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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, March 2, 2010, at 12.30 p.m.

Senate

MONDAY, MARCH 1, 2010

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.

O God, whose approval we seek above humanity's hollow applause, we pause today to experience the warmth of Your presence as You lift the light of Your countenance upon us.

Give to the Members of this body pure hearts and a passion to faithfully serve You and country. Across their toiling hours, keep their hearts fixed on You, the author and finisher of their faith. In a world of suspense, suspicion, and turmoil, breathe now in this quiet moment Your peace on every heart. Lord, prepare solutions for our Senators' complexities and resolve their conflicts in a way that will glorify You.

We pray in Your sacred 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 1, 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.

SCHEDULE

Mr. REID. Mr. President, following leader remarks, there will be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each. At 3 p.m., we will turn to consideration of H.R. 4213, the tax extenders legislation. Senator BAUCUS will be recognized to call up a substitute amendment. As previously announced, there will be no rollcall votes today. The first vote of the week will occur at 12:15 p.m. tomorrow. That vote will be on the motion to invoke cloture on the nomination of Barbara Keenan to be U.S. circuit judge for the Fourth Circuit.

MEASURES PLACED ON THE CALENDAR—H.R. 4626 AND H.R. 4691

Mr. REID. Mr. President, there are two bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 4626) to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

A bill (H.R. 4691) to provide a temporary extension of certain programs, and for other purposes.

Mr. REID. I object to any further proceedings with respect to these two bills.

The ACTING PRESIDENT pro tempore. Objection is heard.

The bills will be placed on the calendar.

COSTLY INACTION

Mr. REID. Mr. President, every night too many out-of-work Nevadans and Americans, people who want to work, who need to support their families but can't find a job, go to bed with at least the comfort of having unemployment insurance and health benefits. Last night, more than a million people throughout America who went to sleep relying on those benefits woke up without the confidence they will be there now. Early this morning, when they would rather be spending their mornings working, mothers and fathers in every State woke up to line up at the unemployment office in a long line. News reports today are that these lines

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

are very long today, all over the country, from Virginia to Nevada to Kentucky. They are long because these people are worried about how they are going to put food on the table and pay the bills. For far too many Americans, those benefits were set to expire last night. So six times last week, Democrats asked to extend their unemployment benefits for a short time while we work on a longer extension. Six times, Republicans said no. They didn't say no to us; that is, Members of the Senate, they said no to the families in their own States and all States who count on us to act when we need action, who count on us to respond in the event of an emergency. This is an emergency.

Republicans in the Senate are standing between these families and the help they need while these benefits expire. It might work because under the Senate rules they can do that, but it certainly doesn't work for working families whose need to buy groceries does not expire. The need to heat your homes, put gas in the car, make payments for furniture you buy, the car you bought, your house payment, the need to take medicine or support an aging parent or to take care of your kids, they don't expire.

Those opposed to helping our fellow citizens at their time of greatest need want to talk about process. My Republican colleagues came to the floor and talked about process. They had a right to do that. Under the rules, I guess that is true. But if you can't afford to feed your kids, process doesn't mean anything to you.

We often talk about the cost of inaction. It is the reason we insist on creating jobs and making health care more affordable and on strengthening national security. When we talk about the cost of inaction, it is more than just rhetoric; it comes with dire consequences. Americans who woke up this morning without the benefits they need now know that better than anyone else.

The Associated Press runs all over the country—a newswire. Among other things, this article says this morning:

> Two thousand federal transportation workers will be furloughed without pay [today].

The reason we are talking about 2,000, this doesn't count the thousands and thousands, up to 1 million people who are not going to have jobs as a result of not extending the highway bill. That is what we want to do—let these people work—because what has happened is that even the inspectors can't go out and do their jobs, so people are just walking away from these jobs. Secretary LaHood, the Secretary of Transportation—a Republican Congressman until he was appointed—said construction workers will be sent home from jobsites because Federal inspectors must be furloughed. They named a long list of construction sites that will be halted: George Washington Parkway in Virginia, the Humpback Bridge—I don't know where that is in Virginia—bridge construction in Coeur d'Alene, ID. All over the country, this is happening. The safety inspectors have no pay, so they have to leave. Nothing is happening. This is going to lead to untold numbers of people—I said up to 1 million people—who will not be able to work.

It is really wrong what has taken place here. It is not too late to right that wrong. I hope Republicans will reconsider, think about their constituents standing in the unemployment lines as we speak. I hope they reconsider.

UNANIMOUS-CONSENT REQUEST—H.R. 4691

Mr. REID. Based on that, I ask unanimous consent that the Senate proceed to H.R. 4691, which is a 30-day extension of provisions which expired yesterday—unemployment insurance; COBRA, which is the health insurance for people out of work; flood insurance; Satellite Home Viewer Act—1½ million people today are unable to watch TV who could last night at midnight—highway funding—I talked about that—SBA business loans; small business provisions of the American Recovery Act; the doctors fix, the SGR, and poverty guidelines, received from the House and at the desk; that the bill be read three times, passed, and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BUNNING. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. I thank the Chair.

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 now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Kentucky.

UNEMPLOYMENT BENEFITS

Mr. BUNNING. Mr. President, just a brief explanation of why we are where we are with this extension bill, a brief extension of 30 days.

There was an agreement between the majority leader of the Finance Committee and the minority leader on the Finance Committee, Senators BAUCUS and GRASSLEY, on a 3-month extension of these very same provisions. There were more provisions in the bill also. It cost a little more than the $10 billion that is asked for because it was a 3-month extension. Senator REID pulled that bill from the floor of the Senate. He did it. The leader of the Democrats pulled that bill from the floor.

I support extending unemployment benefits, COBRA benefits, flood insurance, the highway bill fix, the doc fix, small business loans, distant network television for satellite viewers. If we can't find $10 billion to pay for something we all support, we will never pay for anything in the Senate. I have offered several ways to do this, including trying to negotiate with the majority leader's staff. None have been successful.

We cannot keep adding to the debt. It is over $14 trillion and going up fast. If the budget before us passes, it will add another $1.5 trillion to the debt.

Recently, we passed pay-go. For those who don't know what pay-go is, it means you have to pay for everything you bring before the Senate. You can't charge it on the debt. You can't charge it. That is what pay-go says. Understanding that, I hope the American people understand my serious objection.

UNANIMOUS-CONSENT REQUEST—H.R. 4691

Mr. BUNNING. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4691; that the amendment at the desk, which offers a full offset, be agreed to; the bill, as amended, be read a third time and passed; and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. REID. Reserving the right to object, history is something I think you have to be involved in to understand what really transpired.

First of all, there was no bill on the floor for me to take off the floor. There was discussion between Democrats and Republicans. On the Thursday before we left for the last weeklong break we took, I was in the back hall with Senators GRASSLEY, BAUCUS, and MCCONNELL. Senator MCCONNELL, my friend, said they weren't ready to agree to anything yet.

Well, it is very clear if we are going to extend benefits for a lot of tax provisions that are very important to business, then we should at least consider extending benefits for people who are down and out in the same period of time.

So understand, the bill that came before the Senate included a jobs package that extends the highway benefits for 1 year, saving a million jobs, creating jobs by allowing small businesses—or any businesses—to hire somebody who has been out of work for 60 days. They do not have to pay their withholding tax and they get a $1,000 tax credit at the end of the year.

In addition to that, to help small businesses, we had a provision to allow small businesses to write off and not depreciate up to $250,000 of purchases in a year—very important to create and

stimulate business—and we also had in that bill a provision to stimulate the economy by extending the Build America Bonds that were so successful in our Recovery Act and those funds expired.

One can have all the excuses one wants. The fact is, my friends on the other side of the aisle are opposing extending unemployment benefits for people who are out of work.

I would also say this: Pay-go is very interesting. I am glad my friend brought that up. I am glad he brought up the big deficit because it is very big. But where was my friend from Kentucky when we had two wars that were unpaid for during the Bush administration, tax cuts that cost more than $1 trillion unpaid for? Where were my friend and the Republicans objecting to that?

Pay-go is important, and we passed pay-go here—we, the Democrats, passed it. My friend did not vote for it. It passed because Democrats voted for it. Not a single Republican voted for it. We had these in effect during the Clinton years, and it worked. We paid down the debt in the last Clinton years.

We also understand how important the debt of this country is. It started to build up so strong during the 8 years of the Bush administration. We brought to this floor—no one worked harder than the Acting President pro tempore to come up with something to address the debt with the chairman of our Budget Committee and others.

We wanted a debt commission, and we brought to this floor a debt commission, a good one. It was based upon what we did with military base closings. We tried for decades to close bases that were unnecessary in the country anymore, after World War II was over, the Korean war was over, Vietnam. We did not need all those bases. But because of what happens when trying to close a base because of local politics, we could not do it. So we passed a bill that said we are going to have a base closing commission. They will come back with recommendations, and the House and the Senate have a choice: either vote no or yes on their recommendations. And they voted yes, both the House and the Senate, and we closed numerous bases all over the country.

The debt commission we established was based upon that—the same thing—and we voted, we Democrats voted. It would have passed. Why did it not pass? Because seven Republicans who cosponsored the legislation voted against it.

So we do not need lectures here on debt. What we need is to recognize there are poor people all over America who are desperate today, and people who are working, making good money on these road projects all over America today who are being told to go home because we do not have inspectors to take care of their work.

Therefore, Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Mr. President, unless my friend has more to say, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Thank you. Mr. President, will the Acting President pro tempore please let me know when I have consumed 12 of the 15 minutes.

The ACTING PRESIDENT pro tempore. Yes.

Mr. ALEXANDER. Thank you very much, Mr. President.

HEALTH CARE

Mr. ALEXANDER. Mr. President, it was my privilege last Thursday, along with some other Members of the Senate, to attend a health care summit at the invitation of President Obama. It went on a long time. We learned one thing we already knew, that our President is smart and knows a lot about health care. So he stayed the whole time.

But it gave those of us on the Republican side a chance we do not have the opportunity to have as often, which is, to be on center stage and let the American people know, A, who we are, and, B, what our ideas are. So it was a terrific way for us to show, for example, that our goal is to reduce health care costs, that we wish to move step by step toward that goal.

We identified a number of areas, such as being able to buy health insurance across State lines, allowing small business health plans to pool together, reducing junk lawsuits—all of which will tend to bring down the cost of premiums, which is what most Americans want.

During the discussion, early on, actually, the President and I had a little disagreement about whether his plan, which is based upon the Senate bill, which passed on Christmas Eve, would raise premiums. What I had said in my opening remarks on behalf of Republicans was that millions of Americans, under the Democratic plan, would pay higher insurance premiums in the individual market because of government mandates and taxes. The President says that is wrong. I cited a Congressional Budget Office report to show I was right. And rather than dispute the President of the United States in public—I thought I had enough time to make my case—I said I would send him a letter, which I did that same day. So I ask unanimous consent, Mr. President, to have printed in the RECORD the letter I gave to President Obama on Thursday.

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

U.S. SENATE,
Washington, DC, February 25, 2010.

Hon. BARACK OBAMA,
President, The White House, Pennsylvania Avenue, Washington, DC.

DEAR MR. PRESIDENT: During today's discussion on health care, you and I disagreed about whether the health care bill that passed the Senate on a party-line vote on December 24 would cause health insurance premiums to rise even faster than if Congress did not act. I believe premiums will rise because of independent analysis of the bill:

On November 30, the non-partisan Congressional Budget Office (CBO) wrote in a letter to Senator Bayh that ''CBO and JCT estimate that the average premium per person covered (including dependents) for new nongroup policies would be about 10 percent to 13 percent higher in 2016 than the average premium for nongroup coverage in that same year under current law.''

When you asserted that CBO says premiums will decline by 14 to 20 percent under the Senate bill, you are leaving out an important part of CBO's calculations. These reductions are overwhelmed by a 27 to 30 percent increase in premiums due to the mandated coverage requirements in the legislation. CBO added those figures together to arrive at a net increase of 10 to 13 percent—as shown in their chart in that same letter.

In that same letter, CBO wrote, ''The legislation would impose several new fees on firms in the health sector. New fees would be imposed on providers of health insurance and on manufacturers and importers of medical devices. Both of those fees would be largely passed through to consumers in the form of higher premiums for private coverage.''

On December 10, the chief actuary for the Centers for Medicare and Medicaid Services—who works for your administration—concurred with the CBO. In his analysis, the actuary said, ''We anticipate such fees would generally be passed through to health consumers in the form of higher drug and device prices and higher insurance premiums.'' He also said, ''The additional demand for health services could be difficult to meet initially with existing health provider resources and could lead to price increases, cost-shifting, and/or changes in providers' willingness to treat patients with low-reimbursement health coverage.''

For these reasons, the Senate-passed bill will, indeed, cause Americans' insurance premiums to rise, which is the opposite of the goal I believe we should pursue.

Sincerely,

LAMAR ALEXANDER.

Mr. ALEXANDER. But today what I wish to do in the next few minutes is explain why I believe I am correct, that under the President's health insurance plan, which is based upon the Senate plan, for millions of Americans in the individual market, premiums would go up because of one-size-fits-all government mandates, because of taxes that are passed on to consumers; but for other reasons as well—by shifting costs.

When you dump 15 million people or 18 million people into a program called Medicaid, what happens is, we do not pay the doctors and the hospitals well enough to take care of those folks. So

those providers shift the costs to people who are paying with private insurance, and premiums go up.

Costs for young people in the individual market will go up under this plan because if you put in a rule that says my insurance at my age cannot go up more than a certain amount compared with my son's insurance, then his insurance goes up, and because a scheme like the Democratic plan depends upon requiring everybody to buy insurance. There is a weak provision for that, and I suspect many young people will rather pay the $750 fine rather than buy a $2,500 insurance policy, which they think they cannot afford.

The President made the point in his usual very persuasive way that, wait a minute, actually you would be getting better insurance. But that is comparing apples and oranges. As George Will said on ABC's ''This Week'' yesterday—he asked this question: If the government required you to buy a better, more expensive car, even if it was better than the car you have, it would still be more expensive, would it not?

That is the case with the President's health care plan. In fact, premiums will go up for millions of Americans in the individual market, up more than they otherwise would over the next several years—and we all know how rapidly they are rising—and the whole exercise we have been going through over the last year is to bring premiums down, not help drive premiums up.

What I said to the President, with respect, was that the Congressional Budget Office, on November 30, said this about the Senate bill:

The Congressional Budget Office and the Joint Committee on Taxation estimate that the average premium per person covered for new nongroup—

That means individual policies—

would be about 10 to 13 percent higher in 2016 than the average premium for nongroup—

That is individual coverage—

in the same year under current law.

In other words, if you buy an individual policy—that means not a policy with your employer—by 2016 it will be at an average of 10 to 13 percent higher than it otherwise would.

I ask unanimous consent to have printed in the RECORD the relevant parts of the Congressional Budget Office letter of November 30 to Senator EVAN BAYH on this point.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 30, 2009.

Hon. EVAN BAYH,
U.S. Senate, Washington, DC.

DEAR SENATOR: The attachment to this letter responds to your request—and the interest expressed by many other Members—for an analysis of how proposals being considered by the Congress to change the health care and health insurance systems would affect premiums paid for health insurance in various markets. Specifically, the Congressional Budget Office (CBO) and the staff of the Joint Committee on Taxation have analyzed how health insurance premiums might be affected by enactment of the Patient Protection and Affordable Care Act, as proposed by Senator Reid on November 18, 2009.

I hope this information is helpful to you. If you have any further questions, please contact me or the CBO staff. The primary staff contact for this analysis is Philip Ellis.

Sincerely,

DOUGLAS W. ELMENDORF,
Director.

Attachment.

SUMMARY OF FINDINGS

The effects of the proposal on premiums would differ across insurance markets (see Table 1). The largest effects would be seen in the nongroup market, which would grow in size under the proposal but would still account for only 17 percent of the overall insurance market in 2016. The effects on premiums would be much smaller in the small group and large group markets, which would make up 13 percent and 70 percent of the total insurance market, respectively.

NONGROUP POLICIES

CBO and JCT estimate that the average premium per person covered (including dependents) for new nongroup policies would be about 10 percent to 13 percent higher in 2016 than the average premium for nongroup coverage in that same year under current law. About half of those enrollees would receive government subsidies that would reduce their costs well below the premiums that would be charged for such policies under current law.

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. ALEXANDER. Now, the President said: Wait a minute. The premiums in the individual market will go down 14 to 20 percent. That is also in the same letter. Of course, he is right about that. They go down because of administrative efficiencies and new enrollment, but he left out that there are other factors involved so that the government mandates will drive them up 27 to 30 percent or, in the end, the average, as the CBO said, premium per person covered in an individual policy would be up 10 to 13 percent.

The bill has subsidies in it for some Americans. The same letter says about half of Americans who buy in the individual market will get a subsidy. Well, we are paying for that subsidy, but let's concede that point. Still, that leaves half of the people in the individual market for whom premiums will go up on an average of 10 to 13 percent.

Why is that? One reason is because the Senate bill says people will have to buy a richer policy than they have today. That means it has a higher actuarial value. They call it in the bill ''minimum creditable coverage.'' It means this is the amount of insurance I think you should have before you buy a policy. That might be a good decision. It undoubtedly would be good to have the insurance. It just costs 27 to 30 percent more than today's average.

The National Federation of Independent Businesses wrote a December 12 letter in opposition to the Senate bill saying the benefit mandates will put small business owners ''at risk of having to drop coverage due to cost increases that outpace their health budgets.''

I ask unanimous consent to have printed in the RECORD the letter from NFIB to Senator MCCONNELL and Senator REID, dated December 8.

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

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
December 8, 2009.

Sen. HARRY REID,
Majority Leader, Hart Senate Office Building, Washington, DC.
Sen. MITCH MCCONNELL,
Minority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATORS REID AND MCCONNELL: As the Senate continues to debate the future of comprehensive healthcare reform, the National Federation of Independent Business, the nation's leading small business association, is writing in opposition to the Patient Protection and Affordable Care Act (H.R. 3590).

