Michael F. Bennet, Maria Cantwell, John D. Rockefeller, IV, Barbara Boxer, Charles E. Schumer, Patty Murray, Christopher J. Dodd.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to H.R. 2847 shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from North Carolina (Mrs. HAGAN), and the Senator from Montana (Mr. TESTER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Kentucky (Mr. BUNNING), the Senator from South Carolina (Mr. DEMINT), the Senator from New Hampshire (Mr. GREGG), the Senator from Utah (Mr. HATCH), and the Senator from Ohio (Mr. VOINOVICH).

Further, if present and voting, the Senator from Kentucky (Mr. BUNNING) would have voted ''nay.'' The Senator from South Carolina (Mr. DEMINT) would have voted ''nay.''

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

The yeas and nays resulted—yeas 61, nays 30, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—61

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

NAYS—30

Alexander	Ensign	Lugar
Barrasso	Enzi	McCain
Brownback	Graham	McConnell
Chambliss	Grassley	Murkowski
Coburn	Hutchison	Nelson (NE)
Cochran	Isakson	Risch
Corker	Johanns	
Cornyn	Kyl	
Crapo	LeMieux	
Roberts	Shelby	Vitter
Sessions	Thune	Wicker

NOT VOTING—9

Bennett	DeMint	Hatch
Bunning	Gregg	Tester
Byrd	Hagan	Voinovich

The PRESIDING OFFICER. On this vote, the yeas are 61, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Mr. President, we are now postcloture. It is my understanding that my Republican colleagues wanted some opportunity to talk about this bill. We certainly have no problem with doing that.

I ask, however, that we have a definite time to vote on this legislation. I hope we could do it before our caucuses tomorrow. I ask my distinguished friend, the Republican leader, to comment on when he expects being able to vote on this legislation.

Mr. MCCONNELL. Mr. President, my members are here and ready to talk. We are going to be talking about health care, which is the most important issue in the country. We are fully prepared to discuss it throughout.

Mr. REID. I appreciate very much my friend being candid in that regard. I ask unanimous consent that we have the vote on this matter by 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, as I just indicated, we are here. We have been notified by the other side that they wish to have a lengthy discussion. We are here and prepared to do that and fully intend to talk about what we view as the flaws in the health care proposal that will be voted on in the House apparently sometime later this week. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Mr. President, we in America today have a major problem, and that is jobs. I appreciate the bipartisan support of this bill; it has been bipartisan, but we need to get to this bill and pass it so we can start having small businesses take the tax credits that are going to be available in this legislation to allow the Build America bonds to be replenished. We need to make sure that the highway budgets go forward as quickly as possible.

I understand the efforts to divert attention from the issue at hand, but there is going to be plenty of time to talk about health care. Let's get this done. The bill we are on now—when we finish this bill, there is the FAA bill. There are amendments in that regard that have been offered. As we know, Senators can speak about any subject they want. But let's get off health care for a few hours and get jobs. This bill should go to the President tomorrow so people can start being hired.

For example, I have a provision in this bill that will allow $45 million that

has already been appropriated, to be reprogrammed—in fact, I use that term, but it will be directed by this bill—it will go to the transportation departments of Nevada, $45 million. The highway departments in Nevada will build things to create jobs. That is what we need to do.

We understand the concern people have with health care, but this is a jobs bill. I hope that tonight if my Republican colleagues want to talk about health care they will take a little consideration and understand that this is a jobs bill. But the jobs before us are dealing with this beautiful bill that has passed—bipartisan, a bill that will allow small businesses to take a tax credit if they hire somebody who has been out of work 60 days. It will allow someone who has a small business who wants to buy a new machine, a new desk, new office equipment to write that off—not depreciate it but write it off. Of course, saving 1 million jobs with the highway bill and the Build America Bonds.

Mr. SCHUMER. Will the majority leader yield?

Mr. REID. Certainly.

Mr. SCHUMER. Is it not true, Mr. Leader, by the rules of the Senate, that the minority could spend time talking about health care tonight, without holding up the jobs bill; that they could let the jobs bill go forward and then talk about health care all they wanted?

Mr. REID. The answer is yes. I say to my friend from New York, we would be happy to give consent, if they want to talk all night on health care or whatever they want. That is fine—and we would be able to respond to that, of course—but let us get this done. There are people waiting to buy things. Not only does this help small business and help them purchase items, but the businesses are going to buy them—up to $250,000. In Reno or Las Vegas, this is big-time stuff, and I would think the same is true all over the State of New York.

Mr. SCHUMER. That is true.

Mr. REID. I would bet, in the first week, that this bill was effective, there would be a massive purchase of property because people no longer have to depreciate. They can write it off, up to $250,000. That is a lot of stuff.

Thank you, Mr. President.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. My good friend, the majority leader, left out one thing, which is this is the second time he has done what is called filling the tree. What that means to the constituents we represent on this side of the aisle is, we got to offer no amendments, no amendments whatsoever, to this bill. This is the second time and the 27th time the majority leader has filled the tree, thereby denying to the minority an opportunity to offer any amendments at all.

We can argue, I guess, about the relative merits of this bill. What we do know for sure is that $47 billion of it is not paid for. So it adds that much additional money to the deficit. We also note, for sure, the one kind of jobs this administration has been able to produce is government jobs.

As a result of the spending binge we have been on for the last year, we have added 120,000 government jobs. In America, if you work for the government, you make an average of $70,000 a year. If you work in the private sector, you make an average of $40,000 a year. We have had a job boon all right—with the government. Of course, the stimulus package principally benefitted State governments, which were very happy to have the money so they did not have to pare back their employment.

So we are interested in talking about jobs all right, but health care is what the majority has been trying to ram through the Congress over the last year. It is the big issue this week. I am sure Members on my side of the aisle who will speak tonight will indeed talk about jobs, but we also fully intend to talk about the health care bill that will be voted on over in the House that cuts Medicare by $½ trillion, that raises $½ trillion in new taxes, and is replete with special deals. We now understand the fix-it bill—the second bill that will come after the health care bill—will not fix all the special deals; maybe only one of the special deals. So we will have on opportunity——

Mr. DURBIN. Would the Senator yield for a question?

Mr. MCCONNELL. I believe I have the floor.

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. MCCONNELL. We will have an opportunity to discuss all these things, and what I would suggest to the majority leader, if he wants to maximize the time, we could simply agree to vote on this bill at 9 a.m. on Wednesday and then go back to the FAA bill, upon which we have made substantial progress. That would be another way to advance the ball, which I would suggest.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, my friend from Kentucky said it all in the last statement. He would be willing to agree to have a vote at 9 a.m. on Wednesday morning. Why in the world would we want to waste American taxpayer dollars sitting around here not sending a bill to the President? This is a bipartisan bill. It is a bill that has been widely acknowledged to be approved by groups such as the liberal-minded Chamber of Commerce, the National Chamber of Commerce, and other such groups. It is a bill that is so badly needed in this country.

I would also suggest to my friend, I don't know of a single government job that would be produced with our HIRE bill. I don't know of a single job because everything we have done in the four provisions will create jobs in the private sector—thousands and thousands of jobs, new jobs, in the private sector.

Mr. SCHUMER. Would the leader yield for a question?

Mr. REID. Of course, I would.

Mr. SCHUMER. Again, first, there are four provisions in this bill: One is the highway bill, which as I understand it hires private sector people to build highways; is that correct?

Mr. REID. That is true.

Mr. SCHUMER. Second is Build America Bonds, which allows the States and cities to hire private people; is that correct?

Mr. REID. The only thing it can be used for.

Mr. SCHUMER. Third is the depreciation for small businesses, which is obviously for the private sector.

Mr. REID. Nondepreciation. Just write it off.

Mr. SCHUMER. Four is the provision Senator HATCH and I put forward, which gives directly to small businesses a payroll tax deduction if they hire; is that correct?

Mr. REID. The four things my friend has enunciated create not a single government job.

Mr. SCHUMER. Let me ask one other question because my friend, the minority leader, talked about the $48 billion not paid for. Isn't it correct this bill is fully paid for?

Mr. REID. Yes, it is.

Mr. SCHUMER. I thank the Senator.

Mr. REID. I would also say, Mr. President, the State of Kentucky and the State of Nevada have been having tremendous problems with a number of programs, one of which is Medicaid. One of the things we did in our recovery package was to give all 50 States—Nevada and Kentucky, all 50 States—some help with their Medicaid. The cost of health care is wreaking havoc with our States. There is nothing wrong with doing that. We have an obligation. Medicaid was a program we started back here. To talk about the States getting some kind of a big benefit they do not deserve I don't think is right.

I met 2 weeks ago tonight in Room 219 with 12 Governors. They handed me a letter signed by 48 Governors all saying: We need some help, and one of the places we need help is with Medicaid. These health care costs are skyrocketing. Even though we have given help, there are very few States in the Union that haven't had massive layoffs.

Again, I would hope we could get this out of the way and have a discussion on health care at some subsequent point. There is another bill that this is holding up. This bill is going to pass, and I appreciate very much my Republican colleagues voting for this legislation, but let's not waste 30 hours because we are not only holding up sending this bill to the President but we are holding up finishing work on the Federal Aviation Administration bill.

My friend has wanted to offer amendments. Amendments are being offered

on this legislation as we do on most everything. I have been very nonrestrictive in how I have handled the floor. Of course, there have been occasions when we have done what has been done here for generations; that is to say, at this time, we are not going to have, on a bill dealing with jobs, an abortion amendment, we are not going to have an amendment on gay marriage or on income tax. On things such as that, there comes a time.

On this FAA bill, the first year—the first year—the experts tell us will create 150,000 jobs, but not only that, it will make air travel safer. We will have the air travelers' bill of rights. We will have, for the first time in the history of this country, a GPS system for our aircraft which will allow us to do more flights into airports and to make it safer.

I would hope we don't waste this time. It is Monday night, it is 10 after 6. Let's not waste tonight and tomorrow and into Wednesday. Let's get off this, get to FAA, and if somebody wants to give a health care speech and beat up on Obama, let them do it on the FAA bill.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. As you can see, we are all in the mood for a spirited debate, and I know the junior Senator from Florida is on the floor and anxious to begin the discussion.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Before my friend leaves, if I could just say this. I think we could probably accomplish what we both should want by saying: OK, let's vote at a reasonable time Wednesday morning on this jobs bill, but in the meantime—in the meantime, all day tomorrow—let's work on the FAA bill. That way we would accomplish two very important things.

I would hope my friend would consider that. That way we could not only have a time certain where we are going to pass this bill—the HIRE bill—but we could also work on FAA. We have Senators waiting to do work on the FAA bill.

Mr. DORGAN. Would the Senator from Nevada yield?

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, if I could respond to the majority leader's suggestion, it may very well be worth talking about. As I understand the suggestion, it is that we lock in a time for a vote certain, such as the one I suggested, at 9 a.m. on this bill, and we resume consideration of the FAA bill between now—tomorrow—and then.

Mr. REID. I think that is very appropriate. During that period of time, people can offer amendments or, if they feel so inclined—

Mr. MCCONNELL. I think that is a matter worth talking about. Why don't we put in a quorum call and have that discussion.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. 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. WYDEN. Mr. President, we are going to have the leadership discuss the process for moving forward, but I wish to take a minute and talk about one of the important bipartisan provisions in the jobs bill. I think colleagues know it is never hard to get me to focus on the health reform issue, and we are certainly going to be doing a lot of that in the days ahead, but our constituents want us to focus on jobs as well and particularly a jobs effort that is going to work. We have that in the Build America Bonds program. I say to colleagues, the Build America Bonds program has far exceeded even the optimistic projections some of us had for this program.

I have been involved in the development of this program now for 6 years. Senator THUNE, on the other side of the aisle, has worked very closely with me. When we started our work on the Build America Bonds program, our hope was that perhaps $4 billion or $5 billion worth of these Build America Bonds would be let. What we have seen is that now close to $80 billion worth of these bonds have been issued. They are literally selling like hotcakes. They have revolutionized municipal finance, and some have projected that perhaps this year $150 billion worth of these Build America Bonds will be sold.

So Build America Bonds work, and they put people in the private sector to work as well. In my home State of Oregon, it has been proven, time and time again, that private investment follows well-targeted public investment. That is what we are seeing with this bipartisan program, and that is why colleagues on both sides of the aisle have proposed expanding it.

I note my good friend, Senator THUNE, on the other side of the aisle, is here. He and I have worked hand in hand on this effort because we wanted to have something that would create jobs in our country that was nonpartisan.

The reason Senator THUNE and I have worked on this effort in a bipartisan way is we wanted to have something that is common sense, we wanted to have a jobs creation effort that responded to basic needs of our country, and we wanted to see it part of an effort where the private sector takes the lead.

I am particularly appreciative the chairman of the Senate Finance Committee is here, Chairman BAUCUS. I wish to express my appreciation to him and his staff for their help in this effort. We saw in the Senate Finance Committee—Chairman BAUCUS is here, he remembers our discussions—our projections for Build America Bonds were pretty modest. The reality blew past those projections almost overnight. The projections for Build America Bonds were a few billion dollars, and we blew past those projections like a bullet train.

Build America Bonds are getting desperately needed funding flowing into local communities, they are creating jobs, and they are helping to strengthen America's infrastructure. Almost $80 billion has been generated. This is in addition to the $80 billion of direct Federal infrastructure spending that has been included in the Recovery Act.

I note that in the HIRE bill there is going to be an effort once again to ensure there is direct support for infrastructure, and we also have this very promising opportunity with the private sector that we have been able to secure with Build America Bonds.

When a project is funded with Build America Bonds, the Federal Government pays a portion of the finance costs. It equals a very small percentage, perhaps a single-digit percentage of the total project cost. The city or State pays almost the entire cost of the project over time.

A project that is funded with direct spending will often have the Federal Government pay 50 percent or 75 percent of the project costs. Some communities need that kind of help to get needed projects off the ground. But when some argued that projects should only be funded with direct spending, I thought it was important to look for other opportunities. That is why Build America Bonds came into existence. It is not possible, given the enormous needs for infrastructure improvements, for roads and bridges and transportation systems, to rely just on direct spending or rely just on bonds. What we ought to do is what we have done here in the Senate on a bipartisan basis; that is, put more options in the tool box for funding infrastructure. Of course, direct spending will be important. What we have seen is Build America Bonds take off as an additional tool.

In my home State, in the Dayton School District, they are using Build America Bonds to employ up to 150 people building and remodeling classrooms. By using Build America Bonds, this small school district in my home State saved an estimated $1.2 million in interest costs.

Up in Washington State, in Grand Coulee, the Coulee Medical Center was able to finance a new hospital building with Build America Bonds, saving more than $7 million in finance costs. They were able to start construction immediately. We had discussion on the floor earlier—are these government jobs? What that project did was put people in the private sector to work—construction workers, plumbers, electricians, tradesmen. Once the building, of course, is completed at the end of the year, doctors and nurses, clerks and

support staff get to work in the new hospital.

Recently, a joint Congressional Budget Office-Joint Tax Committee report highlighted other benefits flowing from Build America Bonds. As my friend Senator THUNE, who is in the Chamber, knows about Build America Bonds, this report shows that tax-credit bonds, such as Build America Bonds, can be more effective than tax-exempt bonds. The report also concluded that because the bonds are more attractive to investors, they are more efficient at raising capital.

Once again, Democrats and Republicans have been able to come together in the Senate to advance a fresh approach that saves municipalities time and money and effort that can otherwise be devoted to other priorities.

Aside from the fact that the funds are raised efficiently, they are answering a cry we hear again and again; that is, get the job done quickly. People are frustrated that sometimes it takes eons for government to work out the particular project, particularly in the transportation area. Bond funds need to be spent within 2 years of the date the bond is issued. What that means is money is not just flowing into projects, it is being spent in the short term. People get back to work quickly. You get more bang for your dollar, and that obviously is what Americans are asking for, and Build America Bonds deliver.

Back in the days before these bonds were issued, the market for the traditional, normal municipal bond was just about frozen. It was hard to sell them. Now Build America Bonds have changed that. The private sector is strongly supporting this program. Groups such as the Chamber of Commerce and the National Association of Manufacturers and businesses across the country are saying they need a fresh approach to build infrastructure. Particularly with Build America Bonds, we are now seeing businesses say this is an approach that gives them a long-term boost to what they know they can count on. They can plan new avenues for their businesses when they know there is going to be infrastructure there to support it.

It is not, however, just businesses that are buying Build America Bonds. Nonprofits such as pension funds are finding these bonds are an attractive investment. Nonprofits cannot benefit from the tax credits, but bond issuers can pass on the value of the tax credits in the form of a higher interest rate for Build America Bonds than other types of bonds. By contrast, traditional tax-exempt municipal bonds have not been a good investment for pension funds and other institutional investors that do not pay taxes. What Build America Bonds have been able to do is provide a way for nonprofits to invest in American infrastructure that traditional tax-exempt bonds don't provide.

We are not surprised that Build America Bonds are reinventing the municipal bond market. We were told by people in the private sector, in the States, in the finance community, all across the country, that they thought this was a chance to, in effect, unfreeze the municipal bond market that had been frozen in Illinois, in Oregon, in South Dakota, and across the country. In some cases, these bonds are going to make the difference between whether the infrastructure projects come to fruition. In other cases, they are going to lower the cost of the projects and allow the community to reinvest the savings in other projects.

By any scenario, the Build America Bonds program helps local government, local businesses, and those who rely on them for jobs and dependable infrastructure. In my view, that is exactly what the American people are looking for from their elected officials—something that works, something that is common sense, something that is bipartisan, something with a proven track record. That is, in fact, the Build America Bonds program.

Let me close with one last point. There have been discussions—and we have been in consultation with Chairman BAUCUS and the Senate Finance Committee staff on this—about financial institutions and whether the fees they are charging are appropriate for the issuance of Build America Bonds. First of all, it has been the position of Chairman BAUCUS, myself, and others that anybody who tries to take advantage of State and municipal issuers needs to understand that the Senate Finance Committee is going to have a zero tolerance policy—zero tolerance policy—for ripping off the taxpayers. This program is designed to create jobs and make infrastructure funding more efficient and certainly not create any opportunities for somebody to try to skate around the rules and to take advantage of taxpayers.

In the Senate Finance Committee—and I am very appreciative of Chairman BAUCUS taking this approach. The Congress included a 2-percent limit on the amount of fees issuers of Build America Bonds can charge. In practice, the typical fee, in fact, has been far less than the statutory maximum fee that is allowed.

As the market for Build America Bonds has grown—and I pointed out that it has mushroomed far beyond projections—the fees have kept coming down. They have come down close to the levels currently charged for tax-exempt bonds. With Build America Bonds having become well established—in fact, they now represent 20 percent of the municipal bond market—in our view, there simply is no longer a justification for charging a higher fee.

As the expiration of the Build America Bonds program approaches at the end of the year—and I am very glad the administration has proposed making the program permanent—I intend to keep monitoring the fees charged for issuing the bonds. If some can present the case that it is appropriate to further reduce the statutory cap on fees, I am certainly open to listening to it. I want to make sure every single dime of taxpayer money goes to these bondholders.

I am open to listening to any suggestions and any ideas to make a program that works, a program that Senator THUNE and I have worked on together for many months that is working—we are certainly open to ideas for improving on it.

I see my friend from Florida is anxious to speak. I appreciate his desire to talk tonight.

Let's keep focusing—whether it is health care, whether it is transportation, whether it is tax reform—on ideas that bring the Senate together. I wanted to take a few minutes to talk about Build America Bonds specifically tonight. Again, the chairman of the Finance Committee is in the Chamber. I am very appreciative of his support and Senator GRASSLEY's support. As the majority leader, Senator REID, noted earlier tonight, we have to zero in on jobs. There is no economic multiplier out there like jobs. If you put people to work, as I outlined—construction workers, electricians, plumbers—restaurants make the sandwiches to feed all the men and women who are doing the work. Let's keep coming back to approaches that bring both sides together. I have tried to do that in health care, in tax reform, and certainly in transportation, where Senator THUNE and I have been able to team up on something that works and is being used around the country. Let's remember that is what is needed right now when our folks are hurting. When they are looking for approaches that are common sense, that are nonpartisan, we can give them one specifically with the Build America Bonds program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

HEALTH CARE REFORM

Mr. LEMIEUX. Mr. President, I thank my colleague from Oregon for his good words tonight and for his approach in trying to do things in a bipartisan way.

There are some good things in this jobs bill. I think the issue we on this side of the Chamber have had is we would have liked to have offered some amendments. The 18 million people I represent in Florida expect that we have the opportunity to offer amendments, to bring up ideas, good ideas, and let those ideas rise and fall depending upon their merit. Unfortunately, we did not have the opportunity to have amendments. My colleague, the Republican leader, said earlier what was done on the majority side was something called filling the tree. What does that mean? It means we do not have the opportunity to bring forward our good ideas. The people of Florida, the people of all of our States, expect that we get to do that. So while there are some good things in here, it is a shame that we could not have made this bill better.

What I really want to speak about tonight is the debate Americans are having around their living room tables and around their kitchen tables about this health care bill. This is a trillion-dollar bill that is being discussed in this country and that we now hear is going to go through the House of Representatives and possibly come back to this Chamber through a procedure called reconciliation.

It occurs to me that what we are dealing with here is a little bit of fantasy land. Why do I say that? This weekend, I took my kids to see ''Alice in Wonderland.'' That is a famous story. It occurred to me that we are creating our own sort of wonderland here in the Senate.

A lot of things have been said about this health care bill, what it does and what it does not do. I thought tonight it would be important to go through the representations that are being made to the American people as to whether we should pass this health care bill. Let's go through all the things we have heard, things that President Obama has said, things that Members of the majority have said in this Chamber as to why we should pass this health care bill.

Let me first say that everybody believes we need health care reform in this country. We have 4 million-plus Americans who do not have health insurance. Nearly 4 million Floridians do not have health insurance.

We know the cost of health insurance is too high for those Americans who have health insurance. In the last 10 years, health insurance costs have risen by 130 percent. That is unsustainable. It is something that is afflicting the people of Florida and all across this country.

It is hard to make ends meet when your salary may be going down or you may have lost your job but your health care costs continue to go up. So there is no debate within this Chamber that we should do something. Of course, we should do something. The debate is about what we should do.

On this side of the aisle, we would like to take a step-by-step approach. We would like to go after the cost of health care. We would like to increase competition in health care so that costs could actually go down. We would like to put patients back in charge of their health care purchasing decisions.

We know if the consumer is back involved the price of health care will go down. But we find ourselves having to vote on this massive new government entitlement program, a program that I cannot support because I do not believe it will be in the best interests of Floridians.

Last Monday I was down in South Florida, down in Miami and Fort Lauderdale. In Fort Lauderdale I had the opportunity to have a townhall meeting where we specifically talked about health care. In that meeting I had many Floridians come up to the microphone and ask questions. Most of them were bewildered about this plan. They wanted to know why we cut a $½ trillion out of Medicare. Medicare is health care for seniors. Why would we create a new program by cutting a program we have now that is already in financial trouble?

We know in the next 7 years Medicare is going to have its own solvency problems. Why would we take money out of health care for seniors—more than 3 million Floridians in that program—to start a new program?

They want to know why we are going to raise taxes on medicine and health care devices which we know will increase the cost of health care. They want to know why we are creating a $1 trillion new entitlement program when we cannot afford the entitlement programs we have, when we cannot afford the $12 trillion debt we are saddling upon our children and our grandchildren.

So with that, I would like to go through some of the myths, some of the myths that have been created in this wonderland I spoke about before, and try to debunk those myths and say what is in this bill and let the facts speak for themselves.

The first myth—and the President likes to say this; he said it again today in a rally—if you like your health insurance, you can keep it under his proposal. Well, it is simply not true. The Congressional Budget Office has said between 8 and 9 million people who would be covered by employment-based plans under current law would not have the offer of such a proposal. Why is this going to happen? Because under the incentives and penalties this bill creates, businesses are going to drop health insurance for their employees and put them into the government-subsidized system.

So for those 8 or 9 million Americans, they are not going to get to keep the health insurance they have now. They are not going to be able to keep the health care they want.

Rick Foster, the CMS Actuary—and those are the folks who administer Medicare and Medicaid—says the number could even be higher. He concluded that 17 million people will lose their employer-sponsored coverage. Seventeen million people will not be able to keep the health care they enjoy today. So what the President says is simply not the case.

Second, we know under this myth that you will be able to keep the health care if you like it, that people who have Medicare Advantage, Medicare Part C, a lot of them will not be able to keep their program either. Medicare Advantage is a promise that offers extra benefits for folks on Medicare.

If you sign up for it, you get wellness benefits, you get hearing benefits, you get dental benefits oftentimes. People like it. We have more than 1 million people in Florida on Medicare Advantage. This bill cuts $120 billion out of Medicare Advantage.

Now, I am not sure how it is going to impact Florida. There was this Florida fix that was going to be an off-ramp, not an exit. But over several years they would be in the same situation as the rest of the folks in America. I do not know whether that is going to make it into the final bill. But I do know we are going to cut $120 billion out of Medicare Advantage. When that happens, according to Rick Foster, the CMS Actuary, lower benchmarks will reduce Medicare Advantage rebates to plans and thereby result in less generous benefit packages.

He estimates in 2015, enrollment in Medicare Advantage plans would decrease by about 33 percent. So for many folks, they are going to get dropped by their employer and not be able to keep the health care plan they have now. For many folks on Medicare Advantage, they are going to get dropped as well, as much as 33 percent by 2015. You are not going to be able to keep the health insurance you have now.

We also know these mandates that exist in this bill are going to change your health insurance policy. If the government deems that your health insurance plan does not pass muster, they are going to mandate that your health insurance plan change.

Now, you may like your health insurance plan the way you have it. You may have a high deductible. You may have bought catastrophic insurance. You may not want to buy a comprehensive health insurance plan that is soup to nuts; you may only want certain things covered.

Well, under this plan, under this bill, there are going to be certain mandates put in place, and you may not be able to keep the type of insurance you have. So for those three instances alone—for people who are going to get dropped by their employer and get forced into the public plan, for people who are Medicare Advantage, and for people who have a certain type of insurance plan—they may not be able to keep it.

So we know, unfortunately, what the President is telling us about this bill is not true. Myth No. 1 is busted.

Myth No. 2: Your health insurance premiums will go down. Why did he get involved in this whole debate to start with? What was told to the American people during the Presidential campaign in 2008 and since the time that we have discussed this health care plan? That we were going to lower the cost of health insurance for most Americans.

That is not going to happen under this plan. We are not going to lower the cost of health insurance. In fact, for some Americans the price is going to go up. Table 1—I hate to get into the weeds, but let's look at the facts.

We have the CBO report I cited earlier. There is a Table 1 on page 5 of that Congressional Budget Office report that analyzes this plan. It goes through what people have in the current insurance market.

There are about 25 million people in the small group market. There are 134

million people in the large group market. That is 159 million Americans who have health insurance. So the small group market, it is estimated the cost increase or savings is between a 1-percent increase or down 2 percent.

For those in the large group, it is zero to potentially minus 3 percent. So this is not reducing the cost of health insurance in any meaningful way. For individuals who are out there who are not in a group, who are purchasing insurance individually, the Congressional Budget Office says their cost of health insurance will go up 10 to 13 percent.

So the whole very reason, the primary reason we are about the business allegedly of debating health care and passing this big bill was to lower the cost of health insurance for most Americans. Not only is it not going to lower the cost of health insurance for most Americans, it is going to increase it for those who are in the individual market.

I ask unanimous consent that Table 1 be printed in the RECORD.

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

(See exhibit 1.)

Mr. LEMIEUX. So you are not going to be able to keep your health insurance, for a lot of Americans, if you like it, and the cost of health insurance is not going to go down. Those two myths have been busted.

Myth No. 3: This plan, the Democratic plan, will lower costs, lower the cost of health care overall. We have all heard about—and I said before the rising cost of health care, 130 percent in the past 10 years. There is an expression, ''bending the cost curve down,'' making sure that we can get control of costs. This plan is not going to do that. This plan does not have mechanisms, true mechanisms in it to really control costs.

In today's Washington Post, Robert Samuelson takes on the President's claim that his plan will control costs.

In this article, he talks about the fact that when people get insurance they use more health services; that spending rises and by the government's latest forecast health spending goes from 17 percent of the economy in 2009 to 19 percent in 2019.

According to the CMS Actuary, he estimates overall national health expenditures under this bill will increase by an estimated total of $222 billion during 2010 to 2019.

It is also going to increase the government's share of health care spending. According to the CBO, under the legislation, national outlays for health care would increase by $210 billion over the next 10 years. So we are just chasing our tails. We are going to put a lot more money into health care, but we are not going to reduce costs.

How could we reduce costs? How do we get at the problem of increased health care? Well, we could try to foster more competition among health insurance companies instead of creating these subsidies, which is going to plow more money into the insurance companies.

We could make the insurance companies compete across State lines. That is one of the ideas the Republicans have brought forward. We also could go after meaningful lawsuit reform. There is one estimate we would save more than $50 billion a year if we had meaningful lawsuit reform.

My colleague, Senator COBURN from Oklahoma, talks about the fact, being a practicing physician, that doctors are engaged in defensive medicine, and when thousands of kids across this country this year get hit in the nose with a baseball they are going to show up at the emergency room. Instead of just watching the patient and making sure the kid is going to be OK, they are going to order a CT scan even if one is not necessary because that has become the standard operating procedure in order to protect the doctor from lawsuits.

The CBO says if we had real medical malpractice reform, we could save as much as $54 billion over the next decade. We also do not have transparency. Here is the essential problem with health care costs. We do not know what anything costs.

In the next couple of days my wife and I are going to be fortunate enough to have our fourth child. She is due any day now. When we go to the hospital, we are going to get back—after that baby is born, just like we have done with the last three kids, we are going to get back a bill. It is going to be page after page after page of things that we cannot understand.

At the bottom of the bill, we will pay some small fraction because we have good health insurance in the Senate. We will pay some small fraction of the total bill, and we will never question the pages and pages and pages of line items of information we do not understand.

We will not because we do not have to pay for it, and we, as consumers, have been removed from the transaction in health insurance because of third-party payers, whether it be Medicare, Medicaid, or insurance companies. We are not involved in that transaction.

Now, let me give you a different example. If we had to look at that bill because we were responsible for a portion of it because we were given, say, a tax credit to go out and buy insurance, and we were trying to get the most bang for the buck, and they tried to add $75 for a bedpan or gauze or for Band-Aids, Mrs. LeMieux would not pay for that. Mrs. LeMieux would be in there saying: Wait a minute. I can go to Target and I can get Band-Aids for $1.50, not $75.

I guarantee you that the men and women of this country, if they really had to look at those bills because they really had to pay them, we would not have these exploding costs. We also would not have all of the cost shifting that is going around.

The dirty secret about health care is that if I have insurance, my full payment on insurance or close to the full payment is going to pay for the Medicare patient and the Medicaid patient because Medicare and Medicaid do not pay enough for the services they render.

The hospitals cost shift all the money around. At the end of the day, we don't have a transparent system or a market-driven system. What we should do is give every American who needs it a tax credit to buy health insurance on their own. If they were out in the marketplace, that would lower cost, because competition would reign and they would insist on bang for their buck. But that is not in this bill. We know now that, one, you will not be able to keep, in a lot of cases, your health insurance, if you like it. We know, two, it is not going to reduce your cost of health care. And we know, three, it will not lower the cost of health care in general. Those myths have been busted.

Let me go to the next one, myth No. 4: The Democrats' plan will reduce the deficit. We have heard this estimate that over $100 billion is going to be saved over the next 10 years. Not true. The way this is scored or evaluated by the CBO is that whatever you send them, they have to give you an answer back on the confines and the specifications of what you sent. So the Democrats' bill has 6 years of spending or benefits and 10 years of taxes. If they have 10 years of taxes and only 6 years of spending, then they can get to a situation where the CBO will come back and say: It is going to reduce the deficit. But if you compare apples to apples, spending to deficit, if you compare spending to taxes, we know it is going to run a deficit. You cannot create a new entitlement program and not run a deficit. It is going to cost us, by some estimates, more than $400 billion over a 10-year period, in the first 10 years, and $1.4 trillion in the next 10 years. We know that myth is busted. It is not going to reduce the deficit.

Let me also say this is going to be a budget buster for States. The States, unlike the Federal Government, have to make ends meet. The States have balanced budget requirements. As we increase the requirements of Medicaid, which this bill does, then we will be putting increased burdens upon our States. Our States are going to have to find more money to put into Medicaid. They can't print money like the Federal Government. They can't spend more than they take in. What is going to happen? They are going to have to cut other programs, or they will have to raise taxes. What is going to get hurt? I can cite the example of Florida where they are suffering under a huge and emerging Medicaid problem. Medicaid and Health and Human Services is the No. 1 portion of the budget of the State of Florida. It grows every year. So what loses out? Education, money for teachers and schools, law enforcement, protecting the environment, and economic stimulus. Florida has to live

within its means, unlike the Federal Government.

This is not a Republican or Democratic issue. Governors of both sides of the aisle are very concerned about the increased mandates placed upon States. Governor Phil Bredesen of Tennessee called this bill the mother of all unfunded mandates. The head of Washington State's Medicaid Program believes that States facing severe financial distress may say they have to get out of the Medicaid Program altogether.

CBO released its first estimate of expected discretionary spending under this bill, confirming that $10 to $20 billion in discretionary spending over the next decade will be used to implement this legislation. We are going to spend $10 to $20 billion to implement this bill; $5 to $10 billion to the IRS and to Health and Human Services. Also in terms of this topic, of looking at how the plan will reduce the deficit, which it will not, we know this is going to be a $1 trillion program over time. With rare exception, when this Congress creates a program, especially an entitlement program, it does not stay within its estimates. It grows and grows.

We have a debt. When I first came to the Senate and had the privilege to serve here back in September of last year, we were at something like $11.6 or $11.7 trillion. Now we are already at $12.4 trillion. It is unsustainable.

The fifth myth: Medicare cuts won't affect seniors. This bill cuts half of a trillion dollars out of Medicare. Some say this is savings. The money that is going to be saved is not going back into Medicare to prolong the life of Medicare. We had an amendment from my colleague Senator GREGG who said that any savings would have to go into Medicare. The majority party defeated that amendment.

It makes no sense to me that we would take half a trillion dollars out of Medicare to create a new entitlement program. I can't go back to my seniors in Florida, more than 3 million of them, and say: Your Medicare Program is already facing insolvency in about 7 years, but we are going to take a half a trillion dollars out of it now to create a new health care program.

This could not be good for seniors. On its effect on Medicare, there was a letter from the CBO Director to the majority leader, Senator REID. He warned that while the effects of the cuts to Medicare remain unclear, they could reduce access to care or diminish the quality of care. Let's go through the cuts: $135 billion from hospitals; $120 billion from Medicare Advantage; nearly $15 billion from nursing homes; $40 billion from home health agencies, $7 billion from hospice. The CMS Actuary says that many of the Medicare cuts are unrelated to the providers' cost of furnishing services to beneficiaries. That means it is not about savings. That means the money is being taken from Medicare, robbing Peter to pay Paul. He concludes it is doubtful that providers could reduce cost to keep up with these cuts. The CMS Actuary also finds that because of the bill's severe cuts to Medicare, providers for whom Medicare constitutes a substantive portion of their business could find it difficult to remain profitable and might end their participation in the program.

What does this mean in plain language? We are not paying these health care providers enough under Medicare, but we are going to take out still more money, and they will not be Medicare providers anymore. They will not provide health care for seniors. If you want to see the future of this, look at Medicaid. Medicaid is even one step worse in trouble than Medicare is. We know now that folks who are entering into the Medicaid system who are trying to find a specialist in a metropolitan area, half of them can't find a specialist. We know in Medicare, according to a June 2008 Medicare Payment Advisory Commission Report, that 29 percent of the Medicare beneficiaries it surveyed had trouble finding a primary care doctor. That is up from 24 percent in 2007. If the doctor is not in, it is not health care reform.

How can I go back to my seniors in Florida and say: We are creating a new program by taking money out of your program, and you may not be able to find a doctor who is going to see you anymore? That is not conscionable.

Florida will be disproportionately affected by these cuts. It has the second highest population of seniors and highest concentration of seniors in the Nation at 19 percent. Let me tell you how it will specifically hurt one portion of health care for seniors, home health care. I talked to Ron Malone, vice president of Gentiva Health Services, one of the largest providers of home health services in Florida. He said: Look, it is not going to hurt us so much. We are a big company. We can spread costs. We will get more market share. But it is going to hurt the smaller companies, and a lot of the smaller companies are going to go out of business.

How is that health care reform? Who do we owe an obligation to provide health care more than to our seniors?

I recently visited with the president of the Florida Medical Association, which is the largest physician association in Florida, with 20,000 members. They say:

> . . . this legislation does not adequately fix what's wrong with our current system. It contains many provisions that would allow government bureaucrats to interfere with patient care decisions and actually raises the cost of health insurance unnecessarily.

This is from the doctors association in Florida. They say it is going to interfere with the doctor-patient relationship and increase costs. Why are we doing this?

The sixth myth I want to tackle is this idea that emergency rooms are going to be less burdened. You hear this justification. People now are uninsured. They go to the emergency room to get health care. If we give folks insurance or they have the ability to purchase insurance at a subsidized rate, they will stop going to the emergency room, and that will lower the cost of health care because emergency room procedures are expensive. It will free up the emergency room for its intended purpose, for people who really have an emergency. But according to the Urban Institute, after Massachusetts adopted a somewhat similar plan, emergency use remained higher than the national average. More than two-fifths of the visits in these emergency rooms were nonemergencies and, of these, the majority of adult respondents said it was more convenient to check into the ER. More convenient?

We know we are going to be paying health care providers less. What does that mean? There is going to be less of them providing health care. That means your lines at the doctor's office, which are already too long, are going to get longer. So what are folks going to still do? They are going to still show up at the emergency room. If we look at the Massachusetts model, that has happened. We also know that ultimately we are going to have a severe doctor shortage. We have not prepared, nor does this bill prepare, to make sure we will have sufficient health care providers to meet new demands.

Seventh myth: The Democrats' plan takes on the insurance companies. You have heard the President say we are going to fight against the insurance companies; we are going to make sure that we are putting the patient first. Basically what we are going to do, in reality, is create a lot of new business for the insurance companies. This subsidy plan is going to force a lot of new people into health care with an insurance company. That is why the insurance companies are for it. What we need to do is empower individuals. What we need to do is give individuals money that is in their own pocket and let them go out and be consumers. If they were consumers, it would lower the cost of health care. What we need to do is let insurance companies compete across State lines so we as consumers have more choices. Look at auto insurance. It is so easy a caveman can do it. In 15 minutes, you can save 15 percent on your auto insurance. These folks are out there competing. We need that in health care. Why do I only get to pick from the insurance companies that are in Florida? If there is an enterprising insurance company from South Carolina that wants to come into my State and offer cheaper prices, why should I not have that opportunity as a consumer? There are commonsense things we can do, market-driven things we can do that will lower the cost of health insurance and, by doing so, when it is less expensive, more people can afford it and you have more access.