When evaluating healthcare reform options, small business owners ask themselves two specific questions. First, will the bill lower insurance costs? Second, will the bill increase the overall cost of doing business? If a bill increases the cost of doing business or fails to reduce insurance costs, then the bill fails to achieve their No. 1 goal—lower costs.

In both cases, the Patient Protection and Affordable Care Act (H.R. 3590) fails the small business test and, therefore, fails small business. The most recent CBO study detailing the effect that H.R. 3590 will have on insurance premiums reinforces that, despite claims by its supporters, the bill will not deliver the widely-promised help to the small business community. Instead, CBO findings report that the bill will increase non-group premiums by 10 to 13 percent and result in, at best, a 2 percent decrease for small group coverage by 2016. These findings tell small business all it needs to know—that the current bill does not do enough to reduce costs for small business owners and their employees.

Despite the inclusion of insurance market reforms in the small-group and individual marketplaces, the savings that may materialize are too small for too few and the increase in premium costs are too great for too many. Those costs, along with greater government involvement, higher taxes and new mandates that are disproportionately targeted at small business and are being used to finance H.R. 3590, create a reality that is worse than the status quo for small business. The shortcomings of the Patient Protection and Affordable Care Act include:

A NEW SMALL BUSINESS HEALTH INSURANCE TAX

Unlike large businesses, which self-insure and find security under the blanket of ERISA, most small businesses are only able to find and purchase insurance in the fully-insured marketplace. The Senate bill includes a new $6.7 billion annual tax ($60.7 billion over 10 years) that falls almost exclusively on small business because the fee is assessed on the insurance companies. CBO's most recent study reinforces those costs will ultimately be passed on to their consumers, leaving the cost to be disproportionately borne by small business consumers in the individual and small-group marketplace whose only choice is to purchase those products or forgo insurance altogether.

A NEW MANDATE THAT PUNISHES EMPLOYERS, EMPLOYEES AND HINDERS JOB CREATION

Employer mandates fail employers and employees in two ways. First, mandates do nothing to address the core issue facing small business—high healthcare costs. Second, mandates destroy job creation opportunities for employees. The job loss, whether through lost hiring or greater reliance on part-time employees, harms low-wage or entry-level workers the most. The employer mandate in H.R. 3590 sets up potentially troubling outcomes for this sector of the workforce. The multiple penalties assessed on full-time workers will most certainly result in a reduction of full-time workers to part-time workers and discourage the hiring of those entrants into the workforce who might qualify for a government subsidy, hardly an outcome that contributes to a greater insured population.

A POORLY-STRUCTURED SMALL BUSINESS TAX CREDIT

As structured, the small business tax credit will do little, if nothing, to propel either more firms to take up coverage or produce greater overall affordability. Due to its short-term temporary nature and the limitations based on the business' average wage, its benefit is, at best, a temporary solution to the long-term cost and affordability problem. A tax credit that is poorly structured is not going to provide sustainable and long-term relief from high healthcare costs, and the recent CBO finding that the tax credit would benefit only 12 percent of the small business population illustrates its lack of effectiveness.

A BENEFIT PACKAGE THAT IS TOO HIGH A HURDLE FOR SMALL BUSINESS

NFIB has voiced concern over establishing a benefit threshold that is too high a price tag for small businesses to meet. Small businesses are especially price sensitive. They need purchasing choices that provide the flexibility in coverage options that reflect their marketplace and business needs. If Congress doesn't adjust the actuarial value standards in the legislation, what may be affordable this year may be unaffordable next year. As a result, small business owners will be at risk of having to drop coverage due to cost increases that outpace their healthcare budgets.

DESTRUCTIVE RATING REFORMS AND PHASE-IN TIMELINES THAT THREATEN AFFORDABILITY FOR ALL

NFIB supports balanced federal rating reforms that protect access and affordability, regardless of an individual or group's health status. However, the excessively tight age rating (3:1) in H.R. 3590 will increase more costs than it will decrease, and make coverage unaffordable for the very populations that are most beneficial to the insurance pool—the young and the healthy. Independent actuaries have analyzed the negative impact of such tight bands and have indicated that there will be devastating effects to the long-term viability of a pool without action to correct this rating imbalance.

Additionally, to prevent volatile spikes in insurance premiums, also known as ''rate shock,'' federal rating reforms must be appropriately applied to all marketplaces and phased in over a responsible period of time. If this is not done, then certain plans, including ''grandfathered plans,'' will utilize different rating practices when underwriting risk, which can create adverse selection issues. Those selection problems will have a striking negative impact on the new exchanges—exchanges that are meant to improve, rather than decrease, affordability for small business and individuals.

NATIONAL PLANS THAT PROVIDE LIMITED PROMISE FOR SUCCESS

Leveling the playing field for small business starts with allowing uniform benefit packages to be purchased across state lines. If done right, this can provide a greater security that, as people change jobs and move from state to state, they can keep the benefit plan that meets their healthcare needs. National plans would be particularly helpful for states with smaller populations and where consumers lack a robust marketplace with choice and competition for private plans. Specifically, the state ''opt-out'' language in the Patient Protection and Affordable Care Act would create more disincentives than incentives for carriers to embark on these new opportunities. If the national plan section is not significantly restructured to make national plans a viable option, then these new opportunities will never materialize for small business.

THREATENS FLEXIBILITY AND CHOICE FOR EMPLOYERS AND EMPLOYEES

Small employers need more affordable health insurance options and new alternatives for employers to voluntarily contribute to individually-owned plans. Provisions also need to be structured to insure that options are widely available to both employers and employees. The simple cafeteria plan language in H.R. 3590 excludes the owners of many ''pass-through'' business entities from participating in these arrangements. If owners are unable to participate in the plan, they will be less likely to provide insurance to their workforce. Finally, small business needs the freedom and flexibility to preserve options that are already proven to work. Prohibiting the use of HSA, FSA and HRA funds to purchase over-the-counter medications, along with the $2,500 limit on FSA contributions, diminishes that flexibility and threatens to further limit the options employers have to provide meaningful healthcare to their employees.

NEW PAPERWORK COSTS ON SMALL BUSINESSES

The cost associated with tax paperwork is the most expensive paperwork burden that the federal government imposes on small business owners. The Senate bill dramatically increases that cost with a new reporting requirement that is levied on business transactions of more than $600 annually, leaving small business buried in paperwork and increasing their paperwork compliance expenses.

AN UNPRECEDENTED NEW PAYROLL TAX ON SMALL EMPLOYERS

Since its creation the payroll taxes that fund the Medicare programs have not been wage-based and are dedicated specifically to funding Medicare. The Senate bill changes the nature of the tax and creates a precedent to use payroll taxes to pay for non-Medicare programs.

THE ABSENCE OF REAL MEDICAL LIABILITY REFORM

NFIB strongly supports medical liability reform as a means to both inject more fairness into the medical malpractice legal system, and to reduce unnecessary litigation and legal costs. Taking serious steps to adopt meaningful medical liability reform is a significant step toward restoring common sense to our medical liability litigation system. It also is especially critical to improving access to healthcare for those living in rural areas, where it is becoming increasingly difficult for those in need to locate specialists such as OB/GYNs and surgeons.

THE CREATION OF A NEW GOVERNMENT-RUN HEALTHCARE PROGRAM

A government-run plan will drive the private healthcare marketplace out of business. Private insurers will be unable to compete in a climate where the rules and practices are tilted in favor of a massive government-run plan. This means millions could lose their current coverage. This will decrease choice and increase costs. On both accounts, the government-run plan will leave small business with a single option the government-run plan, which is the exact opposite outcome small businesses want from healthcare reform.

There is near universal agreement that, if done right, small business has much to gain from healthcare reform. But if it is done wrong, then small business will have the most to lose. The Patient Protection and Affordable Care Act, which is short on savings and long on costs, is the wrong reform, at the wrong time and will increase healthcare costs and the cost of doing business. NFIB remains committed to healthcare reform, and urges the Senate to develop common sense solutions to lower healthcare costs while ensuring that policies empower small business with the ability to make the investments necessary to move our economy forward.

Sincerely,

SUSAN ECKERLY,
Senior Vice President,
Public Policy.

Mr. ALEXANDER. The one-size-fits-all provision in the Democratic bill says all individual and small group policies must have an actuarial value of 60 percent.

Senator SUSAN COLLINS of Maine, who was the insurance commissioner of Maine, made a speech on the Senate floor on December 18, and pointed out that 87 percent of the individual policies that are purchased in Maine today would cost more under the Reid bill.

I commend to my colleagues the Senator's testimony of December 18, 2010.

Senator COLLINS used the example that the most popular individual market policy sold in Maine costs a 40-year-old about $185 a month. Under the Senate bill that 40-year-old would have to pay at least $420 a month, more than twice as much for the policy that meets the new minimum standard, or face a $750 penalty. It is true Maine citizens, as is true for all Americans—about half of them—would receive subsidies to help them buy that policy, but the average premium for the other half of the 87 percent is going to go up under the Democratic bill.

We believe Americans ought to have more choices than that. That is a fundamental difference of opinion. Should Washington decide you need to buy a richer policy, or should you decide that for yourself based upon the other needs of your family?

The Congressional Budget Office does state, as I have mentioned, that there are a number of enrollees—about half—who would have the subsidies, and that is in the letter I have already introduced into the RECORD. But someone is paying for those subsidies: the taxpayers are paying for them, which brings up the second reason I said on Thursday that premiums for millions of Americans in the individual market will go up.

The commonsense idea is that if you tax an insurance company or a medical device company or a manufacturer of drugs, they will pass the taxes on to whom? To us, who are buying insurance policies or medical devices or drugs. So we end up paying. In fact, one part of the President's proposal deliberately does that. It is a 40-percent excise tax on insurance companies for what we call Cadillac plans, the high-cost private insurance plans.

A letter from the Joint Committee on Taxation, dated February 24, says the 40-percent excise tax will raise $32.7 billion, all of which will be passed along to consumers in the form of higher insurance premiums. That may be a good thing. In fact, I think it is because it helps to discourage the purchase of more expensive policies. But it does raise premiums in the individual market.

The Joint Committee on Taxation Memorandum on High Cost Plans, dated September 29, says:

> The excise tax would be mainly passed along through increases in premiums.

Because the new tax is indexed to regular inflation plus 1 percent instead of medical inflation, which goes up very much higher and quicker, the new tax, like the alternative minimum tax, will pretty soon start to hit Chevy and Buick insurance policies and not just Cadillac policies.

But there are other taxes in the President's proposal. There are up to $½ trillion in new taxes, which will be passed on to consumers: $20 billion in excise taxes on lifesaving medical devices, $33 billion on drugs, and $60 billion on health insurance companies. In the previously mentioned CBO letter and a JCT letter to Senator GRASSLEY in October of last year, both said these taxes will be passed on to patients, increasing health insurance premiums.

The Chief Actuary of the Center for Medicare and Medicaid Services, who is a part of the Obama administration said:

> We anticipate such fees would be generally passed through to health consumers in the form of higher drug and device prices and higher insurance premiums.

That was on December 10 of last year, about the Senate bill.

The Lewin Group, on October 30, said:

> Employer spending would increase steadily under the [Democratic] act, reflecting the cost of paying the various excise taxes under the act. Total employer health spending would increase by 2.1 percent by 2019.

I ask unanimous consent to have printed in the RECORD the executive summary of the Lewin Group letter.

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

EXECUTIVE SUMMARY

In this study we estimate the impact of The America's Healthy Future Act as adopted by the Senate Finance Committee. The Act would require most Americans to have health insurance. To assure access to affordable coverage, the Bill expands the Medicaid program to 133 percent of the Federal Poverty Level (FPL) for all adults. It also provides a new premium tax credit for people living between 133 percent and 400 percent of the FPL (e.g., $88,000 for a family of four).

In addition, the Act establishes an ''exchange'' that presents consumers with a selection of health coverage alternatives that is available to individuals and firms with fewer than 100 workers. States would have the option to extend eligibility to larger employers beginning in 2017. Only people participating in the exchange who do not have access to employer coverage would be eligible for the premium tax credit. The Act also reforms insurance markets by assuring guaranteed issue of coverage and prohibiting plans from varying premiums with health status.

Employers with more than 50 workers are required to pay a penalty for each uninsured worker receiving a premium tax credit through the exchange. The Act also provides an employer health insurance tax credit for up to two years for firms with fewer than 25 workers with an average employee earnings of less than $40,000. Workers offered coverage by an employer are not eligible for premium subsidies offered in the exchange unless the cost of employer coverage exceeds 10 percent of income.

The Act is funded with reductions in spending under Medicare and Medicaid, a new excise tax on high cost health plans (premiums over $8,000 for individuals and $21,000 for families). It also includes a second excise tax on insurance, new excise taxes on branded prescription drugs and device manufacturers, and other changes in revenues.

In this study we provide estimates of the program's impact on coverage and spending for the federal government, state and local governments, private employers and consumers. To demonstrate the long-term impact of the Act, we provide estimates for a 20-year period from 2010 through 2029.

Mr. ALEXANDER. The National Federation of Independent Business letter says the same. There are other reasons the premiums will go up.

Mr. President, seeing no one else here, I wonder if I might ask unanimous consent for 5 additional minutes.

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

Mr. ALEXANDER. I thank the President.

Here is a third reason, in addition to government mandates and taxes, that will cause premiums to rise. We call it cost-shift. Premiums will increase because the bill dumps 15 million to 18 million more Americans into the government program called Medicaid. This is the analysis of the Chief Actuary on January 8, 2010.

I ask unanimous consent that the relevant portions be printed in the RECORD.

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

DEPARTMENT OF HEALTH & HUMAN SERVICES, CENTERS FOR MEDICARE & MEDICAID SERVICES,

Baltimore, MD.

Date: January 8, 2010

From: Richard S. Foster, Chief Actuary

Subject: Estimated Financial Effects of the ''Patient Protection and Affordable Care Act,'' as Passed by the Senate on December 24, 2009.

The Office of the Actuary has prepared this memorandum in our longstanding capacity as an independent technical advisor to both the Administration and the Congress. The costs, savings, and coverage impacts shown herein represent our best estimates for the Patient Protection and Affordable Care Act. We offer this analysis in the hope that it will be of interest and value to policy makers as they develop and debate national health care reforms. The statements, estimates, and other information provided in this memorandum are those of the Office of the Actuary and do not represent an official position of the Department of Health & Human Services or the Administration.

This memorandum summarizes the Office of the Actuary's estimates of the financial and coverage effects through fiscal year 2019 of selected provisions of the ''Patient Protection and Affordable Care Act'' (PPACA) as passed by the Senate on December 24, 2009 (H.R. 3590, as amended). Included are the estimated net Federal expenditures in support of expanded health insurance coverage, the associated numbers of people by insured status, the changes in Medicare and Medicaid expenditures and revenues, and the overall impact on total national health expenditures. Except where noted, we have not estimated the impact of the various tax and fee proposals or the impact on income and payroll taxes due to economic effects of the legislation. Similarly, the impact on Federal administrative expenses is excluded. A summary of the data, assumptions, and methodology underlying our estimates of national health reform proposals is available in the appendix to our October 21 memorandum on H.R. 3200.

SUMMARY

The table shown on page 2 presents financial impacts of the selected PPACA provisions on the Federal Budget in fiscal years 2010–2019. We have grouped the provisions of the bill into six major categories:

(i) Coverage proposals, which include the mandated coverage for health insurance, the expansion of Medicaid eligibility to those with incomes at or under 133 percent of the Federal poverty level (FPL), and the additional funding for the Children's Health Insurance Program (CHIP);

(ii) Medicare provisions;

(iii) Medicaid and CHIP provisions other than the coverage expansion and CHIP funding;

(iv) Proposals aimed in part at changing the trend in health spending growth;

(v) The Community Living Assistance Services and Supports (CLASS) proposal; and

(vi) Immediate health insurance reforms.

The estimated costs and savings shown in the table are based on the effective dates specified in the bill as passed. Additionally, we assume that employers and individuals would take roughly 3 to 5 years to fully adapt to the insurance coverage provisions and that the enrollment of additional individuals under the Medicaid coverage expansion would be completed by the third year of implementation. Because of these transition effects and the fact that most of the coverage provisions would be in effect for only 6 of the 10 years of the budget period, the cost estimates shown in this memorandum do not represent a full 10-year cost for the proposed legislation.

ESTIMATED FEDERAL COSTS (+) OR SAVINGS (-) UNDER SELECTED PROVISIONS OF THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AS PASSED BY THE SENATE

[In billions]

Provisions	Fiscal year—										Total, 2010–19
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	
Total*	$11.6	$0.1	−$14.8	−$32.8	$14.7	$63.0	$71.4	$60.9	$55.8	$49.7	$279.5
Coverage†	4.7	6.6	1.7	.....	86.5	128.0	150.1	156.4	167.9	180.7	882.5
Medicare	2.2	−3.6	−12.1	−23.4	−62.6	−55.1	−70.2	−87.6	−104.6	−123.7	−540.7
Medicaid/CHIP	−0.4	−0.1	0.2	−3.8	−3.1	−3.8	−3.9	−4.1	−4.0	−3.9	−27.1
Cost trend‡	.....	.....	.....	.....	−0.0	−0.1	−0.2	−0.4	−0.6	−0.9	−2.3
CLASS program	.....	−2.8	−4.5	−5.6	−5.9	−6.0	−4.3	−3.4	−2.8	−2.4	−37.8
Immediate reforms	5.0	.....	.....	.....	.....	.....	.....	.....	.....	.....	5.0

* Excludes Title IX revenue provisions except for section 9015, certain provisions with limited impacts, and Federal administrative costs.

† Includes expansion of Medicaid eligibility and additional funding for CHIP.

‡ Includes estimated non-Medicare Federal savings from provisions for comparative effectiveness research, prevention and wellness, fraud and abuse, and administrative simplification. Excludes impacts of other provisions that would affect cost growth rates, such as the productivity adjustments to Medicare payment rates, which are reflected in the Medicare line.

As indicated in the table above, the provisions in support of expanding health insurance coverage (including the Medicaid eligibility changes and additional CHIP funding) are estimated to cost $882 billion through fiscal year 2019. The net savings from the Medicare, Medicaid, growth-trend, and CLASS proposals are estimated to total about $603 billion, leaving a net cost for this period of $279 billion before consideration of additional Federal administrative expenses and the increase in Federal revenues that would result from the excise tax on high-cost employer-sponsored health insurance coverage and other revenue provisions. (The additional Hospital Insurance payroll tax income under section 9015 of the PPACA is included in the estimated Medicare savings shown here.) The Congressional Budget Office and Joint Committee on Taxation have estimated that the total net amount of Medicare savings and additional tax and other revenues would somewhat more than offset the cost of the national coverage provisions, resulting in an overall reduction in the Federal deficit through 2019.

The chart shown below summarizes the estimated impacts of the PPACA on insurance coverage. The mandated coverage provisions, which include new responsibilities for both individuals and employers, and the creation of the Health Benefit Exchanges (hereafter referred to as the ''Exchanges''), would lead to shifts across coverage types and a substantial overall reduction in the number of uninsured, as many of these individuals become covered through their employers, Medicaid, or the Exchanges.

By calendar year 2019, the mandates, coupled with the Medicaid expansion, would reduce the number of uninsured from 57 million, as projected under current law, to an estimated 23 million under the PPACA. The additional 34 million people who would become insured by 2019 reflect the net effect of several shifts. First, an estimated 18 million would gain primary Medicaid coverage as a result of the expansion of eligibility to all legal resident adults under 133 percent of the FPL (In addition, roughly 2 million people with employer-sponsored health insurance would enroll in Medicaid for supplemental coverage.) Another 21 million persons (most of whom are currently uninsured) would receive individual insurance coverage through the newly created Exchanges, with the majority of these qualifying for Federal premium and cost-sharing subsidies. Finally, we estimate that the number of individuals with employer-sponsored health insurance would decrease overall by about 4 million, reflecting both gains and losses in such coverage under the PPACA.

As described in more detail in a later section of this memorandum, we estimate that overall national health expenditures under this bill would increase by an estimated total of $222 billion (0.6 percent) during calendar years 2010–2019, principally reflecting the net impact of (i) greater utilization of health care services by individuals becoming newly covered (or having more complete coverage), (ii) lower prices paid to health providers for the subset of those individuals who become covered by Medicaid, and (iii) lower payments and payment updates for Medicare services, together with net Medicaid savings from provisions other than the coverage expansion. Although several provisions would help to reduce health care cost growth, their impact would be more than offset through 2019 by the higher health expenditures resulting from the coverage expansions.

The actual future impacts of the PPACA on health expenditures, insured status, individual decisions, and employer behavior are very uncertain. The legislation would result in numerous changes in the way that health care insurance is provided and paid for in the U.S., and the scope and magnitude of these changes are such that few precedents exist for use in estimation. Consequently, the estimates presented here are subject to a substantially greater degree of uncertainty than

is usually the case with more routine health care proposals.

The balance of this memorandum discusses these financial and coverage estimates—and their limitations—in greater detail.

Mr. ALEXANDER. The point is, Medicaid only pays doctors and hospitals about 60 percent of the cost of serving the 60 million patients who are now there. The Democratic bill would add 15 million to 18 million more patients. So what do the doctors and hospitals do? They see these patients, but then they shift the costs to the patients they see who have private insurance.

The President himself said that adds about $1,000 to every policy today, this cost-shifting. I have included that comment from the Chief Actuary.

The PriceWaterhouseCoopers report on the Senate Finance Committee bill in October of 2009 indicated that the net effect of the bills before Congress will make the Medicare and Medicaid cost-shift even more severe, raising the cost of private insurance premiums for large employers by $255 a year between 2015 and 2019.

I ask unanimous consent to have printed in the RECORD the relevant portions of the PriceWaterhouseCoopers report.

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

POTENTIAL IMPACT OF HEALTH REFORM ON THE COST OF PRIVATE HEALTH INSURANCE COVERAGE

ISSUE C—INCREASED COST SHIFTING

Today, certain costs (e.g., hospital expenses) are shifted to the private sector (employers and consumers) as some participants in the system pay less than their share of the cost of their care. Public programs such as Medicare and Medicaid reimburse less than the cost of care for hospitals' services. In addition, the uninsured or underinsured may not be able to cover the full cost of care, and this cost is then also transferred to the private market.

The initial hope of health reform was that by improving coverage of the currently uninsured, a significant percentage of uncompensated care would be eliminated. This is still anticipated to happen. However, the cost shift ''gains'' from decreasing the numbers of uninsured now appear to be more than offset by the losses from proposed cutbacks in Medicare and Medicaid spending allocated to the hospital sector.

It should also be noted that the impact of covering the uninsured may be different in communities constrained by limited hospital capacity. In those communities, covering the uninsured could actually increase cost-shifting if the newly insured increase demand for healthcare services and the overall mix of hospital patients migrates towards lower paying government programs.

The net impact is likely to result in an increase in cost shifting which translates into a 0.8 percent average annual increase in the private sector spending between 2010 and 2019, or $145 on average per year for family coverage in a large group plan (and $55 for single coverage). We note that this cost burden ramps up over the projection period, with an average annual increase in health costs of 1.2 percent over the second five-year period. We assume that this increased cost to the private sector will ultimately impact the cost of coverage for individuals and businesses in both the insured and self-insured market. As a result, premium costs for large group plans will be $37 higher each year between 2010 and 2014 for family coverage ($14 for single coverage), and $255 higher each year between 2015 and 2019 ($96 for single coverage).

Mr. ALEXANDER. Younger Americans in the individual market will pay higher premiums under the Democratic plan because, as I mentioned earlier, it will mandate for individual coverage that I can't pay more than three times as much as my son can pay for an insurance premium. That might help keep my premiums down, but it is going to send his up pretty far because 42 States, including Tennessee, allow more variance of that. So young people across America, who include about 30 percent of the uninsured, are in for a big surprise when their individual policies jump up 30 to 35 percent, which is what the Oliver Wyman report on September 28 said theirs might do, or when, since they are uninsured, they are required to buy insurance and they find the insurance they are required to buy is very expensive.

I ask unanimous consent to have printed in the RECORD the conclusion of the Oliver Wyman report.

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

CONCLUSION

As Congress considers approaches to maximize health insurance coverage in the United States, it is important to consider the impact of premium rate compression on current purchasers and the uninsured. Providing affordable premiums to young people is critical to encourage their participation and ensure the long-term sustainability of the insurance pool in the years following health insurance reform.

Requiring a young person to pay multiples of their expected medical expenses for health insurance is likely to cause these individuals to decline to purchase coverage. Maintaining adequate flexibility in rating will minimize the rate shock that many could see in the marketplace and encourage higher levels of coverage over time. Moreover, the elimination of health status as a rating factor will already provide significant benefit to older individuals, who are more likely to suffer from chronic health conditions.

In conclusion, our modeling demonstrates that the 5:1 age band, as originally included in the Senate Finance Committee's Chairman's Mark, will reduce disruption compared to tight age bands. Maintaining 5:1 age bands will encourage more young people to participate in the insurance market, thereby keeping average rates more affordable. This, in turn, will result in higher overall levels of participation in the insurance market and fewer uninsured.

Mr. ALEXANDER. Finally, the young and the healthy can skip out of this. That will drive up premiums. They may decide they would rather pay a $750 fine than $2,500 for a health insurance policy they think they don't need.

The American Academies of Actuaries wrote a letter on the Reid bill on November 20 that said: ''Any premium variations by age limited to a 3.1 ratio between the highest and lowest premiums,'' and then it goes on to say, ''would cause higher premiums on average relative to current premiums.''

I ask unanimous consent to have printed in the RECORD the letter from the American Academy of Actuaries of November 20, 2009.

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

NOVEMBER 20, 2009.

Re: Patient Protection and Affordable Care Act.

Hon. HARRY REID
Majority Leader, U.S. Senate, Hart Senate Office Building, Washington, DC.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: The American Academy of Actuaries' Health Practice Council commends members of the Senate as you prepare to debate and vote on the Patient Protection and Affordable Care Act. We share with you the goals of reducing the numbers of uninsured, increasing the availability of affordable coverage, controlling health spending growth, and improving the quality of care. On behalf of the council, I appreciate this opportunity to provide the following comments outlining the three key criteria that need to be considered when evaluating whether this legislation will lead to a viable health insurance system, and how the legislation can be improved to meet these goals. In particular:

For insurance markets to be viable, they must attract a broad section of risks. Implementing market reforms to prohibit insurers from denying coverage and to restrict how much premiums can vary will result in adverse selection and upward pressure on premiums unless lower-risk individuals have incentives to purchase coverage. An individual mandate can bring lower-risk individuals into the pool. To be effective, however, the penalties for not complying with the mandate must be meaningful relative to the premium faced. The penalties in the Patient Protection and Affordable Care Act are very low, which is especially problematic given the bill's limits on premium variations by age, which will raise premiums for younger individuals. Strengthening the bill's individual mandate through higher financial penalties is needed to reduce adverse selection that would arise due to the new issue and rating restrictions.

Market competition requires a level playing field. All plans, including any new public plans or health insurance cooperatives must operate under the same rules. As written, the public plan and cooperatives established under the legislation would be subject to the same market rules and benefit requirements that apply to public plans. They would also be required to negotiate rates with providers. The bill should retain these provisions and also ensure that start-up funds provided to these plans are adequate to meet not only pre-operational expenses but also solvency needs.

For long-term sustainability, health spending growth must be reduced. Provisions to control health care spending should include not only one-time improvements that will help address short-term goals, but also options that permanently reduce spending growth to address long-term goals. The Patient Protection and Affordable Care Act includes provisions that aim to reduce long-term spending growth by shifting the health care payment and delivery systems to focus on cost-effective and high-quality care. Many of these efforts take the form of studies and demonstration projects. Policymakers need to focus intently on finding ways to control spending and ensuring that

promising approaches and successful demonstration projects are adopted on a broad scale in a timely manner. . .

To this end, the Act also includes provisions that would help shift the health care payment and delivery systems from rewarding quantity of care to rewarding quality of care. The legislation includes many cost containment and quality improvement strategies focused on the Medicare program, including provider payment and delivery system reforms that provide incentives for coordinated and cost-effective care. Such a comprehensive and coordinated approach to addressing quality and costs is needed to fundamentally transform the health system to ensure its long-term sustainability. However, acknowledging that the impact on health spending and health outcomes of many potential programs is still unclear, the legislation directs many of these efforts in the form of studies and demonstration projects. Analyses from the Centers on Medicare and Medicaid Services and from the Congressional Budget Office suggest that at least in their current limited form, these provisions will have only a minimal impact on health spending growth. Policymakers need to focus intently on finding ways to control spending and ensuring that promising approaches and successful demonstration projects are adopted on a broad scale and in a timely manner.

SUMMARY

The American Academy of Actuaries' Health Practice Council strongly supports three key considerations for a sustainable health insurance system with increased access to affordable health insurance. In particular, for insurance markets to be viable they must attract a broad cross section of risks; market competition requires a level playing field; and for long-term sustainability, health spending growth must be reduced.

Outcomes of the reforms before you, because they involve so many complex interactions including market behavior, may not be fully known until implementation. Even actuaries must make certain assumptions in their projections, based on experience and expertise, as to what the exact effects will be. However, as the full Senate casts votes, we urge you to first and foremost examine these criteria as a litmus for determining the success of this reform effort. In particular, we believe that strengthening the individual mandate through higher financial penalties is needed to reduce the adverse selection that would arise due to the new issue and rating restrictions.

We welcome the opportunity to serve as an ongoing resource to you as health care reform legislation is considered in the Senate and through remainder of the legislative process. If you have any questions or would like to discuss these comments further, please contact Heather Jerbi, the Academy's senior health policy analyst (202.785.7869; Jerbi@actuary.org).

Sincerely,

CORI E. UCCELLO,
Senior Health Fellow.

Mr. ALEXANDER. All in all, these factors suggest why, when Senator COLLINS took a look at Maine, she found that 87 percent of people in Maine are paying less for their individual policies than the policies would cost under the Reid bill. It is true that half or more of them would receive some subsidy, which would reduce their costs, but around half of them will pay more. In Tennessee, Blue Cross Blue Shield, which covers about one-third of Tennessee's individual market, estimates the premiums for those individuals will increase by 30 to 45 percent under the Reid bill.

I ask unanimous consent to include a chart which demonstrates that.

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

Health Care Reform Analysis - CBO vs. BCBST Impact and Assumptions
Non-Group Analysis

	CBO Impact	BCBST Impact	CBO Assumptions	BCBST Assumptions
Difference in Amount of Insurance Coverage	**27% to 30%**	**17%**		
Increase in Actuarial Value*	18 to 21%	3%	Current non-group Actuarial Value is 60% & value under reform is 72%	Current non-group actuarial value is 69%; only impact is on policies below 60% moving up to minimum
Increase in Utilization and Scope of Benefits	9%	14%	Adding coverage of maternity, Rx, MH/SA, & pre-ex conditions as well as increased util from lower cost sharing	Adding coverage for maternity, pre-ex conditions and conditions currently ridered (Rx and MH/SA already covered)
Difference In Price of a Given Amount of Coverage	**-7% to -10%**	**3%**	CBO did not assign values to each element	After viewing CBO's analysis, appears that administrative cost savings may offset new fees. Seems that only way significant savings will be achieved is through a reduction in provider payments.
Reduced Administrative Costs				
Economies of Scale - More Enrollees	Decrease	Not considered		Expect minimal impact (less than 0.5%)
Benefit Standardization	Decrease	Not considered		Expect minimal impact (less than 0.5%)
Standard Electronic Transactions	Decrease	Not considered		Expect minimal impact (less than 0.5%)
Reduction in Underwriting Costs	Decrease	Not considered		Expect minimal impact (less than 0.5%)
Exchange Expenses Fee	Increase	0%		Assumed fees of 4% - 6% will be offset by reduction in sales expense
Increased Competition				
Increased Med Management	Decrease	Not considered		Expect minimal impact due to current high level of medical management
Reduced Provider Rates	Decrease	Not considered		
Prudent Purchasing by Exchange	Decrease	Not considered		Expect minimal impact
Higher Public Plan Costs	Decrease	Not considered		Expect minimal impact
Health Insurance Co Fee	Increase	2%		
Medical Device Fee	Increase	1%		
Cost Shifting	No Effect	Not considered		Differ with CBO's opinion that there is no historical evidence of cost shifting
Differences in Types of People Who Obtain Coverage **	**-7 to -10%**	**10% to 25%**	Adverse selection limited by policy provisions and will be offset by healthier uninsured population	Based on historical examples, adverse selection potential is significant, though mitigated somewhat by items below. Still believe cost impact will be greater than 10%.
Uninsured are Healthier on Average	Decrease			
Limited Amount of Adverse Selection Would Occur	Increase			
Open Enrollment		Not considered		
Premium Subsidies		Not considered		
Mandate				Mandate is weak and not likely to be effective
Total Difference Before Accounting for Subsidies	***10% to 13%***	***30% to 45%***		

** Reflects 60% minimum actuarial value requirement*

*** BCBST impact paper reflected 35% increase for the impact of guaranteed issue and no effective individual mandate.*
This can be split into the following components:
1) Impact of requiring coverage of pre-ex conditions and removing riders = 10%
2) Differences in types of people who obtain coverage = 25%

Note: Cases in BCBST paper also reflected the policy specific projected impact of limiting age band rating as well as eliminating rating based on gender and health status. Across book of business, average impact for all of these items is revenue neutral. CBO analysis is based on averages so their analysis has no associated impact.

Mr. ALEXANDER. At our summit on Thursday, there were a number of good ideas about reducing health care costs that the President seemed to share with Republican Members who were there. There was some obvious irritation on the part of the majority leader and others when we said things such as there is $½ trillion worth of cuts in Medicare, which there are. Our real objection to it is that the cuts are not used to save Medicare, which is going broke, but spent on a new program—$½ trillion in new taxes. There is $½ trillion in new taxes.

As I have just said, they tend to increase premiums for millions of Americans. There are premium increases. There is a deficit increase.

It is true the CBO has said that what was presented to them didn't increase the deficit, but what was not included in what was presented was paying doctors to serve patients in the government program we call Medicare. That is like having a horse race without the horses. How are you going to have a comprehensive health care bill and not include within its costs paying doctors to serve patients in the government program? When you put it in, the deficit goes up.

Then there is a problem of the passing off to States these expanded Medicaid costs without paying for them. I know as a former Governor—and I see the former Governor of Virginia in the chair—I struggled with that every single year. All the Governors are today in both parties. They don't want us sending them a bill for expanded health care. They can't pay the bills they have. We shouldn't do that. If we want to expand it, we should pay for it. That is another part of the bill.

So I came to the floor today to, No. 1, express my appreciation to the President for inviting us Thursday. It gave us a chance to show who we are and what we are for. I thought it was a good discussion. I believe there are 8 or 10, maybe a dozen different good ideas Senator COBURN and people on both sides of the aisle suggested. There are some differences between those ideas but, basically, they represent a way to move forward to reduce health care costs. That is what we ought to do. We don't do comprehensive very well in the Senate. Comprehensive immigration failed of its own weight. Comprehensive economy-wide cap and trade seems to be failing, again of its own weight. Comprehensive health care is very difficult to pass. That shouldn't be a surprise to any of us. This is a very big, difficult, complicated country with people of many different backgrounds and, in my judgment, we are just not wise enough for a few of us to rewrite the rules for 17 percent of our economy.