The eighth myth: It has been said that this bill takes an unprecedented step to fight health care fraud. It is

going to go after waste, fraud, and abuse, and we will save billions of dollars. In fact, the $500 billion being cut from Medicare is often described as an elimination of waste, fraud, and abuse. It is not. It is just taking money out of that program and putting it in this program. To be fair, there are some provisions of this bill that go after health care fraud. They are good, but they go around the margins. They are going to save a billion or two, which is a lot of money, I will grant you that, but it is not the kind of money we need to save. We believe there are $60 to $100 billion of fraud in Medicare every year alone, not talking about Medicaid, not talking about veterans health care, just Medicare, $60 to $100 billion, $1 out of every $7 spent. What we need to do is implement a plan that is going to stop the health care fraud before it starts.

I have a bill, S. 2128, that has bipartisan support, has more than a dozen Senators who sponsor it. It would do three things. One, it would create a person at HHS who would be the No. 2 person at the agency for Health and Human Services, appointed by the President to be the chief health care fraud prevention officer of this country. No other job, not focused on worrying about H1N1, not focused on anything else that should be done in health, focused on stopping health care fraud, someone we could measure against performance to make sure we are doing everything we can to stop wasting the people's money. The second thing it does is it takes a page from another business that exists in the marketplace that does an excellent job at stopping fraud. There is another business that is about the same size as health care, about $2 trillion a year. That business, instead of having a $1-in-$7 fraud ratio, has a ratio of 7 cents out of every $100. That is the credit card industry. We have all had this experience. You go somewhere to use your credit card and you get a phone call or an e-mail that says: Did you mean to make that purchase? If you do not say yes, they do not pay.

What we do in health care is we pay, and then if we think something is fraudulent, we chase. When we chase, the money is gone. The credit cards stop the fraud before it starts.

Now, why couldn't we implement that kind of computer technology? In health care, it is called predictive modeling. So when someone tries to sell a wheelchair 100 times in an hour, the bells go off, the phone call is made, and if it is not verified, we do not pay.

We have people—unfortunately, a lot of them in my home State of Florida—who are bilking the system for tens of millions of dollars a year because it is much easier to steal from Uncle Sam than it is to steal from anybody else because nobody is watching.

One group in town that has evaluated my bill with this predictive modeling system, where we would set up a computer program to stop the fraud before it starts and make people verify when there is a questionable transaction, has said it will save $20 billion a year.

During the health care debate we had last December, I asked to amend my bill on to the main health care bill, and my colleagues on the other side of the aisle objected. Why we wouldn't implement real waste, fraud, and abuse reform is beyond me. But this bill we are talking about does not have it. That myth I, too, believe is busted.

The third part of my bill is, it will require background checks for all health care providers. Can you believe we do not do background checks on people who bill Medicare and Medicaid in this country? We have folks who are convicted felons who are billing alleged ''health care'' providers. It is so bad that in reimbursements for AIDS treatment under Medicare, while south Florida only has 7 percent of the AIDS population, they bill 78 percent of the treatment—only 7 percent of the population and they bill 78 percent of the treatment. It is just fraud, and it should stop today.

The ninth myth I want to tackle is that this Democratic health care reform bill will not impact the doctor-patient relationship. In fact, it will. I agree with my colleague, Dr. BARRASSO, who supports a patient-centered approach. Real health care reform should ensure a doctor and a patient can work together to the best efforts in the health of the patient. As I said before, we are still going to have third-party payers. We have to put the patient back in charge of their health care. That is the only way we are going to reduce costs.

There is a common thread throughout our governmental programs that has led entitlements to expand and expand and expand; that is, people do not have what is called skin in the game. If I am not paying, I do not care. But if I have to go out as a consumer, if the government would give me a tax credit to go buy health insurance, all of a sudden I am in the game. If I have a reasonable deductible where I have to pay a little when I go to the doctor, all of a sudden I am in the game and I am not going to ask for a procedure I do not need. I am going to sit there and talk with my health care provider about whether this is something I really need. Now, if you tell me it is free, I will take it. And if you advertise to me on television every drug in the world, I will go to my doctor and say: Sign me up for that because I get it for free. We have to change the whole structure of how we do health care because this will just continue to expand. Medicare will continue to expand. Medicaid will continue to expand. If this program passes, it will continue to expand.

While it might be great to throw all this money into these programs, we cannot afford it. We cannot afford the programs we have, let alone the programs the majority in this Chamber want.

The tenth and final myth I want to tackle tonight is that taxes will not go up. This is a jobs bill for the tax collector. We already said there is going to be $5 billion to $10 billion to the IRS and HHS to implement this bill. Remember, if you do not buy health insurance for yourself, you are going to have to pay a tax, a fine, a penalty to the IRS—$750 a person. Small businesses that do not provide certain levels of health insurance will be fined. And what do you think they are going to do? Pay that fine or drop to under 50 employees so they do not have to pay the fine anymore, which will cause more people to be out of work.

Can you believe that in the United States of America, we are going to tax you if you do not buy health insurance for yourself because the government cares more about you than you care about you? If the government can tax you for not buying health insurance, what else can they tax you for not doing? Not working out? Not eating your spinach? That cannot be what our Founders intended.

Remember, we give up our rights to the government. Our institution was created that it governs with the consent of the governed, that we have the inalienable rights. In our social contract, we give those rights up to the government. It is not the other way around. How is it the government can fine me for not doing something?

So at the end of the day, when this entitlement program increases beyond its means, when it is more than we can afford, and when the $500 billion we take out of Medicare starts to put Medicare in insolvency even quicker, what is going to happen? Is the majority in this Chamber really going to cut Medicare? Probably not. So what are they going to do to help pay for this new program without their cuts? They are going to raise your taxes—raise your taxes to levels that are going to be hard to imagine when you factor in what we are going to have to do for all the other entitlement programs we cannot afford, when you factor in what we are going to have to do with our $12 trillion debt that is estimated to be $10 trillion higher by 2020.

That is why the National Federation of Independent Businesses has said:

When evaluating health care reform options, small business owners ask themselves two specific questions. First, will the bill lower insurance costs?

We know the answer to that is no.

Second, will the bill increase the overall cost of doing business?

The answer to that is yes.

They say:

In both cases, the Patient Protection and Affordable Care Act fails the small business test and, therefore, fails small business.

It has been my goal tonight to present facts. I know others have a differing view.

As a Senator from Florida with more than 3 million folks in Medicare, as a Senator who cares about health care reform and wants to create more access but also wants to lower the cost of health care, I cannot support this bill.

I hope my colleagues in the House who are being faced with this option of voting for this bill and then passing something on reconciliation will do the right thing. I hope they will not be pressured politically to change their votes from ''no'' votes to ''yes'' votes. I hope they will stand for the people of their State and for the American people.

We could get this right. We could work together on a bipartisan way, as all of the other big, important bills over time have been done, with 70 or 80 Senators working together to do the right thing for the American people. I sign up for that. I am standing ready to do that if that opportunity presents itself. But I cannot vote for this bill that will not lower the cost of health insurance for most Americans, nor will it put us in a situation financially that is tenable going forward.

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

EXHIBIT 1

Table 1.

Effect of Senate Proposal on Average Premiums for Health Insurance in 2016

	Percentage, by Market		
	Nongroup[a]	Small Group[b]	Large Group[c]
Distribution of Nonelderly Population Insured in These Markets Under Proposal	17	13	70
Differences in Average Premiums Relative to Current Law Due to:			
Difference in Amount of Insurance Coverage	+27 to +30	0 to +3	Negligible
Difference in Price of a Given Amount of Insurance Coverage for a Given Group of Enrollees	-7 to -10	-1 to -4	Negligible
Difference in Types of People with Insurance Coverage	-7 to -10	-1 to +2	0 to -3
Total Difference Before Accounting for Subsidies	+10 to +13	+1 to -2	0 to -3
Effect of Subsidies in Nongroup and Small Group Markets			
Share of People Receiving Subsidies[d]	57	12	n.a.
For People Receiving Subsidies, Difference in Average Premiums Paid After Accounting for Subsidies	-56 to -59	-8 to -11	n.a.
Effect of Excise Tax on High-Premium Plans Sponsored by Employers			
Share of People Who Would Have High-Premium Plans Under Current Law	n.a.	19	
For People Who Would Have High-Premium Plans Under Current Law, Difference in Average Premiums Paid[e]	n.a.	-9 to -12	
Memorandum			
Number of People Covered Under Proposal (Millions)	32	25	134

Source: Congressional Budget Office and the staff of the Joint Committee on Taxation.

Notes: n.a. = not applicable.

a. The nongroup market includes people purchasing coverage individually either in the proposed insurance exchanges or in the individual insurance market outside the insurance exchanges.

b. The small group market includes people covered in plans sponsored by firms with 50 or fewer employees.

c. The large group market includes people covered in plans sponsored by firms with more than 50 employees.

d. Premium subsidies in the nongroup market are those available through the exchanges. Premium subsidies in the small group market are those stemming from the small business tax credit.

e. The effect of the tax includes both the increase in premiums for policies with premiums remaining above the excise tax threshold and the reduction in premiums for those choosing plans with lower premiums.

Mr. LEMIEUX. I yield the remainder of my post-cloture time to the Republican Leader, Senator MCCONNELL.

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

HEALTH CARE

Mr. DURBIN. Mr. President, I thank the Senator from Florida for coming to the floor and expressing his point of view on the issue of health care, and I would like to have a few minutes to express my own.

Let me explain our health insurance, the health insurance we have as Members of Congress. It is a government-administered health insurance plan. It has been around for 40 years. It is called the Federal Employees Health Benefits Program. It is a government plan that provides health insurance for most of the Senators in both parties and their families, and it establishes minimum standards for the health insurance we receive as Members of Congress so we do not end up buying health insurance that is worthless when we need it. The government picks up a share of the cost—70 percent or so, I believe—and we pick up the rest. If you decide in the open enrollment period of each year that you want to change your insurance company, you want more coverage, then you are going to pay a higher premium out of your paycheck. The government pays a share of it, but you will pay a higher premium. that is something like an insurance exchange. In Illinois, my wife and I, through the Federal employees program, can choose from nine different private health insurance plans. It is a dream come true that most Americans never, ever experience: competition and choice.

That is at the heart of health care reform. We want to give to people across America the same thing we have as Members of Congress. I have yet to hear the first Senator come and stand in this well or stand before a microphone and say: The Federal Employees Health Benefits Program is socialism. It is a government-run health care program and it mandates benefits, and therefore I cannot in good conscience insure my family with it, and I am turning in my Federal employees health insurance. Not one. Yet when we suggest that for the rest of America, they say: This is an awful idea. It will never work.

It has worked for 40 years in providing private health insurance for Members of Congress and Federal employees. It is what we want to make available for small businesses, which have no choices. If Members on the other side think this is such a bad idea, I want them to march down the middle of this aisle and say: We are giving up our Federal Employees Health Benefits Programs today; it is such a bad idea. But they will not because it is a great program and it works and it gives us choice and it empowers us as consumers. If we do not like the way we are treated by an insurance company, we can shop for another one next year in open enrollment.

So to argue insurance exchanges are some radical notion—really? We live with it every day as Members of Congress. Don't the people of America deserve as good of insurance as their Members of Congress? That is the starting point in this debate. I think they do.

Secondly, when it comes to whether health care reform is going to add to the deficit, we can debate that for a long time. But the people who are the experts, the umpires, and referees, are from the Congressional Budget Office. They came back and told us: If you do this health care reform, you will reduce the deficit by over $100 billion in the first 10 years and by over $1 trillion in the second 10 years. That is it. They looked at it. They analyzed it, and they concluded it. I hear Members come to the floor and say: Oh, this is just going to run the deficit up to higher levels than we have ever seen before. There is no evidence of that. The CBO analysis comes out with exactly the opposite position.

This argument about heaping a new burden on Governors because there will be more people on Medicaid—Medicaid is health insurance for the poor and disabled in America, and the Federal Government pays at least 50 percent of the cost of it. It is true the States have to assume a burden. But it also says to the State of Illinois, with 11 percent unemployment, when people lose their jobs and lose their health insurance and go on Medicaid, the Federal Government is going to pick up, in this case, 62 percent of the cost of these Medicaid recipients in my State of Illinois, and 38 percent is going to be picked up by the State. So Governors can say Medicaid is a terrible thing. What is the alternative? More uninsured people in your State showing up seriously ill and needing treatment, being treated as charity patients? Is that the alternative?

I have listened carefully while the people on the other side of the aisle for over a year have criticized every idea we have come forward with on changing the health care system and making it more affordable. I have yet to see them come forward with any kind of comprehensive bill. They have ideas, and some of them are not bad, but they have never put them together in a bill and brought them to the floor. We have. That is the responsibility of governing.

There are other elements here too. The Senator from Florida is naturally concerned about senior citizens, and he should be. His State has a lot of snow birds from Illinois going down to Florida who spend their winters there and some of them end up becoming permanent residents. They love the nice climate in your State. We miss it. We go visit too, I might add. But the point is if we do nothing about Medicare, it is going to run out of money in 9 years. It will run out of money and 40 million people plus will wonder why Congress didn't act.

The health care reform bill adds 10 more years to the life of Medicare. It closes the gap known as the doughnut hole in prescription drug coverage under Medicare, and it gives every senior citizen a free annual checkup so they can at least get in to see a doctor and find out if something has happened that might be stopped early and avoid a major expense or major illness. Those are dramatically positive improvements in Medicare.

Are we going to have to take some money out of Medicare spending? Yes. Why? Because we have waste in the system and things that need to be reconciled. For the Senator from Florida, let me give a couple of illustrations. I lived in Springfield, IL. The average expenditure annually for Medicare recipients in my hometown is $7,600 a year average. The average in Chicago, IL, for Medicare recipients is $9,600 a year. The average expenditure for Medicare recipients in Miami, FL, is $17,000 a year. Miami may be a little bit more expensive than Chicago—we can argue that point—but is it twice as expensive? I don't think so. I want to know why. Why does it cost so much more in Miami, FL, and in McAllen, TX, for Medicare patients than it does in Chicago or Springfield or Rochester, MN? And are there ways to save money without compromising quality?

Senator MICHAEL BENNET of Colorado offered an amendment adopted on the floor that said when we get done cutting waste and fraud, we are not going to cut the basic benefits under Medicare. We are on record. That is part of the bill. That is part of the health care reform bill. We could make Medicare better and stronger and save money. There are a lot of things being ripped off in Medicare. Turn on late-night TV and watch all the come-on ads for people to come and get something they may or may not need and Medicare is going to take care of it. Those are the things we ought to take a look at and I think it is well worthwhile.

Let me also say this: We cannot as a nation address the problems of health care with 50 million people uninsured and the numbers growing dramatically. Our proposal will put 30 million of those under the protection of Medicaid and health insurance through exchanges. We will provide, thanks to the leadership of Senator NELSON of Nebraska, up to 2 or 3 years with the Federal Government picking up every penny of the cost for the new Medicaid recipients; then, beyond that, high amounts—90, 95 percent—for several years. It is a reasonable transition for the States to absorb people who are now uninsured presenting themselves for care.

We end up with 30 million people with coverage. The Republicans' best effort addressing the 50 million uninsured in America covered 3 million. We can do better. We need to do better as a nation. Uninsured people show up at

hospitals, incur costs, and pass them along to other people. I think we need to move forward on health care reform.

I had a call in my office on a Saturday. I was sitting around doing a few things at my desk by myself in my office and the phone rang in Springfield and a lady was calling from Nokomis, IL, which is not too far away from Springfield, in Montgomery County. It is a small town with a lot of retired farmers and a lot of conservative folks I have represented in Congress for a long time.

She said: Senator, whatever you do, don't vote for health care reform.

I said: Do you have health insurance?

She said: We do. My husband and I have health insurance.

I said: You can keep it. If you want to keep it, you can keep it. We are not changing that.

Well, I just worry about the government getting involved in it, she says. She says, When government gets involved in insurance, I am not sure it is a good thing.

I said: Is anybody in your family on Medicare?

Well, sure. We have all signed up for it and my mother who is 85 is on Medicare and recently had a surgery, major surgery at Memorial Medical Center in Springfield.

How is she doing?

Just fine.

I said: I am glad your mom could depend on Medicare to pick up the bills for the surgery and didn't have to exhaust her savings or sell whatever property she has left in this world. But that is a government health insurance plan, ma'am. It has been there for all of us. My contributions out of my paycheck help pay your mom's medical bills and that is just fine with me, because I think we are all in this American family and we should watch out for one another.

Well, she didn't see it that way and I am sure I didn't convince her. The phone is ringing off the hook in all the offices of Senators and Congressmen for and against this idea. There is a lot of misunderstanding out there. I think this is an important step forward for America. We have put a lot of blood, sweat, and tears in this effort and now we need to get it done. We need to give the American people an alternative, because watching health insurance premiums go up the way they are going up is unsustainable. Businesses can't afford it; individuals can't afford it; our Nation cannot afford it.

For those who stand on the floor and have different ideas, that is your right. As a Member of the Senate, that is your right—maybe your responsibility. But I also think you have a responsibility to come forward with your plan, with your idea, unless you think everything is fine and we ought to leave it the way it is; we shouldn't worry about the uninsured; we shouldn't be concerned about the increases in health insurance premiums; we shouldn't worry that Medicare is going to go broke in 9 years. If you think those are things that we should push aside and, as some say, let's start over, let's do baby steps, let's think about it later, let's go back to it next year, that is a point of view, but I don't think that is the responsibility we have as Members of the Senate to address the issues facing our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. Mr. President, I wish to commend my senior Senator from Illinois for his comments on health care and what we must do in this body to pass health care. It is long overdue. It is time for us to work with our colleagues in the House of Representatives to make sure we cover those 50 million Americans who are uninsured.

URBAN PREP ACADEMY

I wish to do a little presentation here for some young men from Chicago. In 2006, a brandnew school opened its doors to the community of Englewood on the south side of Chicago. This school is called the Urban Prep Charter Academy for Young Men. It was designed to provide quality education to an area desperately in need of a new approach.

Local schools were failing. Last year, 93 percent of the public high school students in the neighborhood were classified as low income. The public school attendance rate was around 60 percent. The local high school ranked 81st out of 98 Chicago public schools in terms of preparing students to succeed on college entrance exams such as the ACT.

Until 2006, there were few places to turn. Most residents were unable to afford to send their sons or daughters to expensive private schools. It seemed inevitable that these young people would face an uphill fight to graduate from high school, let alone move on to get a college education and find a good career. It seemed as though there was no alternative and no way to break the cycle.

But then, in 2002, a group of African-American business persons, educators, and civic leaders came together under the leadership of a young man by the name of Tim King, and they decided to find a solution. They started a nonprofit organization designed to give local residents the tools to succeed in college and to build a better future for themselves. They saw beyond the low-income level and the stereotypes and the destructive cycle that kept the neighborhood schools from succeeding. So, in 2006, the Englewood campus of Urban Prep Charter Academy admitted its first class of students.

Many charter schools are able to cherry-pick their students, selecting from the cream of the crop to ensure a high success rate, but the founders of Urban Prep rejected this idea. They looked at the kids in the Englewood public schools and they saw that every one of them had the potential for success, if given the opportunity. So they selected students based on a lottery system rather than strictly by the numbers. Some 400 names went into the barrel and the names were drawn from the barrel.

Today, the very first class of Urban Prep students is preparing for their graduation date. While other local schools have had attendance rates of only 60 percent, Urban Prep maintained an attendance rate of 91 percent. The local public school ranked 81st at preparing their students for the ACT with an average score of 13.4, but Urban Prep is ranked third, with an average ACT score of 16.5.

When the class of 2010 enrolled in Urban Prep in 2006, only 4 percent of these students were reading at grade level. But today, as their commencement date draws near, I am proud to say that every one of them—100 percent of the first-year class—has been accepted to a 4-year college. Not only that, they were accepted with scholarships, 4-year scholarships.

This is an extraordinary success story. This is a testament to the vision of Tim King and the faculty and staff that he and other local leaders have assembled. I applaud them for their dedication and I congratulate them on this outstanding achievement. Most of all, though, this is a testament to the students of Englewood and to all of the other communities in Chicago—the students who broke the cycle and proved they do have the talent, the skill, and the drive to succeed, if only they were presented with the opportunity. Thanks to Urban Prep and the leadership of those who founded this organization, these students got that chance.

But the story doesn't end here. In August of 2009, a second Urban Prep campus opened its doors in East Garfield Park, and later this year a third school will open in South Shore, extending the reach of this great organization and expanding the opportunity for Chicago students to realize their dreams.

So in the coming months, as my colleagues and I take up President Obama's update on No Child Left Behind, I urge them to remember success stories such as this one. As we reexamine our educational priorities, I hope we can move in a direction that will provide investment in public schools that need assistance as well as organizations such as Urban Prep. Organizations that grow out of local communities demonstrate a shared interest in seizing the best future for our children. We need to invest in communities such as Englewood and East Garfield Park and South Shore and dozens of others in Chicago and across the country. We need to make sure more and more students have the opportunity to succeed so they can go to college, find a career, and become productive members of our society and, as I always say, become an asset to society and not a liability to society.

It really does take a village to educate these young people. It takes a

steadfast commitment to education and a vision such as the one Tim King shared with others in his community back in 2002. As a member of Sigma Pi Phi fraternity, we played a minor role in assisting Urban Prep with our fundraising efforts to contribute to the purchase of a uniform for these young men. We also make ourselves available to go there and work with them during career day to point out our successes and opportunities to challenge them to do no less than what we were able to do. So the men of Sigma Pi Phi worked with these young men at Urban Prep and we made sure that we made a similar contribution to the overall efforts.

Let us renew our investment in America's education system. Let us affirm our priorities for young people today and make sure every one of them has a chance to get the education they deserve. Together, we can build more success stories such as Urban Prep, and that is what we must do. Urban Prep is a public school so, therefore, we do not have to be dedicating all of the resources commitment to the private schools. We can educate our young people in the public system.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, the Senate resume consideration of H.R. 1586 at 2:15 p.m., Tuesday, March 16; further, that during any recess, adjournment or period of morning business, postcloture time continue to run; and that after the convening of the Senate at 9:30 a.m., Wednesday, the Senate resume consideration of the House message with respect to H.R. 2847, and all postcloture time be considered expired, the motion to concur with an amendment be withdrawn, and no further amendments or motions be in order, except as provided in the DeMint motion to suspend; that it be in order for Senator DEMINT to offer a motion to suspend the rules in order to offer an amendment, and that if the motion is offered, Senator DEMINT be recognized for up to 10 minutes; that upon disposition of the DeMint motion, the Senate then vote on the motion to concur in the House amendments to the Senate amendment to the House amendment to the Senate amendment to the bill.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HONORING THE SERVICE OF JOHN HATCHER

Mr. BROWN of Ohio. Mr. President, I rise to speak about a dear and trusted friend, not just for me and my family but for the people of Lorain County, OH. John Hatcher was a man of conscience and courage. His commitment to the highest ideals is unwavering, even in the face of criticism and attempts to silence him.

In large and small ways, John Hatcher has done more for the working men and women of Lorain County and organized labor than anyone else I know. John is a retired United Auto Workers member from the Ford Motor Company Ohio assembly plant in Avon Lake.

For generations, the plant helped build Lorain's middle class—the same way that American manufacturing built America's middle class. He has long held a position of leadership in the labor movement, and his loyalty to his fellow workers and to those who champion them has never wavered. He is still president of the Lorain County UAW CAP Council and a board member of the Lorain County Labor Agency.

He has chaired the Lorain County Labor Day Festival Committee for several years—an event that attracts thousands of Lorain County families to celebrate the accomplishments and heritage of organized labor. And every month, John finds time to deliver food to the elderly through the Lorain County Office on Aging.

For the many years I have known John—two-and-a-half decades, perhaps—he has been a fighter who is not afraid to stand up for what he believes. And as he battles cancer, John is displaying the same vigor, the same fighting spirit. Yesterday, hundreds of friends, families, and elected officials joined in honoring John with the Lorain County AFL–CIO Lifetime Achievement Award.

John said—and I was standing with him—''I haven't been out in the community much the past few months, but as the warm weather comes, I will be back out soon.''

In many ways, John's presence is always felt in Lorain—through the workers he has helped and for the causes which he has championed. He is a tireless champion for working men and women. He has made an invaluable contribution to the labor movement.

You never wonder where you stand with John Hatcher. He is the best kind of friend. He stands sturdy at your side in the highest winds, but is also willing to rein you in if you are getting too full of yourself. He is one of the kindest people I know, always greeting his friends with a twinkle in his eye and the hug of a man twice his size.

Of all his accomplishments, the hours of labor spent at the factory, in the union hall, or on the picket line fighting for others, if you asked John, his proudest achievement is being a devoted husband to Carol—one of my favorite people—and a loving father to 6 children, 13 grandchildren, and 7 great-grandchildren.

Thank you, John, for your service to the working men and women of Lorain County, for your service to the State of Ohio, and for your service to our Nation. Connie and I are honored to consider you our dear friend.

TRIBUTE TO MARILYN ROBERSON

Mr. BROWN of Ohio. Mr. President, I rise today to honor Marilyn Roberson of Massillon, OH, a proud grandmother of five Eagle Scouts. This year, the Boy Scouts of America celebrates its hundredth anniversary of service to our Nation. Already this year, I have attended Boy Scout celebrations and Eagle Scout Courts of Honor across my State.

Around Ohio and our Nation, families and friends, community and business leaders, are celebrating Scouting's commitment to service, to protecting the outdoors—some of the original environmentalists—and to instilling the values of faith and fellowship.

Growing up in Mansfield, OH, a city of 50,000 in north central Ohio—an industrial town—my parents instilled in my brother and me our own values of compassion and commitment to community. My two brothers and I are Eagle Scouts and my mother wore a charm bracelet representing each of her Eagle Scout sons. I always claimed my Eagle Scout emblem was larger than my brothers'. She always denied that.

In many ways, Scouting's commitment to family and community laid the groundwork for my years in public service—as it has for the Eagle Scouts now in elected office in this body—I think there are 6 others in the Senate—or executives in boardrooms, teachers in classrooms, or just model citizens everywhere in our country.

On March 20, 2010, the Boy Scouts of America, Venture Crew 10 of Massillon, OH, will hold an Eagle Court of Honor for five young men who will become Eagle Scouts. Among the Eagle Scouts will be Andrew and Timothy Bushman, who will become the fourth and fifth grandsons of Mrs. Marilyn Roberson to become Eagle Scouts.

Marilyn Roberson is now 86 years old, and like many of our role models she has taught her grandchildren the capacity for selflessness, and to have the confidence to serve with humility and honor. I knew Marilyn's late husband Al 25 years ago, when I first met Al and Marilyn and several of their children. Al grew up in Tupelo, MS, across the street from Elvis Presley, then moved north, started a business, was very successful, and always—always—Marilyn and Al and their children gave back to the community.

I congratulate Andrew, Timothy, their fellow Eagle Scouts, Ian Christopher McKinney, Mathew Michael McKinney, and Michael David Ternaux, for earning this important honor. I congratulate Eagle Scouts across Ohio—there are hundreds of New Eagle Scouts every year—for earning this

honor and taking part in a great American tradition, which asks you to live with honor and loyalty and act with courage and service.

It is a creed of common purpose and community service based on the Scout oath, ever present in the 12 points of the Scout law.

While each of you as Eagle Scouts will forever be an Eagle Scout, your accomplishments are not easily defined by the number of badges earned but, rather, the character and dignity you show in earning them. For Andrew and Timothy, that dignity has been shaped by your remarkable grandmother, Mrs. Marilyn Roberson. Thank you, Mrs. Roberson, for your dedication to your family and for your service to our great State and for the legacy you have created for so many.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

REMEMBERING SANDRA MASON

Mr. BYRD. Mr. President, I have often talked about the importance of the many professional staff members and various support services that allow for the proper functioning of this great institution, the U.S. Senate. These individuals and offices are rarely mentioned in newspapers or history books, but they work many long hours with great energy, exceptional skill, and admirable adherence to high quality work. As a result, the contribution of such dedicated public servants greatly assists the work we do as Senators; they make our work more pleasant and productive than otherwise would be possible.

An example of the sense of pride and loyalty that Senate employees bring to their daily responsibilities is the career of Mrs. Sandra Mason, who prior to her retirement was the Director of Protocol and Foreign Travel for the Senate Committee on Foreign Relations. Mrs. Sandra Mason, who was known to her many friends in the Senate as ''Sandy'' served on the staff of that committee from 1979 through 2008, when she completed her Federal employment. As one can easily imagine, this is a position of considerable responsibility, which in no small part determines the successful hosting of high-level foreign dignitaries visiting the Senate, as well as the efficient operation of official Senate delegations traveling abroad. I remember that when I traveled on Senate business accompanied by my dear wife Erma, Sandy Mason's hard work and expert aplomb made all the difference for a memorable and very positive undertaking.

During her entire extraordinary career, which commenced with employment with Senator Hubert H. Humphrey in 1971, Sandy earned the love, respect, and praise of all those who worked with her and came to know her.

Sandy passed away on Monday, March 8, 2010. She will be greatly missed but certainly not forgotten. I extend warm personal condolences to her husband Ronald, her son Aaron, and all of her beloved family, and offer my sincere wishes that she, and they, receive the Blessings of our Creator.

Let fate do her worst, there are relics of joy,
Bright dreams of the past that she cannot destroy,
That come in the night-time of sorrow and care,
And bring back the features that joy used to wear.
Long, long be my heart with such memories filled,
Like the vase in which roses have once been distilled,
You may break, you may shatter the vase if you will,
But the scent of the roses will hang round it still.

Scent of the Roses
—by Thomas Moore

STATE DEPARTMENT HUMAN RIGHTS REPORTS

Mr. CARDIN. Mr. President, this month's release of the State Department's annual Country Reports on Human Rights Practices shows the value of consistently monitoring human rights around the globe.

As Chairman of the U.S. Helsinki Commission charged with monitoring international human rights commitments in 56 countries from the U.S. and Canada to Europe and Central Asia, this annual report is a key tool that we, and others, use to track progress being made on universal freedoms.

This year's reports have increased significance as 2010 is the 35th anniversary of the Helsinki Final Act and the 20th anniversary of historic international human rights agreements, the Copenhagen Document, and the Charter of Paris for a New Europe.

In a year commemorating such landmark human rights documents, this month's State Department reports remind us that many of the commitments countries made in the past still have not been met with meaningful action today.

In Belarus, where I visited last summer, the political space for opposition remains tightly controlled, independent media face continual harassment, and elections are a farce.

The overall situation in Russia remains disturbing as well. There 2009 was a year again filled with mourning the very people who stood for freedom, be they journalists, human rights advocates or lawyers simply trying to present a case against corruption. The country's harassment of Jehovah's Witnesses and forceful break up of public demonstrations remain particularly concerning.

I urge Kazakhstan, as the current chair of the OSCE, to lead by example through concrete actions, starting with the release of activist Yevgeny Zhovtis, whom staff from the Helsinki Commission visited this week in prison. Zhovtis at least deserves the same freedoms afforded other prisoners in his facility, including the right to work outside the facility during the day.

In Kosovo, in addition to problems with human trafficking, official corruption and a lack of judicial due process, the State Department notes the lack of progress regarding displaced persons of all ethnicities, politically and ethnically motivated violence, and societal antipathy against Serbs and the Serbian Orthodox Church. The lack of progress regarding the country's international recognition, while unfortunate, does not absolve Kosovo authorities from their responsibility to ensure greater respect for human rights and adherence to the rule of law.

Assistant Secretary of State for Democracy Human Rights and Labor Michael Posner, who serves as the State Department Commissioner on the U.S. Helsinki Commission, did a superb job of unveiling the report today with Secretary of State Hillary Clinton.

I was heartened to hear him specifically flag examples of 2009 human rights violations within the OSCE region that drew the attention of the Commission last year. The banning of construction of Muslim minarets in Switzerland, the pervasiveness of discrimination against Roma—Europe's largest ethnic minority, and the continued rise of anti-Semitism in Europe sadly still remain concerns this year.

While these country reports help to hold all governments—including our own—to account; and while much of their text shows the reality of a world troubled by violent conflicts and the mistreatment of our most vulnerable people; the State Department reports also show the positive that surrounds us.

In this vein, Assistant Secretary Posner was right to mention the fairness of Ukraine's recent elections, for which my colleague Cochairman HASTINGS led the election observation mission. And the reports are eager to cite progress where appropriate.

But these reports affirm something else, and that is the strength of the legislative-executive branch cooperation when it comes to upholding universal standards. The Helsinki Commission is unique among all federal agencies for being comprised of Senate, House and executive branch commissioners, and Assistant Secretary Posner's activity with the Commission

and the State Department's annual human rights reports mandated by Congress are but two examples of our two branches working together to keep a spotlight on human rights abuses.

CONTRIBUTIONS OF PHARMACIES ACROSS THE COUNTRY

Mrs. HAGAN. Mr. President, today, I am proud to recognize the contributions of our Nations' pharmacies to the American health care system. Over 200 members of the pharmacy community—including practicing pharmacists, pharmacy school faculty and students, state pharmacy leaders, and pharmacy company executives—will come together to highlight the importance of supporting policies that protect access to neighborhood pharmacies and utilizes pharmacists to improve quality and reduce health costs.

Currently, there are over 50,000 community pharmacies operating nationwide. Pharmacists are one of the Nation's most accessible health care providers, and nearly all Americans live within about 2 miles from a community retail pharmacy. Pharmacy has a long history of receiving, filling, billing, and dispensing prescriptions in tandem with counseling. But pharmacists, utilizing their specialized education, also play a major role in medication therapy management, disease state management, immunizations, health care screenings, and other health care services designed to improve patient health and reduce overall health care costs.

Pharmacists help patients adhere to their medications to improve health outcomes and reduce the risks of adverse events and unnecessary costly hospital readmissions and emergency room visits. Pharmacists are uniquely qualified to work with patients to help manage their medications and play an essential role in helping them take their medications as prescribed. Unfortunately, only 50 percent of Americans living with chronic diseases adhere to their drug regimens. Patient nonadherence costs the Nation's economy an estimated $290 billion each year, not to mention the avoidable loss of quality of life for patients and their loved ones. Congress recognized the important role of local pharmacists when it included a medication therapy management, MTM, benefit in Medicare Part D. As we have seen the increasing power of this benefit in improving patient health outcomes, I support community pharmacy's efforts to strengthen the MTM benefit so it is available for seniors and others struggling with chronic conditions and other illnesses.

As the face of neighborhood health care, pharmacies across the Nation offer these and other cost-saving programs and services to help patients take medicines they need to achieve positive results from appropriate use of their medications. For more than a century, pharmacies and pharmacists have made a difference in the lives of people in North Carolina and the rest of America. In order to ensure pharmacies continue to exist in our local communities, pharmacists deserve fair reimbursements for the cost effective medications that they dispense.

Today, I celebrate the value of pharmacy and support efforts to protect access to neighborhood pharmacies and utilize pharmacies to improve the quality and reduce the costs of health care. Finally, I would like to congratulate over 200 pharmacy leaders, pharmacists, students, and executives and the pharmacy community for their contributions to the good health of the American people.

ADDITIONAL STATEMENTS

TRIBUTE TO S. MARK McCURRY

● Mr. VITTER. Mr. President, today I wish to recognize S. Mark McCurry, who has served as parish administrator of Calcasieu Parish for more than 20 years. He will retire on April 3, 2010, and I would like to take some time to make a few remarks on his accomplishments and contributions to the Louisiana community.

Mr. McCurry started his career with Calcasieu parish as assistant administrator in 1976. In 1983 he was named Outstanding Young Man of Lake Charles, thus beginning a notable career as a public servant. Furthering his career with Calcasieu parish, in 1988 he became parish administrator, and he continued making great strides for the State of Louisiana. In 1999, Mr. McCurry was named Appointed Public Official of the Year by the Calcasieu Chapter of the National Association of Social Workers and in 2003 he was the recipient of the statewide Public Service Award given by the Louisiana Public Health Association.

In addition to his time as parish administrator, Mr. McCurry served Louisiana in many other arenas. He sat on the board of directors of First Federal Bank of Louisiana and was chair of the Board of Trustees of the United Methodist Foundation of Louisiana. He also presided as president of the Organization of Parish Administrative Officials of the Louisiana Police Jury Association.

Mr. McCurry has been credited with ''raising the level of professionalism in police jury affairs,'' as well as, ''making local governments work together more effectively.'' He has been a great asset for the State of Louisiana.

Thus, today, I am proud to honor a fellow Louisianan, Mr. S. Mark McCurry, for his distinguished service to Calcasieu Parish and to the State of Louisiana.●

MESSAGES FROM THE HOUSE

At 2:11 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3650. An act to establish a National Harmful Algal Bloom and Hypoxia Program, to develop and coordinate a comprehensive and integrated strategy to address harmful algal blooms and hypoxia, and to provide for the development and implementation of comprehensive regional action plans to reduce harmful algal blooms and hypoxia.

H.R. 4506. An act to authorize the appointment of additional bankruptcy judges, and for other purposes.

At 3:08 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that Mr. SCHIFF, Ms. ZOE LOFGREN, of California, Mr. JOHNSON of Georgia, Mr. GOODLATTE, and Mr. SENSENBRENNER are appointed managers on the part of the House to conduct the trial of impeachment of G. Thomas Porteous, Jr., a Judge for the United States District Court for the Eastern District of Louisiana, that a message be sent to the Senate to inform the Senate of these appointments, and that the managers on the part of the House may exhibit the articles of impeachment to the Senate and take all other actions necessary in connection with preparation for, and conduct of, the trial, which may include the following: (1) Employing legal, clerical, and other necessary assistants and incurring such other expenses as may be necessary, to be paid from amounts available to the Committee on the Judiciary under House Resolution 15, One Hundred Eleventh Congress, agreed to January 13, 2009, or any other applicable expense resolution on vouchers approved by the Chairman of the Committee on the Judiciary. (2) Sending for persons and papers, and filing with the Secretary of the Senate, on the part of the House of Representatives, any subsequent pleadings which they consider necessary.

MEASURES REFERRED

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

H.R. 4506. An act to authorize the appointment of additional bankruptcy judges, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3650. An act to establish a National Harmful Algal Bloom and Hypoxia Program, to develop and coordinate a comprehensive and integrated strategy to address harmful algal blooms and hypoxia, and to provide for the development and implementation of comprehensive regional action plans to reduce harmful algal blooms and hypoxia.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 2314. An act to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 2865. A bill to reauthorize the Congressional Award Act (2 U.S.C . 801 et seq.), and for other purposes (Rept. No. 111–163).