I think the American people have tuned into that. They want us to fix health care, but they want us to reduce costs. Again, we on the Republican side are ready to set that goal and, as we said 173 different times on the Senate floor the last six months of last year, we have offered 6 steps to move toward that goal. Maybe the President can think of six more. Maybe we can think of six more. We did that with the America COMPETES Act. We asked the national academies: What are the 10 steps that can help us become more competitive as a country? They gave us 20, and we passed most of them. In clean energy, we are coming together on nuclear power, offshore drilling, and energy development. Those are steps toward a goal that would be a more sensible way for us to work.

In the meantime, the unpleasant truth is, the current bill being considered—will cut Medicare, not spend it on Medicare—will raise taxes, and it will, as I have tried to demonstrate with respect to the President, raise individual premiums because of the one-size-fits-all government mandates and tax increases.

Finally, I commend to my colleagues today's editorial from the Wall Street Journal detailing how the Massachusetts health care plan has unexpectedly caused premiums to rise over the last couple years and what lesson there might be in that for us.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

TAX EXTENDERS ACT OF 2009

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

The legislative clerk read as follows:

A bill (H.R. 4213) to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed the privilege of the floor during consideration of the pending bill: Randy Aussenberg, Aislinn Baker, Brittany Durell, Dustin Stevens, Greg Sullivan, Max Updike, and Ashley Zuelke.

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

AMENDMENT NO. 3336

(In the nature of a substitute)

Mr. BAUCUS. Mr. President, I now call up my amendment by number and urge its consideration.

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

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 3336.

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

Mr. BAUCUS. Mr. President, Martin Luther King, Jr., once said:

Life's most urgent question is: What are you doing for others?

Pretty much all of us came here to the Senate to work on that urgent question. Pretty much all of us came here to help other Americans.

On a number of levels, the legislation before us today is urgent legislation. The legislation before us today is urgent because it would prevent millions of Americans from falling through the safety net.

The legislation before us is urgent because it would extend vital safety net programs that expired yesterday.

The legislation before us is urgent because it would put cash in the hands of Americans who could spend it quickly, boosting economic demand.

The legislation before us today is urgent because it would extend critical programs and tax incentives that create jobs.

The legislation before us today is urgent because it is important that we here can do this for other Americans.

Since the recession began, more than 7 million Americans have lost their jobs. The unemployment rate remains nearly 10 percent. For Americans without a job, this great recession is a great depression. If you do not have a job, it is a depression.

Last week, with a solid bipartisan vote, we passed legislation to help create jobs. We can and should do more, and by extending this package of vital provisions we can do just that.

The provisions in this bill are important to American families. They are important to communities that have suffered a natural disaster. They are important to businesses competing in the global economy. They are important to furthering America's commitment to energy independence.

The need is urgent. Yesterday many of these important provisions expired. Millions of Americans are being put at risk. The expiration of these provisions has left gaping holes in the safety net.

Among the provisions that expired yesterday are these: expanded unemployment insurance benefits; COBRA subsidies to help people keep their health insurance; a provision that keeps folks right at the poverty line from losing their benefits; the small business loan program; the temporary measure to prevent a 21-percent cut to doctors under Medicare; the Flood Insurance Program; the Satellite Home Viewer Act.

Unless we reinstate the programs in this bill, there will be real world consequences for the people who depend on these programs today.

Take unemployment insurance. This bill would extend the program for expanded unemployment benefits. These benefits expired on Sunday. The bill would extend what is called Federal emergency unemployment compensation. This bill would extend 100 percent Federal extended benefits. That is a program where State governments normally have to pay 50 percent. We would also extend the additional $25 a week for each beneficiary receiving unemployment benefits.

According to the National Employment Law Project, 5.6 million people are currently benefiting from one of the Federal unemployment benefits. Mr. President, 5.6 million people today benefit. Between March and November of last year, we distributed nearly $8.3 billion in additional benefits through the additional $25-a-week supplement.

For example, my office received word about one unemployed Montana worker who had been living in a homeless shelter for more than a month. This Montanan used emergency unemployment compensation benefits to move closer to an out-of-State relative. The relative helped the Montanan through this difficult time. With the help of emergency unemployment compensation benefits and the help of family, this Montanan was able to find work again.

Unemployment benefits also make good economic sense. The nonpartisan Congressional Budget Office estimates that every dollar spent on unemployment benefits generates up to $1.90 in additional gross domestic product. That is $1 to $1.90. This makes unemployment benefits one of the most cost-effective policies for stimulating the economy.

By helping our unemployment workers through this long recession, we help to keep the neighborhood gas station operating. We help to keep a house from foreclosure. And we help to keep our economy from further damage.

We must act immediately to help the more than 1 million people who lost their benefits yesterday. My heart goes out to them and to their families and hope that they can hold on while we work to clear up this mess, in order to clear this bill and bring them the help they deserve and on which they have been depending.

A second vital program in this bill that expired yesterday is a program that provides a tax benefit for COBRA health benefits. What is that? That is the program that helps workers who lose their jobs to keep their health insurance. When workers lose their jobs, they lose more than just their paychecks. Unfortunately, they often lose their ability to afford health care coverage as well.

Today, roughly 60 percent of the nonelderly population receives health insurance through their jobs. In most cases, unemployed workers have the right to keep their work coverage for up to 18 months through the COBRA program. But to receive COBRA health benefits, workers must typically pay all of the premium costs, plus an additional 2 percent for administrative costs; that is, they pay 102 percent. That is not right.

For a family of four, the average monthly COBRA premium is $1,100. For most people out of work, that is simply unaffordable. How can a family who is out of work pay health benefits at a rate of $1,100 a month? They cannot do it.

The Recovery Act helped unemployed workers and their families to cover the costs. This assistance helped millions of unemployed workers and their families to maintain health insurance while they look for a new job.

Unfortunately, COBRA assistance expired yesterday, and that is the provision that gave a 65-percent subsidy. It expired yesterday. This means workers who lose their jobs today or afterwards will not be eligible for COBRA assistance. They can still buy health insurance through the COBRA program if they can find the dollars to pay full freight. That is 102 percent of their current premium. For many folks, that is simply unaffordable. Unless we act, the ranks of those living in fear without health insurance will grow even more.

Third, without this legislation, physicians who treat our seniors and military families will face an immediate 21-percent pay cut. That is right, an immediate 21-percent cut in pay. That is more than families lost in net worth during the worst of the recession in 2008, and that is nearly twice as much as home prices fell last year.

This cut would force doctors to stop seeing patients. This cut would mean less access to care for our parents and our grandparents. This cut would mean our doctors would be forced to cut their own costs, potentially forcing them to lay off staff.

Thankfully, the administration announced on Friday it will use its existing authority to delay the effect of this cut for the immediate future. But that is not going to last very long. We cannot delay action any longer. Seniors, military families, and physicians deserve better.

In Montana, 2,000 doctors serve 140,000 seniors who depend on Medicare for lifesaving health care. Montana has 32,000 military families who should not be turned away from their doctor's door either. They deserve access to the best health care we can give them. They deserve a Congress willing to put politics aside and put them first.

This bill before us today will avert the 21-percent cut because of the so-called sustainable growth rate. We adopt here another short-term stopgap. Next time, we hope and expect that we will come back to a long-term solution. We must find one.

By exempting part of the SGR from the new statutory pay-go rules, the Senate recently recognized that a long-term solution will require a short-term investment. The House followed suit. I hope this push will aid us in finding a permanent solution for the sake of our seniors' continued access to medical care.

A fourth provision in this bill affects the 2009 poverty guidelines. Why is this important? Let me tell you. Dozens of programs are available to help lower income Americans. We all know the important role these programs play in keeping those less fortunate fed, keeping them healthy and safe. I am talking about programs such as Medicaid, the Supplemental Nutrition Assistance Program—formerly known as food stamps—the School Lunch Program, and the Low Income Home Emergency Assistance Program, otherwise known as LIHEAP.

Eligibility for these and many other programs is based on the Federal poverty guidelines. These guidelines are updated every year for inflation. But the update for this year, 2010, will cause people who are currently eligible for and benefiting from these programs to lose their eligibility. You may wonder why at a time of economic crisis poverty-based program eligibility would decrease. You might think that sounds counterintuitive.

One of the effects of the current economic crisis is that inflation went down. That means the average cost of everyday things, such as clothes, transportation, and rent, is less than it was the year before. However, because the Federal poverty guidelines are based on the average cost of everyday goods, the poverty level for 2010 would be less than it was for 2009. This is the first time in the history of the guidelines that such a decrease would occur. That, clearly, is not the right outcome. We should not make fewer people eligible for poverty-based programs at precisely the time when those safety-net programs are serving the very purpose for which they were created. Safety-net programs are there to help people when times are tough. That is their purpose. But there is a simple solution: we can simply leave the guidelines developed for 2009 in place. That way, people who were eligible can remain eligible. Leaving the 2009 guidelines in place would mean people would not lose their health care by being kicked off of Medicaid. It would mean families would not go hungry because they lost their eligibility for a number of nutrition programs. It would mean low-income folks could still heat their homes this cold and snowy winter thanks to LIHEAP. Keeping the 2009 guidelines in place would not increase eligibility. It would mean we would avoid pulling the safety net out from under the people it is there to protect.

Fifth, for individuals and families, this bill provides much needed tax relief in a time of economic uncertainty. For example, many students don't have the books or supplies they need. Some

teachers have to buy classroom supplies using money from their own pockets, if you can believe it. This bill extends the expense deduction for teachers buying school supplies for their classrooms. It extends the qualified tuition deduction to help with college costs. The bill provides much needed relief to families who have suffered from natural disasters. It extends a package of disaster relief provisions developed to address all federally declared disaster areas with immediate, reliable, and robust tax relief.

It extends important business provisions to help create jobs and make our companies competitive in a global economy. America counts for one-third of the world's investment in scientific research and development. We rank first among all countries, but relative to the size of our economy, America is in sixth place. The trends show that maintaining American leadership in the future depends on an increased commitment to science and research. Yet our R&D tax credit expired at the end of last year. This will put American corporations at a competitive disadvantage. Corporations are unsure if they will be able to obtain the R&D credit next year, and they need to plan for the future.

American financial services companies successfully compete in world financial markets. We need to make sure the U.S. tax rules do not change that. This legislation extends the active financing exception to subpart F. In so doing, it preserves the international competitiveness of American-based financial services companies, while including safeguards to ensure that only truly active businesses benefit. This provision will put the American financial services industry on an equal footing with foreign-based competitors that are not taxed on active financial services income.

Several energy tax incentives also expired at the end of last year. This bill extends those incentives to encourage continued investment in technologies that promote energy independence. For example, the bill extends incentives for new hybrid battery technology and the construction of new energy-efficient homes.

Sixth, in addition to these important provisions that provide direct assistance and job creation, the bill includes other proposals that will provide relief for businesses and individuals. One such provision is pension funding relief. These days, American employers are faced with the need to make higher pension contributions. Several factors have combined to require these higher contributions: There is the funding changes of the Pension Protection Act of 2006, there is the slide in the stock market in 2008, and then there is the ensuing great recession. These requirements for higher contributions are coming upon employers just when they are facing lower asset values and lower cash flow. Meeting these requirements could divert resources employers could use to keep workers on the payroll.

We addressed this bind temporarily in the Worker, Retiree and Employer Recovery Act of 2008, but employers are still facing the prospect of closing plants and stores. Employers are still faced with the possibility of terminating workers in order to make up for lost asset values. The bill contains additional temporary, targeted, and appropriate relief for these employers. At the same time, the bill still maintains the pension and security system.

Seventh, this bill would also extend several important health provisions that expired at the end of 2009. Notable among these is the exceptions process for Medicare therapy caps. Extending this provision will help ensure Medicare beneficiaries will continue to receive access to the therapy services they need. Several rural policies are also extended.

Eighth, these tough economic times have hit the States hard as well. So included in this bill is a 6-month extension of the additional Federal financial assistance for State Medicaid Programs. This will allow States to plan for their next fiscal year with the certainty of continued help from the Federal Government. Additional Federal Medicaid match money—known as FMAP—helps the economy grow. According to economist Mark Zandi, this funding has return on investment of about $1.40 for every dollar invested. The Nation's Governors have repeatedly asked for an extension of this Federal assistance, and this bill answers their pleas.

With so many Americans out of work, our country needs Congress to enact this legislation. This bill continues valuable tax incentives to families and businesses that will help them in these difficult economic times. The bill sustains vital safety-net programs that will also help foster economic growth.

As I said at the outset, this is not just ordinary legislation; this is urgent legislation. It would prevent millions of Americans from falling through the safety net. It would extend vital programs that expired yesterday—expired yesterday. It would put cash in the hands of Americans who would spend it quickly, boosting economic demand. It would extend critical programs and tax incentives that create jobs. It is an important bill that we here can do for other Americans. So let's help America's businesses to create more jobs. Let's join to work across the aisle on this commonsense legislation, and let's enact these tax incentives and safety-net provisions into law.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. I yield myself such time as I might consume. Maybe I better ask, are we under a time agreement?

The ACTING PRESIDENT pro tempore. There is no time limit.

Mr. GRASSLEY. Mr. President, today, the Senate starts debate on expiring tax and health provisions, for people outside Washington. Around here, those tax provisions are generally referred to with the word ''extenders.'' But before I discuss the bill before us, I would like to make a couple points on the process, before I get into the substance of the substitute before the Senate. What I find surprising is, we are taking up a package that, similar to last week's exercise, absolutely belongs to the Senate Democratic leadership; that is to say, we are not taking up a bipartisan package that I put together with my friend, Finance Committee Chairman BAUCUS.

To be sure, some of the structure reflects the agreement I have with Senator BAUCUS, but this package is almost three times the size of the package we agreed upon. Virtually all the additional cost is due to proposals I would not have agreed to in representing the people of Iowa or the Republican conference.

I was under the impression the Senate Democratic leadership was genuine in its desire to work on a bipartisan basis, but clearly I was mistaken. Although the Senate Democratic leadership was highly involved in the development of that original bipartisan bill, they arbitrarily decided to replace it with a bill that skews toward their liberal wing. So my first comment to my colleagues, also to the media and to the entire Nation, is: Don't let this package be mislabeled as the Baucus-Grassley package. It is not the package my friend, Chairman BAUCUS, and I negotiated. Again, the package before the Senate dramatically differs in cost, balance, and dramatically is different in intent from the Baucus-Grassley compromise announced on February 12.

My second preliminary comment goes to the way in which these expiring tax provisions have been described by many on the other side, including those in the Democratic leadership. If you roll the videotape back a week or so, you would hear a lot of disparaging comments about these routine, bipartisan extenders. From my perspective, those comments were made in an effort to sully the bipartisan agreement reached by Chairman BAUCUS and this Senator. If you take a look at newspaper accounts of a week or so ago, you come away with the impression that the tax extenders are partisan work of Republicans and only for Republican interests. A representative sample comes from one report which describes the bipartisan bill as:

> . . . an extension of soon-to-expire tax breaks that are highly beneficial to major corporations, known as tax extenders, as well as other corporate giveaways that had been designed to win GOP support.

The Washington Post included this attribution to the Senate Democratic leadership in an article last week:

''We're pretty close,'' [the majority leader] said Friday during a television appearance in Nevada, adding that he thought, 'fat cats' would have benefited too much from the larger Baucus-Grassley bill.''

That quote happens to be from the majority leader.

The portrait that was painted by certain members of the majority and was echoed without critical examination—and in some press reports was outright inaccurate. For one thing, the tax extenders included provisions such as deductions for qualified tuition and related expenses and also the deduction for certain expenses for elementary and secondary schoolteachers. If you are going to college or if you are a grade school teacher, the Senate Democratic leadership apparently views you as a fat cat. If your house was destroyed in a recent natural disaster and you still need any of the temporary disaster relief provisions contained in the extenders package, too bad because helping you would amount to a corporate giveaway in the eyes of some. Such distortion of the extenders—some of them have been on the books for a long period of time; some of them passing this body by consensus—belittles helping some people who have needs.

Again, I wish to say the tax extenders have been routinely passed repeatedly because they are bipartisan and, frankly, very popular. Democrats have consistently voted in favor of extending these tax provisions. Let me tell you what House Speaker NANCY PELOSI released recently, a very strong statement when the House passed these very same tax extenders at the end of last year saying this was ''good for business, good for homeowners, and good for our community.''

That was December of 2009, not very long ago.

In 2006, the then Democratic leader released a blistering statement ''after Bush Republicans in the Senate blocked passage of critical tax extenders American families and businesses are paying the price because this Do Nothing Republican Congress refuses to extend important tax breaks.''

Recent bipartisan votes in the Senate extending bipartisan tax provisions had come in the Emergency Economic Stabilization Act of 2008 and the Tax Relief and Health Care Act of 2006. By the way, that passed the Senate by unanimous consent. Then we had the Working Family Tax Relief Act of 2004, which originally passed the Senate by voice vote, although the conference report only received 92 votes in favor and a whopping 3 against it.

Let me give what the nonpartisan Congressional Research Service has to say about the history of these extenders which are now before us, which should have been passed in December. They have been consistently widely supported because they mention the Tax Relief Extension Act of 1999, which passed the Senate by unanimous consent and one vote against it on the conference report. One Member on the other side said:

Our side isn't sure that the Republicans are real interested in developing good policy and to move forward together. Instead, they are more inclined to play rope-a-dope again. My own view is, let's test them.

So we are testing each other when we are talking about merely reimposing some policy that has been on the books for a long period of time and just happens to sunset, to force some review by Congress.

We had another Member of this large 59-vote majority exclaim:

It looks more like a tax bill than a jobs bill to me. What the Democratic caucus is going to put on the floor is something that's more focused on job creation than tax breaks.

Reading these comments, I found myself obviously scratching my head. The only explanation for this behavior is, certain Senators decided last week it serves a deeply partisan goal to slander what had been for several years bipartisan and popular tax provisions benefiting many different people.

The Washington Post article I quoted from earlier includes a statement from a Democratic Senate leadership aide saying that ''no decisions have been made, but anyone expecting us immediately to go back to a bill that includes tax extenders will be sorely disappointed.''

You can imagine that, today, a little over a week after these comments, I scratch my head, once again. We have before us the expiring tax and health provisions that were disparaged just a short time ago. Have they morphed from corporate tax pork? Have they suddenly reacquired their bipartisan character? Are these time-sensitive items, now expired for more than 2 months, suddenly jobs related?

We are beginning another debate, a jobs bill debate. So I wanted to focus on the economy, small business, and jobs after giving you that partisanship that should not have existed a week ago, to explain that it existed and not much has changed since then, but all of a sudden there is some idea of being bipartisan.

So we are going to talk about the substance of this bill. We all agree our Nation is currently facing challenging economic times. While there have been some signs of improvement such as the recent growth in our gross domestic product, job losses continue to mount and many hard-working Americans are struggling to make ends meet.

According to the Bureau of Labor Statistics, over 8 million jobs have been lost since our economy officially slipped into recession in December 2007. The unemployment rate is currently 9.7 percent, which is simply an unacceptable level. The lack of job creation continues despite aggressive action taken at the Federal level in order to stabilize the economy.

This includes the enactment of TARP and the $800 billion stimulus bill. However, these bills were all missing a critical ingredient for spurring job creation, and that was substantial tax relief targeted to small business.

Everybody knows small business is where the jobs are created in America; 70 percent of the net new jobs. In October 2008, Congress enacted the Troubled Asset Relief Program that we all call TARP around here, T-A-R-P. That was a $700 billion financial bailout bill that we were told had to be enacted immediately in order to deal with the so-called toxic assets to keep credit from drying up, which would have choked off the lifeblood of the American economy.

What we actually got—because we sure did not take out these toxic assets. So what we actually got was direct infusion of cash into the largest Wall Street banks, which was 180 degrees different than what we were told by Treasury before that bill was voted on, and the purpose of that bill as well. Later came the bailout of General Motors and Chrysler using TARP money after the Senate had just voted not to bail out GM and Chrysler.

This inconsistent policy by Treasury created uncertainty in the financial markets and the business community. Moreover, exorbitant bonuses were paid to executives and the management of firms that would have been out of a job if not for Congress and Treasury and the Federal Reserve intervening.

How effective was the bailout in improving the credit markets? In October 2009, the Government Accountability Office released a report reviewing TARP's first-year performance. The GAO report found credit had improved based on certain market indicators. However, they were not able to determine how much, if any, was attributed to TARP as compared to general market forces or other Federal action.

While it is unclear the extent credit has been freed up as a result of TARP, it is clear who has reaped the benefits of those programs. This past year, many financial firms, including Goldman Sachs, JPMorgan Chase, and others who received TARP funds, posted record or near-record profits.

While Wall Street executives have clearly benefitted form TARP, small businesses and their employers have not been that fortunate. Small businesses continue to struggle to obtain credit in order to expand their operations, purchase inventories, and even make payroll. The so-called stimulus bill, enacted almost solely by an overwhelming Democratic majority in Congress last February, has not spurred job creation either.

This massive $800 billion spending bill was hastily rushed to the floor of the Senate with little time to deliberate its merit. Lawrence Summers, the Director of President Obama's National Economic Council, said:

The test for the stimulus is whether it is timely, targeted, and temporary.

This stimulus bill hit the trifecta. It has failed in all three. Through a report issued in January 2009 by the current Chair of President Obama's Council of Economic Advisors, Christine Roemer, the administration predicted that the stimulus would save or create 3 million jobs. We were told by the Obama administration that if the bill was not passed quickly we would experience unemployment of 9 percent.

At this point we have a chart. The middle line, where it says 9 percent, the White House projected unemployment at 9 percent with no stimulus. However, we were also told by the Obama administration that if the stimulus bill passed, unemployment would not go over 8 percent, and that would be the bottom line.

Well, the bill was passed. But what did we get for $800 billion of debt before interest that was laid at the feet of our children and our grandchildren? The unemployment rate jumped from 7.7 percent in January right before the stimulus was enacted, to a high of 10.1 percent in October.

While unemployment recently dipped slightly to 9.7 percent—you can see that is the red line at the top—this was not due to job creation but because millions of individuals have literally given up looking for work and obviously do not show up in the unemployment statistics.

The Obama administration also stated that ''more than 90 percent of the jobs created are likely to be in the private sector.''

In all, 3.3 million jobs have been lost since the stimulus bill was enacted. That is 3.3 million compared to the 3.7 million the President said. Of course, 3.2 million of those jobs were in the private sector.

In summary, the Obama administration was terribly inaccurate regarding its stimulus jobs projection. At the time the stimulus bill was passed, I raised concerns that the bill was not targeted enough at small businesses and job creation. However, my point of view lost out and less than one-half of 1 percent of the bill included tax relief for small business.

The money in the stimulus bill gave tax credits to people who buy electric plug-in golf carts or to pay for rattlesnake husbandry in Oregon, among other ill-advised provisions, which would have been better allocated to small business tax relief, the place where employment starts. Since the stimulus, small businesses have been bearing the brunt of job losses in our economy. However, the words of those on the other side regarding the importance of small business job creation do not match their action when looking at the paltry amount of small business tax relief being provided.

Again, in the jobs bill, or stimulus bill, or whatever you want to call it that passed the Senate last week, there was only one provision directed solely to small business tax relief. That was a provision I supported which increased expensing of equipment purchased by small businesses. But it is a very small provision. It only gave small businesses what they have already been getting for the last couple of years, just extending it; in other words, just extending that figure. That provision was only $35 million out of $62 billion, the $15 billion that everyone talks about, plus the $47 billion for the highway trust fund that is typically not mentioned.

Last year, I introduced S. 1381, the Small Business Tax Relief Act. My bill would double the amount of equipment that small businesses could expense and would make those higher levels permanent instead of just for 1 year, as the Reid bill did.

In my negotiations on the jobs bill, I sought to include provisions for my small business tax relief bill. But there was no agreement to put small business tax relief provisions for my bill in the bipartisan compromise that we reached. Instead, we were asked to defer those provisions to a future tax bill.

According to ADP, national employment data from January 2009 through January 2010, small businesses with fewer than 500 employees saw employment decline by 2.67 million jobs, while large businesses with 500 or more employees saw employment decline by 694,000.

While I am sure many of us disagree about the effectiveness of the financial bailout and stimulus spending in getting our economy back on track, I know for sure that we all agree there has been a lack of job creation and too many people continue to be unemployed. Because the stimulus bill has so clearly failed in what it was supposed to do, which was to create jobs, and the administration and the congressional Democratic leadership are running away from the word ''stimulus'' faster than the Triple Crown winning horse Secretariat. Everything proposed now is called a ''jobs bill'' even if it includes proposals that were always labeled ''stimulus'' in the past.

Only 6 percent of Americans believe the stimulus bill created jobs. That is less than the 7 percent of Americans who believe that Elvis is still alive. Last week, the Senate passed a bill that included provisions designed to increase hiring. This includes a payroll tax holiday for businesses that hire unemployed workers and a tax credit for the retention of newly hired individuals throughout all of 2010.

The payroll tax holiday part of this proposal is likely to spark some modest hiring at businesses at the margins among those who have seen some improvement in their business but are on the fence about whether to hire somebody now or wait a while. However, many businesses continue to struggle and will not hire new employees just because it is the stated policy goal of Congress.

Before a business can hire a new employee, they need to know that new employee will generate additional revenue that exceeds the cost of the employee. The latest survey of the Small Business Economic Trends—and that is produced by the National Federation of Independent Businesses, or NFIB, as we know it—shows that many small businesses may not be in a place that they can afford to hire new employees even with the provisions of that bill passing the Senate last week called the Payroll Tax Holiday.

I have a chart from the National Federation of Independent Businesses to which I now want to refer. That chart has selected components from the Small Business Optimism Index. While many components of this index improved slightly from December, it is clear that small businesses continue to struggle. You will see from the chart a net negative 1 percent of owners who plan to create new jobs in the next 3 months. You will see on the chart a net positive of only 1 percent of business owners expect the economy to improve. Only 4 percent of business owners said it was a good time to expand, and a net negative 42 percent of owners reported higher earnings.

This last component is especially important for businesses when it comes to hiring new employees. If earnings are declining, there is little a payroll holiday will do to spark hiring since businesses need to know that the revenue generated by the additional employees will exceed the cost, not just today but in the future.

Before I go on to this NFIB survey, at the grassroots of my State, I had the opportunity the previous weekend to spend part of a Friday and part of a Sunday afternoon in what is called the Des Moines Home and Garden Show which has probably been around for 30 years or so, that one weekend a year. On the Saturday in between, I had an opportunity to attend a like show called the Home Improvement Show in Waterloo. You walk around and talk to vendors, small business people. You kind of look at what do they expect Congress to do about creating jobs. I never got anything positive about something we might do, but I got a lot of ideas that they want us to do that said: You have to give us some certainty.

Do you know what they quoted. They quoted the big tax increase coming up at the end of this year as some of that uncertainty. They quoted the cap-and-trade tax that possibly could pass the Senate. Then they quoted the potential cost to small business because of the health care reform bill. They said: Take all of those potential things out of the picture, and we will start hiring. But it is the uncertainty that is out there of what Congress is going to do to us that is keeping us from hiring people.

I want to go back to the NFIB survey. When businesses are asked what the single most important problem facing their business is, the answer is lack of sales. That is in addition to the uncertainty I related. But this is closely

followed by what I did say, taxes, and then government regulation, and redtape. I am glad my colleagues on the other side have recognized that true job creation comes through the private sector and have thus sought hiring incentives through payroll tax relief.

However, this minor tax relief is a drop in the bucket considering the challenges small businesses face due to the economy and proposed increased taxes and redtape included in the President's budget. Whether we are speaking about cap and trade that will drastically increase energy costs, health care reform that would mandate small businesses offer health benefits that will increase the cost of labor, or the call for tax increases on so-called wealthy taxpayers earning over $200,000 that will largely fall on the backs of small businesses, if our intention is to increase long-term employment, the last thing we should be doing at this time of economic uncertainty is to increase taxes and place additional burdens on those who are responsible for creating 70 percent of the jobs in our economy; namely, small business.

Providing small businesses a payroll tax holiday while intending to impose increased taxes, regulations, and mandates amounts to throwing them a few peanuts while taking away their supper. In recent months, I have spoken at length about the impact of tax increases set to kick in 10 months from today. I have examined the impact of these tax increases on small businesses. I think Members ought to take a closer look at it before we actually enact big tax hikes.

The President and my colleagues on the other side of the aisle have proposed increasing the two marginal tax rates from 33 and 35 percent to 36 and 39.6 percent, respectively; increasing the tax rates on capital gains and dividends to 20 percent, fully reinstating the personal exemption phaseout for those making over $200,000, and fully reinstating the limitation on itemized deductions for those making more than $200,000.

With these two provisions fully reinstated, the individuals in the top two rates could see their marginal tax rates increase over 15 percent or more. My colleagues on the other side of the aisle respond that these proposals will only hit ''wealthy individuals'' and only a small percentage of small businesses fall into this category. I have been trying to tell them for 3 or 4 years that what they want to talk about, the small percentage of small businesses falling into that category—I will not convince them, because I don't know what they are reading—is wrong. Because small business is going to be hit very definitely by these increases. What my colleagues fail to understand is that the small businesses that fit into this group are not static but consist of different businesses over time that go in and out of the top two tax brackets depending on the market.

Data from the Joint Committee on Taxation, which is a nonpartisan official congressional scorekeeper on tax issues, shows that 44 percent of the flowthrough business income will be hit with the increase in the top two tax rates proposed by the President. This hits small businesses particularly hard since most small businesses are organized as flowthrough entities. It will increase taxes on single small business owners who make more than $200,000 per year, even if they plow all of their income back into their small business to keep paying their workers and hire additional workers. Increasing taxes on this group punishes their success and limits their ability to reinvest in their company. It prevents them from putting away funds for tough economic times to keep their business afloat.

Government is currently creating a climate of uncertainty where the private sector does not know what we will do next, what taxes will be raised, and what regulatory barriers will be put in their way. We can start to put some certainty back into the business world by declaring we will not increase taxes on businesses 1 dime, by making the 2001 and 2003 bipartisan tax measures permanent.

Let me be clear: Businesses do not want to be certain that the government is going to raise their taxes and make them go up through more redtape. They want to be certain that it is not going to happen. Until then, many will simply sit on the sidelines and not hire more workers, as I reported from my weekend before last at a couple affairs in the State of Iowa.

Moreover, we can directly provide targeted relief to small businesses. Last June, I proposed legislation to do that. I introduced the Small Business Tax Relief Act to lower taxes on job-creating small businesses. Since the Democratic leadership barred any amendments last week, I am hopeful we will debate and vote on an amendment offered by Senator THUNE. Many provisions in my bill are contained in the Thune bill. My bill contains a number of provisions that will leave more money in the hands of small businesses so they can hire more, continue to pay the salaries of their current employees, and make additional investments. This includes allowing flowthrough small businesses, partnerships, S corporations, LLCs, and sole partnerships to deduct 20 percent of their income, effectively reducing their taxes by 20 percent. My bill also includes tax relief for small business owners from the unfair alternative minimum tax. It takes general business credits, such as the employer-provided childcare credit, out of the alternative minimum tax. This would allow a mom-and-pop retail store that provides childcare for its employees to get the same tax relief a Fortune 500 company gets when it provides childcare for its employees.

My bill would also allow more than nearly 2 million small C corporations to benefit from the lower tax rates for the smallest C corporations. There are so many small C corporations because they were formed as C corporations before other entities such as LLCs became more widely used.

Among other provisions, my bill would also lower the potential tax burden on small C corporations that convert to S corporations.

The NFIB has written a letter supporting my small business tax relief bill, stating:

> To get the small business economy moving again, small businesses need the tools and incentives to expand and grow their businesses. S. 1381 provides the kind of tools and incentives that small business needs.

I want to talk about an opportunity for true bipartisanship that was killed by the Democratic leadership. The same day Chairman BAUCUS and I released a bipartisan bill that contained significant compromises, behind closed doors the Democratic leadership cherry-picked four provisions out of the larger bill Chairman BAUCUS and I agreed to. Those provisions had been agreed to in a meeting of senior Members of the other side only while Chairman BAUCUS and I were negotiating. I was extremely disappointed to see the Democratic leadership blow up the bipartisan deal Chairman BAUCUS and I reached. To pour a little salt into the wound, the Democratic leadership then prohibited any Senator on either side of the aisle from even offering an amendment to improve a bill that he hijacked. One of the four provisions the Democratic leaders cherry-picked is Build America Bonds. If it had been just me drafting the bill, I wouldn't have included this provision. However, for the sake of bipartisanship and compromise in the context of a much larger bill, I reluctantly agreed that putting this provision in the bill would not cause the overall bill to lose my support. Build America Bonds is a very rich spending program disguised as tax cuts. Bloomberg reported that large Wall Street investment banks have been charging 37 percent higher underwriting fees on Build America Bonds deals than on other deals. Therefore, American taxpayers appear to be funding huge underwriting fees for large Wall Street investment banks as part of the Build America Bonds program.

Democratic leadership has said the Build America Bonds program is about creating jobs. I wanted to know whether it is about lining the pockets of Wall Street executives. So last week I asked the Goldman Sachs CEO a number of questions about these much larger underwriting fees subsidized by American taxpayers. I expect to have that discussion shortly.

Turning back to the bill being debated this week, the Thune amendment, which incorporates many of the provisions from my small business tax relief bill, provides substantial small business tax relief and should be adopted.

In this bill, I hope we can all work toward improving our economy, not through more government but by letting the engine of job creation, meaning small business, keep more of its

own money in the form of substantial small business tax relief.

I yield the floor.

The PRESIDING OFFICER (Mr. KAUFMAN). The Democratic whip.

Mr. DURBIN. First, let me serve notice on the Republican side that I will be making a unanimous consent request about the extension of unemployment benefits so that Senator BUNNING or someone else on his behalf will be on the floor if they care to object.

Let me say, before my friend from Iowa leaves the floor, one of the reasons we can't get to the issues you want is because we are in the midst of a filibuster by the Senator from Kentucky who has stopped us from extending unemployment benefits, COBRA benefits for 30 days. As I understand it, that filibuster now applies to a noncontroversial judicial nominee. So we have multiple filibusters holding us back from considering some of the measures you mentioned. I might say, some of them I find appealing and hope we can make them part of the package. The reason why your initial agreement with Senator BAUCUS met some resistance on our side of the aisle is that we thought there was a lack of balance. Although I support the tax extenders being extended for the remainder of the year in your initial agreement with Senator BAUCUS, the extension of unemployment benefits and COBRA was only for a few months. We felt that both should be extended until the end of the year. I hope we can reach that agreement when we come back to the amendment that is pending before us, as soon as the filibusters that have been initiated by the Senator from Kentucky are completed.

Let me say a word about those filibusters. We tried last week to extend for 30 days unemployment benefits that would run out across America, starting literally at midnight last night. There was one objection from Senator BUNNING from Kentucky; he objected to extending unemployment benefits and COBRA benefits. The net result of this one Senator's objection is to put us into a procedural process that could literally take days.

What happens to the people who were on unemployment during that period of time? They are cut off. Fifteen thousand people on unemployment in Illinois last night were cut off because of the Senator from Kentucky, and roughly 400,000 nationwide have seen their unemployment benefits cut off.

I met two of those people in Chicago yesterday. They have been unemployed for extended periods of time, and they have been spending literally every day trying to find a job. One of them has a little 3-year-old daughter. I asked him: What is going to happen now that you do not have your unemployment check?