By Mr. LEAHY, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1789. A bill to restore fairness to Federal cocaine sentencing.

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 Ms. KLOBUCHAR (for herself, Mrs. GILLIBRAND, and Mr. BEGICH):

S. 3110. A bill to improve consumer protection for purchasers of broadband services by requiring consistent use of broadband service terminology by providers, requiring clear and conspicuous disclosure to consumers about the actual broadband speed that may reasonably be expected, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 3111. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself and Mr. ENZI):

S. 3112. A bill to remove obstacles to legal sales of United States agricultural commodities to Cuba and to end certain travel restrictions to Cuba; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself and Mr. LEVIN):

S. 3113. A bill to amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

By Mrs. GILLIBRAND:

S. 3114. A bill to improve communication to consumers when there is a food recall; to the Committee on Health, Education, Labor, and Pensions.

By Ms. KLOBUCHAR (for herself and Mr. BURR):

S. 3115. A bill to amend the National Telecommunications and Information Administration Organization Act to enhance and promote the Nation's public safety and citizen activated emergency response capabilities through the use of 9–1–1 services, to further upgrade public safety answering point capabilities and related functions in receiving 9–1–1 calls, and to support in the construction and operation of a ubiquitous and reliable citizen activated system; to the Committee on Commerce, Science, and Transportation.

By Mr. KERRY:

S. 3116. A bill to amend the Whale Conservation and Protection Study Act to promote international whale conservation, protection, and research, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. WYDEN (for himself and Ms. SNOWE):

S. 3117. A bill to strengthen the capacity of eligible institutions to provide instruction in nanotechnology; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWN of Ohio:

S. Res. 454. A resolution supporting the goals of World Tuberculosis Day to raise awareness about tuberculosis; to the Committee on Foreign Relations.

By Mrs. BOXER (for herself, Mr. BROWNBACK, Mr. SPECTER, Ms. SNOWE, Mr. SCHUMER, Mrs. GILLIBRAND, Ms. MIKULSKI, Mr. CARDIN, and Mr. LEVIN):

S. Res. 455. A resolution honoring the life, heroism, and service of Harriet Tubman; considered and agreed to.

ADDITIONAL COSPONSORS

S. 362

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 362, a bill to amend title 38, United States Code, to improve the collective bargaining rights and procedures for review of adverse actions of certain employees of the Department of Veterans Affairs, and for other purposes.

S. 437

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 437, a bill to amend the Internal Revenue Code of 1986 to allow the deduction of attorney-advanced expenses and court costs in contingency fee cases.

S. 493

At the request of Mr. CASEY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 493, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

S. 649

At the request of Mr. KERRY, the name of the Senator from North Dakota (Mr. CONRAD) 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. 654

At the request of Mr. BUNNING, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 654, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 678

At the request of Mr. LEAHY, the name of the Senator from New York (Mrs. GILLIBRAND) 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. 695

At the request of Ms. SNOWE, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 695, a bill to authorize the Secretary of Commerce to reduce the matching requirement for participants in the Hollings Manufacturing Partnership Program.

S. 850

At the request of Mr. KERRY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 850, a bill to amend the High Seas Driftnet Fishing Moratorium Protection Act and the Magnuson-Stevens Fishery Conservation and Management Act to improve the conservation of sharks.

S. 1606

At the request of Mr. WHITEHOUSE, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1606, a bill to require foreign manufacturers of products imported into the United States to establish registered agents in the United States who are authorized to accept service of process against such manufacturers, and for other purposes.

S. 1611

At the request of Mr. GREGG, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 1765

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1765, a bill to amend the Hate Crime Statistics Act to include crimes against the homeless.

S. 1789

At the request of Mr. DURBIN, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 1789, a bill to restore fairness to Federal cocaine sentencing.

S. 1939

At the request of Mrs. GILLIBRAND, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1939, a bill to amend title 38, United States Code, to clarify presumptions relating to the exposure of certain veterans who served in the vicinity of the Republic of Vietnam, and for other purposes.

S. 2805

At the request of Mr. SPECTER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2805, a bill to amend the Food and Nutrition Act of 2008 to increase the amount made available to purchase commodities for the emergency food assistance program in fiscal year 2010.

S. 2862

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2862, a bill to amend the Small Business Act to improve the Office of International Trade, and for other purposes.

S. 2908

At the request of Mr. KOHL, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2908, a bill to amend the Energy Policy and Conservation Act to require the Secretary of Energy to publish a final rule that establishes a uniform efficiency descriptor and accompanying test methods for covered water heaters, and for other purposes.

S. 3028

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 3028, a bill to amend title XVIII of the Social Security Act to eliminate the 190-day lifetime limit on inpatient psychiatric hospital services under the Medicare program.

S. 3036

At the request of Mr. BAYH, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3058

At the request of Mr. DORGAN, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 3058, a bill to amend the Public Health Service Act to reauthorize the special diabetes programs for Type I diabetes and Indians under that Act.

S. 3065

At the request of Mr. LIEBERMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 3065, a bill to amend title 10, United States Code, to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as ''Don't Ask, Don't Tell'', with a policy of nondiscrimination on the basis of sexual orientation.

S. 3079

At the request of Mr. MERKLEY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 3079, a bill to assist in the creation of new jobs by providing financial incentives for owners of commercial buildings and multifamily residential buildings to retrofit their buildings with energy efficient building equipment and materials and for other purposes.

S. 3108

At the request of Mr. MENENDEZ, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3108, a bill to amend title 31 of the United States Code to require that Federal children's programs be separately displayed and analyzed in the President's budget.

S. CON. RES. 54

At the request of Mr. NELSON of Florida, the names of the Senator from Georgia (Mr. ISAKSON), the Senator from Idaho (Mr. RISCH), the Senator from Pennsylvania (Mr. CASEY), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. Con. Res. 54, a concurrent resolution recognizing the life of Orlando Zapata Tamayo, who died on February 23, 2010, in the custody of the Government of Cuba, and calling for a continued focus on the promotion of internationally recognized human rights, listed in the Universal Declaration of Human Rights, in Cuba.

S. RES. 412

At the request of Mrs. GILLIBRAND, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Res. 412, a resolution designating September 2010 as ''National Childhood Obesity Awareness Month''.

S. RES. 451

At the request of Mr. BURR, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. Res. 451, a resolution expressing support for designation of a ''Welcome Home Vietnam Veterans Day''.

S. RES. 452

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 452, a resolution supporting increased market access for exports of United States beef and beef products to Japan.

AMENDMENT NO. 3464

At the request of Mr. INHOFE, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of amendment No. 3464 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3465

At the request of Mr. INHOFE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of amendment No. 3465 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3470

At the request of Mr. FEINGOLD, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 3470 proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3474

At the request of Mr. BARRASSO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3474 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3486

At the request of Mr. SCHUMER, the names of the Senator from New York (Mrs. GILLIBRAND), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Maine (Ms. COLLINS), the Senator from Oregon (Mr. WYDEN), the Senator from Massachusetts (Mr. BROWN), the Senator from Oregon (Mr. MERKLEY), the Senator from Illinois (Mr. BURRIS) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of amendment No. 3486 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3487

At the request of Mr. BINGAMAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of amendment No. 3487 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3497

At the request of Mr. CARDIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of amendment No. 3497 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3504

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 3504 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

AMENDMENT NO. 3506

At the request of Mr. MENENDEZ, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 3506 intended to be proposed to H.R. 1586, a bill to impose an additional tax on bonuses received from certain TARP recipients.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself and Mr. CORNYN):

S. 3111. A bill to establish the Commission on Freedom of Information Act Processing Delays; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, this week, the Nation commemorates Sunshine Week—a time to educate the public about the importance of open government. In recognition of Sunshine Week 2010, I am pleased to join with Senator CORNYN to introduce the Faster FOIA Act of 2010, a bill to improve the implementation of the Freedom of Information Act, FOIA.

Senator CORNYN and I first introduced this bill in 2005 to address the growing problem of excessive FOIA delays within our Federal agencies.

Our decision to reintroduce the Faster FOIA Act this year is the most recent example of our bipartisan efforts to help reinvigorate FOIA.

Today, thanks to the reforms contained in the Leahy-Cornyn OPEN Government Act of 2007, millions of Americans who seek information under FOIA will experience a process that is much more transparent and less burdened by delays. In 2009, President Obama signed the OPEN FOIA Act into law. That bill is the result of another successful collaboration with Senator CORNYN and me that is making the process for creating new legislative exemptions to FOIA more transparent.

While both of these legislative accomplishments are strengthening FOIA, more reforms are needed.

According to the Department of Justice's Freedom of Information Act Annual Report for fiscal year 2009, the Department had a backlog of almost 5,000 FOIA requests at the end of 2009. The Department of Homeland Security's report for the same period shows a backlog of 18,918 FOIA requests. These mounting FOIA backlogs are simply unacceptable.

The Faster FOIA Act will help to reverse these troubling statistics by establishing a bipartisan Commission to examine the root causes of agency delay. The commission created by this bill will make recommendations to Congress for reducing impediments to the efficient processing of FOIA requests.

The commission will also examine whether the current system for charging fees and granting fee waivers under FOIA should be modified. Lastly, the commission will be made up of government and non-governmental representatives with a broad range of experience in both submitting and handling FOIA requests, in information science, and in the development of government information policy.

Thomas Jefferson once wisely observed that ''information is the currency of democracy.'' I share this view. I also firmly believe that the Faster FOIA Act will help ensure the dissemination of Government information, so that our democracy remains vibrant and free.

I have said many times that open government is neither a Democratic issue, nor a Republican issue—it is truly an American value and virtue that we all must uphold. As we celebrate Sunshine Week, it is in this bipartisan spirit that I join Americans from across the Nation in celebrating an open and transparent government. I urge all of my Senate colleagues to support the Faster FOIA Act.

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. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMISSION ON FREEDOM OF INFORMATION ACT PROCESSING DELAYS.

(a) SHORT TITLE.—This Act may be cited as the ''Faster FOIA Act of 2010''.

(b) ESTABLISHMENT.—There is established the Commission on Freedom of Information Act Processing Delays (in this Act referred to as the ''Commission'') for the purpose of conducting a study relating to methods to help reduce delays in processing requests submitted to Federal agencies under section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act'').

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 16 members of whom—

(A) 3 shall be appointed by the chairman of the Committee on the Judiciary of the Senate;

(B) 3 shall be appointed by the ranking member of the Committee on the Judiciary of the Senate;

(C) 3 shall be appointed by the chairman of the Committee on Government Reform of the House of Representatives;

(D) 3 shall be appointed by the ranking member of the Committee on Government Reform of the House of Representatives;

(E) 1 shall be appointed by the Attorney General of the United States;

(F) 1 shall be appointed by the Director of the Office of Management and Budget;

(G) 1 shall be appointed by the Archivist of the United States; and

(H) 1 shall be appointed by the Comptroller General of the United States.

(2) QUALIFICATIONS OF CONGRESSIONAL APPOINTEES.—Of the 3 appointees under each of subparagraphs (A), (B), (C), and (D) of paragraph (1)—

(A) at least 1 shall have experience in submitting requests under section 552 of title 5, United States Code, to Federal agencies, such as on behalf of nonprofit research or educational organizations or news media organizations; and

(B) at least 1 shall have experience in academic research in the fields of library science, information management, or public access to Government information.

(d) STUDY.—The Commission shall conduct a study to—

(1) identify methods that—

(A) will help reduce delays in the processing of requests submitted to Federal agencies under section 552 of title 5, United States Code; and

(B) ensure the efficient and equitable administration of that section throughout the Federal Government; and

(2) examine whether the system for charging fees and granting waivers of fees under section 552 of title 5, United States Code, needs to be reformed in order to reduce delays in processing requests.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report to Congress and the President containing the results of the study under this section, which shall include—

(1) a description of the methods identified by the study;

(2) the conclusions and recommendations of the Commission regarding—

(A) each method identified; and

(B) the charging of fees and granting of waivers of fees; and

(3) recommendations for legislative or administrative actions to implement the conclusions of the Commission.

(f) STAFF AND ADMINISTRATIVE SUPPORT SERVICES.—The Comptroller General of the United States shall provide to the Commission such staff and administrative support services, including research assistance at the request of the Commission, as necessary for the Commission to perform its functions efficiently and in accordance with this section.

(g) INFORMATION.—To the extent permitted by law, the heads of executive agencies, the Government Accountability Office, and the Congressional Research Service shall provide to the Commission such information as the Commission may require to carry out its functions.

(h) COMPENSATION OF MEMBERS.—Members of the Commission shall serve without compensation for services performed for the Commission.

(i) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(j) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(k) TERMINATION.—The Commission shall terminate 30 days after the submission of the report under subsection (e).

By Mr. LEAHY (for himself and Mr. LEVIN):

S. 3113. A bill to amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased today to introduce the Refugee Protection Act of 2010. This week marks the thirtieth anniversary of the Refugee Act, which was signed into law on March 17, 1980. In the years since, our statute and case law have evolved in ways that place unnecessary and harmful barriers before genuine refugees and asylum seekers. This bill, which is cosponsored by Senator LEVIN of Michigan, will restore the U.S. as a beacon of hope for those who suffer from persecution around the world.

The Convention Relating to the Status of Refugees was negotiated in 1951 to protect those who suffered persecution in war-torn Europe prior to 1951, yet the U.S. did not sign it at that time. In 1967, the U.S. signed and ratified a Protocol to the Convention, which expanded its geographic and temporal scope, establishing a definition of refugee that applied around the world. It was not until 1980, however, that Congress enacted implementing legislation to bring our laws into compliance with the Convention and Protocol. During the intervening years, our Government acted in an ad hoc manner to bring in refugees fleeing Southeast Asia by boat, to protect Jews and other refugees from the Soviet bloc, and to provide safety for victims of persecution in Africa. Our Nation acted generously in those years, providing aid and relief, but our policies needed to be grounded in law.

The Refugee Act of 1980 was championed by the late Senator Edward Kennedy, who fought for decades to protect victims of persecution who had been forced to flee their home nations,

leaving behind livelihood, family, and security. I supported the Refugee Act in the 96th Congress, and voted for it when it passed the Senate. When the Senate debated the bill, Senator Kennedy spoke of its dual goals: to ''welcome homeless refugees to our shores,'' thereby embracing ''one of the oldest and most important themes in our Nation's history,'' and to ''give statutory meaning to our national commitment to human rights and humanitarian concerns.'' 125 Cong. Rec. 23231–32 Sept. 6, 1979.) We lost our dear friend last year, but we can honor Ted Kennedy's memory by carrying forward the mantle of refugee protection.

The Refugee Protection Act of 2010 contains provisions of a bipartisan bill that I previously introduced in the 106th and 107th Congresses to repeal the most harsh and unnecessary elements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, a law that had tragic consequences for asylum seekers. It also corrects agency and court misinterpretations of law that limit access to safety in the U.S. for asylum seekers. Finally, it modifies the immigration statute to ensure that innocent persons with valid claims are not unfairly barred from the U.S. by laws enacted after September 11, 2001, while leaving in place provisions that prevent dangerous terrorists from manipulating our immigration system.

In the years since the Refugee Act was enacted, over 2.6 million refugees and asylum seekers have been granted protection in the U.S. I am proud that my home State of Vermont has long welcomed refugees and helped these new Americans to rebuild their lives. More than 5,300 refugees have been resettled in Vermont since 1989, from countries as diverse as Burma, Bhutan, Somalia, Bosnia, and Vietnam. In the early days of resettlement, Vermont accepted refugees fleeing persecution from Southeast Asia and the Soviet Union, and from the war in the former Yugoslavia and the genocide in Rwanda.

Vermonters' welcoming spirit is illustrated by the ''Lost Boys'' of Sudan. Beginning in the 1980s, thousands of boys in Sudan traveled hundreds of miles by foot to escape war and ethnic and religious-based persecution. Some had seen family members killed before their eyes. They walked from nation to nation, searching for safety in Ethiopia and Kenya, before reaching camps that helped them find a permanent and secure home in the U.S. The first group of Lost Boys arrived in Vermont in 2001. Many of them have thrived. I am proud that a number of them are now college graduates, and some have attended graduate school.

Vermonters have made a strong and sustained commitment to assisting refugees with resettlement. Caseworkers and volunteers help new Americans adjust to the new culture, learn English, and navigate daily life, from grocery shopping to public transportation, to school and sports programs for their children. The Vermont Refugee Resettlement Program has led the effort with its compassionate and experienced staff, and a roster of more than 250 volunteers. I also want to recognize the organizations, churches, synagogues, and libraries in Vermont that have offered support, contributions of food, clothing, furniture, English classes, tutoring, and perhaps most importantly, companionship and friendship to refugees resettled in our state. These groups include the Vermont Refugee Resettlement Program, Vermont Immigration and Asylum Advocates, the Association of Africans Living in Vermont, the Vermont Agency of Human Services-State Refugee Coordinator, Vermont Interfaith Action, the Housing Resource Center, the Salvation Army, the First Congregational Church of Burlington, the Cathedral Church of St. Paul, the Roman Catholic Diocese of Burlington, the Islamic Society of Vermont, Ohavi Zedek Synagogue, the Fletcher Free Library, and Vermont Adult Basic Education. These volunteers and organizations demonstrate the Vermont spirit of tolerance and generosity. They deserve our thanks and praise.

I am proud of the Vermonters who have devoted countless hours to help victims of persecution build new lives in our state. And I am continually amazed by the resilience of the refugees and asylees in Vermont. Refugees in Vermont enrich the communities in which they live, opening small businesses, farming, and participating in cultural activities. They put all they have at risk to reach the U.S., and once here, strive each day to make our country better and to give their children every opportunity that America offers.

The bill I introduce today will give refugees and asylum seekers a fair chance of finding safety in the U.S. For those who seek asylum, it eliminates the requirement added to the law in 1996 that asylum applicants file their claim within 1 year of arrival. By definition, worthy asylum applicants arrive in the U.S. after suffering serious harm abroad, often experiencing post-traumatic stress. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. I understand the desire to have asylum seekers submit timely applications, but the 1-year rule was deemed unnecessary by the Immigration and Naturalization Service when it was enacted. In practice, it has barred genuine applicants from gaining the benefits of our asylum law, resulting in their return to the country in which they were persecuted.

The bill also makes a number of modifications to give asylum seekers a fair opportunity to respond to requests for corroborating evidence, to clarify inconsistencies, and to provide evidence of the persecution they suffered or that which they fear if returned. None of these changes to the law will encourage fraud or frivolous claims; they simply ensure that no asylum seeker is denied the opportunity to present a full application for relief.

The 1996 immigration law created the system called ''expedited removal,'' which enables an immigration officer to prevent certain non-citizens from entering the U.S. I fought against expedited removal in 1996 because I feared that asylum seekers could be turned away from our borders without being given the chance to seek protection. In 2005, the U.S. Commission for International Religious Freedom, a bipartisan Commission established by Congress, documented widespread problems in the implementation of expedited removal. The Refugee Protection Act of 2010 responds to the Commission's findings by requiring that asylum seekers who pass an initial ''credible fear'' interview proceed to an interview with an asylum officer instead of being sent straight to the immigration removal system. Any asylum seeker who is not granted protection by the asylum officer would then be placed in removal proceedings and proceed to an adversarial hearing before an immigration judge.

Under current law, an asylum seeker who arrives at our borders and immediately requests protection is detained. We should not detain people whom our own Government has found to be likely candidates for asylum as if they were awaiting a criminal trial. Moreover, the cost to the Government to detain an asylum seeker for months at a time cannot be justified, especially if they have family members or nongovernmental organizations that are willing to house them and ensure that they appear for their asylum hearing. The Refugee Protection Act would clarify that the Secretary of Homeland Security should release asylum seekers as long as they do not pose risks of flight or to public safety. It would codify DHS guidance announced in December 2009 stating that it is the policy of the U.S. to release asylum seekers who have been found to have a credible fear of persecution and who meet the criteria for release.

The bill also instructs the Secretary to promulgate regulations to authorize and promote the use of alternatives to the detention of asylum seekers, such as releasing them to private nonprofit voluntary agencies. For those who would still be detained, the bill would guarantee access to legal and religious services, humane treatment in detention, and medical care where needed. These changes will reduce the detention of asylum seekers, offer them fundamental due process, and improve the conditions of their confinement in those cases where detention is appropriate. I have long urged an improvement of the shameful conditions of immigration detention, and this need is particularly acute for asylum seekers.

For years, I have fought to modify a law that prevents genuine refugees and

asylum seekers from obtaining protection in the U.S. The law, which contains an overly broad definition of ''material support'' to terrorist organizations, has the effect of barring some who were victims of terrorist organizations. More than 2 years ago, Senator KYL and I worked together to ensure that the Department of Homeland Security had the authority it needed to provide waivers and exemptions in certain ''material support'' cases. The Obama administration convened an interagency process to try to resolve the matter, but thousands of refugees with pending adjustment of status applications are still being held in limbo while the Government studies how to exercise its exemption and waiver authority. This bill contains language that would fix this problem once and for all. The bill modifies definitions in the statute to ensure that innocent asylum seekers and refugees are not unfairly denied protection as a result of the material support and terrorism bars in the law, while ensuring that those with material ties to terrorist activity will be denied entry to the U.S.

This bill makes common sense changes to refugee adjudication and resettlement. It eliminates the 1-year waiting period for refugees and asylees to apply for lawful permanent residence, facilitating assimilation into our communities. The bill also allows certain children and family members of refugees to be considered as derivative applicants for refugee status, as long as they pass standard security checks and expedites the adjudication of family reunification petitions.

The potential effect of these changes is best illustrated by an example. One of the Lost Boys originally resettled in Vermont is a young man named Jacob. He attended my alma mater, St. Michael's College, at some point visited Kenya, got married and fathered twin sons before returning to Vermont. After he became a U.S. citizen, he visited his wife in Kenya again, this time fathering twin daughters. I am happy that my office was able to assist Jacob, and his entire family is now happily living in the U.S. Had the Refugee Protection Act been enacted, Jacob's family might have been reunited much sooner. The bill I introduce today will greatly facilitate family reunification, which is at the core of American values.

This bill will also help children who have been separated from their families during war or flight from persecution. For a child who has been separated from immediate family, and where it is in the best interest of the child, the bill would authorize refugee status and enable such a child to come to the U.S. I am committed to working with the Departments of State and Homeland Security to ensure that the ''best interest of the child'' protects families that are separated for months or years, but later discover that children lost or feared dead can be reunited with their immediate relatives.

The need for such authority is illustrated by a Vermont resettlement case I know very well. After the Rwandan atrocities, Martha believed her son Eric had been killed. A number of years later, she learned that her son was alive and living in the Kakuma refugee camp in Kenya, along with his two young first cousins. Eric had fled the violence with these two boys on his back, and he is the only father figure they have ever known. Martha petitioned to bring her son and nephews to Vermont, but only her son was granted refugee status as a derivative child. Martha had not seen her son for 10 years, but until my office intervened, the case had languished due to miscommunication. After the case was reactivated, Eric had to decide whether to join his mother in Vermont or to stay in the refugee camp to continue caring for his two young cousins. Eric made the heart-wrenching decision to resettle in Vermont. Eight months after Eric arrived, with the help of my office, his two young cousins were successfully resettled with him. Martha is fully employed, just passed her naturalization exam and is about to be sworn in as a U.S. citizen. Eric has been working two jobs, studying, and raising his cousins, who are both doing quite well in school. This case has a happy ending, but it should not have been so hard or taken so long to resolve. The Refugee Protection Act will help to bring families like Martha's together more quickly.

This bill authorizes the Secretary of State to designate certain groups as eligible for expedited adjudication as refugees. Such a change to law would assist those who are at a particularly high risk of harm, such as certain groups of Iraqi refugees, groups targeted for genocide, or gay men in countries that impose the death penalty on homosexuals. Congress has tried to respond to specific crises with Special Immigrant Visas and other limited forms of relief, but something more must be done.

Again, an example is illustrative. An Iraqi family, a mother and two daughters, came to Vermont as refugees from Iraq by way of Syria, after the father had been killed. The son believed his life to also be in danger in Iraq, because he had worked as a driver for a U.S. military contractor. Just before completing the resettlement process, the adult son was forced by Syria to leave the country, and he made his way to Sweden. While he was safe there for a short while, Sweden soon started taking action to deport many Iraqi refugees that it had previously welcomed. The separation was extremely painful for this close-knit family. They were having a difficult time reopening his resettlement case, but my office was able to help this young man finally receive a Special Immigrant Visa for Iraqis Employed on Behalf of the U.S. Government. He was finally reunited with his family in Burlington. I would prefer to see the Secretary of State be able to designate certain highly vulnerable groups for expedited adjudication, so that stories like this one are not common, and eligible refugees reach safety here in the U.S. as soon as possible.

Finally, this bill makes targeted improvements to the resettlement process in the United States. Most importantly, it prevents newly resettled refugees from slipping into poverty by adjusting the per capita refugee resettlement grant level annually for inflation and the cost of living. The current per capita grant is $1,800, but it was just raised in January 2010 from roughly half that amount. I thank the Obama administration for recognizing the need to raise the per capita grant level, but believe it must be adjusted annually for inflation and the cost of living. This bill will ensure that the per capita grant level does not decrease in real terms over time.

This bill is supported by leading refugee resettlement organizations across the Nation including the U.S. Conference of Catholic Bishops, Hebrew Immigrant Aid Society, International Rescue Committee, Lutheran Immigrant & Refugee Service, the Episcopal Church, Refugee Council USA, Heartland Alliance for Human Needs and Human Rights, Church World Service, and the Interfaith Refugee and Immigration Ministries of Illinois. The Congressionally-created and bipartisan U.S. Commission for International Religious Freedom endorsed the provisions that make improvements to the expedited removal system. It is endorsed by advocates and legal aid providers serving the refugee and asylee community, including the American Bar Association, Human Rights First, National Immigrant Justice Center, the Center for Gender & Refugee Studies at U.C. Hastings College of the Law, Tahirih Justice Center, American Immigration Lawyers Association, National Immigration Forum, Refugees International, Immigration Equality, Amnesty International USA, Human Rights Watch, and the American Civil Liberties Union. And in Vermont, it has the support of the Vermont Refugee Resettlement Program, Vermont Immigration and Asylum Advocates, and the Association of Africans Living in Vermont. All of those organizations that stand with me in support of this legislation have my sincere thanks.

The 30th anniversary of the Refugee Act is this week. It is time to renew America's commitment to the Refugee Convention, and to bring our law back into compliance with the Convention's promise of protection. Our Nation is a leader among the asylum-providing countries, and our communities have embraced refugees and asylum seekers, welcoming them as Americans. Our laws must now match that humanitarian spirit. I urge all Senators to support the Refugee Protection Act of 2010.

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. 3113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Refugee Protection Act of 2010''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) ASYLUM SEEKER.—The term ''asylum seeker''—

(A) means—

(i) any applicant for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158);

(ii) any alien who indicates an intention to apply for asylum under that section; and

(iii) any alien who indicates an intention to apply for withholding of removal, pursuant to—

(I) section 241 of the Immigration and Nationality Act (8 U.S.C. 1231); or

(II) the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984;

(B) includes any individual described in subparagraph (A) whose application for asylum or withholding of removal is pending judicial review; and

(C) does not include an individual with respect to whom a final order denying asylum and withholding of removal has been entered if such order is not pending judicial review.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 3. ELIMINATION OF ARBITRARY TIME LIMITS ON ASYLUM APPLICATIONS.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(3) in subparagraph (B), as redesignated, by striking ''(D)'' and inserting ''(C)''; and

(4) by striking subparagraph (C), as redesignated, and inserting the following:

''(C) CHANGED CIRCUMSTANCES.—Notwithstanding subparagraph (B), an application for asylum of an alien may be considered if the alien demonstrates, to the satisfaction of the Attorney General, the existence of changed circumstances that materially affect the applicant's eligibility for asylum.''.

SEC. 4. PROTECTING VICTIMS OF TERRORISM FROM BEING DEFINED AS TERRORISTS.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by amending subclause (IX) to read as follows:

''(IX) is an officer, official, representative, or spokesman of the Palestine Liberation Organization,''; and

(B) by striking the matter following subclause (IX) and inserting the following:

'' ''is inadmissible.'';

(2) in clause (iii), by inserting ''which is intended to intimidate or coerce a civilian population or to influence the policy of a government by intimidation or coercion and'' after ''means any activity'';

(3) in clause (iv)(VI), by inserting ''(other than as the result of coercion)'' after ''to commit an act'';

(4) in clause (vi)—

(A) in subclause (I), by adding ''or'' at the end;

(B) in subclause (II), by striking ''; or'' and inserting a period; and

(C) by striking subclause (III); and

(5) by adding at the end the following:

''(vii) As used in this paragraph, the term, 'coercion' means—

''(I) serious harm, including restraint against any person; or

''(II) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to, or restraint against, any person.''.

SEC. 5. PROTECTING CERTAIN VULNERABLE GROUPS OF ASYLUM SEEKERS.

(a) DEFINED TERM.—Section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) is amended to read as follows:

''(42)(A) The term 'refugee' means any person who—

''(i)(I) is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided; and

''(II) is unable to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution, or a well-founded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion; or

''(ii) in such circumstances as the President may specify, after appropriate consultation (as defined in section 207(e))—

''(I) is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing; and

''(II) is persecuted, or who has a well-founded fear of persecution, on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) The term 'refugee' does not include any person who ordered, incited, assisted, or otherwise participated, other than as a result of coercion (as defined in section 212(a)(3)(B)(vii)), in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(C) For purposes of determinations under this Act—

''(i) a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion; and

''(ii) a person who has a well-founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well-founded fear of persecution on account of political opinion.

''(D) For purposes of determinations under this Act, any group whose members share a characteristic that is either immutable or fundamental to identity, conscience, or the exercise of the person's human rights such that the person should not be required to change it, shall be deemed a particular social group, without any additional requirement.''.

(b) CONDITIONS FOR GRANTING ASYLUM.—Section 208(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(1)(B)) is amended—

(1) in clause (i), by striking ''at least one central reason for persecuting the applicant'' and inserting ''a factor in the applicant's persecution or fear of persecution'';

(2) in clause (ii), by striking the last sentence and inserting the following: ''If the trier of fact determines that the applicant should provide evidence that corroborates otherwise credible testimony, the trier of fact shall provide notice and allow the applicant a reasonable opportunity to file such evidence unless the applicant does not have the evidence and cannot reasonably obtain the evidence.'';

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following:

''(iii) SUPPORTING EVIDENCE ACCEPTED.—Direct or circumstantial evidence, including evidence that the State is unable to protect the applicant or that State legal or social norms tolerate such persecution against persons like the applicant, may establish that persecution is on account of race, religion, nationality, membership in a particular social group, or political opinion.''; and

(5) in clause (iv), as redesignated, by striking '', without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor.'' and inserting ''. If the trier of fact determines that there are inconsistencies or omissions, the alien shall be given an opportunity to explain and to provide support or evidence to clarify such inconsistencies or omissions.''.

(c) REMOVAL PROCEEDINGS.—Section 240(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(4)) is amended—

(1) in subparagraph (B), by striking the last sentence and inserting the following: ''If the trier of fact determines that the applicant should provide evidence that corroborates otherwise credible testimony, the trier

of fact shall provide notice and allow the applicant a reasonable opportunity to file such evidence unless the applicant does not have the evidence and cannot reasonably obtain the evidence.''; and

(2) in subparagraph (C), by striking '', without regard to whether an inconsistency, inaccuracy, or falsehood goes to the heart of the applicant's claim, or any other relevant factor'' and inserting ''. If the trier of fact determines that there are inconsistencies or omissions, the alien shall be given an opportunity to explain and to provide support or evidence to clarify such inconsistencies or omissions.''.

SEC. 6. EFFECTIVE ADJUDICATION OF PROCEEDINGS.

Section 240(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(4)) is amended—

(1) in the matter preceding subparagraph (A), by striking ''In proceedings under this section, under regulations of the Attorney General'' and inserting ''The Attorney General shall promulgate regulations for proceedings under this section, under which—'';

(2) in subparagraph (B), by striking '', and'' at the end and inserting a semicolon;

(3) by redesignating subparagraph (C) as subparagraph (D); and

(4) by inserting after subparagraph (B) the following:

''(C) the Attorney General, or the designee of the Attorney General, may appoint counsel to represent an alien if the fair resolution or effective adjudication of the proceedings would be served by appointment of counsel; and''.

SEC. 7. SCOPE AND STANDARD FOR REVIEW.

Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended—

(1) in paragraph (1), by adding at the end the following: ''The alien shall not be removed during such 30-day period, unless the alien indicates in writing that he or she wishes to be removed before the expiration of such period.''; and

(2) by striking paragraph (4) and inserting the following:

''(4) SCOPE AND STANDARD FOR REVIEW.—Except as provided in paragraph (5)(B), the court of appeals shall sustain a final decision ordering removal unless it is contrary to law, an abuse of discretion, or not supported by substantial evidence. The court of appeals shall decide the petition only on the administrative record on which the order of removal is based.''.

SEC. 8. EFFICIENT ASYLUM DETERMINATION PROCESS AND DETENTION OF ASYLUM SEEKERS.

(a) IN GENERAL.—Section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)) is amended—

(1) in clause (ii), by striking ''shall be detained for further consideration of the application for asylum'' and inserting ''may, in the Secretary's discretion, be detained for further consideration of the application for asylum by an asylum officer designated by the Director of United States Citizenship and Immigration Services. The asylum officer, after conducting a nonadversarial asylum interview, may grant asylum to the alien under section 208 or refer the case to a designee of the Attorney General, for a de novo asylum determination, for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or for withholding of removal under section 241(b)(3).'';

(2) in clause (iii)(IV)—

(A) by amending the subclause heading to read as follows:

''(IV) DETENTION.—''; and

(B) by striking ''shall'' and inserting ''may, in the Secretary's discretion,''; and

(3) by inserting after clause (v) the following:

''(vi) PAROLE OF CERTAIN ALIENS.—Any alien subject to detention under clause (iii)(IV) who has established identity and been determined to have a credible fear of persecution shall be released from the custody of the Department of Homeland Security not later than 7 days after such determination unless the Department demonstrates by substantial evidence that the alien—

''(I) poses a risk to public safety, which may include a risk to national security; or

''(II) is a flight risk, which cannot be mitigated through other conditions of release, such as bond or secure alternatives, that would reasonably ensure that the alien would appear for immigration proceedings.

''(vii) REVIEW OF DETENTION.—If an alien described in clause (vi) is denied release from detention, the Attorney General shall—

''(I) not later than 7 days after such denial, review the parole determination through a hearing before an immigration judge, who shall determine whether the alien should be paroled and any conditions of such release; and

''(II) notify the detained alien and the alien's legal representative of the reason for such denial, orally and in writing, in a language the alien claims to understand.

''(viii) WAIVER.—The alien may waive the 7-day review requirement under clause (vii)(I) and request a review at a later time. Any alien whose parole request has been reviewed and denied under clause (vii)(I) may request another review and determination upon showing that there was a material change in circumstances since the last review.''.

(b) RULEMAKING.—The Secretary and the Attorney General shall promulgate regulations establishing a process for reviewing the eligibility of aliens for parole in accordance with clause (vi) and (vii) of section 235(b)(1)(B) of the Immigration and Nationality Act, as amended by subsection (a).

SEC. 9. SECURE ALTERNATIVES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish the Secure Alternatives Program (referred to in this section as the ''Program'') under which an alien who has been detained may be released under enhanced supervision—

(1) to prevent the alien from absconding;

(2) to ensure that the alien makes appearances related to such detention; and

(3) to authorize and promote the utilization of alternatives to detention of asylum seekers.

(b) PROGRAM REQUIREMENTS.—

(1) NATIONWIDE IMPLEMENTATION.—The Secretary shall facilitate the nationwide implementation of the Program.

(2) UTILIZATION OF ALTERNATIVES.—The Program shall utilize a continuum of alternatives based on the alien's need for supervision, which may include placement of the alien—

(A) with an individual or organizational sponsor; or

(B) in a supervised group home.

(3) PROGRAM ELEMENTS.—The Program shall include—

(A) individualized case management by an assigned case supervisor; and

(B) referral to community-based providers of legal and social services.

(4) RESTRICTIVE ELECTRONIC MONITORING.—

(A) IN GENERAL.—Restrictive electronic monitoring devices, such as ankle bracelets, may not be used unless there is a demonstrated need for such enhanced monitoring.

(B) PERIODIC REVIEW.—The Secretary shall periodically review any decision to require the use of devices described in subparagraph (A).

(5) ALIENS ELIGIBLE FOR SECURE ALTERNATIVES PROGRAM.—

(A) IN GENERAL.—Asylum seekers shall be eligible to participate in the Program.

(B) PROGRAM DESIGN.—The Program shall be designed to ensure sufficient supervision of the population described in subparagraph (A).

(6) CONTRACTS.—The Secretary shall enter into contracts with qualified nongovernmental entities to implement the Program.

(7) OTHER CONSIDERATIONS.—In designing the Program, the Secretary shall—

(A) consult with relevant experts; and

(B) consider programs that have proven successful in the past, including the Appearance Assistance Program developed by the Vera Institute of Justice.

SEC. 10. CONDITIONS OF DETENTION.

(a) RULEMAKING.—The Secretary shall promulgate regulations that—

(1) authorize and promote the utilization of alternatives to detention of asylum seekers;

(2) establish the conditions for detention of asylum seekers that ensure a safe and humane environment; and

(3) include the rights and procedures set forth in subsections (c) through (h).

(b) DEFINITIONS.—In this section:

(1) DETAINEE.—The term ''detainee'' means an individual who is detained under the authority of United States Immigration and Customs Enforcement.

(2) DETENTION FACILITY.—The term ''detention facility'' means any Federal, State, local government facility, or privately owned and operated facility, which is being used to hold detainees longer than 72 hours.

(3) SHORT-TERM DETENTION FACILITY.—The term ''short-term detention facility'' means any Federal, State, local government, or privately owned and operated facility that is used to hold immigration detainees for not more than 72 hours.

(4) GROUP LEGAL ORIENTATION PRESENTATIONS.—The term ''group legal orientation presentations'' means live group presentations, supplemented by individual orientations, pro se workshops, and pro bono referrals, that—

(A) are carried out by private nongovernmental organizations;

(B) are presented to detainees;

(C) inform detainees about United States immigration law and procedures; and

(D) enable detainees to determine their eligibility for relief.

(c) ACCESS TO LEGAL SERVICES.—

(1) LISTS OF LEGAL SERVICE PROVIDERS.—All detainees arriving at a detention facility shall promptly receive—

(A) access to legal information, including an on-site law library with up-to-date legal materials and law databases;

(B) free access to the necessary equipment and materials for legal research and correspondence, such as computers, printers, copiers, and typewriters;

(C) an accurate, updated list of free or low-cost immigration legal service providers that—

(i) are near such detention facility; and

(ii) can assist those with limited English proficiency or disabilities;

(D) confidential meeting space to confer with legal counsel; and

(E) services to send confidential legal documents to legal counsel, government offices, and legal organizations.