He said: I don't know. The first thing I will do is default on my student loan. I will have to do that. I can't make my payment if I want to put food on the table.

So there are real-life consequences to your objection, and the real-life consequences are being visited on innocent people who, through no fault of their own, lost their job and cannot find one in an economy where we have five unemployed people for every job available.

In your State of Kentucky, my State of Illinois, and virtually every other State, these people are struggling. Some of them have reached the end of the rope. They are making decisions you and I would never want to face about whether they are going to have to give up a home—literally give up a home. And it could happen.

It is great to have a political debate in the Senate. We should. That is what the Senate is supposed to be about. But when the victims in the middle of the debate are unemployed people, I do not think that is fair. I do not think it is fundamentally fair. These people are trying—this one young man, David Seanior, showed me a list of 300 applications he had made to try to find a job during the last year. He said: I go online every day. This is a man who had worked for years, had a strong work record, until he was laid off. He said: I just can't find anything. I am desperate. I am trying everything I can think of, and now you are going to cut off my unemployment benefits.

Frankly, we came to the Senate floor last Thursday night to urge the Senator from Kentucky to reconsider his objection. The net result of this is going to create hardship all across America, and it gets worse by the day. We estimate that roughly 2,000 more people tonight will lose their unemployment benefits in Illinois. So by next Sunday, instead of 15,000 losing their checks, it will be up to nearly 30,000. By the end of March, the total is estimated to be 65,000 people who will lose their unemployment checks because of the objection of Senator BUNNING of Kentucky and this initiation of a filibuster.

I do not think that is what we should do. This is an economic emergency facing this Nation. It is not the first time Senator BUNNING has been asked to extend unemployment benefits that were not paid for. See, that is his issue: You are not paying for the unemployment benefits. You should not extend it.

Senator BUNNING voted for the fiscal year 2008 war supplemental bill which extended unemployment insurance benefits for 13 weeks. He also supported ending debate and did not object to the voice vote of a measure to extend unemployment benefits for an additional 7 weeks for workers who exhausted their current compensation by March 31, 2009. That bill also extended benefits for an additional 13 weeks—half the duration of regular unemployment compensation—for workers in States with unemployment rates of 6 percent or higher. Neither of the extensions he voted for—one in a record vote and one by voice vote—had any budget offsets. So to argue that now we are taking a stand on principle, the fact is, twice, at least—I do not know if there were more times—the Senator has reached an opposite conclusion and agreed with the majority, the bipartisan majority, that we were truly in an economic emergency.

There is one other aspect of this which is troubling, and that is the first casualty of most people who are unemployed is health insurance. The employer is not paying it any longer. If you want to continue health insurance, COBRA lets you pay for it all, and it is too expensive—roughly $1,300 a month for health insurance for a family in my State of Illinois, and the unemployment compensation is about $1,100 a month. So do the math and understand that most people cannot do it.

So President Obama said, as part of our effort to turn this economy around, we will help people pay for their health insurance through COBRA. We will pay I believe the figure is 65 percent of the premiums so people will be paying one-third of their health insurance premiums when they have lost a job—still a substantial sum of money: $300 or $400 they would have to pay each month. But imagine if you had a sick child at home, and imagine that child needed at least the possibility of coverage should they be hospitalized for diabetes or cancer or whatever the cause may be. If you get a gap in coverage and you lose your health insurance because you cannot afford to make the payment, you could find yourself in a predicament where you not only do not have health insurance but the prospect of buying additional health insurance is next to zero.

Senator BUNNING's objection cut off this benefit, this 65-percent benefit on health insurance. We have tried to extend it for 30 days. So that means these people will not only lose their unemployment check, they will lose this help with their COBRA benefit.

I have been, once in my life, in a predicament being a father with a sick child and no health insurance. Mr. President, I want to tell you, if there is something that tears you apart as a dad, it is going into a hospital with no health insurance with a sick baby. I have been there. I have done that. Thank God it happened years ago and my little girl made it through that episode.

But we are forcing literally hundreds of thousands of Americans into this situation because of the objection and the filibuster of one Senator from Kentucky. That is unfair—not only unfortunate but unfair. If we are going to fight a battle over our budget deficit and get involved in lengthy debates, as we can, there are plenty of chances to do it. We will have a budget resolution in just a few months. We will have a score—at least a dozen—of appropriations bills to fight this battle over, and I think the battle can be joined.

We said to the Senator from Kentucky: If you want to offer an amendment to pay for the unemployment

benefits and the COBRA benefits, you are entitled to offer that amendment. You are entitled to come to the Senate floor, express your point of view on how this should be paid for, and to accept the will of the Senate. Let them vote on your amendment. If they agree with you, fine. If they disagree, it will be a matter of public record. You will have your day on the floor of the Senate, which is about the best most of us could hope for in this job.

But the Senator from Kentucky said: No, I am not going to do it because I might lose. Well, yes, you might win and you might lose, and that is what we all face when we come forward with an idea on how to deal with the budget deficit. I do not think it is fair to insist that it is my way or the highway when it comes to something as basic as unemployment benefits and health care for the people who are unemployed across America.

As I visit these unemployment offices and meet with these people, I find a lot of determined folks whom you would think would have given up a heck of a long time ago still trying. They consider it a victory if at the end of the day one of the posted jobs on the Internet leads to an interview. They are that desperate. Yet we are saying to them: We are going to cut off the money you need to feed your family in an effort to make a point about deficit reduction. That, I think, is unfortunate.

We have asked for an extension of unemployments benefits repeatedly because we are in the worst shape in our economy in 75 years, and a lot of people are struggling to make ends meet. I know there are those who argue that at some point we have to cut off these unemployment benefits. But I would ask them to consider this as well: Unemployment assistance is the most direct infusion of money into the economy. Those who are economists tell us the first dollar you give in unemployment assistance is going to be spent immediately. It is not going to be banked, saved, or invested. These folks need it, and they will spend it the day after they get it, for obvious needs, and that creates more economic activity.

So you are not only doing the right thing that a caring nation does when so many of us are facing hard times, it is an economic stimulus—No. 1, incidentally, by the Congressional Budget Office—in terms of what we can do to get this economy moving forward. It is not just a matter of helping those who are helpless; it is a matter of injecting money into the economy in the most efficient way.

I am afraid this has happened before. The last time the Senate extended unemployment, the other side of the aisle objected three times—the leaders on those three occasions. Incidentally, that extension of unemployment benefits was completely paid for. So it appears whether it was paid for or not paid for, there is objection on the Republican side of the aisle.

I do not get it. I do not understand it. President Obama is doing his best to get this economy moving forward. He inherited a weak economy that was losing 700,000 to 800,000 jobs a month. Things have improved somewhat, though they are not where we want them to be, and I believe we ought to be standing behind the people in our Nation who are struggling to find a job and get back to work. Many of them are trying to keep families together and care for their children.

Last week, nearly 500,000 Americans filed for unemployment for the first time. The number surged to just below 500,000 last week. It climbed more than 12 percent over the past 2 weeks. I wish that were not the case but it is. So you see, the economy is still struggling. I believe the first thing we ought to do is to care for our own. If someone came to the floor with an emergency request now because of a drought, a flood, a hurricane, a tornado, we would honor it. We do that almost on a regular basis because at some point you say: First, help these poor people. Then deal with the budget challenge it brings at another time.

But now, when it comes to helping our own, the citizens of this country who are out of work, that, unfortunately, is not the case. Right now over 4.6 million Americans continue to collect unemployment. That is up 6,000 from the preceding weeks—the number of claimants.

In addition to the filibuster initiated by Senator BUNNING hurting those who are unemployed, it is also going to have an impact on the Small Business Administration. Most everyone agrees the key to bringing this economy forward is helping small businesses stay in business and create jobs. The Small Business Administration loans money to small businesses, which during difficult times need a helping hand.

The Senator's filibuster and his objection has closed down SBA programs that provide credit to small businesses. What are we thinking to stop assistance to small businesses at this moment in our history? Most of us believe this is central and essential if we are going to turn the corner and move forward. Yet the Senator from Kentucky has objected.

It also has some ramifications in cutting back on money that is available for transportation. I do not know if the Senator is even aware of what he has done when it comes to his objection, but in my State and many others, we are finding that people are losing their jobs today. We have been running our Federal transportation program with short-term extensions since September 30 of last year—almost 5 months. These stopgap extensions were underfunding our transportation system and hurting our States, cities, counties, and workers. The short-term extensions created an unstable environment in the Federal transportation program.

We passed a yearlong extension in last week's jobs bill, but the House could not pass it on time to keep the Transportation Department authorized. So we came to the floor to pass a 30-day extension of transportation law along with the COBRA and unemployment benefits. Senator BUNNING's objection has basically shut down the highway trust fund, the Federal highway trust fund.

This is uncharted territory. We do not let surface transportation legislation expire. It has not happened before. The Department of Transportation is shutting down highway reimbursements to States. That means hundreds of millions of dollars that should be flowing from the Federal Treasury to these States are not.

The Department of Transportation is furloughing nearly 2,000 employees without pay as of today because of Senator BUNNING's objection. The Department of Transportation is removing Federal inspectors from critical construction projects, forcing work to stop on Federal lands.

DOT's safety agencies, such as the National Highway Traffic Safety Administration, are furloughing employees who work on safety programs—programs that stop drunk driving, reduce traffic injuries, and increase child passenger safety—because of the objection of the Senator from Kentucky.

In my State, we are going to lose 50 Federal Highway Administration employees—furloughed today. These workers have been instructed not to report to work until we pass this extension.

Second, the Illinois Department of Transportation will not be receiving Federal reimbursement for projects because of this objection by the Senator from Kentucky. They were scheduled to submit the next Federal bill for reimbursement as of tomorrow. The Illinois Department of Transportation will submit a bill of about $25 million for work already completed to which they are entitled. But because of the objection of the Senator from Kentucky, that bill cannot be paid. There is no question that my State is entitled to it. I imagine the State of Kentucky has a similar situation. The question is whether there is anyone there to process it, and because of his objection, there is not.

Delays in Federal reimbursements will make it difficult for the Illinois Department of Transportation to pay the contractors and workers on these projects. So the ripple effect of this is the money doesn't go back to the construction companies or to the workers and their families, leading to unemployment.

The Senator from Kentucky is opposed to extending unemployment compensation. The unemployment rate, incidentally, in the construction industry is 24 percent nationwide. Laying off more construction workers at this time is exactly the opposite of what we ought to be doing in this economy. Future work on Illinois transportation projects could be in jeopardy if

we do not pass an extension. The Illinois Department of Transportation is scheduled to release the largest bid lettings on April 23 for projects underway this construction season, and so the construction season will be delayed.

I am trying to give the whole picture. As we wait for the Senator from Kentucky to agree to a short-term extension of these critical programs, we are jeopardizing jobs, more people will be unemployed, and we are jeopardizing future projects which will be shortchanged because construction seasons are limited.

This 1-month extension of transportation law—and that is all we are asking for—has already had overwhelming bipartisan support in the past, and the 1-month extension itself costs nothing. Last week, we passed a 1-year transportation fix as part of the jobs bill.

The following groups have written letters urging us to move on this extension: the American Association of State Highway and Transportation Officials, the American Road and Transportation Builders Association, the Associated General Contractors of America, the U.S. Chamber of Commerce, the Laborers International Union, and the American Automobile Association.

The House did its work last week and passed this 30-day extension, sending it over to us, where we learned Thursday night that the Senator from Kentucky was going to object. Nine of us took to the floor Thursday night and made a request several times for him to withdraw his objection, which he refused to do. I made another request on Friday morning on the floor and the Senator continued his objection and then several today.

So I am going to make the 11th request of the Senator from Kentucky, on behalf of the people I represent in Illinois, some 15,000 who have lost their unemployment checks because of his filibuster, and 400,000 across America who are wondering: What happened? What did we do wrong here? Why aren't we receiving the check we need for the necessities of life?

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4691, the 30-day extension of provisions which expired on Sunday, February 28, including unemployment insurance, COBRA, flood insurance, the Satellite Home Viewer Act, highway funding, SBA business loans and small business provisions of the American Recovery Act, SGR and poverty guidelines, received from the House and at the desk; that the bill be read three times, passed, and the motions to reconsider be made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. BUNNING. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, keep in mind we have repeatedly offered to the Senator from Kentucky an opportunity for a vote: Bring your approach to the floor. Let the Senate decide. Accept the decision of the Senate, win or lose. That is the most any Senator can ask for. Yet he wants more. He wants a guarantee that he wins. Well, there is no guarantee you win in the Senate. There is no guarantee you win in baseball. You do the best you can. Under these circumstances, I think what we have reached is a point that is difficult to understand and explain.

I would like to invite my Republican colleagues—all of them—to come to the floor and express themselves on this. If they believe we should cut off unemployment benefits, health insurance benefits, close down the U.S. Department of Transportation's work in the States, close down the SBA programs for small businesses, I hope they will come and express that point of view. They should, if they feel that way. If they feel, as I do, that this is unfair and unfortunate, if they will come forward and join us on the floor, we can try to build up some momentum for moving this issue forward.

There are people in every State of the Union who are suffering today because of the objection of one Senator, because of the filibuster of one Senator, and that is a sad indication of what has happened in the Senate; that we have reached this point and that even offering an up-or-down vote on an amendment is not enough.

What the Senator is looking for is a guaranteed result. We can't give him that guaranteed result.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, it is amazing to me the Senator from Illinois has what we call a convenient memory. Just last week there was a bipartisan bill proposed by Senator BAUCUS and Senator GRASSLEY that would have covered the extension of unemployment benefits, COBRA health care assistance, flood insurance, highway bill assistance, the doc fix, small business loans, and the Rural Satellite Television Viewer Act. The convenient memory loss of the Senator from Illinois has allowed him to forget that his leader, Senator REID, did not allow that bill to come to the floor and instead substituted his jobs bill. The majority leader's jobs bill was also not fully paid for, by the way. Ten billion dollars wasn't; five billion dollars was. So $10 billion from the jobs bill that was passed went to the bottom of the deficit.

There comes a time when 100 Senators are for something we all support, if we can't find $10 billion to pay for it, we are not going to pay for anything. We will not pay for anything fully on the floor of the Senate.

He said I only offered one way to pay for this. That is untrue. I offered more than one way. I negotiated with the leader—the leader's staff, rather—and we had worked out a 2-week extension for $5 billion with a different pay-for. The debt we have arrived at, even the head of the Federal Reserve Bank, Chairman Bernanke, said is not sustainable. It is unsustainable. What does that mean to the American people, to the same people who are struggling to pay for bills, who are on unemployment, who could have been covered had the Baucus-Grassley bill been considered and could have been covered not for 30 days but for 3 months? Because there were some tax extenders in that bill, the Democratic majority stopped the bill from being considered.

I am not filibustering the bill. A filibuster is somebody who talks a long time. I am exercising my right as a Senator, duly elected from Kentucky, to object to a UC. That is completely different than filibustering. Everybody knows a Member of this body, any 100 of us can object to anything that is brought to the floor of the Senate, whether it be a nominee, whether it be a judge, whether it be somebody who is appointed to the Treasury. Anybody can object. There is a procedure that takes place that can overcome that objection. Why doesn't the Democratic majority use that procedure?

So I am going to take one more shot. As long as we continue to have the extenders being brought forth unpaid for, I am going to object.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4691; that the amendment at the desk, which offers a full offset, be agreed to; the bill, as amended, be read a third time and passed, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, the Senator, again, is asking that he win without a vote. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BUNNING. Mr. President, we tried and we will continue trying. As many people who get up and propose that UC, I will be there, whenever it is. I want it passed as badly as the Senator from Illinois does because I also have people in Kentucky who have the same problems as his people do in Illinois. All the States that are represented by two Senators do as well, but let's do it and pay for it because the money is available in many areas. The money was available for the Grassley-Baucus bill, which extended things for a year, in some cases, and extended these provisions I am talking about and the Senator from Illinois is talking about for a full 3 months. We would not be in this position if the Senator from Nevada had allowed that bill to come to the floor.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Republican whip.

Mr. KYL. Mr. President, until my voice gives out, I wish to address the bill that is on the floor. The bill has been denominated by my colleagues on

the Democratic side as a jobs bill, but it will not create any new jobs and when considered in conjunction with the health care legislation the President has proposed will actually cost jobs and I wish to address that.

This legislation extends some current provisions of law, including tax provisions, unemployment compensation, COBRA insurance. It extends a provision of Federal subsidies to the States for Medicaid, and there are a few other provisions. None of these create new jobs. The tax extenders are useful. That is our Washington, DC, speak for provisions of the Tax Code that last 1 year and have to be renewed each year. They are generally used to enable businesses to deduct from their taxes ordinary business expenses and include things such as research and development tax credits which I think are supported by all 100 Senators. So we do this every year. We extend these tax provisions for another year. It should have been done at the end of last year; it wasn't. So it has to be done now and made retroactive to the beginning of the year. One could argue that some of those may theoretically create a few jobs, but they are something we do every year, and they are not for the purpose of creating jobs; they are simply good business practices. So this bill takes on the usual business of the Senate. There is nothing new, as I said, to create jobs.

What of the subject of unemployment coverage extension which we have just been debating? That doesn't create new jobs. In fact, if anything, continuing to pay people unemployment compensation is a disincentive for them to seek new work. I am sure most of them would like work and probably have tried to seek it, but you can't argue it is a job enhancer. If anything, as I said, it is a disincentive and the same thing with the COBRA extension and the other extensions here. So it is not a jobs bill, and it is beyond me how it could be denominated as such.

Moreover—and the reason for my colleague's objection to the temporary bill—the Congressional Budget Office preliminary estimate shows this bill adds $104 billion to the deficit over the next 10 years, and that is in addition to the $10 billion that would be added that my colleague, Senator BUNNING, has been talking about. This number is primarily due to the extension of unemployment insurance, the expanded COBRA extension, and the new Federal assistance to States for Medicaid patients. These are given emergency designations. As a result, we don't have to supply an offset, a spending reduction, to pay for the cost of these provisions.