(2) GROUP LEGAL ORIENTATION PRESENTATIONS.—

(A) ESTABLISHMENT OF A NATIONAL LEGAL ORIENTATION SUPPORT AND TRAINING CENTER.—The Attorney General, in consultation

with the Secretary, shall establish a National Legal Orientation Support and Training Center (referred to in this subsection as the ''Center'') to ensure quality and consistent implementation of group legal orientation programs nationwide.

(B) DUTIES.—The Center shall—

(i) offer training to nonprofit agencies that will offer group legal orientation programs;

(ii) consult with nonprofit agencies offering group legal orientation programs regarding program development and substantive legal issues; and

(iii) develop standards for group legal orientation programs.

(C) PROCEDURES.—The Secretary shall establish procedures for regularly scheduled, group legal orientation presentations.

(3) GRANTS AUTHORIZED.—The Attorney General shall establish a program to award grants to nongovernmental agencies to develop, implement, or expand legal orientation programs for all detainees at a detention facility that offers such programs.

(4) NOTIFICATION REQUIREMENT.—The Secretary shall establish procedures to promptly notify detainees at a detention facility, orally and in writing in a language that the detainee claims to understand, of—

(A) their available release options; and

(B) the procedures for requesting such options.

(d) VISITS.—

(1) LEGAL REPRESENTATION.—Detainees in detention facilities have the right to meet privately with current or prospective legal representatives, interpreters, and other legal support staff for at least 8 hours per day on regular business days and 4 hours per day on weekends and holidays, subject to appropriate security procedures. Legal visits may only be restricted for narrowly defined exceptional circumstances, such as a natural disaster or comparable emergency.

(2) PRO BONO ORGANIZATIONS.—Detention facilities shall prominently post, in detainee housing units and other appropriate areas, official lists of pro bono legal organizations and their contact information. The Secretary shall update such lists semiannually.

(3) RELIGIOUS, CULTURAL, AND SPIRITUAL VISITORS.—Detainees have the right to reasonable access to religious or other qualified individuals to address religious, cultural, and spiritual considerations.

(4) CHILDREN.—Detainees have the right to regular, private contact visits with their children (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).

(e) QUALITY OF MEDICAL CARE.—

(1) RIGHT TO MEDICAL CARE.—Each detainee has the right to—

(A) prompt and adequate medical care, designed to ensure continuity of care, at no cost to the detainee;

(B) care to address medical needs that existed prior to detention; and

(C) primary care, emergency care, chronic care, reproductive health care, prenatal care, dental care, eye care, mental health care, and other medically necessary specialized care.

(2) SCREENINGS AND EXAMINATIONS.—Each detainee shall receive—

(A) a comprehensive medical, dental, and mental health intake screening, including screening for sexual abuse or assault, conducted by a licensed health care professional upon arrival at a detention facility or short-term detention facility; and

(B) a comprehensive medical and mental health examination by a licensed health care professional not later than 14 days after the detainee's arrival at a detention facility.

(3) MEDICATIONS AND TREATMENT.—

(A) PRESCRIPTIONS.—Each detainee taking prescribed medications prior to detention shall be allowed to continue taking such medications, on schedule and without interruption, until a licensed health care professional examines the immigration detainee and decides upon an alternative course of treatment. Detainees who arrive at a detention facility without prescription medications and report being on specific prescription medications shall be evaluated by a qualified health care professional not later than 24 hours after such arrival. All decisions to discontinue or modify a detainee's reported prescription medication regimen shall be conveyed to the detainee in a language that the detainee understands and recorded in writing in the detainee's medical records.

(B) PSYCHOTROPIC MEDICATION.—Medication may not be forcibly administered to a detainee to facilitate transport, removal, or otherwise to control the detainee's behavior. Involuntary psychotropic medication may only be used, to the extent authorized by applicable law, in emergency situations after a physician has personally examined the detainee and determined that—

(i) the detainee is imminently dangerous to self or others due to a mental illness; and

(ii) involuntary psychotropic medication is medically appropriate to treat the mental illness and necessary to prevent harm.

(C) TREATMENT.—Each detainee shall be provided medically necessary treatment, including prenatal care, prenatal vitamins, hormonal therapies, and birth control. Female detainees shall be provided with adequate access to sanitary products.

(4) MEDICAL CARE DECISIONS.—Any decision regarding requested medical care for a detainee—

(A) shall be made in writing by an on-site licensed health care professional not later than 72 hours after such medical care is requested; and

(B) shall be immediately communicated to the detainee.

(5) ADMINISTRATIVE APPEALS PROCESS.—

(A) IN GENERAL.—The operators of detention facilities, in conjunction with the Department of Homeland Security, shall ensure that detainees, medical providers, and legal representatives are provided the opportunity to appeal a denial of requested health care services by an on-site provider to an independent appeals board.

(B) APPEALS BOARD.—The appeals board shall include health care professionals in the fields relevant to the request for medical or mental health care.

(C) DECISION.—Not later than 7 days after an appeal is received by the appeals board under this paragraph, or earlier if medically necessary, the appeals board shall—

(i) issue a written decision regarding the appeal; and

(ii) notify the detention facility and the appellee, orally and in a writing in a language the appellee claims to understand, of such decision.

(6) REVIEW OF ON-SITE MEDICAL PROVIDER REQUESTS.—

(A) IN GENERAL.—The Secretary shall respond within 72 hours to any request by an on-site medical provider for authorization to provide medical or mental health care to a detainee.

(B) WRITTEN EXPLANATION.—If the Secretary denies or fails to grant a request described in subparagraph (A), the Secretary shall immediately provide a written explanation of the reasons for such decision to the on-site medical provider and the detainee.

(C) APPEALS BOARD.—The on-site medical provider and the detainee (or the detainee's legal representative) shall be permitted to appeal the denial of, or failure to grant, a request described in subparagraph (A) to an independent appeals board.

(D) DECISION.—Not later than 7 days after an appeal is received by the appeals board under this paragraph, or earlier if medically necessary, the appeals board shall—

(i) issue a written decision regarding the appeal;

(ii) notify the detainee of such decision, orally and in a writing in a language the detainee claims to understand; and

(iii) notify the on-site medical provider and the detention facility of such decision.

(7) CONDITIONAL RELEASE.—

(A) IN GENERAL.—If a licensed health care professional determines that a detainee has a medical or mental health care condition, is pregnant, or is a nursing mother, the Secretary shall consider releasing the detainee on parole, on bond, or into a secure alternatives program.

(B) REEVALUATION.—If a detainee described in subparagraph (A) is not initially released under this paragraph, the Secretary shall periodically reevaluate the situation of the detainee to determine if such a release would be appropriate.

(C) DISCHARGE PLANNING.—Upon removal or release, all detainees with serious medical or mental health conditions and women who are pregnant shall receive discharge planning to ensure continuity of care for a reasonable period of time.

(8) MEDICAL RECORDS.—

(A) IN GENERAL.—The Secretary shall—

(i) maintain complete, confidential medical records for each detainee and make such records available to the detainee, or to individuals authorized by the detainee, not later than 72 hours after receiving a request for such records.

(B) TRANSFER OF MEDICAL RECORDS.—Immediately upon a detainee's transfer between detention facilities, the detainee's complete medical records, including any transfer summary, shall be provided to the receiving detention facility.

(f) TRANSFER OF DETAINEES.—

(1) NOTICE.—Absent exigent circumstances, such as a natural disaster or comparable emergency, the Secretary shall provide written notice to any detainee, orally and in a writing in a language the detainee claims to understand, not less than 72 hours before transferring such detainee to another detention facility. Not later than 24 hours after such transfer, the Secretary shall notify the detainee's legal representative, or other person designated by the detainee of the transfer, by telephone and in writing.

(2) PROCEDURES.—Absent exigent circumstances, such as a natural disaster or comparable emergency, the Secretary may not transfer a detainee to another detention facility if such transfer would—

(A) impair an existing attorney-client relationship;

(B) prejudice the rights of the detainee in any legal proceeding, including any Federal, State, or administrative proceeding; or

(C) negatively affect the detainee's health, including by interrupting the continuity of medical care or provision of prescription medication.

(g) ACCESS TO TELEPHONES.—

(1) IN GENERAL.—Not later than 6 hours after the commencement of a detention of a detainee, the detainee shall be provided reasonable access to a telephone, with at least 1 working telephone available for every 25 detainees.

(2) CONTACTS.—Each detainee has the right to contact by telephone, free of charge—

(A) legal representatives;

(B) nongovernmental organizations designated by the Secretary;

(C) consular officials;

(D) the United Nations High Commissioner for Refugees;

(E) Federal and State courts in which the detainee is, or may become, involved in a legal proceeding; and

(F) all government immigration agencies and adjudicatory bodies, including the Office of the Inspector General of the Department of Homeland Security and the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, through confidential toll-free numbers.

(3) EMERGENCIES.—Each detainee subject to expedited removal or who is experiencing a personal or family emergency, including the need to arrange care for dependents, shall be allowed to make confidential calls at no charge.

(4) PRIVACY.—Each detainee has the right to hold private telephone conversations for the purpose of obtaining legal representation or related to legal matters.

(5) RATES.—The Secretary shall ensure that rates charged in detention facilities for telephone calls are reasonable and do not significantly impair the detainee's right to make telephone calls.

(h) PHYSICAL AND SEXUAL ABUSE.—

(1) IN GENERAL.—No detainee, whether in a detention facility or short-term detention facility, shall be subject to degrading or inhumane treatment such as physical abuse, sexual abuse or harassment, or arbitrary punishment.

(2) PREVENTION.—The operators of detention facilities shall take all necessary measures—

(A) to prevent sexual abuse and sexual assaults of detainees;

(B) to provide medical and mental health treatment to victims of sexual abuse and sexual assaults; and

(C) to comply fully with the national standards for the detection, prevention, reduction, and punishment of prison rape adopted pursuant to section 8(a) of the Prison Rape Elimination Act of 2003 (42 U.S.C. 15607(a)).

(i) LIMITATIONS ON SOLITARY CONFINEMENT, SHACKLING, AND STRIP SEARCHES.—

(1) EXTRAORDINARY CIRCUMSTANCES.—Solitary confinement, shackling, and strip searches of detainees—

(A) may not be used unless such techniques are necessitated by extraordinary circumstances in which the safety of other persons is at imminent risk; and

(B) may not be used for the purpose of humiliating detainees either within or outside the detention facility.

(2) PROTECTED CLASSES.—Solitary confinement, shackling, and strip searches may not be used on pregnant women, nursing mothers, women in labor or delivery, or children who are younger than 18 years of age. Strip searches may not be conducted in the presence of children who are younger than 21 years of age.

(3) WRITTEN POLICIES.—Detention facilities shall—

(A) adopt written policies pertaining to the use of force and restraints; and

(B) train all staff on the proper use of such techniques and devices.

(j) LOCATION OF DETENTION FACILITIES.—

(1) NEW FACILITIES.—All detention facilities first used by the Department of Homeland Security after the date of the enactment of this Act shall be located within 50 miles of a community in which there is a demonstrated capacity to provide free or low-cost legal representation by—

(A) nonprofit legal aid organizations; or

(B) pro bono attorneys with expertise in asylum or immigration law.

(2) EXISTING FACILITIES.—Not later than January 1, 2014, all detention facilities used by the Department of Homeland Security shall meet the location requirement described in paragraph (1).

(3) REPORT.—If the Secretary fails to comply with the requirement under paragraph (2) by January 1, 2014, the Secretary shall submit a report to Congress on such date, and annually thereafter, that—

(A) explains the reasons for such failure; and

(B) describes the specific plans of the Secretary to meet such requirement.

(k) TRANSLATION CAPABILITIES.—The operators of detention facilities and short-term detention facilities shall—

(1) employ staff who are professionally qualified in any language spoken by more than 10 percent of its detainee population;

(2) arrange for alternative translation services, as needed, in the exceptional circumstances when trained bilingual staff members are unavailable to translate; and

(3) provide notices and written materials to detainees in the native language of such detainees if such language is spoken by more than 5 percent of the detainees in the facility.

(l) RECREATIONAL PROGRAMS AND ACTIVITIES.—Detainees shall be provided with access to at least 1 hour of indoor and outdoor recreational programs and activities each day.

(m) TRAINING OF PERSONNEL.—All personnel at detention facilities and short-term detention facilities shall be given comprehensive, specialized training and regular, periodic updates, including—

(1) an overview of immigration detention and all detention standards;

(2) the characteristics of the noncitizen detainee population, including the special needs of vulnerable populations among detainees and cultural, gender, gender identity, and sexual orientation issues; and

(3) the due process and grievance procedures to protect the rights of detainees.

(n) TRANSPORTATION.—The Secretary shall ensure that—

(1) each detainee is safely transported, which shall include the appropriate use of safety harnesses and occupancy limitations of vehicles; and

(2) female officers are responsible and at all times present during the transfer and transport of female detainees who are in the custody of the Department of Homeland Security.

(o) VULNERABLE POPULATIONS.—Detention facility conditions and minimum requirements for detention facilities shall recognize and accommodate the unique needs of vulnerable detainees, including—

(1) families with children;

(2) asylum seekers;

(3) victims of abuse, torture, or trafficking;

(4) individuals who are older than 65 years of age;

(5) pregnant women; and

(6) nursing mothers.

(p) CHILDREN.—The Secretary shall ensure that unaccompanied alien children are—

(1) physically separated from any adult who is not an immediate family member; and

(2) separated by sight and sound from—

(A) immigration detainees and inmates with criminal convictions;

(B) pretrial inmates facing criminal prosecution;

(C) children who have been adjudicated delinquents or convicted of adult offenses or are pending delinquency or criminal proceedings; and

(D) inmates exhibiting violent behavior while in detention.

(q) SHORT-TERM FACILITY REQUIREMENTS.—

(1) ACCESS TO BASIC NEEDS, PEOPLE, AND PROPERTY.—

(A) BASIC NEEDS.—All detainees in short-term detention facilities shall receive—

(i) potable water;

(ii) food, if detained for more than 5 hours;

(iii) basic toiletries, diapers, sanitary products, and blankets; and

(iv) access to bathroom facilities.

(B) PEOPLE.—The Secretary shall provide consular officials with access to detainees held at any short-term detention facility. Detainees shall be afforded reasonable access to a licensed health care professional. The Secretary shall ensure that nursing mothers in such facilities have access to their children.

(C) PROPERTY.—Any property belonging to a detainee that was confiscated by an official of the Department of Homeland Security shall be returned to the detainee upon repatriation or transfer.

(2) PROTECTIONS FOR CHILDREN.—

(A) QUALIFIED STAFF.—The Secretary shall ensure that adequately trained and qualified staff are stationed at each major port of entry at which, during the 2 most recent fiscal years, an average of at least 50 unaccompanied alien children have been held per year by United States Customs and Border Protection. Such staff shall include—

(i) independent licensed social workers dedicated to ensuring the proper temporary care for the children while in the custody of United States Customs and Border Protection; and

(ii) agents charged primarily with the safe, swift, and humane transportation of such children to the custody of the Office of Refugee Resettlement.

(B) SPECIFIC RIGHTS.—The social workers described in subparagraph (A)(i) shall ensure that each unaccompanied alien child—

(i) receives emergency medical care;

(ii) receives mental health care in case of trauma;

(iii) has access to psychosocial health services;

(iv) is provided with—

(I) a pillow, linens, and sufficient blankets to rest at a comfortable temperature; and

(II) a bed and mattress placed in an area specifically designated for residential use;

(v) receives adequate nutrition;

(vi) enjoys a safe and sanitary living environment;

(vii) receives educational materials; and

(viii) has access to at least 3 hours of indoor and outdoor recreational programs and activities per day.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall maintain the privacy and confidentiality of all information gathered in the course of providing care, custody, placement, and follow-up services to unaccompanied alien children, consistent with the best interest of such children, by not disclosing such information to other government agencies or nonparental third parties, except as provided under paragraph (2).

(B) LIMITED DISCLOSURE OF INFORMATION.—The Secretary may disclose information regarding an unaccompanied alien child only if—

(i) the child authorizes such disclosure and it is consistent with the child's best interest; or

(ii) the disclosure is to a duly recognized law enforcement entity and is necessary to prevent imminent and serious harm to another individual.

(C) WRITTEN RECORD.—All disclosures under paragraph (2) shall be duly recorded in writing and placed in the child's file.

SEC. 11. TIMELY NOTICE OF IMMIGRATION CHARGES.

Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended by adding at the end the following:

''(f) NOTICE AND CHARGES.—Not later than 48 hours after the commencement of a detention of an individual under this section, the Secretary of Homeland Security shall—

''(1) file a Notice to Appear or other relevant charging document with the immigration court closest to the location at which the individual was apprehended; and

''(2) serve such notice or charging document on the individual.''.

SEC. 12. PROCEDURES FOR ENSURING ACCURACY AND VERIFIABILITY OF SWORN STATEMENTS TAKEN PURSUANT TO EXPEDITED REMOVAL AUTHORITY.

(a) IN GENERAL.—The Secretary shall establish quality assurance procedures to ensure the accuracy and verifiability of signed or sworn statements taken by employees of the Department of Homeland Security exercising expedited removal authority under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(b) RECORDING OF INTERVIEWS.—

(1) IN GENERAL.—Any sworn or signed written statement taken from an alien as part of the record of a proceeding under section 235(b)(1)(A) of the Immigration and Nationality Act shall be accompanied by a recording of the interview which served as the basis for such sworn statement.

(2) CONTENT.—The recording shall include—

(A) a reading of the entire written statement to the alien in a language that the alien claims to understand; and

(B) the verbal affirmation by the alien of the accuracy of—

(i) the written statement; or

(ii) a corrected version of the written statement.

(3) FORMAT.—The recording shall be made in video, audio, or other equally reliable format.

(4) EVIDENCE.—Recordings of interviews under this subsection may be considered as evidence in any further proceedings involving the alien.

(c) EXEMPTION AUTHORITY.—

(1) EXEMPTED FACILITIES.—Subsection (b) shall not apply to interviews that occur at detention facilities exempted by the Secretary under this subsection.

(2) CRITERIA.—The Secretary, or the Secretary's designee, may exempt any detention facility if compliance with subsection (b) at that facility would impair operations or impose undue burdens or costs.

(3) REPORT.—The Secretary shall annually submit a report to Congress that identifies the facilities that have been exempted under this subsection.

(4) NO PRIVATE CAUSE OF ACTION.—Nothing in this subsection may be construed to create a private cause of action for damages or injunctive relief.

(d) INTERPRETERS.—The Secretary shall ensure that a professional fluent interpreter is used if—

(1) the interviewing officer does not speak a language understood by the alien; and

(2) there is no other Federal Government employee available who is able to interpret effectively, accurately, and impartially.

SEC. 13. STUDY ON THE EFFECT OF EXPEDITED REMOVAL PROVISIONS, PRACTICES, AND PROCEDURES ON ASYLUM CLAIMS.

(a) STUDY.—

(1) IN GENERAL.—The United States Commission on International Religious Freedom (referred to in this section as the ''Commission'') is authorized to conduct a study to determine whether immigration officers described in paragraph (2) are engaging in conduct described in paragraph (3).

(2) IMMIGRATION OFFICERS DESCRIBED.—An immigration officer described in this paragraph is an immigration officer performing duties under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)) with respect to aliens who—

(A) are apprehended after entering the United States; and

(B) may be eligible to apply for asylum under section 208 or 235 of such Act.

(3) CONDUCT DESCRIBED.—An immigration officer engages in conduct described in this paragraph if the immigration officer—

(A) improperly encourages an alien referred to in paragraph (2) to withdraw or retract claims for asylum;

(B) incorrectly fails to refer such an alien for an interview by an asylum officer to determine whether the alien has a credible fear of persecution (as defined in section 235(b)(1)(B)(v) of such Act (8 U.S.C. 1225(b)(1)(B)(v)));

(C) incorrectly removes such an alien to a country in which the alien may be persecuted; or

(D) detains such an alien improperly or under inappropriate conditions.

(b) REPORT.—Not later than 2 years after the date on which the Commission initiates the study under subsection (a), the Commission shall submit a report containing the results of the study to—

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

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Foreign Relations of the Senate;

(4) the Committee on Homeland Security of the House of Representatives;

(5) the Committee on the Judiciary of the House of Representatives; and

(6) the Committee on Foreign Affairs of the House of Representatives.

(c) STAFF.—

(1) FROM OTHER AGENCIES.—

(A) IDENTIFICATION.—The Commission may identify employees of the Department of Homeland Security, the Department of Justice, and the Government Accountability Office that have significant expertise and knowledge of refugee and asylum issues.

(B) DESIGNATION.—At the request of the Commission, the Secretary, the Attorney General, and the Comptroller General of the United States shall authorize staff identified under subparagraph (A) to assist the Commission in conducting the study under subsection (a).

(2) ADDITIONAL STAFF.—The Commission may hire additional staff and consultants to conduct the study under subsection (a).

(3) ACCESS TO PROCEEDINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary and the Attorney General shall provide staff designated under paragraph (1) or hired under paragraph (2) with unrestricted access to all stages of all proceedings conducted under section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225(b)).

(B) EXCEPTIONS.—The Secretary and the Attorney General may not permit unrestricted access under subparagraph (A) if—

(i) the alien subject to a proceeding under such section 235(b) objects to such access; or

(ii) the Secretary or Attorney General determines that the security of a particular proceeding would be threatened by such access.

SEC. 14. LAWFUL PERMANENT RESIDENT STATUS OF REFUGEES AND ASYLUM SEEKERS GRANTED ASYLUM.

(a) ADMISSION OF EMERGENCY SITUATION REFUGEES.—Section 207(c) of the Immigration and Nationality Act (8 U.S.C. 1157(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' the first time it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' each additional place it appears and inserting ''Secretary''; and

(C) by striking ''(except as otherwise provided under paragraph (3)) as an immigrant under this Act.'' and inserting ''(except as provided under subsection (b) and (c) of section 209) as an immigrant under this Act. Notwithstanding any numerical limitations specified in this Act, any alien admitted under this paragraph shall be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's admission to the United States.'';

(2) in paragraph (2)(A)—

(A) by striking ''(except as otherwise provided under paragraph (3))'' and inserting ''(except as provided under subsection (b) and (c) of section 209)'';

(B) by striking the last sentence and inserting the following: ''An alien admitted to the United States as a refugee may petition for his or her spouse or child to follow to join him or her in the United States at any time after such alien's admission, notwithstanding his or her treatment as a lawful permanent resident as of the date of his or her admission to the United States.'';

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) in paragraph (3), as redesignated—

(A) by striking ''Attorney General'' the first time it appears and inserting ''Secretary of Homeland Security''; and

(B) by striking ''Attorney General'' each additional place it appears and inserting ''Secretary''; and

(b) TREATMENT OF SPOUSE AND CHILDREN.—Section 208(b)(3) of such Act (8 U.S.C. 1158(b)(3)) is amended—

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

(2) by inserting after subparagraph (A) the following:

''(B) PETITION.—An alien granted asylum under this subsection may petition for the same status to be conferred on his or her spouse or child at any time after such alien is granted asylum whether or not such alien has applied for, or been granted, adjustment to permanent resident status under section 209.

''(C) PERMANENT RESIDENT STATUS.—Notwithstanding any numerical limitations specified in this Act, a spouse or child admitted to the United States as an asylee following to join a spouse or parent previously granted asylum shall be regarded as lawfully admitted to the United States for permanent residence as of the date of such spouse's or child's admission to the United States.

''(D) APPLICATION FOR ADJUSTMENT OF STATUS.—A spouse or child who was not admitted to the United States pursuant to a grant of asylum, but who was granted asylum under this subparagraph after his or her arrival as the spouse or child of an alien granted asylum under section 208, may apply for adjustment of status to that of lawful permanent resident under section 209 at any time after being granted asylum.''.

(c) REFUGEES.—

(1) IN GENERAL.—Section 209 of such Act (8 U.S.C. 1159) is amended to read as follows:

''SEC. 209. TREATMENT OF ALIENS ADMITTED AS REFUGEES AND OF ALIENS GRANTED ASYLUM.

''(a) IN GENERAL.—

''(1) TREATMENT OF REFUGEES.—Notwithstanding any numerical limitations specified in this Act, any alien who has been admitted to the United States under section 207 shall be regarded as lawfully admitted to the United States for permanent residence as of the date of such admission.

''(2) TREATMENT OF SPOUSE AND CHILDREN.—Notwithstanding any numerical limitations specified in this Act, any alien admitted to the United States under section 208(b)(3) as the spouse or child of an alien granted asylum under section 208(b)(1) shall be regarded as lawfully admitted to the United States for

permanent residence as of the date of such admission.

''(3) ADJUSTMENT OF STATUS.—The Secretary of Homeland Security or the Attorney General, in the discretion of the Secretary or the Attorney General, and under such regulations as the Secretary or the Attorney General may prescribe, may adjust, to the status of an alien lawfully admitted to the United States for permanent residence, the status of any alien who, while in the United States—

''(A) is granted—

''(i) asylum under section 208(b) (as a principal alien or as the spouse or child of an alien granted asylum); or

''(ii) refugee status under section 207 as the spouse or child of a refugee;

''(B) applies for such adjustment of status at any time after being granted asylum or refugee status;

''(C) is not firmly resettled in any foreign country; and

''(D) is admissible (except as otherwise provided under subsections (b) and (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

''(4) RECORD.—Upon approval of an application under this subsection, the Secretary of Homeland Security or the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date such alien was granted asylum or refugee status.

''(5) DOCUMENT ISSUANCE.—An alien who has been admitted to the United States under section 207 or 208 or who adjusts to the status of a lawful permanent resident as a refugee or asylee under this section shall be issued documentation indicating that such alien is a lawful permanent resident pursuant to a grant of refugee or asylum status.

''(b) INAPPLICABILITY OF CERTAIN INADMISSIBILITY GROUNDS TO REFUGEES, ALIENS GRANTED ASYLUM, AND SUCH ALIENS SEEKING ADJUSTMENT OF STATUS TO LAWFUL PERMANENT RESIDENT.—Paragraphs (4), (5), and (7)(A) of section 212(a) shall not apply to—

''(1) any refugee under section 207;

''(2) any alien granted asylum under section 208; or

''(3) any alien seeking admission as a lawful permanent resident pursuant to a grant of refugee or asylum status.

''(c) WAIVER OF INADMISSIBILITY OR DEPORTABILITY FOR REFUGEES, ALIENS GRANTED ASYLUM, AND SUCH ALIENS SEEKING ADJUSTMENT OF STATUS TO LAWFUL PERMANENT RESIDENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary of Homeland Security or the Attorney General may waive any ground of inadmissibility under section 212 or any ground of deportability under section 237 for a refugee admitted under section 207, an alien granted asylum under section 208, or an alien seeking admission as a lawful permanent resident pursuant to a grant of refugee or asylum status if the Secretary or the Attorney General determines that such waiver is justified by humanitarian purposes, to ensure family unity, or is otherwise in the public interest.

''(2) INELIGIBILITY.—A refugee under section 207, an alien granted asylum under section 208, or an alien seeking admission as a lawful permanent resident pursuant to a grant of refugee or asylum status shall be ineligible for a waiver under paragraph (1) if it has been established that the alien is—

''(A) inadmissible under section 212(a)(2)(C) or subparagraph (A), (B), (C), or (E) of section 212(a)(3);

''(B) deportable under section 237(a)(2)(A)(iii) for an offense described in section 101(a)(43)(B); or

''(C) deportable under subparagraph (A), (B), (C), or (D) of section 237(a)(4).''.

(d) TECHNICAL AMENDMENTS.—

(1) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)(B)) is amended to read as follows:

''(B) Aliens who are admitted to the United States as permanent residents under section 207 or 208 or whose status is adjusted under section 209.''.

(2) TRAINING.—Section 207(f)(1) of such Act (8 U.S.C. 1157(f)(1)) is amended by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''.

(3) TABLE OF CONTENTS.—The table of contents for such Act is amended by striking the item relating to section 209 and inserting the following:

''Sec. 209. Treatment of aliens admitted as refugees and of aliens granted asylum.''.

(e) SAVINGS PROVISIONS.—

(1) IN GENERAL.—Nothing in the amendments made by this section may be construed to limit access to the benefits described at chapter 2 of title IV of the Immigration and Nationality Act (8 U.S.C. 1521 et seq.).

(2) CLARIFICATION.—Aliens admitted for lawful permanent residence under section 207 or 208 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158) or who adjust status to lawful permanent resident under section 209 of such Act (8 U.S.C. 1159) shall be considered to be refugees and aliens granted asylum in accordance with sections 402, 403, 412, and 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612, 1613, 1622, and 1641).

(f) EFFECTIVE DATE.—This section, and the amendments made by this section, shall become effective on the earlier of—

(1) the date that is 180 days after the date of the enactment of this Act; or

(2) the date on which a final rule is promulgated to implement this section.

SEC. 15. PROTECTIONS FOR MINORS SEEKING ASYLUM.

(a) IN GENERAL.—Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) is amended—

(1) in subsection (a)(2), as amended by section 3, by adding at the end the following:

''(D) APPLICABILITY TO MINORS.—Subparagraphs (A), (B), and (C) do not apply to an applicant who is younger than 18 years of age on the earlier of—

''(i) the date on which the asylum application is filed; or

''(ii) the date on which any Notice to Appear is issued.''; and

(2) in subsection (b)(3), as amended by section 14(b), by adding at the end the following:

''(F) JURISDICTION.—An asylum officer (as defined in section 235(b)(1)(E)) shall have initial jurisdiction over any asylum application filed by an applicant who is younger than 18 years of age on the earlier of—

''(i) the date on which the asylum application is filed; or

''(ii) the date on which any Notice to Appear is issued.''.

(b) REINSTATEMENT OF REMOVAL.—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) in paragraph (5), by striking ''If the Attorney General'' and inserting ''Except as provided in paragraph (8), if the Secretary of Homeland Security''; and

(2) by adding at the end of the following:

''(8) APPLICABILITY OF REINSTATEMENT OF REMOVAL.—Paragraph (5) shall not apply to an alien who has reentered the United States illegally after having been removed or having departed voluntarily, under an order of removal, if the alien was younger than 18 years of age on the date on which the alien was removed or departed voluntarily under an order of removal.''.

SEC. 16. MULTIPLE FORMS OF RELIEF.

(a) IN GENERAL.—Applicants for admission as refugees may simultaneously pursue admission under any visa category for which such applicants may be eligible.

(b) ASYLUM APPLICANTS WHO BECOME ELIGIBLE FOR DIVERSITY VISAS.—Section 204(a)(1)(I) (8 U.S.C. 1154(a)(1)(I)) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(I)) is amended by adding at the end the following:

''(iv)(I) An asylum seeker in the United States who is notified that he or she is eligible for an immigrant visa pursuant to section 203(c) may file a petition with the district director that has jurisdiction over the district in which the asylum seeker resides (or, in the case of an asylum seeker who is or was in removal proceedings, the immigration court in which the removal proceeding is pending or was adjudicated) to adjust status to that of a permanent resident.

''(II) A petition under subclause (I) shall be filed not later than 30 days before the end of the fiscal year for which the petitioner received notice of eligibility for the visa and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

''(III) The district director or immigration court shall attempt to adjudicate each petition under this clause before the last day of the fiscal year for which the petitioner was selected. Notwithstanding clause (ii)(II), if the district director or immigration court is unable to complete such adjudication during such fiscal year, the adjudication and adjustment of the petitioner's status may take place after the end of such fiscal year.''.

SEC. 17. PROTECTION OF REFUGEE FAMILIES.

(a) CHILDREN OF REFUGEE OR ASYLEE SPOUSES AND CHILDREN.—A child of an alien who qualifies for admission as a spouse or child under section 207(c)(2)(A) or 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to the same admission status as such alien if the child—

(1) is accompanying or following to join such alien; and

(2) is otherwise admissible under such section 207(c)(2)(A) or 208(b)(3).

(b) SEPARATED CHILDREN.—A child younger than 18 years of age who has been separated from the birth or adoptive parents of such child and is living under the care of an alien who has been approved for admission to the United States as a refugee shall be admitted as a refugee if—

(1) it is in the best interest of such child to be placed with such alien in the United States; and

(2) such child is otherwise admissible under section 207(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(3)).

(c) ELIMINATION OF TIME LIMITS ON REUNIFICATION OF REFUGEE AND ASYLEE FAMILIES.—

(1) EMERGENCY SITUATION REFUGEES.—Section 207(c)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A)) is amended by striking ''A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E))'' and inserting, ''Regardless of when such refugee was admitted to the United States, a spouse or child (other than a child described in section 101(b)(1)(F))''.

(2) ASYLUM.—Section 208(b)(3)(A) of such Act (8 U.S.C. 1158(b)(3)(A)) is amended to read as follows:

''(A) IN GENERAL.—A spouse or child (other than a child described in section 101(b)(1)(F)) of an alien who was granted asylum under this subsection at any time may, if not otherwise eligible for asylum under this section,

be granted the same status as the alien if accompanying or following to join such alien.''.

(d) TIMELY ADJUDICATION OF REFUGEE AND ASYLEE FAMILY REUNIFICATION PETITIONS.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

(1) in section 207(c)(2), as amended by subsection (c), by adding at the end the following:

''(D) The Secretary shall ensure that the application of an alien who is following to join a refugee who qualifies for admission under paragraph (1) is adjudicated not later than 90 days after the submission of such application.''; and

(2) in section 208(b)(3), by adding at the end the following:

''(G) TIMELY ADJUDICATION.—The Secretary shall ensure that the application of each alien described in subparagraph (A) who applies to follow an alien granted asylum under this subsection is adjudicated not later than 90 days after the submission of such application.''.

SEC. 18. REFORM OF REFUGEE CONSULTATION PROCESS AND REFUGEE PROCESSING.

Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended—

(1) in subsection (a), by adding at the end the following:

''(5) All officers of the Federal Government responsible for refugee admissions or refugee resettlement shall treat the determinations made under this subsection and subsection (b) as the refugee admissions goal for the fiscal year.'';

(2) in subsection (d), by adding at the end the following:

''(4) Not later than 15 days after the last day of each calendar quarter, the President shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that contains—

''(A) the number of refugees who were admitted during the previous quarter;

''(B) the percentage of those arrivals against the refugee admissions goal for such quarter;

''(C) the cumulative number of refugees who were admitted during the fiscal year as of the end of such quarter;

''(D) the number of refugees to be admitted during the remainder of the fiscal year in order to meet the refugee admissions goal for the fiscal year; and

''(E) a plan that describes the procedural or personnel changes necessary to achieve the refugee admissions goal for the fiscal year.''; and

(3) in subsection (e)—

(A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(B) in the matter preceding subparagraph (A), as redesignated—

(i) by inserting ''(1)'' after ''(e)''; and

(ii) by inserting '', which shall be commenced not later than May 1 of each year and continue periodically throughout the remainder of the year, if necessary,'' after ''discussions in person'';

(C) by striking ''To the extent possible,'' and inserting the following:

''(2) To the extent possible''; and

(D) by adding at the end the following:

''(3)(A) The plans referred to in paragraph (1)(C) shall include estimates of—

''(i) the number of refugees the President expects to have ready to travel to the United States at the beginning of the fiscal year;

''(ii) the number of refugees and the stipulated populations the President expects to admit to the United States in each quarter of the fiscal year; and

''(iii) the number of refugees the President expects to have ready to travel to the United States at the end of the fiscal year.

''(B) The Secretary of Homeland Security shall ensure that an adequate number of refugees are processed during the fiscal year to fulfill the refugee admissions goals under subsections (a) and (b).''.

SEC. 19. ADMISSION OF REFUGEES IN THE ABSENCE OF THE ANNUAL PRESIDENTIAL DETERMINATION.

Section 207(a) of the Immigration and Nationality Act (8 U.S.C. 1157(a)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively;

(3) in paragraph (1), as redesignated—

(A) by striking ''after fiscal year 1982''; and

(B) by adding at the end the following: ''If the President does not issue a determination under this paragraph before the beginning of a fiscal year, the number of refugees that may be admitted under this section in each quarter before the issuance of such determination shall be 25 percent of the number of refugees admissible under this section during the previous fiscal year.''; and

(4) in paragraph (3), as redesignated, by striking ''(beginning with fiscal year 1992)''.

SEC. 20. AUTHORITY TO DESIGNATE CERTAIN GROUPS OF REFUGEES FOR CONSIDERATION.

(a) IN GENERAL.—Section 207(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(1)) is amended—

(1) by inserting ''(A)'' before ''Subject to the numerical limitations''; and

(2) by adding at the end the following:

''(B)(i) The Secretary of State, after notification to Congress, may designate specifically defined groups of aliens whose resettlement in the United States is justified by humanitarian concerns or is otherwise in the national interest and who share common characteristics that identify them as targets of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion or who otherwise have a shared need for resettlement due to vulnerabilities or a lack of local integration prospects in their country of first asylum.

''(ii) An alien who establishes membership in a group designated under clause (i) to the satisfaction of the designee of the Secretary of Homeland Security shall establish, for purposes of admission as a refugee under this section, that such alien has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(iii) A designation under clause (i)—

''(I) shall expire at the end of each fiscal year; and

''(II) may be extended by the Secretary of State after notification to Congress.

''(iv) An alien's admission under this subparagraph shall count against the refugee admissions goal under subsection (a).

''(v) A designation under clause (i) shall not influence decisions to grant, to any alien, asylum under section 208, protection under section 241(b)(3), or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first fiscal year that begins after the date of the enactment of this Act.

SEC. 21. UPDATE OF RECEPTION AND PLACEMENT GRANTS.

Beginning with fiscal year 2012, not later than 30 days before the beginning of each fiscal year, the Secretary shall notify Congress of the amount of funds that the Secretary will provide in its Reception and Placement Grants in the coming fiscal year. In setting the amount of such grants each year, the Secretary shall ensure that—

(1) the grant amount is adjusted so that it is adequate to provide for the anticipated initial resettlement needs of refugees, including adjusting the amount for inflation and the cost of living;

(2) an amount is provided at the beginning of the fiscal year to each national resettlement agency that is sufficient to ensure adequate local and national capacity to serve the initial resettlement needs of refugees the Secretary anticipates the agency will resettle throughout the fiscal year; and

(3) additional amounts are provided to each national resettlement agency promptly upon the arrival of refugees that, exclusive of the amounts provided pursuant to paragraph (2), are sufficient to meet the anticipated initial resettlement needs of such refugees and support local and national operational costs in excess of the estimates described in paragraph (1).

SEC. 22. LEGAL ASSISTANCE FOR REFUGEES AND ASYLEES.

Section 412(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1522(c)(1)(A)) is amended—

(1) in clause (ii), by striking ''and'' at an end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following:

''(iii) to provide legal services for refugees to assist them in obtaining immigration benefits for which they are eligible; and''.

SEC. 23. PROTECTION FOR ALIENS INTERDICTED AT SEA.

Section 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)) is amended—

(1) in the paragraph heading, by striking ''TO A COUNTRY WHERE ALIEN'S LIFE OR FREEDOM WOULD BE THREATENED'' and inserting ''OR RETURN IF REFUGEE'S LIFE OR FREEDOM WOULD BE THREATENED OR ALIEN WOULD BE SUBJECTED TO TORTURE'';

(2) in subparagraph (A)—

(A) by striking ''Notwithstanding'' and inserting the following:

''(i) LIFE OR FREEDOM THREATENED.—Notwithstanding''; and

(B) by adding at the end the following:

''(ii) ASYLUM INTERVIEW.—Notwithstanding paragraphs (1) and (2), a United States officer may not return any alien interdicted or otherwise encountered in international waters or United States waters who has expressed a fear of return to his or her country of departure, origin, or last habitual residence—

''(I) until such alien has had the opportunity to be interviewed by an asylum officer to determine whether that alien has a well-founded fear of persecution because of the alien's race, religion, nationality, membership in a particular social group, or political opinion, or because the alien would be subject to torture in that country; or

''(II) if an asylum officer has determined that the alien has such a well-founded fear of persecution or would be subject to torture in his or her country of departure, origin, or last habitual residence.'';

(3) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(4) by inserting after subparagraph (A) the following:

''(B) PROTECTIONS FOR ALIENS INTERDICTED IN INTERNATIONAL OR UNITED STATES WATERS.—The Secretary of Homeland Security shall issue regulations establishing a uniform procedure applicable to all aliens interdicted in international or United States waters that—

''(i) provides each alien—

''(I) a meaningful opportunity to express, through a translator who is fluent in a language the alien claims to understand, a fear

of return to his or her country of departure, origin, or last habitual residence; and

''(II) in a confidential setting and in a language the alien claims to understand, information concerning the alien's interdiction, including the ability to inform United States officers about any fears relating to the alien's return or repatriation;

''(ii) provides each alien expressing such a fear of return or repatriation a confidential interview conducted by an asylum officer, in a language the alien claims to understand, to determine whether the alien's return to his or her country of origin or country of last habitual residence is prohibited because the alien has a well-founded fear of persecution—

''(I) because of the alien's race, religion, nationality, membership in a particular social group, or political opinion; or

''(II) because the alien would be subject to torture in that country;

''(iii) ensures that each alien can effectively communicate with United States officers through the use of a translator fluent in a language the alien claims to understand; and

''(iv) provides each alien who, according to the determination of an asylum officer, has a well-founded fear of persecution for the reasons specified in clause (ii) or would be subject to torture, an opportunity to seek protection in—

''(I) a country other than the alien's country of origin or country of last habitual residence in which the alien has family or other ties that will facilitate resettlement; or

''(II) if the alien has no such ties, a country that will best facilitate the alien's resettlement, which may include the United States.''.

SEC. 24. PROTECTION OF STATELESS PERSONS IN THE UNITED STATES.

(a) IN GENERAL.—Chapter 1 of title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by adding at the end the following:

''SEC. 210A. PROTECTION OF STATELESS PERSONS IN THE UNITED STATES.

''(a) DEFINED TERM.—

''(1) IN GENERAL.—In this section, the term 'de jure stateless person' means an individual who is not considered a national under the laws of any country.

''(2) DESIGNATION OF SPECIFIC DE JURE GROUPS.—The Secretary of Homeland Security may designate specific groups of individuals who are considered de jure stateless persons, for purposes of this section.

''(b) MECHANISMS FOR REGULARIZING THE STATUS OF STATELESS PERSONS.—

''(1) RELIEF FOR INDIVIDUALS DETERMINED TO BE DE JURE STATELESS PERSONS.—The Secretary of Homeland Security or the Attorney General may cancel removal or provide conditional lawful status to an alien who is otherwise inadmissible or deportable from the United States if the alien—

''(A) is a de jure stateless person;

''(B) applies for such relief;

''(C) is not inadmissible under paragraph (2) or (3) of section 212(a);

''(D) is not deportable under paragraph (2), (3), or (4) of section 237(a); and

''(E) is not described in section 241(b)(3)(C)(i).

''(2) WAIVERS.—

''(A) AUTOMATIC WAIVERS.—In determining an alien's eligibility for relief under paragraph (1), paragraphs (4), (5), (6)(A), (7)(A), and (9) of section 212(a) shall not apply.

''(B) APPLICATION.—An alien seeking relief under paragraph (1) may apply to the Secretary or the Attorney General for a waiver of any of the grounds set forth in subparagraph (C) and (D) of paragraph (1).

''(C) OTHER WAIVERS.—The Secretary or the Attorney General may waive any other ground of inadmissibility or deportability (except for section 241(b)(3)(C)(i)) with respect to such an applicant, including felony convictions and health conditions, if such waiver—

''(i) is justified by humanitarian purposes;

''(ii) would ensure family unity; or

''(iii) is otherwise in the public interest.

''(3) WORK AUTHORIZATION.—The Secretary may—

''(A) authorize an alien who has applied for relief under paragraph (1) to engage in employment in the United States while such application is being considered; and

''(B) provide such applicant with an employment authorized endorsement or other appropriate document signifying authorization of employment.

''(4) DEPENDENT SPOUSES AND CHILDREN.—The spouse, child, or unmarried son or daughter of an alien who has been granted conditional lawful status under paragraph (1) may apply for conditional lawful status under this section as a dependent if—

''(A) the dependent properly files an application for such status;

''(B) the dependent is physically present in the United States on the date on which such application is filed;

''(C) the dependent meets the eligibility criteria set forth in paragraph (1); and

''(D) the qualifying relationship to the principal beneficiary existed on the date on which such alien was granted conditional lawful status.

''(c) ADJUSTMENT OF STATUS.—

''(1) INSPECTION AND EXAMINATION.—At the end of the 1-year period beginning on the date on which an alien has been granted conditional lawful status under subsection (b), the alien may apply for lawful permanent residence in the United States if—

''(A) the alien has been physically present in the United States for at least 1 year;

''(B) the alien's conditional lawful status has not been terminated by the Secretary of Homeland Security or the Attorney General, pursuant to such regulations as the Secretary or the Attorney General may prescribe; and

''(C) the alien has not otherwise acquired permanent resident status.

''(2) REQUIREMENTS FOR ADJUSTMENT.—The Secretary or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, may adjust the status of an alien granted conditional lawful status under subsection (b) to that of an alien lawfully admitted for permanent residence if such alien—

''(A) is a de jure stateless person;

''(B) properly applies for such adjustment of status;

''(C) has been physically present in the United States for at least 1 year after being granted conditional lawful status under subsection (b);

''(D) is not firmly resettled in any foreign country; and

''(E) is admissible (except as otherwise provided under subsection (b)(2)) as an immigrant under this chapter at the time of examination of such alien for adjustment of status.

''(3) PROVING THE CLAIM.—In determining an alien's eligibility for adjustment of status under this subsection, the Secretary or the Attorney General shall consider any credible evidence relevant to the application. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Secretary or the Attorney General.

''(4) RECORD.—Upon approval of an application under this subsection, the Secretary or the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date that is 1 year before the date of such approval.

''(d) REVIEW.—

''(1) ADMINISTRATIVE REVIEW.—The Attorney General shall provide applicants for relief under this section the same right to, and procedures for, administrative review as are provided to aliens subject to removal proceedings under section 240.

''(2) JUDICIAL REVIEW.—The United States Court of Appeals shall—

''(A) sustain a final decision denying relief under this section unless it is contrary to law, an abuse of discretion, or not supported by substantial evidence; and

''(B) decide the petition only on the administrative record on which the denial of relief is based.

''(3) MOTIONS TO REOPEN.—Notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings, any individual who is eligible for relief under this section may file 1 motion to reopen removal or deportation proceedings in order to apply for relief under this section.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 210 the following:

''Sec. 210A. Protection of stateless persons in the United States.''.

SEC. 25. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act, and the amendments made by this Act.

By Mr. WYDEN (for himself and Ms. SNOWE):

S. 3117. A bill to strengthen the capacity of eligible institutions to provide instruction in nanotechnology; to the Committee on Health, Education, Labor, and Pensions.

Mr. WYDEN. Mr. President, I am pleased to join today with my colleague from Maine, Senator SNOWE, to introduce the Promote Nanotechnology in Schools Act of 2010.

As Co-Chair of the Congressional Nanotechnology Caucus, and former Chair of the Commerce Subcommittee on Science, Technology, and Innovation, I have been involved in encouraging the development of nanotechnology for many years. Although I am gratified by the tremendous advancements that have already been achieved in nanotechnology, there are significant hurdles that could prevent the U.S. from realizing the full potential that nanotechnology holds for job creation, economic growth, and international competitiveness.

During this challenging period when the economy is faltering and the government is working to help create jobs, nanotechnology represents an opportunity to provide long-term, well-paid employment for millions of Americans. In fact, the National Nanotechnology Initiative—the Federal Government organization that coordinates nanotechnology research across all Federal agencies—estimates that the global nanotechnology workforce will require 2 million trained workers by 2015. It is estimated that only 20,000 workers are currently employed in this field.

To ensure that many of the needed jobs will be created here in the U.S., it is necessary to provide our students

with the tools that will provide the skills and knowledge that nanotechnology companies need. This is exactly what the Promote Nanotechnology in Schools Act will do.

This act directs the National Science Foundation to establish a grant program that would provide schools, community colleges, 2- and 4-year colleges and universities and other educational institutions with up to $400,000 to purchase nanotechnology education equipment and materials. Schools participating in the program would be required to provide matching funds of at least 1/4 of the amount of the grant.

In my home State, it has been very rewarding to see the technological advances and entrepreneurial success achieved by the Oregon Nanoscience and Microtechnologies Institute, ONAMI. Oregon's first signature research center, ONAMI is a public-private partnership between the State's top research universities, major corporations, and small business entrepreneurs. Working with top scientists and graduate students, and leveraging the nanotechnology equipment available at Oregon's public universities, ONAMI has provided gap funding to 18 start-up businesses, which have created at least 60 new jobs.

While Oregon has been a leader in this arena, it is certainly not alone. Nanotechnology job creation efforts are accelerating in hubs for technology development throughout the country. As Co-Chair of the Congressional Nanotechnology Caucus, I have had the opportunity to talk with innovators and entrepreneurs from nanotechnology companies working in the areas as diverse as energy management, health technology, environmental sciences, advanced computing, textile and material sciences, and many others. What I have heard in common across all of these fields is the need for qualified workers.

If high school and college students are not exposed to nanotechnology, this emerging field will not be able to reach its full potential. Without a qualified workforce that will allow nanotech companies in this country to scale-up, foreign competitors will be able to fill the vacuum in the global marketplace. With the Promote Nanotechnology in Schools Act, this country will put the resources into place that will prepare our students to meet the needs of the emerging nanotech economy.

That is why I want to thank Senator SNOWE for joining me in introducing this timely, and much-needed legislation. I also want to acknowledge the support and efforts of the nanotech companies that worked with me and other Members of Congress to help build support for this bill. Finally, I call upon my colleagues to move quickly not only to pass this legislation but also the National Nanotechnology Initiative Amendments Act reauthorization. These important bills will help advance nanotechnology in this country, and protect the U.S.'s position at the forefront of innovation and economic opportunity.

I urge all my colleagues to support innovation and promote entrepreneurial competition by cosponsoring this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 454—SUPPORTING THE GOALS OF WORLD TUBERCULOSIS DAY TO RAISE AWARENESS ABOUT TUBERCULOSIS

Mr. BROWN of Ohio submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 454

Whereas tuberculosis (TB) is the second leading global infectious disease killer behind HIV/AIDS, claiming 1,800,000 lives each year;

Whereas the global TB pandemic and spread of drug resistant TB present a persistent public health threat to the United States;

Whereas according to 2009 data from the World Health Organization, 5 percent of all new TB cases are drug resistant;

Whereas TB is the leading killer of people with HIV/AIDS;

Whereas TB is the third leading killer of adult women, and the stigma associated with TB disproportionately affects women, causing them to delay seeking care and interfering with treatment adherence;

Whereas the Institute of Medicine found that the resurgence of TB between 1980 and 1992 was caused by cuts in TB control funding and the spread of HIV/AIDS;

Whereas, although the numbers of TB cases in the United States continue to decline, progress towards TB elimination has slowed, and it is a disease that does not recognize borders;

Whereas an extensively drug resistant strain of TB, known as XDR-TB, is very difficult and expensive to treat and has high and rapid fatality rates, especially among HIV/AIDS patients;

Whereas the United States has had more than 83 cases of XDR-TB over the last decade;

Whereas the Centers for Disease Control and Prevention estimated in 2009 that it costs $483,000 to treat a single case of XDR-TB;

Whereas African-Americans are 8 times more likely to have TB than Caucasians, and significant disparities exist among other United State minorities, including Native Americans, Asian-Americans, and Hispanic-Americans;

Whereas the United States public health system has the expertise to eliminate TB, but many State TB programs have been left seriously under-resourced due to budget cuts at a time when TB cases are growing more complex to diagnose and treat;

Whereas, although drugs, diagnostics, and vaccines for TB exist, these technologies are antiquated and are increasingly inadequate for controlling the global epidemic;

Whereas the most commonly used TB diagnostic in the world, sputum microscopy, is more than 100 years old and lacks sensitivity to detect TB in most HIV/AIDS patients and in children;

Whereas current tests to detect drug resistance take at least 1 month to complete and faster drug susceptibility tests must be developed to stop the spread of drug resistant TB;

Whereas the TB vaccine, BCG, provides some protection to children, but has little or no efficacy in preventing pulmonary TB in adults;

Whereas there is also a critical need for new TB drugs that can safely be taken concurrently with antiretroviral therapy for HIV;

Whereas the Global Health Initiative commits to reducing TB prevalence by 50 percent;

Whereas enactment of the Lantos-Hyde Global Leadership Against HIV/AIDS, TB, and Malaria Act and the Comprehensive TB Elimination Act provide an historic United States commitment to the global eradication of TB, including to the successful treatment of 4,500,000 new TB patients and 90,000 new multi-drug resistant (MDR) TB cases by 2013, while providing additional treatment through coordinated multilateral efforts;

Whereas the United States Agency for International Development provides financial and technical assistance to nearly 40 highly burdened TB countries and supports the development of new diagnostic and treatment tools, and is authorized to support research to develop new vaccines to combat TB;

Whereas the Centers for Disease Control and Prevention, working in partnership with United States, States, and territories, directs the national TB elimination program and essential national TB surveillance, technical assistance, prevention activities, and supports the development of new diagnostic, treatment, and prevention tools to combat TB;

Whereas the National Institutes of Health, through its many institutes and centers, plays the leading role in basic and clinical research into the identification, treatment, and prevention of TB;

Whereas the Global Fund to Fight AIDS, Tuberculosis, and Malaria provides 63 percent of all international financing for TB programs worldwide and finances proposals worth $3,200,000,000 in 112 countries, and TB treatment for 6,000,000 people, 1,800,000 HIV/TB services, and in many countries in which the Global Fund supports programs, TB prevalence is declining, as are TB mortality rates; and

Whereas, March 24, 2010 is World Tuberculosis Day, a day that commemorates the date in 1882 when Dr. Robert Koch announced his discovery of Mycobacterium tuberculosis, the bacteria that causes tuberculosis: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals of World Tuberculosis Day to raise awareness about tuberculosis;

(2) commends the progress made by anti-tuberculosis programs, including the United States Agency for International Development, the Centers for Disease Control and Prevention, the National Institutes of Health, and the Global Fund to Fight AIDS, Tuberculosis and Malaria; and

(3) reaffirms its commitment to global tuberculosis control made through the Lantos-Hyde United States Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2008 (Public Law 108–25; 117 Stat. 711).

SENATE RESOLUTION 455—HONORING THE LIFE, HEROISM, AND SERVICE OF HARRIET TUBMAN

Mrs. BOXER (for herself, Mr. BROWNBACK, Mr. SPECTER, Ms. SNOWE,

Mr. SCHUMER, Mrs. GILLIBRAND, Ms. MIKULSKI, Mr. CARDIN, and Mr. LEVIN) submitted the following resolution; which was considered and agreed to:

S. RES. 455

Whereas Harriet Ross Tubman was born into slavery as Araminta Ross in Dorchester County, Maryland, in or around 1820;

Whereas in 1849, Ms. Tubman bravely escaped to freedom, traveling alone for approximately 90 miles to Pennsylvania;

Whereas, after escaping slavery, Ms. Tubman participated in the Underground Railroad, a network of routes, people, and houses that helped slaves escape to freedom;

Whereas Ms. Tubman became a ''conductor'' on the Underground Railroad, courageously leading approximately 19 expeditions to help more than 300 slaves to freedom;

Whereas Ms. Tubman served as a spy, nurse, scout, and cook during the Civil War;

Whereas during her service in the Civil War, Ms. Tubman became the first woman in the United States to plan and lead a military expedition, which resulted in successfully freeing more than 700 slaves;

Whereas after the Civil War, Ms. Tubman continued to fight for justice and equality, including equal rights for African-Americans and women;

Whereas Ms. Tubman died on March 10, 1913, in Auburn, New York; and

Whereas the heroic life of Ms. Tubman continues to serve as an inspiration to the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the life and courageous heroism of Harriet Tubman;

(2) recognizes the great contributions made by Harriet Tubman throughout her lifelong service and commitment to liberty, justice, and equality for all; and

(3) encourages the people of the United States to remember the courageous life of Harriet Tubman, a true hero.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3514. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table.

SA 3515. Mr. NELSON of Nebraska (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3516. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3517. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3518. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3519. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3520. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

SA 3521. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 3522. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table.

SA 3523. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3514. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 219. INCLUSION OF HIGH-PERFORMANCE GREEN BUILDINGS AS AIRPORT DEVELOPMENT.

Section 47102(3), as amended by section 208(j) of this Act, is further amended by adding at the end the following:

''(N) modernization, renovation, and repairs of a building to meet one or more of the criteria for being a high-performance green building set forth in section 401(13) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17061(13)).''.

SA 3515. Mr. NELSON of Nebraska (for himself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 24, between lines 18 and 19, insert the following:

(c) QUALIFICATIONS BASED SELECTION.—Section 40117, as amended by subsection (a), is amended by adding at the end the following:

''(o) QUALIFICATIONS BASED SELECTION.—

''(1) IN GENERAL.—Any contract or subcontract, described in paragraph (2) that is funded in whole or in part from the proceeds from passenger facility charges imposed under this section, shall be awarded in the same manner as a contract for architectural and engineering services is awarded under chapter 11 of title 40, United States Code, or an equivalent qualifications-based requirement prescribed for or by the eligible agency.

''(2) CONTRACT OR SUBCONTRACT DESCRIBED.—A contract or subcontract described in this subsection is a contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, and related services.''.

SA 3516. Mr. INOUYE submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 302, between lines 3 and 4, insert the following:

SEC. —. MODIFICATION OF THE APPLICATION OF THE TONNAGE TAX ON VESSELS OPERATING IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.

(a) IN GENERAL.—Subsection (f) of section 1355 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(f) EFFECT OF OPERATING A QUALIFYING VESSEL IN THE DUAL UNITED STATES DOMESTIC AND FOREIGN TRADES.—For purposes of this subchapter—

''(1) an electing corporation shall be treated as continuing to use a qualifying vessel in the United States foreign trade during any period of use in the United States domestic trade, and

''(2) gross income from such United States domestic trade shall not be excluded under section 1357(a), but shall not be taken into account for purposes of section 1353(b)(1)(B) or for purposes of section 1356 in connection with the application of section 1357 or 1358.''.

(b) REGULATORY AUTHORITY FOR ALLOCATION OF CREDITS, INCOME, AND DEDUCTIONS.—Section 1358 of the Internal Revenue Code of 1986 (relating to allocation of credits, income, and deductions) is amended—

(1) by striking ''in accordance with this subsection'' in subsection (c) and inserting ''to the extent provided in such regulations as may be prescribed by the Secretary'', and

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

''(d) REGULATIONS.—The Secretary shall prescribe regulations consistent with the provisions of this subchapter for the purpose of allocating gross income, deductions, and credits between or among qualifying shipping activities and other activities of a taxpayer.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 1355(a)(4) of the Internal Revenue Code of 1986 is amended by striking ''exclusively''.

(2) Section 1355(b)(1)(B) of such Code is amended by striking ''as a qualifying vessel'' and inserting ''in the transportation of goods or passengers''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3517. Mr. PRYOR submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 128, strike lines 11 through 15 and insert the following:

(1) by striking ''benefit.'' and inserting ''benefit, with the maximum allowable local cost share capped at 20 percent.''.

SA 3518. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 723. PLAN FOR FLYING SCIENTIFIC INSTRUMENTS ON COMMERCIAL FLIGHTS.

(a) PLAN DEVELOPMENT.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Transportation and the Secretary of Commerce, in consultation with interested representatives of the aviation industry and other relevant agencies, shall develop a plan and process to allow Federal agencies to fly scientific instruments on commercial flights with willing commercial aviation industry partners, for the purpose of taking measurements to improve weather forecasting.

(b) REPORT TO CONGRESS.—The Secretary of Transportation and the Secretary of Commerce shall provide a copy of the plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Science and Technology of the House of Representatives.

SA 3519. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 266, line 2, strike the end quote and final period at the end and insert the following:

''(j) TRAINEE POSITIONS.—Subject to subsection (b), grant amounts received under this subchapter by airports located in Alaska may be used for trainee positions in the same manner as such positions are authorized for Federal-aid highway projects under section 230.111 of title 23, Code of Federal Regulations (or successor regulations).''.

SA 3520. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 458, after line 23, add the following:

(d) FLIGHT SERVICE STATIONS.—

(1) ESTABLISHMENT OF MONITORING SYSTEM.—Not later than 60 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall develop and implement a monitoring system for flight service specialist staffing and training under service contracts for flight service stations.

(2) COMPONENTS.—At a minimum, the monitoring system developed under paragraph (1) shall include mechanisms to monitor—

(A) flight specialist staffing plans for individual facilities;

(B) actual staffing levels for individual facilities;

(C) the initial and recurrent certification and training of flight service specialists on the safety, operational, and technological aspects of flight services, including any certification and training necessary to meet user demand; and

(D) system outages, excessive hold times, dropped calls, poor quality briefings, and any other safety or customer service issues under a contract for flight service station services.

(3) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that includes—

(A) a description of monitoring system;

(B) if the Administrator determines that contractual changes or corrective actions are required for the Federal Aviation Administration to ensure that the vendor under a contract for flight service station services provides safe and high quality service to consumers, a description of the changes or actions required; and

(C) a description of the contingency plans of the Administrator and the protections that the Administrator will have in place to provide uninterrupted flight service station services in the event of—

(i) material non-performance of the contract;

(ii) a vendor's default, bankruptcy, or acquisition by another entity; or

(iii) any other event that could jeopardize the uninterrupted provision of flight service station services.

(4) ALASKA FLIGHT SERVICE STATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator, in conjunction with flight service station personnel, shall develop, implement, and submit to Congress a plan for the future of flight service stations in Alaska that includes—

(A) the establishment of a formal training and hiring program for flight service specialists; and

(B) a schedule for necessary inspection, upgrades, and modernization of stations and equipment.

SA 3521. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 2847, making appropriations for the Department of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. _____. FISCAL YEARS 2010 AND 2011 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEARS 2010 AND 2011.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal years 2010 and 2011.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

SA 3522. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

On page 302, between lines 3 and 4, insert the following:

SEC. —. REPEAL OF QUALIFIED SHIPPING INVESTMENT WITHDRAWAL RULES.

(a) IN GENERAL.—Section 955 of the Internal Revenue Code of 1986 is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 951(a)(1)(A) of the Internal Revenue Code of 1986 is amended by adding ''and'' at the end of clause (i) and by striking clause (iii).

(2) Section 951(a)(1)(A)(ii) of such Code is amended by striking '', and'' at the end and inserting '', except that in applying this clause amounts invested in less developed country corporations described in section 955(c)(2) (as so in effect) shall not be treated as investments in less developed countries.''.

(3) Section 951(a)(3) of such Code is hereby repealed.

(4) Section 964(b) of such Code is amended by striking '', 955,''.

(5) The table of sections for subpart F of part III of subchapter N of chapter 1 of such Code is amended by striking the item relating to section 955.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable

years of controlled foreign corporations ending on or after the date of the enactment of this Act, and to taxable years of United States shareholders in which or with which such taxable years of controlled foreign corporations end.

SEC. —. TAX IMPOSED ON ELECTING UNITED STATES SHAREHOLDERS.

(a) IN GENERAL.—In the case of a United States shareholder for which an election is in effect under this section, a tax is hereby imposed on such shareholder's pro rata share (determined under the principles of paragraph (2) of subsection (a) of section 951 of the Internal Revenue Code of 1986) of the sum of—

(1) the foreign base company shipping income (determined under section 954(f) of the Internal Revenue Code of 1986 as in effect before the enactment of the American Jobs Creation Act of 2004) for all prior taxable years beginning after 1975 and before 1987, and

(2) income described in section 954(b)(2) of the Internal Revenue Code as in effect prior to the effective date of the Tax Reform Act of 1975, without regard to whether such income was not included in subpart F income under section 954(b)(2) or any other provision of such Code,

but only to the extent such income has not previously been included in the gross income of a United States person as a dividend or under any section of the Internal Revenue Code after 1962, or excluded from gross income pursuant to subsection (a) of section 959 of the Internal Revenue Code of 1986.

(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be 5.25 percent of the income described therein.

(c) INCOME NOT SUBJECT TO FURTHER TAX.—The income on which a tax is imposed by subsection (a) shall not (other than such tax) be included in the gross income of such United States shareholder (or any other United States person who acquires from any person any portion of the interest of such United States shareholder in such foreign corporation) and shall be treated for purposes of the Internal Revenue Code of 1986 as if such amounts are, or have been, included in the income of the United States shareholder under section 951(a)(1)(B) of such Code.

(d) ADDITIONAL TAX IMPOSED FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

(1) IN GENERAL.—If, during the period consisting of the calendar month in which the election under this section is made and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount shall be taken into account as income by the taxpayer during the taxable year that includes the final day of such period, equal to $25,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment.

(2) PRIOR AVERAGE EMPLOYMENT.—For purposes of this subsection, the taxpayer's prior average employment is the average number of full time equivalent employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the election under this section is made.

(3) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group (as defined in section 264(e)(5)(B) of the Internal Revenue Code of 1986) shall be treated as a single taxpayer.

(e) ELECTION.—

(1) IN GENERAL.—A taxpayer may elect to apply this section to—

(A) the taxpayer's last taxable year which begins before the date of the enactment of this Act, or

(B) the taxpayer's first taxable year beginning on or after such date.

(2) TIMING OF ELECTION AND ONE-TIME ELECTION.—Such election may be made only once by any taxpayer, and only if made on or before the due date (including extensions) for filing the return of tax for the taxable year of such election.

(f) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after the date of the enactment of this Act.

SA 3523. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 3452 proposed by Mr. ROCKEFELLER to the bill H.R. 1586, to impose an additional tax on bonuses received from certain TARP recipients; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. _____. 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 made a rollover of an airline payment amount to a Roth IRA pursuant to section 125 of the Worker, Retiree, and Employer Recovery Act of 2008, may transfer to a traditional IRA all or any part of the Roth IRA attributable to such rollover, 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.

(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.

NOTICE OF INTENT TO SUSPEND THE RULES

Mr. DEMINT. Mr. President, I submit the following notice in writing: In accordance with Rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend Rule XXII, Paragraph 2, for the purpose of proposing and considering the following amendment to H.R. 2847, the Hiring Incentives to Restore Employment Act, including germaneness requirements:

At the end of the bill, insert the following:

SEC. _____. FISCAL YEARS 2010 AND 2011 EARMARK MORATORIUM.

(a) BILLS AND JOINT RESOLUTIONS.—

(1) POINT OF ORDER.—It shall not be in order to—

(A) consider a bill or joint resolution reported by any committee that includes an earmark, limited tax benefit, or limited tariff benefit; or

(B) a Senate bill or joint resolution not reported by committee that includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the bill or joint resolution shall be returned to the calendar until compliance with this subsection has been achieved.

(b) CONFERENCE REPORT.—

(1) POINT OF ORDER.—It shall not be in order to vote on the adoption of a report of a committee of conference if the report includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the conference report shall be returned to the calendar.

(c) FLOOR AMENDMENT.—It shall not be in order to consider an amendment to a bill or joint resolution if the amendment contains an earmark, limited tax benefit, or limited tariff benefit.

(d) AMENDMENT BETWEEN THE HOUSES.—

(1) IN GENERAL.—It shall not be in order to consider an amendment between the Houses if that amendment includes an earmark, limited tax benefit, or limited tariff benefit.

(2) RETURN TO THE CALENDAR.—If a point of order is sustained under this subsection, the amendment between the Houses shall be returned to the calendar until compliance with this subsection has been achieved.

(e) WAIVER.—Any Senator may move to waive any or all points of order under this section by an affirmative vote of two-thirds of the Members, duly chosen and sworn.

(f) DEFINITIONS.—For the purpose of this section—

(1) the term ''earmark'' means a provision or report language included primarily at the request of a Senator or Member of the House of Representatives providing, authorizing, or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

(2) the term ''limited tax benefit'' means any revenue provision that—

(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; and

(3) the term ''limited tariff benefit'' means a provision modifying the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities.

(g) FISCAL YEARS 2010 AND 2011.—The point of order under this section shall only apply to legislation providing or authorizing discretionary budget authority, credit authority or other spending authority, providing a federal tax deduction, credit, or exclusion, or modifying the Harmonized Tariff Schedule in fiscal years 2010 and 2011.

(h) APPLICATION.—This rule shall not apply to any authorization of appropriations to a Federal entity if such authorization is not specifically targeted to a State, locality or congressional district.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate that the hearing scheduled before the Subcommittee on National Parks, for Wednesday, March 17, 2010, will begin at 3:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills:

S. 553, to revise the authorized route of the North Country National Scenic Trail in northeastern Minnesota to include existing hiking trails along Lake Superior's north shore and in Superior National Forest and Chippewa National Forest, and for other purposes;

S. 1017, to reauthorize the Cane River National Heritage Area Commission and expand the boundaries of the Cane River National Heritage Area in the State of Louisiana;

S. 1018, to authorize the Secretary of the Interior to enter into an agreement with Northwestern State University in Natchitoches, Louisiana, to construct a curatorial center for the use of Cane River Creole National Historical Park, the National Center for Preservation Technology and Training, and the University, and for other purposes;

S. 1537, to authorize the Secretary of the Interior, acting through the Director of the National Park Service, to designate the Dr. Norman E. Borlaug Birthplace and Childhood Home in Cresco, Iowa, as a National Historic Site and as a unit of the National Park System, and for other purposes;

S. 1629, to authorize the Secretary of the Interior to conduct a special resource study of the archeological site and surrounding land of the New Philadelphia town site in the state of Illinois, and for other purposes;

S. 2892, to establish the Alabama Black Belt National Heritage Area, and for other purposes;

S. 2933, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating the Colonel Charles Young Home in Xenia, Ohio, as a unit of the National Park System, and for other purposes;

S. 2951, to authorize funding to protect and conserve lands contiguous with the Blue Ridge Parkway to serve the public, and for other purposes; and

H.R. 3804, to make technical corrections to various Acts affecting the National Park Service, to extend, amend, or establish certain National Park Service authorities, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to allison_seyferth@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Allison Seyferth at (202) 224–4905.

TAX EXTENDERS ACT OF 2009

On Wednesday, March 10, 2010, the Senate passed H.R. 4213, as amended, as follows:

H.R. 4213

Resolved, That the bill from the House of Representatives (H.R. 4213) entitled ''An Act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.'', do pass with the following amendment:

Strike all after the enacting clause and 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 Workers, State, and Business Relief Act of 2010''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 606. Tax-exempt bond financing.

(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. 102. 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. 103. CREDIT FOR ELECTRICITY PRODUCED AT CERTAIN OPEN-LOOP BIOMASS FACILITIES.

(a) IN GENERAL.—Clause (ii) of section 45(b)(4)(B) is amended by striking ''5-year period'' and inserting ''6-year period''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to electricity produced and sold after December 31, 2009.

SEC. 104. CREDIT FOR REFINED COAL FACILITIES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(d)(8) are each amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2009.

SEC. 105. CREDIT FOR PRODUCTION OF LOW SULFUR DIESEL FUEL.

(a) APPLICABLE PERIOD.—Paragraph (4) of section 45H(c) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 339 of the American Jobs Creation Act of 2004.

SEC. 106. 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. 107. 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. 108. EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) are each amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2009.

SEC. 109. 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) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions after December 31, 2009.

SEC. 110. 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.

Subtitle B—Individual Tax Relief

PART I—MISCELLANEOUS PROVISIONS

SEC. 111. 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. 112. 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. 113. 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. 114. 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. 115. ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 222 is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 116. 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. 117. LOOK-THRU OF CERTAIN REGULATED INVESTMENT COMPANY STOCK IN DETERMINING GROSS ESTATE OF NONRESIDENTS.

(a) IN GENERAL.—Paragraph (3) of section 2105(d) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to estates of decedents dying after December 31, 2009.

PART II—LOW-INCOME HOUSING CREDITS

SEC. 121. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

(a) IN GENERAL.—Section 42 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, multiplied by

''(B) 10.

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall

pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''42(n),'' after ''36A,''.

Subtitle C—Business Tax Relief

SEC. 131. 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. 132. 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. 133. 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. 134. 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. 135. 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) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 136. 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. 137. 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. 138. 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. 139. 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. 140. 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. 141. 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. 142. 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. 143. 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. 144. 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. 145. 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. 146. 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. 147. 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. 148. 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. 149. 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. 150. 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 ''in 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. 151. TREATMENT OF CERTAIN DIVIDENDS AND ASSETS 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. 152. 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. 153. 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. 154. 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. 155. REDUCTION IN CORPORATE RATE FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Paragraph (1) of section 1201(b) is amended by striking ''ending'' and all that follows through ''such date''.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1201(b) is amended to read as follows:

''(3) APPLICATION OF SUBSECTION.—The qualified timber gain for any taxable year shall not exceed the qualified timber gain which would be determined by not taking into account any portion of such taxable year after December 31, 2010.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after May 22, 2009.

SEC. 156. 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. 157. 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. 158. 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. 159. 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. 160. 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. 161. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 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.

Subtitle D—Temporary Disaster Relief Provisions

PART I—NATIONAL DISASTER RELIEF

SEC. 171. 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. 172. 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. 173. 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. 174. 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. 175. 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. 181. 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. 182. 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. 183. SPECIAL DEPRECIATION ALLOWANCE.

(a) IN GENERAL.—Paragraph (6) of section 1400N(d)(6) is amended by striking subparagraph (D).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

SEC. 184. 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. 185. 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.

Subpart C—Midwestern Disaster Areas

SEC. 191. SPECIAL RULES FOR USE OF RETIREMENT FUNDS.

(a) IN GENERAL.—Section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended—

(1) by striking ''January 1, 2010'' both places it appears and inserting ''January 1, 2011'', and

(2) by striking ''December 31, 2009'' both places it appears and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 702(d)(10) of the Heartland Disaster Tax Relief Act of 2008.

SEC. 192. EXCLUSION OF CANCELLATION OF MORTGAGE INDEBTEDNESS.

(a) IN GENERAL.—Section 702(e)(4)(C) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3918) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to discharges of indebtedness after December 31, 2009.

TITLE II—UNEMPLOYMENT INSURANCE, HEALTH, AND OTHER PROVISIONS

Subtitle A—Unemployment Insurance

SEC. 201. 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 ''April 5, 2010'' each place it appears and inserting ''December 31, 2010'';

(B) in the heading for subsection (b)(2), by striking ''APRIL 5, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in subsection (b)(3), by striking ''September 4, 2010'' and inserting ''May 31, 2011''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''April 5, 2010'' and inserting ''December 31, 2010'';

(B) in the heading for paragraph (2), by striking ''APRIL 5, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in paragraph (3), by striking ''October 5, 2010'' and inserting ''June 30, 2011''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''April 5, 2010'' each place it appears and inserting ''January 1, 2011''; and

(B) in subsection (c), by striking ''September 4, 2010'' and inserting ''June 1, 2011''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''September 4, 2010'' and inserting ''May 31, 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 (C), by striking ''and'' at the end; and

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

''(E) the amendments made by section 201(a)(1) of the American Workers, State, and Business Relief Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extension Act of 2010.

Subtitle B—Health Provisions

SEC. 211. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3 of the Temporary Extension Act of 2010, is amended by striking ''March 31, 2010'' and inserting ''December 31, 2010''.

(b) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by subsection (b)(1)(C), is further amended by adding at the end the following:

''(18) RULES RELATED TO 2010 EXTENSION.—

''(A) ELECTION TO PAY PREMIUMS RETROACTIVELY AND MAINTAIN COBRA COVERAGE.—In the case of any premium for a period of coverage during an assistance eligible individual's 2010 transition period, such individual shall be treated for purposes of any COBRA continuation provision as having timely paid the amount of such premium if—

''(i) such individual's qualifying event was on or after April 1, 2010 and prior to the date of enactment of this paragraph, and

''(ii) such individual pays, by the latest of 60 days after the date of the enactment of this paragraph, 30 days after the date of provision of the notification required under paragraph (16)(D)(ii) (as applied by subparagraph (D) of this paragraph), or the period described in section 4980B(f)(2)(B)(iii) of the Internal Revenue Code of 1986, the amount of such premium, after the application of paragraph (1)(A).

''(B) REFUNDS AND CREDITS FOR RETROACTIVE PREMIUM ASSISTANCE ELIGIBILITY.—In the case of an assistance eligible individual who pays, with respect to any period of COBRA continuation coverage during such individual's 2010 transition period, the premium amount for such coverage without regard to paragraph (1)(A), rules similar to the rules of paragraph (12)(E) shall apply.

''(C) 2010 TRANSITION PERIOD.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'transition period' means, with respect to any assistance eligible individual, any period of coverage if—

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the American Workers, State, and Business Relief Act of 2010, and

''(II) paragraph (1)(A) applies to such period by reason of the amendments made by section 211 of the American Workers, State, and Business Relief Act of 2010.

''(ii) CONSTRUCTION.—Any period during the period described in subclauses (I) and (II) of clause (i) for which the applicable premium has been paid pursuant to subparagraph (A) shall be treated as a period of coverage referred to in such paragraph, irrespective of any failure to timely pay the applicable premium (other than pursuant to subparagraph (A)) for such period.

''(D) NOTIFICATION.—Notification provisions similar to the provisions of paragraph (16)(E) shall apply for purposes of this paragraph.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009.