This comes just a week after our Democratic colleagues were bragging about the fact that they passed a bill called the pay-go bill.

The pay-go bill is supposed to require that if we are going to spend money, we find an offset in the form of a spending deduction or revenue enhancement that covers the cost of that new spending. We predicted that as soon as we passed the pay-go legislation, our Democratic colleagues would come to the floor and seek to have their next legislation exempted from it. Sure enough, that is exactly what was done.

Both the matter Senator BUNNING has objected to and the bill we are on now have to be exempted from the pay-go requirements and, therefore, add to the Federal deficit—in this case, $104 billion. Some of these provisions are useful provisions. But the truth is you can't, on the one hand, say everything we do has to be offset with spending cuts or tax increases and then waive the pay-go legislation every time you want to do it—as it turns out so far, every time we have considered legislation.

The reality is, we could pay for this legislation and, as Senator BUNNING said, we could pay for the so-called temporary extension of unemployment benefits because we have money we authorized and appropriated earlier in the so-called stimulus bill which would more than offset the cost of this legislation. Republicans, of course, would like to offer an amendment to pay for it from the stimulus funds. According to recovery.gov, the Web site for the stimulus bill, only $186 billion of the $499 billion in appropriated and direct spending from the stimulus has been spent so far.

That means $313 billion or 63 percent remains unspent. So $160 billion of these funds hasn't even been made available to be spent yet.

The original CBO estimate of the stimulus shows 21 percent of the money, $122 billion of the appropriated and direct spending, will not occur until 2012 or thereafter. We have an immediate crisis. Our Democratic colleagues say we have to extend unemployment insurance. In fact, it is such an immediate crisis, they have to waive the pay-go requirements that would ordinarily apply because it is an emergency.

If that is the case, then why not simply take this money that isn't going to be spent until after 2012 and pay for the legislation that is before us right now? Why would we put aside stimulus money to spend in 2012 when people need it today? That is the very argument my colleague from Illinois was making to my colleague from Kentucky. Why pile on the deficit if we have this money available? Therefore, my colleague from Kentucky made a good point when he suggested this money should be paid for out of the stimulus funding. I am sorry to see my Democratic colleagues object to that request.

The conclusion is, therefore, the bill will do nothing to create new jobs. What is more, when considered in conjunction with the health care legislation, it will actually cause a loss of jobs.

The President, who talked about his plan last Thursday at the so-called health care summit, noted that the bill costs a lot of money and, therefore, they had to raise taxes in order to pay for it. Among other things, the President's plan, unlike the plan that passed the House or the Senate, would raise the Medicare payroll tax on small businesses. It would raise taxes by 31 percent. It would also apply the Medicare payroll tax to investment income, such as interest, dividends, rent, and royalties.

We all know if you tax something, you get less of it. Taxing investment income would, therefore, reduce investment in the economy. Putting a tax on the employment of people means businesses are going to hire fewer people or there are going to be fewer people on their payroll. We cannot afford to lose more people to unemployment. We need to begin hiring people. How do we do that? You surely don't do it by making it more costly to employ people or by increasing by almost one-third the Medicare payroll tax. That makes no sense. To apply it now to investment income will directly drive down productivity and economic growth. Less investment will, obviously, lead to lower productivity, slower economic growth, weaker wages and salaries, and lower household wealth.

For example, each new dollar of tax paid by a small business is one less dollar that could go toward hiring new employees.

The Heritage Foundation just did a study on this proposal. It found that between 2011 and 2020, regarding this investment income proposal alone, it would result in an average of 115,000 lost job opportunities per year; it would reduce household disposable income by $17.3 billion per year; it would cut wages and salaries by $14 billion per year; and it would decrease household wealth by $267 billion per year.

Last week, Congress passed a new job-hiring tax credit. With great fanfare, my colleagues on the other side of the aisle said this is the way to help small businesses hire more people. The whole idea was to put more people to work. The very same week, the President announces his health care proposal that will make it harder for people to go back to work. If the goal is to get more people to work, I submit that my Democratic friends should shelve their health care plan, which will have the opposite result. It is very hard to justify legislation that is going to hurt job creation.

As I say, when you consider the fact that, No. 1, the bill before us creates no new jobs—and I challenge my Democratic friends to show us how doing what we always do and what was done last year—extending the R&D tax credit, extending COBRA insurance, extending unemployment benefits—creates jobs. What is the estimate for job creation by the CBO on this? It can't be very much.

Finally, my colleague from Illinois, in responding to Senator BUNNING a little bit ago, said Republicans always object—and we have many times on previous occasions—to the consideration

of unemployment legislation. I recall back in October—in fact, I will quote from a story, dated October 13, 2009, by Dan Friedman. He says:

Last Thursday, Democrats announced a deal that gave all 50 States a 14-week extension.

I think that was about three extensions ago. I have forgotten exactly.

The Senate Finance Committee Chairman, Max Baucus, within hours of that sought unanimous consent to pass the bill. Even though Republicans had already indicated that they would object so that they could try to amend the bill to replace the extension of the tax or to provide a pay-for in the Democrats' plan with the use of stimulus money.

It noted the fact that I had also asked that we see the CBO score on that. It noted that Senators REID, BAUCUS, and other Democrats quickly bashed Republicans: ''The delay is a threat to millions of workers struggling to feed their families as they retain or search for new jobs,'' my friend, the chairman of the committee, said.

Earlier in this particular article—I will read how it starts off:

Senate Democrats in recent weeks have repeatedly used unanimous consent agreement requests to rack up talking points against Senate Republicans—a tactic that GOP aides said the majority is using deceptively to blame Republicans rather than internal disputes for stalled legislation. Senate leaders have long used the tactic of asking for unanimous consent to pass legislation they know will draw an objection from the minority and then blasting the objectors for obstruction.

I fear that is what we are seeing here. Immediately after Democrats, behind closed doors, develop legislation, they immediately come to the floor and say: Let's pass it, and Republicans say: Let's at least see how much it costs and give us a chance to amend it. We thought the Democrats liked to do that. Oh, no, we cannot have that, not when it applies to unemployment extension.

That is all my colleague from Kentucky is trying to do. As I said, that is $10 billion not paid for. The bill before us is another $104 billion not paid for, and it doesn't create a single new job. Yet my colleagues on the other side of the aisle are unwilling to use stimulus money to pay for it.

I will be very interested, when we do have an opportunity to amend the bill before us—I assume we will, and I assume one of those will be to pay for the bill with the stimulus funds—maybe we can make it clear these are not funds that would be spent until after the year 2012. It will be interesting to see if my Senate colleagues who support paygo would support that kind of amendment. After all, if this is supposed to be a stimulus bill for job creation, you would think it could be used for that purpose.

I hope my colleagues will consider that every time we pass one of these bills, we are adding to the deficit and we are not creating new jobs. It is a legitimate point for Republicans to make. I hope we will have the opportunity to address that subject with amendments as this bill goes forward.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, the Senator from Arizona argues that unemployment insurance is a disincentive to jobs. Nothing could be further from the truth. I don't think anybody who is out of work and receiving unemployment insurance believes that payment is sufficient not to find a job. The payments are so much lower than a salary or wage would be, it is ridiculous. There are five unemployed Americans today for every job opening in the economy—five unemployed Americans who are looking for work but cannot find it. That is the case and has been the case for a long time. People are looking for work. They are not unemployed because they have a choice. It is because of the recession that struck and the economy. It is not because people don't want to work.

An additional point. Many of us asked the CBO to rank what measures would be most effective in helping the economy. The one they came up with was unemployment benefits because unemployment benefits generate about $1.90 in GDP growth for every $1 we paid out in terms of unemployment benefits.

I wished to make the point—and I don't know if the Senator meant this, but he strongly implied it, and I took him to mean that unemployment insurance is a disincentive for people to look for work. I don't think it is because the benefits are so low and so many are looking for work—it is the economy or recession that cost us jobs.

Mr. KYL. If my colleague will yield, I said it is not a job creator. If anything, it could be argued it is a disincentive for work because people are being paid even though they are not working. I certainly did not say, and would never imply, that the reason people don't have jobs is because they are not looking for them. It is true that a lot of Americans have gotten so tired of looking for jobs or believe they are not going to find them that they have stopped looking and, as a result, the unemployment numbers are probably higher than the roughly 10 percent that is quoted now. Some people believe it could be as much as 17 percent. This is why I have supported every extension of unemployment benefits. I have voted for them. As my colleague says, there are five people looking for every job that exists. If they cannot get the jobs, they needed support.

But what I said is true, and if my colleague can find a source that says it is not true, show me. But providing unemployment benefits doesn't create jobs. The bill we have before us is denominated around here as a jobs bill. That is the biggest single expenditure in the bill, and it doesn't create jobs.

Mr. BAUCUS. I appreciate that. I have a question. First of all, unemployment benefits in Montana are about $300 a month. That is all. It is $300 a month in Montana. I know doggone well that is not enough to keep anybody going very long. Lots of folks are looking for jobs, and they are not available. Failure to pass the extenders bill could be fairly stated as a job destroyer because there are so many people who have taken advantage of many provisions of the bill—for example, the R&D tax credit, which the Senator mentioned, and there are other provisions in the bill, such as the teachers expense, for example, and there is a deduction for tuition. Take unemployment. Say unemployment insurance was not continued. That would be a huge drag on the economy. If the provisions we are seeking merely to extend were not passed, it would be a job destroyer.

The President's office said, and many commentators have often said, our goal is to save or create so many jobs. It is hard to know what is saved or created sometimes. But we certainly want to save jobs too. We don't want the recession to be worse. Failure to pass this legislation is certainly going to cause tremendous hardship on a lot of Americans, and it would be a disincentive for the economy to turn around. It would be a disincentive for unemployment rates to come down to a lower level that we all find acceptable. Failure to pass this bill is a jobs destroyer.

I yield the floor.

Mr. KYL. Mr. President, I respond to my colleague, the point I was making is that it is hard to describe this as a jobs bill because it does not create jobs. Each year, we extend these tax provisions. That is why we in Washington call it the tax extenders bill. This is not some new job creator. I agree with my colleague that to the extent we continue this in practice—though everybody who takes advantage of it knows it will be extended. So they have not made decisions based upon the prospect that we are not going to do it. They know we are going to do it retroactively, so it is not creating any new jobs. I support the extension. I think it is a good thing. But let's don't call it a jobs bill.

By contrast, as I said, the health care legislation my colleague supports is a job killer. I pointed out just one provision: 115,000 jobs per year lost just because of the one provision taxing the so-called passive income, the dividends. And we are not even sure whether capital gains are taxed in that. Their estimate may even be low.

The reality is, if we are really talking about saving or creating jobs, let's forget this massive health care legislation that now adds two more job-killing provisions to it: a 31-percent increase in the payroll tax and taxing for the first time passive income as a part of Medicare. That is a job killer.

If we are going to talk about jobs with regard to the legislation we have before us, I think it is a fair point to also talk about legislation our colleagues on the other side of the aisle want very much to try to get passed.

Mr. BAUCUS. Mr. President, I don't want to prolong this too long, but the

fact is, the President's Council of Economic Advisers has concluded this legislation; that is, the health care reform legislation which is not before us right now, actually would create jobs, new jobs. That is the conclusion of the economic advisers.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 3337 TO AMENDMENT NO. 3336

(Purpose: To reduce the deficit by establishing discretionary spending caps)

Mr. SESSIONS. Mr. President, I have at the desk amendment No. 3337. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself and Mrs. MCCASKILL, proposes an amendment numbered 3337 to amendment No. 3336.

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

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

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

Mr. SESSIONS. Mr. President, this is the Sessions-McCaskill amendment, offered with Senator MCCASKILL, my colleague from Missouri. It is a bipartisan amendment, and it is one that I think is very important. I hope my colleagues will give it serious consideration. We have close to enough votes to make it law. I am absolutely convinced it is one thing that will work to reduce the surging deficits in our country.

The week before last, I traveled my State of Alabama—25 stops, 6 days of travel. People continually expressed to me their concern about the financial future of our country. They want us to do something about it.

I heard some of my colleagues express things like: This is just populist anger. It will pass off. We need to keep a cool head here. We don't really have to change how we do business. Things are going to work out somehow, someway, although nothing in the numbers show that.

Mr. Bernanke, the Chairman of the Federal Reserve, said last week in his testimony before Congress that our path is unsustainable. That is not the first time he said that. Virtually every economist who has opined in the last 6 months or more on our economy has said our spending levels are unsustainable and threaten the viability of our country's economic system. It is very troubling. We all know that, and we do not need to go into a whole lot of discussion about it.

The gross debt of our country has grown to approximately $12 trillion—the highest in our Nation's history. Some of this is internal debt. We owe Social Security and Medicare and other trust funds that may be in surplus. But we also owe trillions on the public debt—the amount of debt this country owes outside the government. Within 5 years our public debt will double, and in 10 years the public debt will triple. I will show a chart on that point before I go into the details of it. One of the consequences of the public debt is that we pay interest and we have to get nations or individuals to loan us their money by buying our Treasury bills, bonds and notes. When they give us their money, this is not free. We have to pay them interest on all of the debt we run up. This bill that is on the floor today will add to the debt again because it is not paid for.

This chart is what we get in stunning numbers. It shows that in 2009, interest on the public debt—the debt we owe to people outside our government—was $187 billion. The Congressional Budget Office scores it based on the 10-year budget President Obama submitted to us. If his budget is in effect for 10 years, the deficit would go up every single year. The debt will continue to go up every single year, and in the outyears the annual deficits will approach $1 trillion each year. The interest on the debt in 1 year would be $799 billion. That is well above the current defense budget. Aid to education is $50 billion or $60 billion. State and Federal aid to highways last year and the year before last was $40 billion. Mr. President, $800 billion in interest in 1 year? It is a stunning number, a breathtaking number. It is going to crowd out all kinds of plans some of my spending colleagues would like to effectuate in future years because we are not going to have the money or else we are going to inflate the currency and damage this economy in a most systemic way.

This disturbing trend of higher and higher deficits and deficit spending shows no sign of stopping. As of September 30, the end of our fiscal year, we finished with a record $1.4 trillion deficit. That is more than three times the highest deficit we have ever had. It is projected that as of September 30 of this year we will have a $1.4 trillion or $1.5 trillion deficit this year, which would be the highest ever again in consecutive years. It is stunning. We cannot continue to spend the way we are spending.

Between 1990 and 2002, however, Congress took some steps that actually worked to help get us out of a spiral of spending deficits. It was successful. What we did was we passed statutory caps on discretionary spending only, not Social Security, Medicare and those kinds of programs. We kept it to 1 to 2 percent growth each year. As this chart shows, these caps led to a surplus. The chart is upside down really. These are the surplus years. These are the deficit years. During these years, we begin to show a decline in deficits, all the way to the surpluses. When it expired, it jumped up again. This looks like a high deficit, and it was a very high deficit in 2004. That was about the highest, at that point $400 billion.

I just made the point that this past fiscal year, it was $1,400 billion and next year it is going to be $1,500 billion. We lost some discipline when we allowed those statutory caps or spending levels to be breached and go away.

This amendment Senator MCCASKILL and I have offered both restores and strengthens the procedures that were proven to work in the 1990s. It would create 4-year discretionary spending caps or limits, and it would set those limits at the level of the fiscal year 2010 budget resolution Congress passed last year.

Last year, we passed a budget resolution, not 10 years as proposed by President Obama but 5 years. It is currently in effect. One of the things you learn around here is the only part of the budget that has any teeth is the year you are in. The discretionary spending on the omnibus bill that covered half the appropriations bills contained an increase of 12 percent. We are not doing a very good job at that. The budget has no teeth in these outer years. The amendment proposes, though, a fairly responsible spending increase of 2 percent or so a year over these 4 years.

One could say: Senator SESSIONS, your State is cutting its budget. My State is having to reduce its budget. My city is reducing its budget. My county is reducing its budget. My family is reducing our budget. Why can't you guys reduce the budget? And the answer is, we can, of course.

Some have suggested and the President has suggested that we should have a freeze on the budget, which I would support. But I am just saying to my colleagues, last year our discretionary spending accounts had double digit increases; if we pass this amendment so that we have a statutory limit of 1 to 2 percent increases for the next 4 years and it is subject to a two-thirds vote point of order in the Congress if there is a proposal to go above that on the basis of some emergency need, I think we will have a much better chance of making the kinds of tough decisions to contain this ever-growing spending level than we have been doing in the last several years.

The Omnibus appropriations bill that passed last year increased Federal spending 12 percent in 1 year. That is a lot. At 7 percent, your money will double in 10 years. At 12 percent, the spending in those accounts would double in 6 or 7 years, no doubt about it, unless something is done about those trends.

I think this legislation Senator MCCASKILL and I have offered will get us there. I was pleased to see that 17 Democratic Senators voted for the bill because I think there is a growing bipartisan consensus that we can do better.

A 2-percent containment in the growth of spending will not cause the United States to sink into the ocean. We are still going to exist. The American people are still going to have a government in Washington. There are still going to be bureaucrats here to take care of us if we just have a 2-percent growth in the discretionary account instead of 12 or whatever that number was last year.

I note that the President suggested freezing some of the accounts. Though

there are some very significant gimmicks in it that make it much less tight than it would appear from his State of the Union Address, it still indicates that the President himself knows we have to reduce our spending, and in some of these accounts we could easily freeze them with no damage to our Nation. I salute him for that.

This bill would create spending limits, not based on what JEFF SESSIONS says the limit should be, but these are the limits in the President's budget, that first 5 years of it that he proposed and that Congress passed last year. We would be simply saying this would be a hard limit on how much we can spend. Now if we need to spend more than that on an emergency, we would have to have strong support in the Congress to create an emergency designation to spend above that. We have been able to do that many times in the past when a true emergency arrived.