SEC. 212. EXTENSION OF THERAPY CAPS EXCEPTIONS PROCESS.

Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by striking ''March 31, 2010'' and inserting ''December 31, 2010''.

SEC. 213. TREATMENT OF PHARMACIES UNDER DURABLE MEDICAL EQUIPMENT ACCREDITATION REQUIREMENTS.

(a) IN GENERAL.—Section 1834(a)(20) of the Social Security Act (42 U.S.C. 1395m(a)(20)) is amended—

(1) in subparagraph (F)—

(A) in clause (i)—

(i) by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)'';

(ii) by striking ''January 1, 2010'' and inserting ''January 1, 2011''; and

(iii) by striking ''and'' at the end;

(B) in clause (ii)(II), by striking the period at the end and inserting ''; and'';

(C) by inserting after clause (ii)(II) the following new clause:

''(iii)(I) subject to subclause (II), with respect to items and services furnished on or after January 1, 2011, the accreditation requirement of clause (i) shall not apply to a pharmacy described in subparagraph (G); and

''(II) effective with respect to items and services furnished on or after the date of the enactment of this subparagraph, the Secretary may apply to pharmacies quality standards and an accreditation requirement established by the Secretary that are an alternative to the quality standards and accreditation requirement otherwise applicable under this paragraph if the Secretary determines such alternative quality standards and accreditation requirement are appropriate for pharmacies.''; and

(D) by adding at the end the following flush sentence:

''If determined appropriate by the Secretary, any alternative quality standards and accreditation requirement established under clause (iii)(II) may differ for categories of pharmacies established by the Secretary (such as pharmacies described in subparagraph (G)).''; and

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

''(G) PHARMACY DESCRIBED.—A pharmacy described in this subparagraph is a pharmacy that meets each of the following criteria:

''(i) The total billings by the pharmacy for such items and services under this title are less than 5 percent of total pharmacy sales for a previous period (of not less than 24 months) specified by the Secretary.

''(ii) The pharmacy has been enrolled under section 1866(j) as a supplier of durable medical equipment, prosthetics, orthotics, and supplies, has been issued (which may include the renewal of) a provider number for at least 2 years, and for which a final adverse action (as defined in section 424.57(a) of title 42, Code of Federal Regulations) has not been imposed in the past 2 years.

''(iii) The pharmacy submits to the Secretary an attestation, in a form and manner, and at a time, specified by the Secretary, that the pharmacy meets the criteria described in clauses (i) and (ii).

''(iv) The pharmacy agrees to submit materials as requested by the Secretary, or during the course of an audit conducted on a random sample of pharmacies selected annually, to verify that the pharmacy meets the criteria described in clauses (i) and (ii). Materials submitted under the preceding sentence shall include a certification by an independent accountant on behalf of the pharmacy or the submission of tax returns filed by the pharmacy during the relevant periods, as requested by the Secretary.''.

(b) CONFORMING AMENDMENTS.—Section 1834(a)(20)(E) of the Social Security Act (42 U.S.C. 1395m(a)(20)(E)) is amended—

(1) in the first sentence, by striking ''The'' and inserting ''Except as provided in the third sentence, the''; and

(2) by adding at the end the following new sentences: ''Notwithstanding the preceding sentences, any alternative quality standards and accreditation requirement established under subparagraph (F)(iii)(II) shall be established through notice and comment rulemaking. The Secretary may implement by program instruction or otherwise subparagraph (G) after consultation with representatives of relevant parties. The specifications developed by the Secretary in order to implement subparagraph (G) shall be posted on the Internet website of the Centers for Medicare & Medicaid Services.''.

(c) ADMINISTRATION.—Chapter 35 of title 44, United States Code, shall not apply to this section.

(d) RULE OF CONSTRUCTION.—Nothing in the provisions of, or amendments made by, this section shall be construed as affecting the application of an accreditation requirement for pharmacies to qualify for bidding in a competitive acquisition area under section 1847 of the Social Security Act (42 U.S.C. 1395w–3).

(e) WAIVER OF 1-YEAR REENROLLMENT BAR.—In the case of a pharmacy described in subparagraph (G) of section 1834(a)(20) of the Social Security Act, as added by subsection (a), whose billing privileges were revoked prior to January 1, 2011, by reason of noncompliance with subparagraph (F)(i) of such section, the Secretary of Health and Human Services shall waive any reenrollment bar imposed pursuant to section 424.535(d) of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this Act) for such pharmacy to reapply for such privileges.

SEC. 214. ENHANCED PAYMENT FOR MENTAL HEALTH SERVICES.

Section 138(a)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

SEC. 215. EXTENSION OF AMBULANCE ADD-ONS.

(a) IN GENERAL.—Section 1834(l)(13) of the Social Security Act (42 U.S.C. 1395m(l)(13)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''; and

(B) in each of clauses (i) and (ii), by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

(b) AIR AMBULANCE IMPROVEMENTS.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''ending on December 31, 2009'' and inserting ''ending on December 31, 2010''.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended—

(1) in the first sentence, by striking ''2010'' and inserting ''2011''; and

(2) by adding at the end the following new sentence: ''For purposes of applying this subparagraph for ground ambulance services furnished on or after January 1, 2010, and before January 1, 2011, the Secretary shall use the percent increase that was applicable under this subparagraph to ground ambulance services furnished during 2009.''.

SEC. 216. EXTENSION OF GEOGRAPHIC FLOOR FOR WORK.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w–4(e)(1)(E)) is amended by striking ''before January 1, 2010'' and inserting ''before January 1, 2011''.

SEC. 217. EXTENSION OF PAYMENT FOR TECHNICAL COMPONENT OF CERTAIN PHYSICIAN PATHOLOGY SERVICES.

Section 542(c) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (as enacted into law by section 1(a)(6) of Public Law 106–554), as amended by section 732 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395w–4 note), section 104 of division B of the Tax Relief and Health Care Act of 2006 (42 U.S.C. 1395w–4 note), section 104 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), and section 136 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''and 2009'' and inserting ''2009, and 2010''.

SEC. 218. EXTENSION OF OUTPATIENT HOLD HARMLESS PROVISION.

(a) IN GENERAL.—Section 1833(t)(7)(D)(i) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)) is amended—

(1) in subclause (II)—

(A) in the first sentence, by striking ''2010''and inserting ''2011''; and

(B) in the second sentence, by striking ''or 2009'' and inserting '', 2009, or 2010''; and

(2) in subclause (III), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(b) PERMITTING ALL SOLE COMMUNITY HOSPITALS TO BE ELIGIBLE FOR HOLD HARMLESS.—Section 1833(t)(7)(D)(i)(III) of the Social Security Act (42 U.S.C. 1395l(t)(7)(D)(i)(III)) is amended by adding at the end the following new sentence: ''In the case of covered OPD services furnished on or after January 1, 2010, and before January 1, 2011, the preceding sentence shall be applied without regard to the 100-bed limitation.''.

SEC. 219. EHR CLARIFICATION.

(a) QUALIFICATION FOR CLINIC-BASED PHYSICIANS.—

(1) MEDICARE.—Section 1848(o)(1)(C)(ii) of the Social Security Act (42 U.S.C. 1395w–4(o)(1)(C)(ii)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(2) MEDICAID.—Section 1903(t)(3)(D) of the Social Security Act (42 U.S.C. 1396b(t)(3)(D)) is amended by striking ''setting (whether inpatient or outpatient)'' and inserting ''inpatient or emergency room setting''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the HITECH Act (included in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5)).

(c) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement the amendments made by this section by program instruction or otherwise.

SEC. 220. EXTENSION OF REIMBURSEMENT FOR ALL MEDICARE PART B SERVICES FURNISHED BY CERTAIN INDIAN HOSPITALS AND CLINICS.

Section 1880(e)(1)(A) of the Social Security Act (42 U.S.C. 1395qq(e)(1)(A)) is amended by striking ''5-year period'' and inserting ''6-year period''.

SEC. 221. EXTENSION OF CERTAIN PAYMENT RULES FOR LONG-TERM CARE HOSPITAL SERVICES AND OF MORATORIUM ON THE ESTABLISHMENT OF CERTAIN HOSPITALS AND FACILITIES.

(a) EXTENSION OF CERTAIN PAYMENT RULES.—Section 114(c) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (42 U.S.C. 1395ww note), as amended by section 4302(a) of the American Recovery and Reinvestment Act (Public Law 111–5), is amended by striking ''3-year period'' each place it appears and inserting ''4-year period''.

(b) EXTENSION OF MORATORIUM.—Section 114(d)(1) of such Act (42 U.S.C. 1395ww note), as amended by section 4302(b) of the American Recovery and Reinvestment Act (Public Law 111–5), in the matter preceding subparagraph (A), is amended by striking ''3-year period'' and inserting ''4-year period''.

SEC. 222. EXTENSION OF THE MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

Section 1820(j) of the Social Security Act (42 U.S.C. 1395i–4(j)) is amended—

(1) by striking ''2010, and for'' and inserting ''2010, for''; and

(2) by inserting ''and for making grants to all States under subsection (g), such sums as may be necessary in fiscal year 2011, to remain available until expended'' before the period at the end.

SEC. 223. EXTENSION OF SECTION 508 HOSPITAL RECLASSIFICATIONS.

(a) IN GENERAL.—Subsection (a) of section 106 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) and section 124 of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), is amended by striking ''September 30, 2009'' and inserting ''September 30, 2010''.

(b) SPECIAL RULE FOR FISCAL YEAR 2010.—For purposes of implementation of the amendment made by subsection (a), including (notwithstanding paragraph (3) of section 117(a) of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Public Law 110–173), as amended by section 124(b) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275)) for purposes of the implementation of

paragraph (2) of such section 117(a), during fiscal year 2010, the Secretary of Health and Human Services (in this subsection referred to as the ''Secretary'') shall use the hospital wage index that was promulgated by the Secretary in the Federal Register on August 27, 2009 (74 Fed. Reg. 43754), and any subsequent corrections.

SEC. 224. TECHNICAL CORRECTION RELATED TO CRITICAL ACCESS HOSPITAL SERVICES.

(a) IN GENERAL.—Subsections (g)(2)(A) and (l)(8) of section 1834 of the Social Security Act (42 U.S.C. 1395m) are each amended by inserting ''101 percent of'' before ''the reasonable costs''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 405(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2266).

SEC. 225. EXTENSION FOR SPECIALIZED MA PLANS FOR SPECIAL NEEDS INDIVIDUALS.

(a) IN GENERAL.—Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w–28(f)(1)) is amended by striking ''2011'' and inserting ''2012''.

(b) TEMPORARY EXTENSION OF AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SPECIAL NEEDS PLANS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Section 164(c)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275) is amended by striking ''December 31, 2010'' and inserting ''December 31, 2011''.

SEC. 226. EXTENSION OF REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

SEC. 227. EXTENSION OF PARTICULAR WAIVER POLICY FOR EMPLOYER GROUP PLANS.

For plan year 2011 and subsequent plan years, to the extent that the Secretary of Health and Human Services is applying the 2008 service area extension waiver policy (as modified in the April 11, 2008, Centers for Medicare & Medicaid Services' memorandum with the subject ''2009 Employer Group Waiver-Modification of the 2008 Service Area Extension Waiver Granted to Certain MA Local Coordinated Care Plans'') to Medicare Advantage coordinated care plans, the Secretary shall extend the application of such waiver policy to employers who contract directly with the Secretary as a Medicare Advantage private fee-for-service plan under section 1857(i)(2) of the Social Security Act (42 U.S.C. 1395w–27(i)(2)) and that had enrollment as of January 1, 2010.

SEC. 228. EXTENSION OF CONTINUING CARE RETIREMENT COMMUNITY PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to conduct the Erickson Advantage Continuing Care Retirement Community (CCRC) program under part C of title XVIII of the Social Security Act through December 31, 2011.

SEC. 229. FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note) is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Centers for Medicare & Medicaid Services Program Management Account—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $7,500,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $6,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

(d) ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.—Subsection (d)(2) of such section 119 is amended by striking ''(42 U.S.C. 1395w–23(f))'' and all that follows through the period at the end and inserting ''(42 U.S.C. 1395w–23(f)), to the Administration on Aging—

''(i) for fiscal year 2009, of $5,000,000; and

''(ii) for fiscal year 2010, of $2,000,000.

Amounts appropriated under this subparagraph shall remain available until expended.''.

SEC. 230. FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking ''fiscal year 2009'' and inserting ''each of fiscal years 2009 through 2011''.

SEC. 231. IMPLEMENTATION FUNDING.

For purposes of carrying out the provisions of, and amendments made by, this Act that relate to titles XVIII and XIX of the Social Security Act, 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, $100,000,000. Amounts appropriated under the preceding sentence shall remain available until expended.

SEC. 232. 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'' each place it appears and inserting ''January 1, 2011''; 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 (g)—

(A) in paragraph (1), by striking ''September 30, 2011'' and inserting ''March 31, 2012'';

(B) in paragraph (2)—

(i) by inserting ''of such Act'' after ''1923''; and

(ii) by adding at the end the following new sentence: ''Voluntary contributions by a political subdivision to the non-Federal share of expenditures under the State Medicaid plan or to the non-Federal share of payments under section 1923 of the Social Security Act shall not be considered to be required contributions for purposes of this section.''; 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

(4) in subsection (h)(3), by striking ''December 31, 2010'' and inserting ''June 30, 2011''.

SEC. 233. EXTENSION OF GAINSHARING DEMONSTRATION.

(a) IN GENERAL.—Subsection (d)(3) of section 5007 of the Deficit Reduction Act of 2005 (Public Law 109–171) is amended by inserting ''(or 21 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010, in the case of a demonstration project in operation as of October 1, 2008)'' after ''December 31, 2009''.

(b) FUNDING.—

(1) IN GENERAL.—Subsection (f)(1) of such section is amended by inserting ''and for fiscal year 2010, $1,600,000,'' after ''$6,000,000,''.

(2) AVAILABILITY.—Subsection (f)(2) of such section is amended by striking ''2010'' and inserting ''2014 or until expended''.

(c) REPORTS.—

(1) QUALITY IMPROVEMENT AND SAVINGS.—Subsection (e)(3) of such section is amended by striking ''December 1, 2008'' and inserting ''18 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

(2) FINAL REPORT.—Subsection (e)(4) of such section is amended by striking ''May 1, 2010'' and inserting ''42 months after the date of the enactment of the American Workers, State, and Business Relief Act of 2010''.

Subtitle C—Other Provisions

SEC. 241. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118) is amended—

(1) by striking ''before March 31, 2010''; and

(2) by inserting ''for 2011'' after ''until updated poverty guidelines''.

SEC. 242. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

(a) IN GENERAL.—Subchapter A of chapter 65 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. 243. 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. 244. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 1005 of Public Law 111–118, is further 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.''. The amendment made by this section shall be considered to have taken effect on February 28, 2010.

SEC. 245. EMERGENCY 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 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 fruits and vegetables or crops intended for grazing) suffer at least a 5-percent crop loss 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 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 60 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) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(C) 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 assist eligible specialty crop producers;

(B) provide assistance to eligible specialty crop producers not later than 90 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.

(5) PROHIBITION.—An eligible specialty crop producer that receives assistance under this subsection shall be ineligible to receive assistance under subsection (b).

(6) 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 sum of the county-eligible production, as determined under paragraph (5); by

(B) the total funds made available to carry out this subsection.

(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) GRANT PROGRAM.—

(A) 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.

(B) NOTIFICATION.—Not later than 60 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.

(C) PROVISION OF GRANTS.—

(i) 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 2008 calendar year, as determined by the Secretary.

(ii) TIMING.—Not later than 120 days after the date of enactment of this Act, the Secretary shall make grants to States to provide assistance under this subsection.

(D) REQUIREMENTS.—The Secretary shall make grants under this subsection only to States that demonstrate to the satisfaction of the Secretary that the State will—

(i) use grant funds to assist eligible aquaculture producers;

(ii) provide assistance to eligible aquaculture producers not later than 60 days after the date on which the State receives grant funds; and

(iii) 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.

(2) 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.

(3) 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 (1)(D)(iii).

(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. 246. 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'', $560,000,000, 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, for loans guaranteed under section 7(a) of the Small Business Act (15 U.S.C. 636(a)), title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), or 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; 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,

Provided, That 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 ''March 28, 2010'' and inserting ''December 31, 2010''.

(3) EFFECTIVE DATE FOR LOAN GUARANTEES.—The amendment made by paragraph (2) shall take effect on February 27, 2010.

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) AMENDMENTS TO ERISA.—

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

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

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

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

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

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

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

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

last 7 plan years (using the segment rates under subparagraph (C) for the election year).

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

''(i) IN GENERAL.—The amount determined under this subparagraph for any plan year is the excess (if any) of the sum of the dividends

declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan year over the greater of—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) IN GENERAL.—If the installment acceleration amount for any plan year (determined

without regard to clause (ii)) exceeds the limitation under clause (ii), then, subject to subclause (II), such excess shall be treated as an installment acceleration amount with respect to the succeeding plan year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 302. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

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

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

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

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

for the second plan year preceding the first election year of such plan.

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

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

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

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

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

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

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

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

''(d) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

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

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

SEC. 303. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

SEC. 304. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

Subtitle B—Multiemployer Plans

SEC. 311. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

(b) EFFECTIVE DATES.—

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

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

TITLE IV—OFFSET PROVISIONS

Subtitle A—Black Liquor

SEC. 401. EXCLUSION OF UNPROCESSED FUELS FROM THE CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (E) of section 40(b)(6) is amended by adding at the end the following new clause:

''(iii) EXCLUSION OF UNPROCESSED FUELS.—The term 'cellulosic biofuel' shall not include any fuel if—

''(I) more than 4 percent of such fuel (determined by weight) is any combination of water and sediment, or

''(II) the ash content of such fuel is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

SEC. 402. PROHIBITION ON ALTERNATIVE FUEL CREDIT AND ALTERNATIVE FUEL MIXTURE CREDIT FOR BLACK LIQUOR.

(a) IN GENERAL.—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''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold or used after December 31, 2009.

Subtitle B—Homebuyer Credit

SEC. 411. TECHNICAL MODIFICATIONS TO HOMEBUYER CREDIT.

(a) EXPANDED DOCUMENTATION REQUIREMENT.—Subsection (d) of section 36, as amended by the Worker, Homeownership, and Business Assistance Act of 2009, is amended—

(1) by striking ''or'' at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting a comma, and

(3) by adding at the end the following new paragraphs:

''(5) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (c)(6), the taxpayer fails to attach to the return of tax for such taxable year a copy of such property tax bills or other documentation as are required by the Secretary to demonstrate compliance with the requirements of subsection (c)(6), or

''(6) in the case of a taxpayer to whom such a credit would be allowed (but for this paragraph) by reason of subsection (h)(2), the taxpayer fails to attach to the return of tax for such taxable year a copy of the binding contract which meets the requirements of subsection (h)(2).''.''

(b) MODIFICATION OF EFFECTIVE DATE OF DOCUMENTATION REQUIREMENTS.—Paragraph (2) of section 12(e) of the Worker, Homeownership, and Business Assistance Act of 2009 is amended by striking ''returns for taxable years ending after the date of the enactment of this Act'' and inserting ''returns filed after the date of the enactment of this Act''.

(c) EFFECTIVE DATES.—

(1) DOCUMENTATION REQUIREMENTS.—The amendments made by subsection (a) shall apply to purchases on or after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF WORKER, HOMEOWNERSHIP, AND BUSINESS ASSISTANCE ACT.—The amendment made by subsection (b) shall apply to purchases of a principal residence on or after the date of the enactment of the Worker, Homeownership, and Business Assistance Act of 2009.

Subtitle C—Economic Substance

SEC. 421. CODIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; PENALTIES.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

''(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.—

''(1) APPLICATION OF DOCTRINE.—In the case of any transaction to which the economic substance doctrine is relevant, such transaction shall be treated as having economic substance only if—

''(A) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

''(B) the taxpayer has a substantial purpose (apart from Federal income tax effects) for entering into such transaction.

''(2) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—

''(A) IN GENERAL.—The potential for profit of a transaction shall be taken into account in determining whether the requirements of subparagraphs (A) and (B) of paragraph (1) are met with respect to the transaction only if the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.

''(B) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses shall be taken into account as expenses in determining pre-tax profit under subparagraph (A). The Secretary may issue regulations requiring foreign taxes to be treated as expenses in determining pre-tax profit in appropriate cases.

''(3) STATE AND LOCAL TAX BENEFITS.—For purposes of paragraph (1), any State or local income tax effect which is related to a Federal income tax effect shall be treated in the same manner as a Federal income tax effect.

''(4) FINANCIAL ACCOUNTING BENEFITS.—For purposes of paragraph (1)(B), achieving a financial accounting benefit shall not be taken into account as a purpose for entering into a transaction if the origin of such financial accounting benefit is a reduction of Federal income tax.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, paragraph (1) shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(C) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(D) DETERMINATION OF APPLICATION OF DOCTRINE NOT AFFECTED.—The determination of whether the economic substance doctrine is relevant to a transaction shall be made in the same manner as if this subsection had never been enacted.

''(E) TRANSACTION.—The term 'transaction' includes a series of transactions.

''(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.''.

(b) PENALTY FOR UNDERPAYMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE.—

(1) IN GENERAL.—Subsection (b) of section 6662 is amended by inserting after paragraph (5) the following new paragraph:

''(6) Any disallowance of claimed tax benefits by reason of a transaction lacking economic substance (within the meaning of section 7701(o)) or failing to meet the requirements of any similar rule of law.''.

(2) INCREASED PENALTY FOR NONDISCLOSED TRANSACTIONS.—Section 6662 is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—

''(1) IN GENERAL.—In the case of any portion of an underpayment which is attributable to one or more nondisclosed noneconomic substance transactions, subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent'.

''(2) NONDISCLOSED NONECONOMIC SUBSTANCE TRANSACTIONS.—For purposes of this subsection, the term 'nondisclosed noneconomic substance transaction' means any portion of a transaction described in subsection (b)(6) with respect to which the relevant facts affecting the tax treatment are not adequately disclosed in the return nor in a statement attached to the return.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any amendment or supplement to a return of tax be taken into account for purposes of this subsection if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6662A(e)(2) is amended—

(A) by striking ''section 6662(h)'' and inserting ''subsections (h) or (i) of section 6662''; and

(B) by striking ''GROSS VALUATION MISSTATEMENT PENALTY'' in the heading and inserting ''CERTAIN INCREASED UNDERPAYMENT PENALTIES''.

(c) REASONABLE CAUSE EXCEPTION NOT APPLICABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—

(1) REASONABLE CAUSE EXCEPTION FOR UNDERPAYMENTS.—Subsection (c) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)'' in paragraph (4)(A), as so redesignated, and inserting ''paragraph (3)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of an underpayment which is attributable to one or more transactions described in section 6662(b)(6).''.

(2) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—Subsection (d) of section 6664 is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by striking ''paragraph (2)(C)'' in paragraph (4), as so redesignated, and inserting ''paragraph (3)(C)''; and

(C) by inserting after paragraph (1) the following new paragraph:

''(2) EXCEPTION.—Paragraph (1) shall not apply to any portion of a reportable transaction understatement which is attributable to one or more transactions described in section 6662(b)(6).''.

(d) APPLICATION OF PENALTY FOR ERRONEOUS CLAIM FOR REFUND OR CREDIT TO NONECONOMIC SUBSTANCE TRANSACTIONS.—Section 6676 is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

''(c) NONECONOMIC SUBSTANCE TRANSACTIONS TREATED AS LACKING REASONABLE BASIS.—For purposes of this section, any excessive amount which is attributable to any transaction described in section 6662(b)(6) shall not be treated as having a reasonable basis.''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

(2) UNDERPAYMENTS.—The amendments made by subsections (b) and (c)(1) shall apply to underpayments attributable to transactions entered into after the date of the enactment of this Act.

(3) UNDERSTATEMENTS.—The amendments made by subsection (c)(2) shall apply to understatements attributable to transactions entered into after the date of the enactment of this Act.

(4) REFUNDS AND CREDITS.—The amendment made by subsection (d) shall apply to refunds and credits attributable to transactions entered into after the date of the enactment of this Act.

Subtitle D—Additional Provisions

SEC. 431. REVISION TO THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1)(A) of the Social Security Act (42 U.S.C. 1395iii(b)(1)(A)), as amended by section 1011(b) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended by striking ''$20,740,000,000'' and inserting ''$12,740,000,000''.

TITLE V—SATELLITE TELEVISION EXTENSION

SEC. 500. SHORT TITLE.

This title may be cited as the ''Satellite Television Extension and Localism Act of 2010''.

Subtitle A—Statutory Licenses

SEC. 501. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of title 17, United States Code.

SEC. 502. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 119 is amended by striking ''**SUPERSTATIONS AND NETWORK STATIONS FOR PRIVATE HOME VIEWING**'' and inserting ''**DISTANT TELEVISION PROGRAMMING BY SATELLITE**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 119 and inserting the following:

''119. Limitations on exclusive rights: Secondary transmissions of distant television programming by satellite.''.

(b) UNSERVED HOUSEHOLD DEFINED.—

(1) IN GENERAL.—Section 119(d)(10) is amended—

(A) by striking subparagraph (A) and inserting the following:

''(A) cannot receive, through the use of an antenna, an over-the-air signal containing the primary stream, or, on or after the qualifying date, the multicast stream, originating in that household's local market and affiliated with that network of—

''(i) if the signal originates as an analog signal, Grade B intensity as defined by the Federal Communications Commission in section 73.683(a) of title 47, Code of Federal Regulations, as in effect on January 1, 1999; or

''(ii) if the signal originates as a digital signal, intensity defined in the values for the digital television noise-limited service contour, as defined in regulations issued by the Federal Communications Commission (section 73.622(e) of title 47, Code of Federal Regulations), as such regulations may be amended from time to time;'';

(B) in subparagraph (B)—

(i) by striking ''subsection (a)(14)'' and inserting ''subsection (a)(13),''; and

(ii) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(C) in subparagraph (D), by striking ''(a)(12)'' and inserting ''(a)(11)''.

(2) QUALIFYING DATE DEFINED.—Section 119(d) is amended by adding at the end the following:

''(14) QUALIFYING DATE.—The term 'qualifying date', for purposes of paragraph (10)(A), means—

''(A) July 1, 2010, for multicast streams that exist on December 31, 2009; and

''(B) January 1, 2011, for all other multicast streams.''.

(c) FILING FEE.—Section 119(b)(1) is amended—

(1) in subparagraph (A), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) a filing fee, as determined by the Register of Copyrights pursuant to section 708(a).''.

(d) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—Section 119(b) is amended—

(1) by amending the subsection heading to read as follows: ''(b) DEPOSIT OF STATEMENTS AND FEES; VERIFICATION PROCEDURES.—'';

(2) in paragraph (1), by striking subparagraph (B) and inserting the following:

''(B) a royalty fee payable to copyright owners pursuant to paragraph (4) for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of a primary stream or multicast stream of each non-network station or network station during each calendar year month by the appropriate rate in effect under this subsection; and'';

(3) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(4) by inserting after paragraph (1) the following:

''(2) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to permit interested parties to verify and audit the statements of account and royalty fees submitted by satellite carriers under this subsection.'';

(5) in paragraph (3), as redesignated, in the first sentence—

(A) by inserting ''(including the filing fee specified in paragraph (1)(C))'' after ''shall receive all fees''; and

(B) by striking ''paragraph (4)'' and inserting ''paragraph (5)'';

(6) in paragraph (4), as redesignated—

(A) by striking ''paragraph (2)'' and inserting ''paragraph (3)''; and

(B) by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''; and

(7) in paragraph (5), as redesignated, by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(e) ADJUSTMENT OF ROYALTY FEES.—Section 119(c) is amended as follows:

(1) Paragraph (1) is amended—

(A) in the heading for such paragraph, by striking ''ANALOG'';

(B) in subparagraph (A)—

(i) by striking ''primary analog transmissions'' and inserting ''primary transmissions''; and

(ii) by striking ''July 1, 2004'' and inserting ''July 1, 2009'';

(C) in subparagraph (B)—

(i) by striking ''January 2, 2005, the Librarian of Congress'' and inserting ''May 1, 2010, the Copyright Royalty Judges''; and

(ii) by striking ''primary analog transmission'' and inserting ''primary transmissions'';

(D) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(E) in subparagraph (D)—

(i) in clause (i)—

(I) by striking ''(i) Voluntary agreements'' and inserting the following:

''(i) VOLUNTARY AGREEMENTS; FILING.—Voluntary agreements''; and

(II) by striking ''that a parties'' and inserting ''that are parties''; and

(ii) in clause (ii)—

(I) by striking ''(ii)(I) Within'' and inserting the following:

''(ii) PROCEDURE FOR ADOPTION OF FEES.—

''(I) PUBLICATION OF NOTICE.—Within'';

(II) in subclause (I), by striking ''an arbitration proceeding pursuant to subparagraph (E)'' and inserting ''a proceeding under subparagraph (F)'';

(III) in subclause (II), by striking ''(II) Upon receiving a request under subclause (I), the Librarian of Congress'' and inserting the following:

''(II) PUBLIC NOTICE OF FEES.—Upon receiving a request under subclause (I), the Copyright Royalty Judges''; and

(IV) in subclause (III)—

(aa) by striking ''(III) The Librarian'' and inserting the following:

''(III) ADOPTION OF FEES.—The Copyright Royalty Judges'';

(bb) by striking ''an arbitration proceeding'' and inserting ''the proceeding under subparagraph (F)''; and

(cc) by striking ''the arbitration proceeding'' and inserting ''that proceeding'';

(F) in subparagraph (E)—

(i) by striking ''Copyright Office'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking ''March 28, 2010'' and inserting ''December 31, 2014''; and

(G) in subparagraph (F)—

(i) in the heading, by striking ''COMPULSORY ARBITRATION'' and inserting ''COPYRIGHT ROYALTY JUDGES PROCEEDING'';

(ii) in clause (i)—

(I) in the heading, by striking ''PROCEEDINGS'' and inserting ''THE PROCEEDING'';

(II) in the matter preceding subclause (I)—

(aa) by striking ''May 1, 2005, the Librarian of Congress'' and inserting ''July 1, 2010, the Copyright Royalty Judges'';

(bb) by striking ''arbitration proceedings'' and inserting ''a proceeding'';

(cc) by striking ''fee to be paid'' and inserting ''fees to be paid'';

(dd) by striking ''primary analog transmission'' and inserting ''the primary transmissions''; and

(ee) by striking ''distributors'' and inserting ''distributors—'';

(III) in subclause (II)—

(aa) by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(bb) by striking ''arbitration''; and

(IV) by amending the last sentence to read as follows: ''Such proceeding shall be conducted under chapter 8.'';

(iii) in clause (ii), by amending the matter preceding subclause (I) to read as follows:

''(ii) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this subparagraph, the Copyright Royalty Judges shall establish fees for the secondary transmissions of the primary transmissions of network stations and non-network stations that most clearly represent the fair market value of secondary transmissions, except that the Copyright Royalty Judges shall adjust royalty fees to account for the obligations of the parties under any applicable voluntary agreement filed with the Copyright Royalty Judges in accordance with subparagraph (D). In determining the fair market value, the Judges shall base their decision on economic, competitive, and programming information presented by the parties, including—'';

(iv) by amending clause (iii) to read as follows:

''(iii) EFFECTIVE DATE FOR DECISION OF COPYRIGHT ROYALTY JUDGES.—The obligation to pay the royalty fees established under a determination that is made by the Copyright Royalty Judges in a proceeding under this paragraph shall be effective as of January 1, 2010.''; and

(v) in clause (iv)—

(I) in the heading, by striking ''FEE'' and inserting ''FEES''; and

(II) by striking ''fee referred to in (iii)'' and inserting ''fees referred to in clause (iii)''.

(2) Paragraph (2) is amended to read as follows:

''(2) ANNUAL ROYALTY FEE ADJUSTMENT.—Effective January 1 of each year, the royalty fee payable under subsection (b)(1)(B) for the secondary transmission of the primary transmissions of network stations and non-network stations shall be adjusted by the Copyright Royalty Judges to reflect any changes occurring in the cost of living as determined by the most recent Consumer Price Index (for all consumers and for all items) published by the Secretary of Labor before December 1 of the preceding year. Notification of the adjusted fees shall be published in the Federal Register at least 25 days before January 1.''.

(f) DEFINITIONS.—

(1) SUBSCRIBER.—Section 119(d)(8) is amended to read as follows:

''(8) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(2) LOCAL MARKET.—Section 119(d)(11) is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

(3) LOW POWER TELEVISION STATION.—Section 119(d) is amended by striking paragraph (12) and redesignating paragraphs (13) and (14) as paragraphs (12) and (13), respectively.

(4) MULTICAST STREAM.—Section 119(d), as amended by paragraph (3), is further amended by adding at the end the following new paragraph:

''(14) MULTICAST STREAM.—The term 'multicast stream' means a digital stream containing programming and program-related material affiliated with a television network, other than the primary stream.''.

(5) PRIMARY STREAM.—Section 119(d), as amended by paragraph (4), is further amended by adding at the end the following new paragraph:

''(15) PRIMARY STREAM.—The term 'primary stream' means—

''(A) the single digital stream of programming as to which a television broadcast station has the right to mandatory carriage with a satellite carrier under the rules of the Federal Communications Commission in effect on July 1, 2009; or

''(B) if there is no stream described in subparagraph (A), then either—

''(i) the single digital stream of programming associated with the network last transmitted by the station as an analog signal; or

''(ii) if there is no stream described in clause (i), then the single digital stream of programming affiliated with the network that, as of July 1, 2009, had been offered by the television broadcast station for the longest period of time.''.

(6) CLERICAL AMENDMENT.—Section 119(d) is amended in paragraphs (1), (2), and (5) by striking ''which'' each place it appears and inserting ''that''.

(g) SUPERSTATION REDESIGNATED AS NON-NETWORK STATION.—Section 119 is amended—

(1) by striking ''superstation'' each place it appears in a heading and each place it appears in text and inserting ''non-network station''; and

(2) by striking ''superstations'' each place it appears in a heading and each place it appears in text and inserting ''non-network stations''.

(h) REMOVAL OF CERTAIN PROVISIONS.—

(1) REMOVAL OF PROVISIONS.—Section 119(a) is amended—

(A) in paragraph (2), by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C);

(B) by striking paragraph (3) and redesignating paragraphs (4) through (14) as paragraphs (3) through (13), respectively; and

(C) by striking paragraph (15) and redesignating paragraph (16) as paragraph (14).

(2) CONFORMING AMENDMENTS.—Section 119 is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''(5), (6), and (8)'' and inserting ''(4), (5), and (7)'';

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''subparagraphs (B) and (C) of this paragraph and paragraphs (5), (6), (7), and (8)'' and inserting ''subparagraph (B) of this paragraph and paragraphs (4), (5), (6), and (7)'';

(II) in subparagraph (B)(i), by striking the second sentence; and

(III) in subparagraph (C) (as redesignated), by striking clauses (i) and (ii) and inserting the following:

''(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, not later than 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households.

''(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), the satellite carrier shall, not later than the 15th of each month, submit to the network a list, aggregated by designated market area, identifying (by name and address, including street or rural route number, city, State, and 9-digit zip code) any persons who have been added or dropped as subscribers under clause (i) since the last submission under this subparagraph.''; and

(iii) in subparagraph (E) of paragraph (3) (as redesignated)—

(I) by striking ''under paragraph (3) or''; and

(II) by striking ''paragraph (12)'' and inserting ''paragraph (11)''; and

(B) in subsection (b)(1), by striking the final sentence.

(i) MODIFICATIONS TO PROVISIONS FOR SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) PREDICTIVE MODEL.—Section 119(a)(2)(B)(ii) is amended by adding at the end the following:

''(III) ACCURATE PREDICTIVE MODEL WITH RESPECT TO DIGITAL SIGNALS.—Notwithstanding subclause (I), in determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A) with respect to digital signals, a court shall rely on a predictive model set forth by the Federal Communications Commission pursuant to a rulemaking as provided in section 339(c)(3) of the Communications Act of 1934 (47 U.S.C. 339(c)(3)), as that model may be amended by the Commission over time under such section to increase the accuracy of that model. Until such time as the Commission sets forth such model, a court shall rely on the predictive model as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005).''.

(2) MODIFICATIONS TO STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—Section 119(a)(3) (as redesignated) is amended—

(A) by striking ''analog'' each place it appears in a heading and text;

(B) by striking subparagraphs (B), (C), and (D), and inserting the following:

''(B) RULES FOR LAWFUL SUBSCRIBERS AS OF DATE OF ENACTMENT OF 2010 ACT.—In the case of a subscriber of a satellite carrier who, on the day before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, was lawfully receiving the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as the 'distant signal'), other than subscribers to whom subparagraph (A) applies, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, whether or not the subscriber elects to subscribe to receive the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(C) FUTURE APPLICABILITY.—

''(i) WHEN LOCAL SIGNAL AVAILABLE AT TIME OF SUBSCRIPTION.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of the primary transmission of a network station to a person who is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same network pursuant to the statutory license under section 122.

''(ii) WHEN LOCAL SIGNAL AVAILABLE AFTER SUBSCRIPTION.—In the case of a subscriber who lawfully subscribes to and receives the secondary transmission by a satellite carrier of the primary transmission of a network station under the statutory license under paragraph (2) (in this clause referred to as the 'distant signal') on or after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the statutory license under paragraph (2) shall apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network, and the subscriber's household

shall continue to be considered to be an unserved household with respect to such network, until such time as the subscriber elects to terminate such secondary transmissions, but only if such subscriber subscribes to the secondary transmission of the primary transmission of a local network station affiliated with the same network within 60 days after the satellite carrier makes available to the subscriber such secondary transmission of the primary transmission of such local network station.'';

(C) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively;

(D) in subparagraph (E) (as redesignated), by striking ''(C) or (D)'' and inserting ''(B) or (C)''; and

(E) in subparagraph (F) (as redesignated), by inserting ''9-digit'' before ''zip code''.

(3) STATUTORY DAMAGES FOR TERRITORIAL RESTRICTIONS.—Section 119(a)(6) (as redesignated) is amended—

(A) in subparagraph (A)(ii), by striking ''$5'' and inserting ''$250'';

(B) in subparagraph (B)—

(i) in clause (i), by striking ''$250,000 for each 6-month period'' and inserting ''$2,500,000 for each 3-month period''; and

(ii) in clause (ii), by striking ''$250,000'' and inserting ''$2,500,000''; and

(C) by adding at the end the following flush sentences:

''The court shall direct one half of any statutory damages ordered under clause (i) to be deposited with the Register of Copyrights for distribution to copyright owners pursuant to subsection (b). The Copyright Royalty Judges shall issue regulations establishing procedures for distributing such funds, on a proportional basis, to copyright owners whose works were included in the secondary transmissions that were the subject of the statutory damages.''.

(4) TECHNICAL AMENDMENT.—Section 119(a)(4) (as redesignated) is amended by striking ''and 509''.

(5) CLERICAL AMENDMENT.—Section 119(a)(2)(B)(iii)(II) is amended by striking ''In this clause'' and inserting ''In this clause,''.

(j) MORATORIUM EXTENSION.—Section 119(e) is amended by striking ''March 28, 2010'' and inserting ''December 31, 2014''.

(k) CLERICAL AMENDMENTS.—Section 119 is amended—

(1) by striking ''of the Code of Federal Regulations'' each place it appears and inserting '', Code of Federal Regulations''; and

(2) in subsection (d)(6), by striking ''or the Direct'' and inserting '', or the Direct''.

SEC. 503. MODIFICATIONS TO STATUTORY LICENSE FOR SATELLITE CARRIERS IN LOCAL MARKETS.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 122 is amended by striking ''**BY SATELLITE CARRIERS WITHIN LOCAL MARKETS**'' and inserting ''**OF LOCAL TELEVISION PROGRAMMING BY SATELLITE**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 122 and inserting the following:

''122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite.''.

(b) STATUTORY LICENSE.—Section 122(a) is amended to read as follows:

''(a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

''(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(A) the secondary transmission is made by a satellite carrier to the public;

''(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(i) each subscriber receiving the secondary transmission; or

''(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(2) SIGNIFICANTLY VIEWED STATIONS.—

''(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station's local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community, pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

''(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

''(3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

''(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

''(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

''(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

''(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 C.F.R. 76.51).

''(B) STATES WITH ALL NETWORK STATIONS AND NON-NETWORK STATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and non-network stations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under this paragraph shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47, Code of Federal Regulations).

''(C) ADDITIONAL STATIONS.—In the case of that State in which are located 4 counties that—

''(i) on January 1, 2004, were in local markets principally comprised of counties in another State, and

''(ii) had a combined total of 41,340 television households, according to the U.S. Television Household Estimates by Nielsen Media Research for 2004,

the statutory license provided under this paragraph shall apply to secondary transmissions by a satellite carrier to subscribers in any such county of the primary transmissions of any network station located in that State, if the satellite carrier was making such secondary transmissions to any subscribers in that county on January 1, 2004.

''(D) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in this paragraph shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

''(i) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

''(ii) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

''(E) NETWORKS OF NONCOMMERCIAL EDUCATIONAL BROADCAST STATIONS.—In the case of a system of three or more noncommercial educational broadcast stations licensed to a single State, public agency, or political, educational, or special purpose subdivision of a State, the statutory license provided for in this paragraph shall apply to the secondary transmission of the primary transmission of such system to any subscriber in any county or county equivalent within such State, if such subscriber is located in a designated market area that is not otherwise eligible to receive the secondary transmission of the primary transmission of a noncommercial educational broadcast station located within the State pursuant to paragraph (1).

''(5) APPLICABILITY OF ROYALTY RATES AND PROCEDURES.—The royalty rates and procedures under section 119(b) shall apply to the secondary transmissions to which the statutory license under paragraph (4) applies.''.

(c) REPORTING REQUIREMENTS.—Section 122(b) is amended—

(1) in paragraph (1), by striking ''station a list'' and all that follows through the end and inserting the following: ''station—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a); and

''(B) a separate list, aggregated by designated market area (by name and address, including street or rural route number, city, State, and 9-digit zip code), which shall indicate those subscribers being served pursuant to paragraph (2) of subsection (a).''; and

(2) in paragraph (2), by striking ''network a list'' and all that follows through the end and inserting the following: ''network—

''(A) a list identifying (by name in alphabetical order and street address, including county and 9-digit zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection; and

''(B) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and 9-digit zip code), identifying those subscribers whose service pursuant to paragraph (2) of subsection (a) has been added or dropped since the last submission under this subsection.''.

(d) NO ROYALTY FEE FOR CERTAIN SECONDARY TRANSMISSIONS.—Section 122(c) is amended—

(1) in the heading, by inserting ''FOR CERTAIN SECONDARY TRANSMISSIONS'' after ''REQUIRED''; and

(2) by striking ''subsection (a)'' and inserting ''paragraphs (1), (2), and (3) of subsection (a)''.

(e) VIOLATIONS FOR TERRITORIAL RESTRICTIONS.—

(1) MODIFICATION TO STATUTORY DAMAGES.—Section 122(f) is amended—

(A) in paragraph (1)(B), by striking ''$5'' and inserting ''$250''; and

(B) in paragraph (2), by striking ''$250,000'' each place it appears and inserting ''$2,500,000''.

(2) CONFORMING AMENDMENTS FOR ADDITIONAL STATIONS.—Section 122 is amended—

(A) in subsection (f), by striking ''section 119 or'' each place it appears and inserting the following: ''section 119, subject to statutory licensing by reason of paragraph (2)(A), (3), or (4) of subsection (a), or subject to''; and

(B) in subsection (g), by striking ''section 119 or'' and inserting the following: ''section 119, paragraph (2)(A), (3), or (4) of subsection (a), or''.

(f) DEFINITIONS.—Section 122(j) is amended—

(1) in paragraph (1), by striking ''which contracts'' and inserting ''that contracts'';

(2) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively;

(3) in paragraph (3)—

(A) by redesignating such paragraph as paragraph (4);

(B) in the heading of such paragraph, by inserting ''NON-NETWORK STATION;'' after ''NETWORK STATION;''; and

(C) by inserting '' 'non-network station','' after '' 'network station','';

(4) by inserting after paragraph (2) the following:

''(3) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power TV station as defined in section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term 'low power television station' includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.'';

(5) by inserting after paragraph (4) (as redesignated) the following:

''(5) NONCOMMERCIAL EDUCATIONAL BROADCAST STATION.—The term 'noncommercial educational broadcast station' means a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(6) by amending paragraph (6) (as redesignated) to read as follows:

''(6) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.''.

SEC. 504. MODIFICATIONS TO CABLE SYSTEM SECONDARY TRANSMISSION RIGHTS UNDER SECTION 111.

(a) HEADING RENAMED.—

(1) IN GENERAL.—The heading of section 111 is amended by inserting at the end the following: ''**OF BROADCAST PROGRAMMING BY CABLE**''.

(2) TABLE OF CONTENTS.—The table of contents for chapter 1 is amended by striking the item relating to section 111 and inserting the following:

''111. Limitations on exclusive rights: Secondary transmissions of broadcast programming by cable.''.

(b) TECHNICAL AMENDMENT.—Section 111(a)(4) is amended by striking ''; or'' and inserting ''or section 122;''.

(c) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—Section 111(d) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''A cable system whose secondary'' and inserting the following: ''STATEMENT OF ACCOUNT AND ROYALTY FEES.—Subject to paragraph (5), a cable system whose secondary''; and

(ii) by striking ''by regulation—'' and inserting ''by regulation the following:'';

(B) in subparagraph (A)—

(i) by striking ''a statement of account'' and inserting ''A statement of account''; and

(ii) by striking ''; and'' and inserting a period; and

(C) by striking subparagraphs (B), (C), and (D) and inserting the following:

''(B) Except in the case of a cable system whose royalty fee is specified in subparagraph (E) or (F), a total royalty fee payable to copyright owners pursuant to paragraph (3) for the period covered by the statement, computed on the basis of specified percentages of the gross receipts from subscribers to the cable service during such period for the basic service of providing secondary transmissions of primary broadcast transmitters, as follows:

''(i) 1.064 percent of such gross receipts for the privilege of further transmitting, beyond the local service area of such primary transmitter, any non-network programming of a primary transmitter in whole or in part, such amount to be applied against the fee, if any, payable pursuant to clauses (ii) through (iv);

''(ii) 1.064 percent of such gross receipts for the first distant signal equivalent;

''(iii) 0.701 percent of such gross receipts for each of the second, third, and fourth distant signal equivalents; and

''(iv) 0.330 percent of such gross receipts for the fifth distant signal equivalent and each distant signal equivalent thereafter.

''(C) In computing amounts under clauses (ii) through (iv) of subparagraph (B)—

''(i) any fraction of a distant signal equivalent shall be computed at its fractional value;

''(ii) in the case of any cable system located partly within and partly outside of the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located outside of the local service area of such primary transmitter; and

''(iii) if a cable system provides a secondary transmission of a primary transmitter to some but not all communities served by that cable system—

''(I) the gross receipts and the distant signal equivalent values for such secondary transmission shall be derived solely on the basis of the subscribers in those communities where the cable system provides such secondary transmission; and

''(II) the total royalty fee for the period paid by such system shall not be less than the royalty fee calculated under subparagraph (B)(i) multiplied by the gross receipts from all subscribers to the system.

''(D) A cable system that, on a statement submitted before the date of the enactment of the Satellite Television Extension and Localism Act of 2010, computed its royalty fee consistent with the methodology under subparagraph (C)(iii), or that amends a statement filed before such date of enactment to compute the royalty fee due using such methodology, shall not be subject to an action for infringement, or eligible for any royalty refund or offset, arising out of its use of such methodology on such statement.

''(E) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are $263,800 or less—

''(i) gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $263,800 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $10,400; and

''(ii) the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be 0.5 percent, regardless of the number of distant signal equivalents, if any.

''(F) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmissions of primary broadcast transmitters are more than $263,800 but less than $527,600, the royalty fee payable under this paragraph to copyright owners pursuant to paragraph (3) shall be—

''(i) 0.5 percent of any gross receipts up to $263,800, regardless of the number of distant signal equivalents, if any; and

''(ii) 1 percent of any gross receipts in excess of $263,800, but less than $527,600, regardless of the number of distant signal equivalents, if any.

''(G) A filing fee, as determined by the Register of Copyrights pursuant to section 708(a).'';

(2) in paragraph (2), in the first sentence—

(A) by striking ''The Register of Copyrights'' and inserting the following ''HANDLING OF FEES.—The Register of Copyrights''; and

(B) by inserting ''(including the filing fee specified in paragraph (1)(G))'' after ''shall receive all fees'';

(3) in paragraph (3)—

(A) by striking ''The royalty fees'' and inserting the following: ''DISTRIBUTION OF ROYALTY FEES TO COPYRIGHT OWNERS.—The royalty fees'';

(B) in subparagraph (A)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking ''; and'' and inserting a period;

(C) in subparagraph (B)—

(i) by striking ''any such'' and inserting ''Any such''; and

(ii) by striking the semicolon and inserting a period; and

(D) in subparagraph (C), by striking ''any such'' and inserting ''Any such'';

(4) in paragraph (4), by striking ''The royalty fees'' and inserting the following: ''PROCEDURES FOR ROYALTY FEE DISTRIBUTION.—The royalty fees''; and

(5) by adding at the end the following new paragraphs:

''(5) 3.75 PERCENT RATE AND SYNDICATED EXCLUSIVITY SURCHARGE NOT APPLICABLE TO MULTICAST STREAMS.—The royalty rates specified in sections 256.2(c) and 256.2(d) of title 37,

Code of Federal Regulations (commonly referred to as the '3.75 percent rate' and the 'syndicated exclusivity surcharge', respectively), as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010, as such rates may be adjusted, or such sections redesignated, thereafter by the Copyright Royalty Judges, shall not apply to the secondary transmission of a multicast stream.

''(6) VERIFICATION OF ACCOUNTS AND FEE PAYMENTS.—The Register of Copyrights shall issue regulations to provide for the confidential verification by copyright owners whose works were embodied in the secondary transmissions of primary transmissions pursuant to this section of the information reported on the semiannual statements of account filed under this subsection on or after January 1, 2010, in order that the auditor designated under subparagraph (A) is able to confirm the correctness of the calculations and royalty payments reported therein. The regulations shall—

''(A) establish procedures for the designation of a qualified independent auditor—

''(i) with exclusive authority to request verification of such a statement of account on behalf of all copyright owners whose works were the subject of secondary transmissions of primary transmissions by the cable system (that deposited the statement) during the accounting period covered by the statement; and

''(ii) who is not an officer, employee, or agent of any such copyright owner for any purpose other than such audit;

''(B) establish procedures for safeguarding all non-public financial and business information provided under this paragraph;

''(C)(i) require a consultation period for the independent auditor to review its conclusions with a designee of the cable system;

''(ii) establish a mechanism for the cable system to remedy any errors identified in the auditor's report and to cure any underpayment identified; and

''(iii) provide an opportunity to remedy any disputed facts or conclusions;

''(D) limit the frequency of requests for verification for a particular cable system and the number of audits that a multiple system operator can be required to undergo in a single year; and

''(E) permit requests for verification of a statement of account to be made only within 3 years after the last day of the year in which the statement of account is filed.

''(7) ACCEPTANCE OF ADDITIONAL DEPOSITS.—Any royalty fee payments received by the Copyright Office from cable systems for the secondary transmission of primary transmissions that are in addition to the payments calculated and deposited in accordance with this subsection shall be deemed to have been deposited for the particular accounting period for which they are received and shall be distributed as specified under this subsection.''.

(d) EFFECTIVE DATE OF NEW ROYALTY FEE RATES.—The royalty fee rates established in section 111(d)(1)(B) of title 17, United States Code, as amended by subsection (c)(1)(C) of this section, shall take effect commencing with the first accounting period occurring in 2010.

(e) DEFINITIONS.—Section 111(f) is amended—

(1) by striking the first undesignated paragraph and inserting the following:

''(1) PRIMARY TRANSMISSION.—A 'primary transmission' is a transmission made to the public by a transmitting facility whose signals are being received and further transmitted by a secondary transmission service, regardless of where or when the performance or display was first transmitted. In the case of a television broadcast station, the primary stream and any multicast streams transmitted by the station constitute primary transmissions.'';

(2) in the second undesignated paragraph—

(A) by striking ''A 'secondary transmission' '' and inserting the following:

''(2) SECONDARY TRANSMISSION.—A 'secondary transmission' ''; and

(B) by striking '' 'cable system' '' and inserting ''cable system'';

(3) in the third undesignated paragraph—

(A) by striking ''A 'cable system' '' and inserting the following:

''(3) CABLE SYSTEM.—A 'cable system' ''; and

(B) by striking ''Territory, Trust Territory, or Possession'' and inserting ''territory, trust territory, or possession of the United States'';

(4) in the fourth undesignated paragraph, in the first sentence—

(A) by striking ''The 'local service area of a primary transmitter', in the case of a television broadcast station, comprises the area in which such station is entitled to insist'' and inserting the following:

''(4) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The 'local service area of a primary transmitter', in the case of both the primary stream and any multicast streams transmitted by a primary transmitter that is a television broadcast station, comprises the area where such primary transmitter could have insisted'';

(B) by striking ''76.59 of title 47 of the Code of Federal Regulations'' and inserting the following: ''76.59 of title 47, Code of Federal Regulations, or within the noise-limited contour as defined in 73.622(e)(1) of title 47, Code of Federal Regulations''; and

(C) by striking ''as defined by the rules and regulations of the Federal Communications Commission,'';

(5) by amending the fifth undesignated paragraph to read as follows:

''(5) DISTANT SIGNAL EQUIVALENT.—

''(A) IN GENERAL.—Except as provided under subparagraph (B), a 'distant signal equivalent'—

''(i) is the value assigned to the secondary transmission of any non-network television programming carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programming; and

''(ii) is computed by assigning a value of one to each primary stream and to each multicast stream (other than a simulcast) that is an independent station, and by assigning a value of one-quarter to each primary stream and to each multicast stream (other than a simulcast) that is a network station or a noncommercial educational station.

''(B) EXCEPTIONS.—The values for independent, network, and noncommercial educational stations specified in subparagraph (A) are subject to the following:

''(i) Where the rules and regulations of the Federal Communications Commission require a cable system to omit the further transmission of a particular program and such rules and regulations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, or where such rules and regulations in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to effect such omission and substitution of a nonlive program or to carry additional programs not transmitted by primary transmitters within whose local service area the cable system is located, no value shall be assigned for the substituted or additional program.

''(ii) Where the rules, regulations, or authorizations of the Federal Communications Commission in effect on the date of the enactment of the Copyright Act of 1976 permit a cable system, at its election, to omit the further transmission of a particular program and such rules, regulations, or authorizations also permit the substitution of another program embodying a performance or display of a work in place of the omitted transmission, the value assigned for the substituted or additional program shall be, in the case of a live program, the value of one full distant signal equivalent multiplied by a fraction that has as its numerator the number of days in the year in which such substitution occurs and as its denominator the number of days in the year.

''(iii) In the case of the secondary transmission of a primary transmitter that is a television broadcast station pursuant to the late-night or specialty programming rules of the Federal Communications Commission, or the secondary transmission of a primary transmitter that is a television broadcast station on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals that it is authorized to carry, the values for independent, network, and noncommercial educational stations set forth in subparagraph (A), as the case may be, shall be multiplied by a fraction that is equal to the ratio of the broadcast hours of such primary transmitter retransmitted by the cable system to the total broadcast hours of the primary transmitter.

''(iv) No value shall be assigned for the secondary transmission of the primary stream or any multicast streams of a primary transmitter that is a television broadcast station in any community that is within the local service area of the primary transmitter.'';

(6) by striking the sixth undesignated paragraph and inserting the following:

''(6) NETWORK STATION.—

''(A) TREATMENT OF PRIMARY STREAM.—The term 'network station' shall be applied to a primary stream of a television broadcast station that is owned or operated by, or affiliated with, one or more of the television networks in the United States providing nationwide transmissions, and that transmits a substantial part of the programming supplied by such networks for a substantial part of the primary stream's typical broadcast day.

''(B) TREATMENT OF MULTICAST STREAMS.—The term 'network station' shall be applied to a multicast stream on which a television broadcast station transmits all or substantially all of the programming of an interconnected program service that—

''(i) is owned or operated by, or affiliated with, one or more of the television networks described in subparagraph (A); and

''(ii) offers programming on a regular basis for 15 or more hours per week to at least 25 of the affiliated television licensees of the interconnected program service in 10 or more States.'';

(7) by striking the seventh undesignated paragraph and inserting the following:

''(7) INDEPENDENT STATION.—The term 'independent station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is not a network station or a noncommercial educational station.'';

(8) by striking the eighth undesignated paragraph and inserting the following:

''(8) NONCOMMERCIAL EDUCATIONAL STATION.—The term 'noncommercial educational station' shall be applied to the primary stream or a multicast stream of a television broadcast station that is a noncommercial educational broadcast station as defined in section 397 of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Television Extension and Localism Act of 2010.''; and

(9) by adding at the end the following:

''(9) PRIMARY STREAM.—A 'primary stream' is—

''(A) the single digital stream of programming that, before June 12, 2009, was substantially duplicating the programming transmitted by the television broadcast station as an analog signal; or

''(B) if there is no stream described in subparagraph (A), then the single digital stream of programming transmitted by the television broadcast station for the longest period of time.

''(10) PRIMARY TRANSMITTER.—A 'primary transmitter' is a television or radio broadcast station licensed by the Federal Communications Commission, or by an appropriate governmental authority of Canada or Mexico, that makes primary transmissions to the public.

''(11) MULTICAST STREAM.—A 'multicast stream' is a digital stream of programming that is transmitted by a television broadcast station and is not the station's primary stream.

''(12) SIMULCAST.—A 'simulcast' is a multicast stream of a television broadcast station that duplicates the programming transmitted by the primary stream or another multicast stream of such station.

''(13) SUBSCRIBER; SUBSCRIBE.—

''(A) SUBSCRIBER.—The term 'subscriber' means a person or entity that receives a secondary transmission service from a cable system and pays a fee for the service, directly or indirectly, to the cable system.

''(B) SUBSCRIBE.—The term 'subscribe' means to elect to become a subscriber.''.

(f) TIMING OF SECTION 111 PROCEEDINGS.—Section 804(b)(1) is amended by striking ''2005'' each place it appears and inserting ''2015''.

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CORRECTIONS TO FIX LEVEL DESIGNATIONS.—Section 111 is amended—

(A) in subsections (a), (c), and (e), by striking ''clause'' each place it appears and inserting ''paragraph'';

(B) in subsection (c)(1), by striking ''clauses'' and inserting ''paragraphs''; and

(C) in subsection (e)(1)(F), by striking ''subclause'' and inserting ''subparagraph''.

(2) CONFORMING AMENDMENT TO HYPHENATE NONNETWORK.—Section 111 is amended by striking ''nonnetwork'' each place it appears and inserting ''non-network''.

(3) PREVIOUSLY UNDESIGNATED PARAGRAPH.—Section 111(e)(1) is amended by striking ''second paragraph of subsection (f)'' and inserting ''subsection (f)(2)''.

(4) REMOVAL OF SUPERFLUOUS ANDS.—Section 111(e) is amended—

(A) in paragraph (1)(A), by striking ''and'' at the end;

(B) in paragraph (1)(B), by striking ''and'' at the end;

(C) in paragraph (1)(C), by striking ''and'' at the end;

(D) in paragraph (1)(D), by striking ''and'' at the end; and

(E) in paragraph (2)(A), by striking ''and'' at the end.

(5) REMOVAL OF VARIANT FORMS REFERENCES.—Section 111 is amended—

(A) in subsection (e)(4), by striking '', and each of its variant forms,''; and

(B) in subsection (f), by striking ''and their variant forms''.

(6) CORRECTION TO TERRITORY REFERENCE.—Section 111(e)(2) is amended in the matter preceding subparagraph (A) by striking ''three territories'' and inserting ''five entities''.

(h) EFFECTIVE DATE WITH RESPECT TO MULTICAST STREAMS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this section, to the extent such amendments assign a distant signal equivalent value to the secondary transmission of the multicast stream of a primary transmitter, shall take effect on the date of the enactment of this Act.

(2) DELAYED APPLICABILITY.—

(A) SECONDARY TRANSMISSIONS OF A MULTICAST STREAM BEYOND THE LOCAL SERVICE AREA OF ITS PRIMARY TRANSMITTER BEFORE 2010 ACT.—In any case in which a cable system was making secondary transmissions of a multicast stream beyond the local service area of its primary transmitter before the date of the enactment of this Act, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream that are made on or before June 30, 2010.

(B) MULTICAST STREAMS SUBJECT TO PREEXISTING WRITTEN AGREEMENTS FOR THE SECONDARY TRANSMISSION OF SUCH STREAMS.—In any case in which the secondary transmission of a multicast stream of a primary transmitter is the subject of a written agreement entered into on or before June 30, 2009, between a cable system or an association representing the cable system and a primary transmitter or an association representing the primary transmitter, a distant signal equivalent value (referred to in paragraph (1)) shall not be assigned to secondary transmissions of such multicast stream beyond the local service area of its primary transmitter that are made on or before the date on which such written agreement expires.

(C) NO REFUNDS OR OFFSETS FOR PRIOR STATEMENTS OF ACCOUNT.—A cable system that has reported secondary transmissions of a multicast stream beyond the local service area of its primary transmitter on a statement of account deposited under section 111 of title 17, United States Code, before the date of the enactment of this Act shall not be entitled to any refund, or offset, of royalty fees paid on account of such secondary transmissions of such multicast stream.

(3) DEFINITIONS.—In this subsection, the terms ''cable system'', ''secondary transmission'', ''multicast stream'', and ''local service area of a primary transmitter'' have the meanings given those terms in section 111(f) of title 17, United States Code, as amended by this section.

SEC. 505. CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE FOR ALL DMAS.

Section 119 is amended by adding at the end the following new subsection:

''(g) CERTAIN WAIVERS GRANTED TO PROVIDERS OF LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(1) INJUNCTION WAIVER.—A court that issued an injunction pursuant to subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction if the court recognizes the entity against which the injunction was issued as a qualified carrier.

''(2) LIMITED TEMPORARY WAIVER.—

''(A) IN GENERAL.—Upon a request made by a satellite carrier, a court that issued an injunction against such carrier under subsection (a)(7)(B) before the date of the enactment of this subsection shall waive such injunction with respect to the statutory license provided under subsection (a)(2) to the extent necessary to allow such carrier to make secondary transmissions of primary transmissions made by a network station to unserved households located in short markets in which such carrier was not providing local service pursuant to the license under section 122 as of December 31, 2009.

''(B) EXPIRATION OF TEMPORARY WAIVER.—A temporary waiver of an injunction under subparagraph (A) shall expire after the end of the 120-day period beginning on the date such temporary waiver is issued unless extended for good cause by the court making the temporary waiver.

''(C) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE TO ALL DMAS.—

''(i) FAILURE TO ACT REASONABLY AND IN GOOD FAITH.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to act reasonably or has failed to make a good faith effort to provide local-into-local service to all DMAs, such failure—

''(I) is actionable as an act of infringement under section 501 and the court may in its discretion impose the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(II) shall result in the termination of the waiver issued under subparagraph (A).

''(ii) FAILURE TO PROVIDE LOCAL-INTO-LOCAL SERVICE.—If the court issuing a temporary waiver under subparagraph (A) determines that the satellite carrier that made the request for such waiver has failed to provide local-into-local service to all DMAs, but determines that the carrier acted reasonably and in good faith, the court may in its discretion impose financial penalties that reflect—

''(I) the degree of control the carrier had over the circumstances that resulted in the failure;

''(II) the quality of the carrier's efforts to remedy the failure; and

''(III) the severity and duration of any service interruption.

''(D) SINGLE TEMPORARY WAIVER AVAILABLE.—An entity may only receive one temporary waiver under this paragraph.

''(E) SHORT MARKET DEFINED.—For purposes of this paragraph, the term 'short market' means a local market in which programming of one or more of the four most widely viewed television networks nationwide as measured on the date of the enactment of this subsection is not offered on the primary stream transmitted by any local television broadcast station.

''(3) ESTABLISHMENT OF QUALIFIED CARRIER RECOGNITION.—

''(A) STATEMENT OF ELIGIBILITY.—An entity seeking to be recognized as a qualified carrier under this subsection shall file a statement of eligibility with the court that imposed the injunction. A statement of eligibility must include—

''(i) an affidavit that the entity is providing local-into-local service to all DMAs;

''(ii) a request for a waiver of the injunction; and

''(iii) a certification issued pursuant to section 342(a) of Communications Act of 1934.

''(B) GRANT OF RECOGNITION AS A QUALIFIED CARRIER.—Upon receipt of a statement of eligibility, the court shall recognize the entity as a qualified carrier and issue the waiver under paragraph (1).

''(C) VOLUNTARY TERMINATION.—At any time, an entity recognized as a qualified carrier may file a statement of voluntary termination with the court certifying that it no longer wishes to be recognized as a qualified carrier. Upon receipt of such statement, the court shall reinstate the injunction waived under paragraph (1).

''(D) LOSS OF RECOGNITION PREVENTS FUTURE RECOGNITION.—No entity may be recognized as a qualified carrier if such entity had previously been recognized as a qualified carrier and subsequently lost such recognition or voluntarily terminated such recognition under subparagraph (C).

''(4) QUALIFIED CARRIER OBLIGATIONS AND COMPLIANCE.—

''(A) CONTINUING OBLIGATIONS.—

''(i) IN GENERAL.—An entity recognized as a qualified carrier shall continue to provide local-into-local service to all DMAs.

''(ii) COOPERATION WITH GAO EXAMINATION.—An entity recognized as a qualified carrier shall fully cooperate with the Comptroller General in the examination required by subparagraph (B).

''(B) QUALIFIED CARRIER COMPLIANCE EXAMINATION.—

''(i) EXAMINATION AND REPORT.—The Comptroller General shall conduct an examination and publish a report concerning the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section. The report shall address the qualified carrier's conduct during the period beginning on the date on which the qualified carrier is recognized as such under paragraph (3)(B) and ending on December 31, 2011.

''(ii) RECORDS OF QUALIFIED CARRIER.—Beginning on the date that is one year after the date on which the qualified carrier is recognized as such under paragraph (3)(B), but not later than October 1, 2011, the qualified carrier shall provide the Comptroller General with all records that the Comptroller General, in consultation with the Register of Copyrights, considers to be directly pertinent to the following requirements under this section:

''(I) Proper calculation and payment of royalties under the statutory license under this section.

''(II) Provision of service under this license to eligible subscribers only.

''(iii) SUBMISSION OF REPORT.—The Comptroller General shall file the report required by clause (i) not later than March 1, 2012, with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate.

''(iv) EVIDENCE OF INFRINGEMENT.—The Comptroller General shall include in the report a statement of whether the examination by the Comptroller General indicated that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement. The Comptroller General shall consult with the Register of Copyrights in preparing such statement.

''(v) SUBSEQUENT EXAMINATION.—If the report includes the Comptroller General's statement that there is substantial evidence that a copyright holder could bring a successful action under this section against the qualified carrier for infringement, the Comptroller General shall, not later than 6 months after the report under clause (i) is published, initiate another examination of the qualified carrier's compliance with the royalty payment and household eligibility requirements of the license under this section since the last report was filed under clause (iii). The Comptroller General shall file a report on such examination with the court referred to in paragraph (1) that issued the injunction, the Register of Copyrights, the Committees on the Judiciary and on Energy and Commerce of the House of Representatives, and the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate. The report shall include a statement described in clause (iv), prepared in consultation with the Register of Copyrights.

''(vi) COMPLIANCE.—Upon motion filed by an aggrieved copyright owner, the court recognizing an entity as a qualified carrier shall terminate such designation upon finding that the entity has failed to cooperate with the examinations required by this subparagraph.

''(C) AFFIRMATION.—A qualified carrier shall file an affidavit with the district court and the Register of Copyrights 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

''(D) COMPLIANCE DETERMINATION.—Upon the motion of an aggrieved television broadcast station, the court recognizing an entity as a qualified carrier may make a determination of whether the entity is providing local-into-local service to all DMAs.

''(E) PLEADING REQUIREMENT.—In any motion brought under subparagraph (D), the party making such motion shall specify one or more designated market areas (as such term is defined in section 122(j)(2)(C)) for which the failure to provide service is being alleged, and, for each such designated market area, shall plead with particularity the circumstances of the alleged failure.

''(F) BURDEN OF PROOF.—In any proceeding to make a determination under subparagraph (D), and with respect to a designated market area for which failure to provide service is alleged, the entity recognized as a qualified carrier shall have the burden of proving that the entity provided local-into-local service with a good quality satellite signal to at least 90 percent of the households in such designated market area (based on the most recent census data released by the United States Census Bureau) at the time and place alleged.

''(5) FAILURE TO PROVIDE SERVICE.—

''(A) PENALTIES.—If the court recognizing an entity as a qualified carrier finds that such entity has willfully failed to provide local-into-local service to all DMAs, such finding shall result in the loss of recognition of the entity as a qualified carrier and the termination of the waiver provided under paragraph (1), and the court may, in its discretion—

''(i) treat such failure as an act of infringement under section 501, and subject such infringement to the remedies provided for in sections 502 through 506 and subsection (a)(6)(B) of this section; and

''(ii) impose a fine of not less than $250,000 and not more than $5,000,000.

''(B) EXCEPTION FOR NONWILLFUL VIOLATION.—If the court determines that the failure to provide local-into-local service to all DMAs is nonwillful, the court may in its discretion impose financial penalties for noncompliance that reflect—

''(i) the degree of control the entity had over the circumstances that resulted in the failure;

''(ii) the quality of the entity's efforts to remedy the failure and restore service; and

''(iii) the severity and duration of any service interruption.

''(6) PENALTIES FOR VIOLATIONS OF LICENSE.—A court that finds, under subsection (a)(6)(A), that an entity recognized as a qualified carrier has willfully made a secondary transmission of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who is not eligible to receive the transmission under this section shall reinstate the injunction waived under paragraph (1), and the court may order statutory damages of not more than $2,500,000.

''(7) LOCAL-INTO-LOCAL SERVICE TO ALL DMAS DEFINED.—For purposes of this subsection:

''(A) IN GENERAL.—An entity provides 'local-into-local service to all DMAs' if the entity provides local service in all designated market areas (as such term is defined in section 122(j)(2)(C)) pursuant to the license under section 122.

''(B) HOUSEHOLD COVERAGE.—For purposes of subparagraph (A), an entity that makes available local-into-local service with a good quality satellite signal to at least 90 percent of the households in a designated market area based on the most recent census data released by the United States Census Bureau shall be considered to be providing local service to such designated market area.

''(C) GOOD QUALITY SATELLITE SIGNAL DEFINED.—The term 'good quality signal' has the meaning given such term under section 342(e)(2) of Communications Act of 1934.''.

SEC. 506. COPYRIGHT OFFICE FEES.

Section 708(a) is amended—

(1) in paragraph (8), by striking ''and'' after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon;

(3) by inserting after paragraph (9) the following:

''(10) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 119 or 122; and

''(11) on filing a statement of account based on secondary transmissions of primary transmissions pursuant to section 111.''; and

(4) by adding at the end the following new sentence: ''Fees established under paragraphs (10) and (11) shall be reasonable and may not exceed one-half of the cost necessary to cover reasonable expenses incurred by the Copyright Office for the collection and administration of the statements of account and any royalty fees deposited with such statements.''.

SEC. 507. TERMINATION OF LICENSE.

Section 1003(a)(2)(A) of Public Law 111–118 is amended by striking ''March 28, 2010'' and inserting ''December 31, 2014''.

SEC. 508. CONSTRUCTION.

Nothing in section 111, 119, or 122 of title 17, United States Code, including the amendments made to such sections by this subtitle, shall be construed to affect the meaning of any terms under the Communications Act of 1934, except to the extent that such sections are specifically cross-referenced in such Act or the regulations issued thereunder.

Subtitle B—Communications Provisions

SEC. 521. REFERENCE.

Except as otherwise provided, whenever in this subtitle an amendment is made to a section or other provision, the reference shall be considered to be made to such section or provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 522. EXTENSION OF AUTHORITY.

Section 325(b) is amended—

(1) in paragraph (2)(C), by striking ''March 28, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''March 29, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''January 1, 2015''.

SEC. 523. SIGNIFICANTLY VIEWED STATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 340(b) are amended to read as follows:

''(1) SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—This section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions of a signal from that satellite carrier pursuant to section 338.

''(2) SERVICE LIMITATIONS.—A satellite carrier may retransmit to a subscriber in high definition format the signal of a station determined by the Commission to be significantly viewed under subsection (a) only if such carrier also retransmits in high definition format the signal of a station located in the local market of such subscriber and affiliated with the same network whenever such format is available from such station.''.

(b) RULEMAKING REQUIRED.—Within 210 days after the date of the enactment of this Act, the Federal Communications Commission shall take all actions necessary to promulgate a rule to implement the amendments made by subsection (a).

SEC. 524. DIGITAL TELEVISION TRANSITION CONFORMING AMENDMENTS.

(a) SECTION 338.—Section 338 is amended—

(1) in subsection (a), by striking ''(3) EFFECTIVE DATE.—No satellite'' and all that follows through ''until January 1, 2002.''; and

(2) by amending subsection (g) to read as follows:

''(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE RECEPTION ANTENNA.—

''(1) SINGLE RECEPTION ANTENNA.—Each satellite carrier that retransmits the signals of local television broadcast stations in a local market shall retransmit such stations in such market so that a subscriber may receive such stations by means of a single reception antenna and associated equipment.

''(2) ADDITIONAL RECEPTION ANTENNA.—If the carrier retransmits the signals of local television broadcast stations in a local market in high definition format, the carrier shall retransmit such signals in such market so that a subscriber may receive such signals by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used to comply with paragraph (1).''.

(b) SECTION 339.—Section 339 is amended—

(1) in subsection (a)—

(A) in paragraph (1)(B), by striking ''Such two network stations'' and all that follows through ''more than two network stations.''; and

(B) in paragraph (2)—

(i) in the heading for subparagraph (A), by striking ''TO ANALOG SIGNALS'';

(ii) in subparagraph (A)—

(I) in the heading for clause (i), by striking ''ANALOG'';

(II) in clause (i)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''October 1, 2004'' and inserting ''October 1, 2009'';

(III) in the heading for clause (ii), by striking ''ANALOG''; and

(IV) in clause (ii)—

(aa) by striking ''analog'' each place it appears; and

(bb) by striking ''2004'' and inserting ''2009'';

(iii) by amending subparagraph (B) to read as follows:

''(B) RULES FOR OTHER SUBSCRIBERS.—

''(i) IN GENERAL.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

''(I) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (F)(i).

''(II) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

''(aa) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

''(bb) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (F)(ii).

''(ii) SPECIAL CIRCUMSTANCES.—A subscriber of a satellite carrier who was lawfully receiving the distant signal of a network station on the day before the date of enactment of the Satellite Television Extension and Localism Act of 2010 may receive both such distant signal and the local signal of a network station affiliated with the same network until such subscriber chooses to no longer receive such distant signal from such carrier, whether or not such subscriber elects to subscribe to such local signal.'';

(iv) in subparagraph (C)—

(I) by striking ''analog'';

(II) in clause (i), by striking ''the Satellite Home Viewer Extension and Reauthorization Act of 2004; and'' and inserting the following: ''the Satellite Television Extension and Localism Act of 2010 and, at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338 (and the retransmission of such signal by such carrier can reach such subscriber); or''; and

(III) by amending clause (ii) to read as follows:

''(ii) lawfully subscribes to and receives a distant signal on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, and, subsequent to such subscription, the satellite carrier makes available to that subscriber the signal of a local network station affiliated with the same network as the distant signal (and the retransmission of such signal by such carrier can reach such subscriber), unless such person subscribes to the signal of the local network station within 60 days after such signal is made available.'';

(v) in subparagraph (D)—

(I) in the heading, by striking ''DIGITAL'';

(II) by striking clauses (i), (iii) through (v), (vii) through (ix), and (xi);

(III) by redesignating clause (vi) as clause (i) and transferring such clause to appear before clause (ii);

(IV) by amending such clause (i) (as so redesignated) to read as follows:

''(i) ELIGIBILITY AND SIGNAL TESTING.—A subscriber of a satellite carrier shall be eligible to receive a distant signal of a network station affiliated with the same network under this section if, with respect to a local network station, such subscriber—

''(I) is a subscriber whose household is not predicted by the model specified in subsection (c)(3) to receive the signal intensity required under section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of title 47, Code of Federal Regulations, or a successor regulation;

''(II) is determined, based on a test conducted in accordance with section 73.686(d) of title 47, Code of Federal Regulations, or any successor regulation, not to be able to receive a signal that exceeds the signal intensity standard in section 73.622(e)(1) or, in the case of a low-power station or translator station transmitting an analog signal, section 73.683(a) of such title, or a successor regulation; or

''(III) is in an unserved household, as determined under section 119(d)(10)(A) of title 17, United States Code.'';

(V) in clause (ii)—

(aa) by striking ''DIGITAL'' in the heading;

(bb) by striking ''digital'' the first two places such term appears;

(cc) by striking ''Satellite Home Viewer Extension and Reauthorization Act of 2004'' and inserting ''Satellite Television Extension and Localism Act of 2010''; and

(dd) by striking '', whether or not such subscriber elects to subscribe to local digital signals'';

(VI) by inserting after clause (ii) the following new clause:

''(iii) TIME-SHIFTING PROHIBITED.—In a case in which the satellite carrier makes available to an eligible subscriber under this subparagraph the signal of a local network station pursuant to section 338, the carrier may only provide the distant signal of a station affiliated with the same network to that subscriber if, in the case of any local market in the 48 contiguous States of the United States, the distant signal is the secondary transmission of a station whose prime time network programming is generally broadcast simultaneously with, or later than, the prime time network programming of the affiliate of the same network in the local market.''; and

(VII) by redesignating clause (x) as clause (iv); and

(vi) in subparagraph (E), by striking ''distant analog signal or'' and all that follows through ''(B), or (D))'' and inserting ''distant signal'';

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL AND ON-LOCATION TESTING REQUIRED.—

''(A) PREDICTIVE MODEL.—Within 210 days after the date of the enactment of the Satellite Television Extension and Localism Act of 2010, the Commission shall develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations, through the use of an antenna, to receive signals in accordance with the signal intensity standard in section 73.622(e)(1) of title 47, Code of Federal Regulations, or a successor regulation, including to account for the continuing operation of translator stations and low power television stations. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Commission in CS Docket No. 98–201, as previously revised with respect to analog signals, and as recommended by the Commission with respect to digital signals in its Report to Congress in ET Docket No. 05–182, FCC 05–199 (released December 9, 2005). The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(B) ON-LOCATION TESTING.—The Commission shall issue an order completing its rulemaking proceeding in ET Docket No. 06–94 within 210 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010. In conducting such rulemaking, the Commission shall seek ways to minimize consumer burdens associated with on-location testing.'';

(B) by amending paragraph (4)(A) to read as follows:

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal of the signal intensity referenced in clause (i) of subsection (a)(2)(D), the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct the test referenced in such clause. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such clause demonstrate that the subscriber does not receive a signal that meets or exceeds the requisite signal intensity standard in such clause, the subscriber shall not be denied the retransmission of a signal of a network station under section 119(d)(10)(A) of title 17, United States Code.'';

(C) in paragraph (4)(B), by striking ''the signal intensity'' and all that follows through ''United States Code'' and inserting ''such requisite signal intensity standard''; and

(D) in paragraph (4)(E), by striking ''Grade B intensity''.

(c) SECTION 340.—Section 340(i) is amended by striking paragraph (4).

SEC. 525. APPLICATION PENDING COMPLETION OF RULEMAKINGS.

(a) IN GENERAL.—During the period beginning on the date of the enactment of this Act and ending on the date on which the Federal Communications Commission adopts rules pursuant to the amendments to the Communications Act of 1934 made by section 523 and section 524 of this title, the Federal Communications Commission shall follow its rules and regulations promulgated pursuant to sections 338, 339, and 340 of the Communications Act of 1934 as in effect on the day before the date of the enactment of this Act.

(b) TRANSLATOR STATIONS AND LOW POWER TELEVISION STATIONS.—Notwithstanding subsection (a), for purposes of determining whether a subscriber within the local market served by a translator station or a low power television station affiliated with a television network is eligible to receive distant signals under section 339 of the Communications Act of 1934, the rules and regulations of the Federal Communications Commission for determining such subscriber's eligibility as in effect on the day before the date of the enactment of this Act shall apply until the date on which the translator station or low power television station is licensed to broadcast a digital signal.

(c) DEFINITIONS.—As used in this subtitle:

(1) LOCAL MARKET; LOW POWER TELEVISION STATION; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms ''local market'', ''low power television station'', ''satellite carrier'', ''subscriber'', and ''television broadcast station'' have the meanings given such terms in section 338(k) of the Communications Act of 1934.

(2) NETWORK STATION; TELEVISION NETWORK.—The terms ''network station'' and ''television network'' have the meanings given such terms in section 339(d) of such Act.

SEC. 526. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

Part I of title III is amended by adding at the end the following new section:

''SEC. 342. PROCESS FOR ISSUING QUALIFIED CARRIER CERTIFICATION.

''(a) CERTIFICATION.—The Commission shall issue a certification for the purposes of section 119(g)(3)(A)(iii) of title 17, United States Code, if the Commission determines that—

''(1) a satellite carrier is providing local service pursuant to the statutory license under section 122 of such title in each designated market area; and

''(2) with respect to each designated market area in which such satellite carrier was not providing such local service as of the date of enactment of the Satellite Television Extension and Localism Act of 2010—

''(A) the satellite carrier's satellite beams are designed, and predicted by the satellite manufacturer's pre-launch test data, to provide a good quality satellite signal to at least 90 percent of the households in each such designated market area based on the most recent census data released by the United States Census Bureau; and

''(B) there is no material evidence that there has been a satellite or sub-system failure subsequent to the satellite's launch that precludes the ability of the satellite carrier to satisfy the requirements of subparagraph (A).

''(b) INFORMATION REQUIRED.—Any entity seeking the certification provided for in subsection (a) shall submit to the Commission the following information:

''(1) An affidavit stating that, to the best of the affiant's knowledge, the satellite carrier provides local service in all designated market areas pursuant to the statutory license provided for in section 122 of title 17, United States Code, and listing those designated market areas in which local service was provided as of the date of enactment of the Satellite Television Extension and Localism Act of 2010.

''(2) For each designated market area not listed in paragraph (1):

''(A) Identification of each such designated market area and the location of its local receive facility.

''(B) Data showing the number of households, and maps showing the geographic distribution thereof, in each such designated market area based on the most recent census data released by the United States Census Bureau.

''(C) Maps, with superimposed effective isotropically radiated power predictions obtained in the satellite manufacturer's prelaunch tests, showing that the contours of the carrier's satellite beams as designed and the geographic area that the carrier's satellite beams are designed to cover are predicted to provide a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(D) For any satellite relied upon for certification under this section, an affidavit stating that, to the best of the affiant's knowledge, there have been no satellite or sub-system failures subsequent to the satellite's launch that would degrade the design performance to such a degree that a satellite transponder used to provide local service to any such designated market area is precluded from delivering a good quality satellite signal to at least 90 percent of the households in such designated market area based on the most recent census data released by the United States Census Bureau.

''(E) Any additional engineering, designated market area, or other information the Commission considers necessary to determine whether the Commission shall grant a certification under this section.

''(c) CERTIFICATION ISSUANCE.—

''(1) PUBLIC COMMENT.—The Commission shall provide 30 days for public comment on a request for certification under this section.

''(2) DEADLINE FOR DECISION.—The Commission shall grant or deny a request for certification within 90 days after the date on which such request is filed.

''(d) SUBSEQUENT AFFIRMATION.—An entity granted qualified carrier status pursuant to section 119(g) of title 17, United States Code, shall file an affidavit with the Commission 30 months after such status was granted stating that, to the best of the affiant's knowledge, it is in compliance with the requirements for a qualified carrier.

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

''(1) DESIGNATED MARKET AREA.—The term 'designated market area' has the meaning given such term in section 122(j)(2)(C) of title 17, United States Code.

''(2) GOOD QUALITY SATELLITE SIGNAL.—

''(A) IN GENERAL.—The term ''good quality satellite signal'' means—

''(i) a satellite signal whose power level as designed shall achieve reception and demodulation of the signal at an availability level of at least 99.7 percent using—

''(I) models of satellite antennas normally used by the satellite carrier's subscribers; and

''(II) the same calculation methodology used by the satellite carrier to determine predicted signal availability in the top 100 designated market areas; and

''(ii) taking into account whether a signal is in standard definition format or high definition format, compression methodology, modulation, error correction, power level, and utilization of advances in technology that do not circumvent the intent of this section to provide for non-discriminatory treatment with respect to any comparable television broadcast station signal, a video signal transmitted by a satellite carrier such that—

''(I) the satellite carrier treats all television broadcast stations' signals the same with respect to statistical multiplexer prioritization; and

''(II) the number of video signals in the relevant satellite transponder is not more than the then current greatest number of video signals carried on any equivalent transponder serving the top 100 designated market areas.

''(B) DETERMINATION.—For the purposes of subparagraph (A), the top 100 designated market areas shall be as determined by Nielsen Media Research and published in the Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication as of the date of a satellite carrier's application for certification under this section.''.

SEC. 527. NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION DIGITAL SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.

(a) IN GENERAL.—Section 338(a) is amended by adding at the end the following new paragraph:

''(5) NONDISCRIMINATION IN CARRIAGE OF HIGH DEFINITION SIGNALS OF NONCOMMERCIAL EDUCATIONAL TELEVISION STATIONS.—

''(A) EXISTING CARRIAGE OF HIGH DEFINITION SIGNALS.—If, before the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier is providing, under section 122 of title 17, United States Code, any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of qualified noncommercial educational television stations located within that local market in accordance with the following schedule:

''(i) By December 31, 2010, in at least 50 percent of the markets in which such satellite carrier provides such secondary transmissions in high definition format.

''(ii) By December 31, 2011, in every market in which such satellite carrier provides such secondary transmissions in high definition format.

''(B) NEW INITIATION OF SERVICE.—If, on or after the date of enactment of the Satellite Television Extension and Localism Act of 2010, an eligible satellite carrier initiates the provision, under section 122 of title 17, United States Code, of any secondary transmissions in high definition format to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, then such satellite carrier shall carry the signals in high-definition format of all qualified noncommercial educational television stations located within that local market.''.

(b) DEFINITIONS.—Section 338(k) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

''(2) ELIGIBLE SATELLITE CARRIER.—The term 'eligible satellite carrier' means any satellite carrier that is not a party to a carriage contract that—

''(A) governs carriage of at least 30 qualified noncommercial educational television stations; and

''(B) is in force and effect within 60 days after the date of enactment of the Satellite Television Extension and Localism Act of 2010.'';

(3) by redesignating paragraphs (6) through (9) (as previously redesignated) as paragraphs (7) through (10), respectively; and

(4) by inserting after paragraph (5) (as so redesignated) the following new paragraph:

''(6) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any full-power television broadcast station that—

''(A) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational broadcast station and is owned and operated by a public agency, nonprofit foundation, nonprofit corporation, or nonprofit association; and

''(B) has as its licensee an entity that is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B) of this title.''.

SEC. 528. SAVINGS CLAUSE REGARDING DEFINITIONS.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to affect—

(1) the meaning of the terms ''program related'' and ''primary video'' under the Communications Act of 1934; or

(2) the meaning of the term ''multicast'' in any regulations issued by the Federal Communications Commission.

SEC. 529. STATE PUBLIC AFFAIRS BROADCASTS.

Section 335(b) is amended—

(1) by inserting ''**STATE PUBLIC AFFAIRS,**'' after ''**EDUCATIONAL,**'' in the heading;

(2) by striking paragraph (1) and inserting the following:

''(1) CHANNEL CAPACITY REQUIRED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

''(B) REQUIREMENT FOR QUALIFIED SATELLITE PROVIDER.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a qualified satellite provider of direct broadcast satellite service providing video programming, that such provider reserve a portion of its channel capacity, equal to not less than 3.5 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.'';

(3) in paragraph (5), by striking ''For purposes of the subsection—'' and inserting ''For purposes of this subsection:''; and

(4) by adding at the end of paragraph (5) the following:

''(C) The term 'qualified satellite provider' means any provider of direct broadcast satellite service that—

''(i) provides the retransmission of the State public affairs networks of at least 15 different States;

''(ii) offers the programming of State public affairs networks upon reasonable prices, terms, and conditions as determined by the Commission under paragraph (4); and

''(iii) does not delete any noncommercial programming of an educational or informational nature in connection with the carriage of a State public affairs network.

''(D) The term 'State public affairs network' means a non-commercial non-broadcast network or a noncommercial educational television station—

''(i) whose programming consists of information about State government deliberations and public policy events; and

''(ii) that is operated by—

''(I) a State government or subdivision thereof;

''(II) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of such Code and that is governed by an independent board of directors; or

''(III) a cable system.''.

Subtitle C—Reports and Savings Provision

SEC. 531. DEFINITION.

In this subtitle, the term ''appropriate Congressional committees'' means the Committees on the Judiciary and on Commerce, Science, and Transportation of the Senate and the Committees on the Judiciary and on Energy and Commerce of the House of Representatives.

SEC. 532. REPORT ON MARKET BASED ALTERNATIVES TO STATUTORY LICENSING.

Not later than 1 year after the date of the enactment of this Act, and after consultation with the Federal Communications Commission, the Register of Copyrights shall submit to the appropriate Congressional committees a report containing—

(1) proposed mechanisms, methods, and recommendations on how to implement a phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code, by making such sections inapplicable to the secondary transmission of a performance or display of a work embodied in a primary transmission of a broadcast station that is authorized to license the same secondary transmission directly with respect to all of the performances and displays embodied in such primary transmission;

(2) any recommendations for alternative means to implement a timely and effective phase-out of the statutory licensing requirements set forth in sections 111, 119, and 122 of title 17, United States Code; and

(3) any recommendations for legislative or administrative actions as may be appropriate to achieve such a phase-out.

SEC. 533. REPORT ON COMMUNICATIONS IMPLICATIONS OF STATUTORY LICENSING MODIFICATIONS.

(a) STUDY.—The Comptroller General shall conduct a study that analyzes and evaluates the changes to the carriage requirements currently imposed on multichannel video programming distributors under the Communications Act of 1934 (47 U.S.C. 151 et seq.) and the regulations promulgated by the Federal Communications Commission that would be required or beneficial to consumers, and such other matters as the Comptroller General deems appropriate, if Congress implemented a phase-out of the current statutory licensing requirements set forth under sections 111, 119, and 122 of title 17, United States Code. Among other things, the study shall consider the impact such a phase-out and related changes to carriage requirements would have on consumer prices and access to programming.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to the appropriate Congressional committees the results of the study, including any recommendations for legislative or administrative actions.

SEC. 534. REPORT ON IN-STATE BROADCAST PROGRAMMING.

Not later than 1 year after the date of the enactment of this Act, the Federal Communications Commission shall submit to the appropriate Congressional committees a report containing an analysis of—

(1) the number of households in a State that receive the signals of local broadcast stations assigned to a community of license that is located in a different State;

(2) the extent to which consumers in each local market have access to in-state broadcast programming over the air or from a multichannel video programming distributor; and

(3) whether there are alternatives to the use of designated market areas, as defined in section 122 of title 17, United States Code, to define local markets that would provide more consumers with in-state broadcast programming.

SEC. 535. LOCAL NETWORK CHANNEL BROADCAST REPORTS.

(a) REQUIREMENT.—

(1) IN GENERAL.—On the 180th day after the date of the enactment of this Act, and on each succeeding anniversary of such 180th day, each satellite carrier shall submit an annual report to the Federal Communications Commission setting forth—

(A) each local market in which it—

(i) retransmits signals of 1 or more television broadcast stations with a community of license in that market;

(ii) has commenced providing such signals in the preceding 1-year period; and

(iii) has ceased to provide such signals in the preceding 1-year period; and

(B) detailed information regarding the use and potential use of satellite capacity for the retransmission of local signals in each local market.

(2) TERMINATION.—The requirement under paragraph (1) shall cease after each satellite carrier has submitted 5 reports under such paragraph.

(b) FCC STUDY; REPORT.—

(1) STUDY.—If no satellite carrier files a request for a certification under section 342 of the Communications Act of 1934 (as added by section 526 of this title) within 180 days after the date of the enactment of this Act, the Federal Communications Commission shall initiate a study of—

(A) incentives that would induce a satellite carrier to provide the signals of 1 or more television broadcast stations licensed to provide signals in local markets in which the satellite carrier does not provide such signals; and

(B) the economic and satellite capacity conditions affecting delivery of local signals by satellite carriers to these markets.

(2) REPORT.—Within 1 year after the date of the initiation of the study under paragraph (1), the Federal Communications Commission shall submit a report to the appropriate Congressional committees containing its findings, conclusions, and recommendations.

(c) DEFINITIONS.—In this section—

(1) the terms ''local market'' and ''satellite carrier'' have the meaning given such terms in section 339(d) of the Communications Act of 1934 (47 U.S.C. 339(d)); and

(2) the term ''television broadcast station'' has the meaning given such term in section 325(b)(7) of such Act (47 U.S.C. 325(b)(7)).

SEC. 536. SAVINGS PROVISION REGARDING USE OF NEGOTIATED LICENSES.

(a) IN GENERAL.—Nothing in this title, title 17, United States Code, the Communications Act of 1934, regulations promulgated by the Register of Copyrights under this title or title 17, United States Code, or regulations promulgated by the Federal Communications Commission under this title or the Communications Act of 1934 shall be construed to prevent a multichannel video programming distributor from retransmitting a performance or display of a work pursuant to an authorization granted by the copyright owner or, if within the scope of its authorization, its licensee.

(b) LIMITATION.—Nothing in subsection (a) shall be construed to affect any obligation of a multichannel video programming distributor under section 325(b) of the Communications Act of 1934 to obtain the authority of a television broadcast station before retransmitting that station's signal.

SEC. 537. EFFECTIVE DATE; NONINFRINGEMENT OF COPYRIGHT.

(a) EFFECTIVE DATE.—Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and with the exception of the reference in subsection (b), all references to the date of enactment of this Act shall be deemed to refer to February 27, 2010, unless otherwise specified.

(b) NONINFRINGEMENT OF COPYRIGHT.—The secondary transmission of a performance or display of a work embodied in a primary transmission is not an infringement of copyright if it was made by a satellite carrier on or after February 27, 2010, and prior to enactment of this Act, and was in compliance with the law as in existence on February 27, 2010.

Subtitle D—Severability

SEC. 541. 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 such provision or amendment to any person or circumstance shall not be affected thereby.

TITLE VI—OTHER PROVISIONS

SEC. 601. INCREASE IN THE MEDICARE PHYSICIAN PAYMENT UPDATE.

Paragraph (10) of section 1848(d) of the Social Security Act, as added by section 1011(a) of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), is amended—

(1) in subparagraph (A), by striking ''March 31, 2010'' and inserting ''September 30, 2010''; and

(2) in subparagraph (B), by striking ''April 1, 2010'' and inserting ''October 1, 2010''.

SEC. 602. 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 UNUSED CREDITS.—

''(1) IN GENERAL.—If a corporation elects to have this subsection apply, then notwithstanding any other provision of law, the limitation imposed by subsection (c) for any 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 with respect to any taxable year beginning in 2010, the lesser of—

''(A) 50 percent of a corporation's minimum tax credit 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 subsections (b) and (c) of section 6401, the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this subsection shall be treated as allowed under subpart C of such part (and not to any other subpart).

''(5) ELECTION.—

''(A) IN GENERAL.—An election under this subsection shall be made at such time and in such manner as prescribed by the Secretary, and once effective, may be revoked only with the consent of the Secretary.

''(B) INTERIM ELECTIONS.—Until such time as the Secretary prescribes a manner for making an election under this subsection, a taxpayer is treated as having made a valid election by providing written notification to the Secretary and the Commissioner of Internal Revenue of such election.

''(6) TREATMENT OF CERTAIN PARTNERSHIP INVESTMENTS.—For purposes of this subsection, any corporation's allocable share of any new domestic investments by a partnership more than 90 percent of the capital and profits interest in which is owned by such corporation (directly or indirectly) at all times during the taxable year in which an election under this subsection is in effect shall be considered new domestic investments of such corporation for such taxable year.

''(7) NO DOUBLE BENEFIT.—Notwithstanding clause (iii)(II) of section 172(b)(1)(H), any taxpayer which has previously made an election under such section shall be deemed to have revoked such election by the making of its first election under this subsection.

''(8) REGULATIONS.—The Secretary may issue such regulations or other guidance as may be necessary or appropriate to carry out this subsection, including to prevent fraud and abuse under this subsection.

''(9) TERMINATION.—This subsection shall not apply to any taxable year that begins after December 31, 2010.''.

(b) QUICK REFUND OF REFUNDABLE CREDIT.—Section 6425 is amended by adding at the end the following new subsection:

''(e) ALLOWANCE OF AMT CREDIT ADJUSTMENT AMOUNT.—The amount of an adjustment under this section as determined under subsection (c)(2) for any taxable year may be increased to the extent of the corporation's AMT credit adjustment amount determined under section 53(g) for such taxable year.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 603. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

''(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

''(A) any individual, including any individual who is an active member of the uniformed services, if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

''(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

''(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 604. EXTENSION OF LOW-INCOME HOUSING CREDIT RULES FOR BUILDINGS IN GO ZONES.

Section 1400N(c)(5) is amended by striking ''January 1, 2011'' and inserting ''January 1, 2013''.

SEC. 605. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 606. TAX-EXEMPT BOND FINANCING.

(a) IN GENERAL.—Paragraphs (2)(D) and (7)(C) of section 1400N(a) are each amended by striking ''January 1, 2011'' and inserting ''January 1, 2012''.

(b) CONFORMING AMENDMENTS.—Sections 702(d)(1) and 704(a) of the Heartland Disaster Tax Relief Act of 2008 (Public Law 110–343; 122 Stat. 3913, 3919) are each amended by striking''January 1, 2011'' each place it appears and inserting ''January 1, 2012''.

SEC. 607. APPLICATION OF LEVY TO PAYMENTS TO FEDERAL VENDORS RELATING TO PROPERTY.

(a) IN GENERAL.—Section 6331(h)(3) is amended by striking ''goods or services'' and inserting ''property, goods, or services''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies approved after the date of the enactment of this Act.

SEC. 608. ELECTION FOR REFUNDABLE LOW-INCOME HOUSING CREDIT FOR 2010.

Subsection (n) of section 42, as added by section 121, is amended to read as follows:

''(n) ELECTION FOR REFUNDABLE CREDITS.—

''(1) IN GENERAL.—The housing credit agency of each State shall be allowed a credit in an amount equal to such State's 2010 low-income housing refundable credit election amount, which shall be payable by the Secretary as provided in paragraph (5).

''(2) 2010 LOW-INCOME HOUSING REFUNDABLE CREDIT ELECTION AMOUNT.—For purposes of this subsection, the term '2010 low-income housing refundable credit election amount' means, with respect to any State, such amount as the State may elect which does not exceed 85 percent of the product of—

''(A) the sum of—

''(i) 100 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (i) and (iii) of subsection (h)(3)(C), plus any increase in the State housing credit ceiling for 2010 made by reason of section 1400N(c) (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008), and

''(ii) 40 percent of the State housing credit ceiling for 2010 which is attributable to amounts described in clauses (ii) and (iv) of such subsection, plus any increase in the State housing credit ceiling for 2010 made by reason of the application of such section 702(d)(2) and 704(b), multiplied by

''(B) 10.

For purposes of subparagraph (A)(ii), in the case of any area to which section 702(d)(2) or 704(b) of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 applies, section 1400N(c)(1)(A) shall be applied without regard to clause (i)

''(3) COORDINATION WITH NON-REFUNDABLE CREDIT.—For purposes of this section, the amounts described in clauses (i) through (iv) of subsection (h)(3)(C) with respect to any State for 2010 shall each be reduced by so much of such amount as is taken into account in determining the amount of the credit allowed with respect to such State under paragraph (1).

''(4) SPECIAL RULE FOR BASIS.—Basis of a qualified low-income building shall not be reduced by the amount of any payment made under this subsection.

''(5) PAYMENT OF CREDIT; USE TO FINANCE LOW-INCOME BUILDINGS.—The Secretary shall pay to the housing credit agency of each State an amount equal to the credit allowed under paragraph (1). Rules similar to the rules of subsections (c) and (d) of section 1602 of the American Recovery and Reinvestment Tax Act of 2009 shall apply with respect to any payment made under this paragraph, except that such subsection (d) shall be applied by substituting 'January 1, 2012' for 'January 1, 2011'.''.

SEC. 609. 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 in the State housing credit ceiling for 2009 attributable to any State housing credit ceiling returned in 2009 to the State by reason of section 1400N(c) of such Code (including as such section is applied by reason of sections 702(d)(2) and 704(b) of the Tax Extenders and Alternative Minimum Tax

Relief Act of 2008)'' after ''1986'' in subparagraph (A), and

(2) by inserting '', plus any increase in the State housing credit ceiling for 2009 attributable to any additional State housing credit ceiling made by reason of 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.

SEC. 610. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

SEC. 611. 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 Workers, State, and Business Relief 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 Workers, State, and Business Relief Act of 2010 and on or before the date which is 90 days after such date, such component meets the criteria described in subparagraph (A) or is equal to or below a U factor of 0.30 and SHGC of 0.30, and

''(C) in the case of any component which is a garage door, such component is equal to or below a U factor of 0.30 and SHGC of 0.30.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 612. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

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

SEC. 613. EXTENSION OF SPECIAL ALLOWANCE FOR CERTAIN PROPERTY.

(a) IN GENERAL.—Section 15345(d)(1)(D) of the Food Conservation and Energy Act of 2008 (Public Law 110–246) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) CONFORMING AMENDMENT.—Section 15345(d)(1)(F) of such Act is amended by striking ''January 1, 2008'' and inserting ''January 1, 2010''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 15345 of the Food Conservation and Energy Act of 2008.

SEC. 614. APPLICATION OF BAD CHECKS PENALTY TO ELECTRONIC PAYMENTS.

(a) IN GENERAL.—Section 6657 is amended—

(1) by striking ''If any check or money order in payment of any amount'' and inserting ''If any instrument in payment, by any commercially acceptable means, of any amount'', and

(2) by striking ''such check'' each place it appears and inserting ''such instrument''.

(b) EFFECTIVE DATES.—The amendments made by this section shall apply to instruments tendered after the date of the enactment of this Act.

SEC. 615. GRANTS FOR ENERGY EFFICIENT APPLIANCES IN LIEU OF 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.

SEC. 616. BUDGETARY EFFECTS OF LEGISLATION PASSED BY THE SENATE.

(a) ESTABLISHMENT OF WEB PAGE.—

(1) IN GENERAL.—Not later than 90 days after the enactment of this Act, the Secretary of the Senate shall establish on the official website of the United States Senate (www.senate.gov) a page entitled ''Information on the Budgetary Effects of Legislation Considered by the Senate'' which shall include—

(A) links to appropriate pages on the website of the Congressional Budget Office (www.cbo.gov) that contain cost estimates of legislation passed by the Senate; and

(B) as available, links to pages with any other information produced by the Congressional Budget Office that summarize or further explain the budgetary effects of legislation considered by the Senate.

(2) UPDATES.—The Secretary of the Senate shall update this page every 3 months.

(b) CBO REQUIREMENTS.—Nothing in this section shall be construed as imposing any new requirements on the Congressional Budget Office.

SEC. 617. SENATE SPENDING DISCLOSURE.

(a) IN GENERAL.—The Secretary of the Senate shall post prominently on the front page of the public website of the Senate (http://www.senate.gov/) the following information:

(1) The total amount of discretionary and direct spending passed by the Senate that has not been paid for, including emergency designated spending or spending otherwise exempted from PAYGO requirements.

(2) The total amount of net spending authorized in legislation passed by the Senate, as scored by CBO.

(3) The number of new government programs created in legislation passed by the Senate.

(4) The totals for paragraphs (1) through (3) as passed by both Houses of Congress and signed into law by the President.

(b) DISPLAY.—The information tallies required by subsection (a) shall be itemized by bill and date, updated weekly, and archived by calendar year.

(c) EFFECTIVE DATE.—The PAYGO tally required by subsection (a)(1) shall begin with the date of enactment of the Statutory Pay-As-You-Go Act of 2010 and the authorization tally required by subsection (a)(2) shall apply to all legislation passed beginning January 1, 2010.

SEC. 618. 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. 619. 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. 620. 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. 621. GAO STUDY.

Not later than 180 days after the date of enactment of this Act, the Comptroller General shall report to Congress detailing—

(1) the pattern of job loss in the New England 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. 622. EXTENSION AND MODIFICATION OF SECTION 45 CREDIT FOR REFINED COAL FROM STEEL INDUSTRY FUEL.

(a) CREDIT PERIOD.—

(1) IN GENERAL.—Subclause (II) of section 45(e)(8)(D)(ii) is amended to read as follows:

''(II) CREDIT PERIOD.—In lieu of the 10-year period referred to in clauses (i) and (ii)(II) of subparagraph (A), the credit period shall be the period beginning on the date that the facility first produces steel industry fuel that is sold to an unrelated person after September 30, 2008, and ending 2 years after such date.''.

(2) CONFORMING AMENDMENT.—Section 45(e)(8)(D) is amended by striking clause (iii) and by redesignating clause (iv) as clause (iii).

(b) EXTENSION OF PLACED-IN-SERVICE DATE.—Subparagraph (A) of section 45(d)(8) is amended—

(1) by striking ''(or any modification to a facility)'', and

(2) by striking ''2010'' and inserting ''2011''.

(c) CLARIFICATIONS.—

(1) STEEL INDUSTRY FUEL.—Subclause (I) of section 45(c)(7)(C)(i) is amended by inserting '', a blend of coal and petroleum coke, or other coke feedstock'' after ''on coal''.

(2) OWNERSHIP INTEREST.—Section 45(d)(8) is amended by adding at the end the following new flush sentence:

''With respect to a facility producing steel industry fuel, no person (including a ground lessor, customer, supplier, or technology licensor) shall be treated as having an ownership interest in the facility or as otherwise entitled to the credit allowable under subsection (a) with respect to such facility if such person's rent, license fee, or other entitlement to net payments from the owner of such facility is measured by a fixed dollar amount or a fixed amount per ton, or otherwise determined without regard to the profit or loss of such facility.''.

(3) PRODUCTION AND SALE.—Subparagraph (D) of section 45(e)(8), as amended by subsection (a)(2), is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) PRODUCTION AND SALE.—The owner of a facility producing steel industry fuel shall be treated as producing and selling steel industry fuel where that owner manufactures such steel industry fuel from coal, a blend of coal and petroleum coke, or other coke feedstock to which it has title. The sale of such steel industry fuel by the owner of the facility to a person who is not the owner of the facility shall not fail to qualify as a sale to an unrelated person solely because such purchaser may also be a ground lessor, supplier, or customer.''.

(d) SPECIFIED CREDIT FOR PURPOSES OF ALTERNATIVE MINIMUM TAX EXCLUSION.—Subclause (II) of section 38(c)(4)(B)(iii) is amended by inserting ''(in the case of a refined coal production facility producing steel industry fuel, during the credit period set forth in section 45(e)(8)(D)(ii)(II))'' after ''service''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall take effect on the date of the enactment of this Act.

(2) CLARIFICATIONS.—The amendments made by subsection (c) shall take effect as if included in the amendments made by the Energy Improvement and Extension Act of 2008.

SEC. 623. MODIFICATIONS TO MINE RESCUE TEAM TRAINING CREDIT AND ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

(a) MINE RESCUE TEAM TRAINING CREDIT ALLOWABLE AGAINST AMT.—Subparagraph (B) of section 38(c)(4) is amended—

(1) by redesignating clauses (vi), (vii), and (viii) as clauses (vii), (viii), and (ix), respectively, and

(2) by inserting after clause (v) the following new clause:

''(vi) the credit determined under section 45N,''.

(b) ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT ALLOWABLE AGAINST AMT.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) SPECIAL RULE FOR ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.—Clause (i) shall not apply to amounts deductible under section 179E.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 624. APPLICATION OF CONTINUOUS LEVY TO EMPLOYMENT TAX LIABILITY OF CERTAIN FEDERAL CONTRACTORS.

(a) IN GENERAL.—Section 6330(h) is amended by inserting ''or if the person subject to the levy (or any predecessor thereof) is a Federal contractor that was identified as owing such employment taxes through the Federal Payment Levy Program'' before the period at the end of the first sentence.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to levies issued after December 31, 2010.

TITLE VII—DETERMINATION OF BUDGETARY EFFECTS

SEC. 701. DETERMINATION OF BUDGETARY EFFECTS.

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

(b) EMERGENCY DESIGNATION.—Sections 201, 211, and 232 of this Act 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)) and section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010. In the House of Representatives, sections 201, 211, and 232 of this Act are designated as an emergency for purposes of pay-as-you-go principles.

ORDER FOR EXHIBITING ARTICLES OF IMPEACHMENT AGAINST G. THOMAS PORTEOUS, JR.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the Secretary inform the House of Representatives the Senate is ready to receive the managers appointed by the House of Representatives for the purpose of exhibiting articles of impeachment against G. Thomas Porteous, Jr., Judge of the U.S. District Court for the Eastern District of Louisiana, agreeable to the notice communicated to the Senate, and at the hour of 2 p.m., Wednesday, March 17, 2010, the Senate will receive the honorable managers on the part of the House of Representatives in order that they may present and exhibit the said articles of impeachment against the said G. Thomas Porteous, Jr., Judge of the U.S. District Court for the Eastern District of Louisiana.

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

HONORING HARRIET TUBMAN

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 455, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 455) honoring the life, heroism, and service of Harriet Tubman.

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

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

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

The resolution (S. Res. 455) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 455

Whereas Harriet Ross Tubman was born into slavery as Araminta Ross in Dorchester County, Maryland, in or around 1820;

Whereas in 1849, Ms. Tubman bravely escaped to freedom, traveling alone for approximately 90 miles to Pennsylvania;

Whereas, after escaping slavery, Ms. Tubman participated in the Underground Railroad, a network of routes, people, and houses that helped slaves escape to freedom;

Whereas Ms. Tubman became a ''conductor'' on the Underground Railroad, courageously leading approximately 19 expeditions to help more than 300 slaves to freedom;

Whereas Ms. Tubman served as a spy, nurse, scout, and cook during the Civil War;

Whereas during her service in the Civil War, Ms. Tubman became the first woman in the United States to plan and lead a military expedition, which resulted in successfully freeing more than 700 slaves;

Whereas after the Civil War, Ms. Tubman continued to fight for justice and equality, including equal rights for African-Americans and women;

Whereas Ms. Tubman died on March 10, 1913, in Auburn, New York; and

Whereas the heroic life of Ms. Tubman continues to serve as an inspiration to the people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the life and courageous heroism of Harriet Tubman;

(2) recognizes the great contributions made by Harriet Tubman throughout her lifelong service and commitment to liberty, justice, and equality for all; and

(3) encourages the people of the United States to remember the courageous life of Harriet Tubman, a true hero.

RECOGNIZING AND CONGRATULATING COLORADO SPRINGS, COLORADO

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Con. Res 53 and the Senate proceed to its immediate consideration.

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

The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res 53) recognizing and congratulating the City of Colorado Springs, Colorado, as the new official site of the National Emergency Medical Services Memorial Service and the National Emergency Medical Services Memorial.

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

Mr. BROWN of Ohio. I ask unanimous consent the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements be printed in the RECORD.

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

The concurrent resolution (S. Con. Res. 53) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 53

Whereas in 1928, Julian Stanley Wise founded the first volunteer rescue squad in the United States, the Roanoke Life Saving and First Aid Crew, and Virginia subsequently took the lead in honoring the thousands of people nationwide who give their time and energy to community rescue squads;

Whereas in 1993, to further recognize the selfless contributions of emergency medical service (referred to in this preamble as ''EMS'') personnel nationwide, the Virginia Association of Volunteer Rescue Squads, Inc., and the Julian Stanley Wise Foundation organized the first annual National Emergency Medical Services Memorial Service in Roanoke, Virginia, to honor EMS personnel from across the country who died in the line of duty;

Whereas the National Emergency Medical Services Memorial Service is the annual memorial service to honor all air and ground EMS providers, including first responders, search and rescue personnel, emergency medical technicians, paramedics, nurses, and pilots;

Whereas the annual National Emergency Medical Services Memorial Service captures national attention by annually honoring and remembering EMS personnel who have given their lives in the line of duty;

Whereas the annual National Emergency Medical Services Memorial Service is devoted to the families, colleagues, and loved ones of those EMS personnel;

Whereas the singular devotion of EMS personnel to the safety and welfare of their fellow citizens is worthy of the highest praise;

Whereas the annual National Emergency Medical Services Memorial Service is a fitting reminder of the bravery and sacrifice of EMS personnel nationwide;

Whereas EMS personnel stand ready 24 hours a day, every day, to assist and serve people in the United States with life-saving medical attention and compassionate care;

Whereas the National Emergency Medical Services Memorial Service Board sought and selected a new city to host the annual National Emergency Medical Services Memorial Service;

Whereas the city of Colorado Springs, Colorado, was chosen to host the National Emergency Medical Services Memorial, the annual National Emergency Medical Services Memorial Service, and the families of our fallen EMS personnel;

Whereas ''Flight for Life'' in Colorado was founded in 1972 as the first civilian-based helicopter medical evacuation system established in the United States;

Whereas ambulance systems in Colorado provide care and transport to approximately 375,000 residents and visitors each year;

Whereas approximately 60 percent of the licensed ambulance services in Colorado are staffed by volunteers that serve the vast rural and frontier communities of Colorado; and

Whereas the life of every person in the United States will be affected, directly or indirectly, by the uniquely skilled and dedicated efforts of EMS personnel who work bravely and tirelessly to preserve the greatest resource in the United States, the people: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes and congratulates the City of Colorado Springs, Colorado, as the new official site of the National Emergency Medical Services Memorial Service and the National Emergency Services Memorial.

MEASURE READ THE FIRST TIME—H.R. 2314

Mr. BROWN of Ohio. Mr. President, I understand that H.R. 2314 has been received from the House and is at the desk.

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

The assistant legislative read as follows:

A bill (H.R. 2314) to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

Mr. BROWN of Ohio. I would ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

APPOINTMENT

The PRESIDING OFFICER. The Chair, pursuant to Executive Order 12131, as amended and extended, reappoints and appoints the following Members to the President's Export Council:

Reappointment: the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. BROWN).

Appointment: the Senator from Oregon (Mr. WYDEN) vice the Senator from North Dakota (Mr. DORGAN).

ORDERS FOR TUESDAY, MARCH 16, 2010

Mr. BROWN of Ohio. I ask unanimous consent that when the Senate completes its business today, it adjourn until 10:15 a.m. on Tuesday, March 16; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business until 12:30 p.m. with Senators permitted to speak therein for up to 10 minutes each; further, that the time until 10:30 a.m. be equally divided and controlled between the two leaders or their designees, and the time from 10:30 a.m. to 12:30 p.m. be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; that following morning business, the Senate recess until 2:15 p.m. to allow for the weekly caucus meetings.

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

PROGRAM

Mr. BROWN of Ohio. Tonight we were able to reach an agreement to set the vote with respect to the HIRE Act for 9:30 a.m. Wednesday, March 17. Tomorrow we will resume consideration of the FAA reauthorization bill, and rollcall votes in relation to the FAA bill are possible Tuesday afternoon.

ADJOURNMENT UNTIL 10:15 A.M. TOMORROW

Mr. BROWN of Ohio. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8:05 p.m., adjourned until Tuesday, March 16, 2010, at 10:15 a.m.