Some say: JEFF, you are focusing too much on the discretionary spending. Entitlements are bigger—Social Security, Medicare, those kind of things—and they are a bigger problem than discretionary spending. Well, there are three reasons we have to act on discretionary spending. One is that while entitlements, such as Social Security and Medicare, are large, they actually have a net surplus right now. In fact, Congress raided $137 billion from Social Security in fiscal year 2009 to pay for other things, such as the $800 billion stimulus package that we passed—that Congress passed—last year.

Of course, a $137 billion Social Security surplus won't pay for the Congress's $800 billion stimulus package, so where did the rest of the money come from? We borrowed it on the world market, on which we are paying interest. And what about the Social Security surplus; is that free money? No, it is not, because Social Security is heading to default. When we take the Social Security surplus into the U.S. Treasury and spend it on increasing discretionary spending by 12 percent, we give them back a debt instrument, an IOU—a Treasury bond.

I am told they are in some location in West Virginia. I am sure the chairman of the committee knows that but I want to go out and see them. They have notes out there, Treasury bills, evidencing the debt of the U.S. Treasury to the Social Security Administration. As soon as Social Security goes into deficit, it is going to call those notes. So it does not make much difference whether you borrowed it from Social Security or you borrowed it from the public. The interest rates are very similar, too. The government pays interest to Social Security and Medicare, when Medicare has a surplus.

It is projected that Congress will raid another $90 billion in 2010—this year we are in—to pay for things such as this omnibus bill that is on the floor: for increased transportation and HUD funding, which went up 23 percent; create more funding for the State and foreign operations accounts, which went up 33 percent this year, for a record $1.4 trillion deficit last year, and a projected $1.4-plus trillion for fiscal year 2010. All of that was driven not by deficits in Medicare and Social Security but from a discretionary spending account.

Our appropriators are always saying the problem is all Social Security and Medicare. But the truth is, almost without exception, we have had surpluses in those accounts and we are spending that to supplement our general fund spending. We give evidence of debt back to our seniors from Medicare and Social Security, which the actuaries tell us, without any doubt, will soon be in deficit. We are going to call those notes, and the Treasury will have to come up with it.

So there is no free lunch. Nothing comes from nothing. If you spend money you don't have, you borrow it from somewhere. You can print money, I suppose, and devalue the currency. But everybody has the value, and the money in their pocket is devalued. It is the same as a tax. There is no way to do this in a free way. We have been irresponsible, and I think the American people are correct.

When I go to townhall meetings, what can I tell them? Oh, we didn't do anything wrong. The Senate and the House, we have been handling your money fine, my fellow Alabamian. We have done great. Don't complain. Don't get mad. You will get over it.

We have an $800 billion interest payment coming up in 2019 and our children and grandchildren are going to pay that. Yet when Senator BUNNING asks that unemployment insurance be paid for out of this unspent $800 billion stimulus and not add it to the debt, which our grandchildren will pay, he was able to say with some personal conviction—with 42 grandchildren—that he wasn't going to vote for it, and he didn't. He didn't support it and he didn't agree to let it pass without an objection. He said we should have paid for it, and we could have paid for it out of the stimulus.

Another reason I think we need to focus on discretionary spending is because, unlike the entitlements, such as Social Security and Medicare, discretionary spending has overhead. There is some, but really very little overhead in Social Security and Medicare. And we can do better. I know Chairman BAUCUS has worked on Medicare overhead. I don't know how much can be squeezed out of Social Security overhead; not a lot, because most of it is that check that goes out to seniors, who count on it every month. But there is overhead in discretionary spending—all the things we spend our money on. Trust me, I have been in the Federal Government; I have worked there. I know it can be made more efficient.

This past year, we increased spending on the Department of the Interior and EPA by 17 percent total. I think the EPA account went up 33 percent. In 1 year they got a 33-percent increase in their budget. And by the by, this does not include any of the $800 billion stimulus funds that were allocated—about half of which has gone out. It doesn't include that. EPA got money out of that, Interior got money out of that, highways got money out of that—large amounts. We are seeing unprecedented increases in spending in these accounts.

Consider the Department of Agriculture. I remember people criticized President Bush for spending too much money on Agriculture. If you look at his Agriculture budget over the 8 years he was President, it averaged less than a 2-percent increase. Last year, our Agriculture budget—not counting the stimulus package, which sent a large amount to Agriculture—increased 15 percent. I always try to support the Agriculture budget, but I could not support that. That would double the entire agriculture spending in, what, 5 years, at compounded increases. It is not responsible. We have to do better.

The American people, I think, are upset. This recent CNN poll asked a tough question of the voters in America: Which of the following comes closer to your view of the budget deficit—the government should run a deficit if necessary when the country is in a recession and at war, or the government should balance the budget even when the country is in a recession and is at war? Sixty-seven percent said balance the budget, you guys. Because they have heard these excuses before. They have heard all of it before. What they are seeing is red ink as far as the eye can see, with record deficits above anything we have ever seen. That is what I am hearing when I go out and talk to my constituents. And frankly, I am glad I don't have to defend having voted for this stimulus package. I am glad I don't have to defend the $700 billion Wall Street bailout, and $182 billion going to AIG. They sold off one of their most profitable companies, or are talking about it, I saw in the paper today, and they are going to bring in $35 billion. They are going to use a chunk of that to pay down some of that $182 billion debt. But if they keep selling off what they have, how will they have any money to pay the rest of it? I think they are not going to pay the rest of it.

Finally, I will add that spending billions, adding billions to the baseline budget, makes a big difference. I made this chart for the DOD appropriations bill. It is an interesting little chart. I hope my colleague can pay a little attention to this weird, fine print chart. It shows what happens when there was gimmicked up on the bill an $18 billion add-on, all unpaid for. There was $18 billion added to the Defense bill. If this gets in as baseline spending, which is what it tends to do, then next year when you advertise how much you increase the Defense bill, you have this $18 billion in and it adds up, so that next year it is not just $18 billion, it is

the $18 billion additional money that is in the baseline from the previous year and then you add another $18 billion. Let's say, hypothetically, you jack it up each year by $18 billion, and the net deficit is $36 billion; and then next it is $36 billion plus $18 billion; and the next year it is $54 billion plus $18 billion; and the next year it is $72 billion plus $18 billion. You carry that out to the tenth year, and it is $162 billion plus $18 billion, or $180 billion extra for the Defense budget in 1 year, which is about $990 billion over 10 years.

So an $18 billion addition, or failure to contain the growth in a discretionary account, has tremendous ramifications over the years. It is this kind of psychology that has led us into this mess. Some of our appropriators and others in this Congress, I think, have felt a thrill if they can beat the limit on their account. If they have been given an account, and they get $80 billion or $100 billion to spend they can figure a way to gimmick it up $18 billion or $5 billion or $7 billion, and they can maneuver it through and then tell you when the bill hits the floor: Well, if you don't vote for it, Sessions, you are against agriculture and people back home are going to attack you because you voted against agriculture. And I say: Well, Mr. Senator, you put too much money in there. I can't vote for it; there is too big an increase. Therefore, you are either for agriculture or you are against agriculture.

What they said to Senator BUNNING down here the other night, when he said unemployment insurance should be paid for, was: You are against unemployment insurance. You do not want people to have any unemployment insurance. That was absolutely false. They repeated it over and over and over again. But he stood like a solid rock and he didn't give in. He said: I am not agreeing to it because you could pay for it, and it is increasing the debt on my 42 grandchildren. He didn't agree to it.

Well, every now and then somebody stands up in this Senate and says: I have had enough. I am not going to say yes this time. I respect him for the courage he showed.

The Committee for a Responsible Federal Budget, which is a bipartisan group in DC, issued a report not long ago that said that freezing all nonwar-related discretionary spending next year could save us $60 billion in 1 year, and it will set up a new baseline that would save us—as this chart which creates a new baseline mentality shows—$600 billion over 10 years. That is a lot. Even in Washington, $600 billion is real money. On the other hand, the committee stated that if we allow discretionary spending to grow at the projected rate of GDP growth instead of inflation, it would cost us $1.7 trillion more over the next 10 years.

This is a nonbiased group. I don't think anybody would fundamentally disagree with that. So it does make a difference how much money we spend on every single account, on every single funding in an appropriations bill that comes through this Senate.

Can we get bipartisan support for having a tougher line and containing spending? I think the answer is absolutely we can. Why is there a conflict? The simple fact is the 5-year binding caps that were passed in 1990 had broad bipartisan support. In fact, a number of currently serving Republicans voted for them and 10 of our currently serving Democratic Senators did also, including Senator REID, our Democratic leader, and Senator INOUYE, the chairman of the Appropriations Committee. He voted for them in the 1990s.

If we think this through, we have every reason to believe we can get there. The 5-year spending cap that passed in the 1990 budget deal had even stronger bipartisan support. It passed again in 1997. I know Senator BAUCUS was here then, and it passed 85 to 15, with 44 currently serving Senators supporting it, and 26 of them were Democrats. Senators REID, DURBIN, CONRAD, and INOUYE all voted for them. If we could do it in 1990, and again in 1997, there is no reason we cannot do it now. In fact, I and my staff have met with numerous groups across the political spectrum, including the Brookings Institute, the Committee for Responsible Federal Government, the Urban Institute, the Progressive Policy Institute, the Concord Coalition, and the U.S. Chamber of Commerce—everybody we met with has said getting a handle on discretionary spending is essential.

Although AARP, the Association of Retired Persons, initially expressed opposition to the amendment, I believe we have addressed their concerns. Their chief concern was that we would not separate defense and nondefense spending, which would let the defense spending raid nondefense accounts. However, we have separated them, so that is not a danger.

Of course, one criticism some might give to the bill is that it raises the threshold for waiving—breaking the spending limits from 60 Senate votes to 67 Senate votes, and they say that is just too restrictive. But we have to raise this threshold because we have a 60-vote situation now and we have been able to muster 60 votes to pass every kind of possible emergency bill, and some of those clearly were not emergencies. It takes 67 votes in this Chamber to make a change to the Senate Journal, but we can max out the Senate's credit card with 60 votes. Something doesn't seem right about that. I think, with the seriousness of our situation, this would be a good step.

Furthermore, the fiscal year 2010 budget resolution already accounted for about $10 billion per year in emergency spending, which we have allowed to remain in this amendment. Any emergencies for which that is inadequate should be able to receive the support of 67 Senators—if we have an emergency. In fact, all the disaster relief emergencies, those kinds of emergencies since the emergency designation was created in 1990 to try to contain spending, have received support of more than 67 Senators. Isn't that interesting? All of our emergency designations for hurricanes and earthquakes and fires and storms and the like have received more than 67 votes. So I think it is just not a good argument to say we can't respond to a legitimate emergency.

The prospect of massive Federal spending is hurting jobs and growth. In a recent editorial in the Wall Street Journal, Stanford University economics professor Michael Boskin stated:

> The explosion of spending, deficits and debt foreshadows even higher prospective taxes on work, saving, investment and employment. That not only will damage our economic future but is harming jobs and growth now.

China and other countries may not be able to keep financing our debt in the future even if they would like to—which I really think they won't. Professor Allan Meltzer, a well-known scholar on the Federal Reserve and monetary policy, noted in a column in the Wall Street Journal that our current and projected deficits are too large relative to current and prospective world savings to rely on other countries being able to finance them for the next 10 years. In other words, there may not be enough surplus money in the world to buy these debt instruments we are going to have to issue. In fact, a recent Washington Times editorial entitled ''Spending to a Depression'' notes that, since China and other countries are trying to reduce their holdings of dollars, we will have to rely more and more on U.S. banks to buy our bonds, which will decrease capital available for lending to businesses.

On an airplane today, coming back from Alabama, I read an article that made reference to the fact that when the Federal Government puts out this much money and interest rates become higher than they have been. They are currently extraordinarily low, and banks are now buying Treasury securities at 3.6 or 3.7 percent interest for 10-year Treasury notes. Instead of loaning to local businesses, banks can get the money from the Fed at less than 1 percent and they can buy a Federal Government debt instrument for 3.5 or 4 percent and not have to loan it to some businessperson who might be a higher risk. We are crowding out resources necessary for economic growth. This is a reality.

In a Budget Committee hearing on budget reform on November 10, former Comptroller of the Currency and GAO head David Walker testified that by 2040, 30 years from now, we will have to double taxes just to keep up with current commitments. Can you imagine that? The way we are spending, we are going to have to double taxes in 30 years. He stated that in 12 years, interest will be the single biggest line item in the entire budget, even assuming interest rates do not change from today's

low rates. But they are going to go up. Everybody knows that. Some are predicting the kinds of interest rates we had in the late 1970s. I truly hope that does not occur, but many people believe we do not have any idea how high interest rates could surge when the whole world, including Europe and other places, is spending money it does not have and attempting to borrow in the marketplace to have that happen. Mr. Walker also said that deficits are the public's largest concern by 20 points, in opinion polls.

In a Financial Times editorial in May of last year, Mr. Walker warned that the United States is in danger of losing its triple-A credit rating. Moody's made that clear. Moody's stated that the United States is in danger of losing its triple-A credit rating. Pierre Cailleteau, the chief economist at Moody's, stated that, unlike several years ago, ''Now the question of a potential downgrade of the U.S. is not inconceivable.'' Under the most pessimistic scenario put forth by Moody's, the United States could lose its top rating in 2013—3 years from now.

I was very pleased we had strong bipartisan support for the amendment previously. By allowing us not to apply these budget limits we passed last year to the current year, it gives some relief to our Members of the Senate who complain that next year we will start cutting spending but we should not this year. We will give a little bit there, although it will mean we will not save as much money for sure. But I really believe we need to pass this legislation. I truly hope we can. We only need three or four more votes to make it a reality. I count now, with the ones who voted for it before and a new Senator in the body, we will have 57 votes. We need 60. The situation has not gotten any better, and I am hoping my colleagues will look at it afresh and that we might be able to reach that number. It will make a difference. It made a difference in the 1990s and led to an actual surplus. I believe it could help us again this time. We have much more serious problems this time. We have more challenges this time. But it could make a very significant difference in our spending level. It would really be a statement to the entire financial world that we are beginning to take some steps and that next year we are not going to have 12 percent increases in spending for discretionary accounts but we are going to hold it to the 1- or 2-percent increase level. I think that might have some psychological improvement in our entire financial condition.

I apologize to the fine chairman of the Finance Committee for taking this long, but I really believe it is an important issue. I am so hopeful we are getting close to getting the votes to take this positive step.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I appreciate the comments of the Senator from Alabama. He is concerned, as we all are, with our current fiscal situation, our debts and our deficits. I might add—this is not an excuse; it is clear we Americans have a problem that has to be addressed—other countries are in the same fix. It is not just America. But again, that is no excuse. Our deficits are high primarily because of the financial crisis, working our way through all that. The real test is whether we as a country, when times get better and incomes increase, live much more within our means. I certainly hope so. I know every Senator in this body hopes so.

More precisely, the Senator from Alabama seeks to place caps on the appropriated accounts. That is pretty much the same amendment the Senate rejected about a month ago; I think it was January 28.

I believe the pending Sessions amendment addresses matters within the jurisdiction of the Budget Committee. It therefore violates section 306 of the Congressional Budget Act. I will not raise that point of order at this time, but I believe the amendment does violate the Budget Act.

Furthermore, this subject is really more within the purview of the Appropriations Committee. I defer to the chairman of the Budget Committee to address this amendment in due course.

I also note that the Senator from Minnesota has been waiting very patiently to speak. We are all anxious to hear from the Senator from Minnesota, so I yield the floor.

Mr. SESSIONS. Mr. President, did the Senator make a budget point of order?

Mr. BAUCUS. No, I did not.

Mr. SESSIONS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Mr. President, I wish to speak as in morning business.

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

(The remarks of Mr. FRANKEN are printed in today's RECORD under ''Morning Business.'')

Mr. FRANKEN. Mr. President, I also would like to take a few minutes to speak on another topic, the extension of unemployment benefits and COBRA subsidies. I admire those in this body who take a principled stand. The Senate would get more done if all Members were guided by their basic core principles and put principles ahead of political posturing, ahead of party, ahead of polling.

To block a legislative measure because it is not fully offset—sure, that could be based on principle. Believe me, I am concerned about our budget deficit. But principles are something you consistently stand behind. That is what makes it a principle, something you care about, something that guides you throughout your career. That is what makes it a principle. Principles cannot be ignored, even when it is expedient or advantageous to do so. Yet that is exactly what is happening now. A principle is being invoked only now that it is convenient.

You might remember that when George W. Bush entered office, it was with a $200 billion budget surplus. He also entered office with projections of nearly $1 billion in future surpluses over the next decade, on a glide path to paying off the entire national debt.

But instead of doing the sensible thing and paying down our debt when we had the means, the Bush administration racked up massive deficits at a record pace. Vice President Cheney even said ''deficits do not matter.'' Fed Chairman Alan Greenspan testified that we might pay off our debt just too quickly. We were told we might have too much money. Really. He did this. He testified to Congress saying that was a real worry.

Then we paid for an unnecessary war in Iraq, without offsets. We passed Medicare Part D without offsets. We passed three different sets of tax cuts totaling trillions of dollars, most benefitting the wealthiest people in the Nation, without offsets.

Yet last Thursday night the Senate repeatedly attempted to extend benefits for America's unemployed workers, and these efforts were blocked supposedly because it was not fully offset. For some reason benefits to the wealthiest Americans did not need to be offset, but keeping unemployment benefits flowing to those families who have been hardest hit by this recession suddenly need an offset.

If this is a matter of principle, it seems to me we have very bizarre principles. One principle we should all stand behind is supporting American families when economic times are tough. Last week, half a million Americans applied for unemployment benefits for the first time.

Despite what some might suggest, our Nation's unemployment crisis is not over. We know unemployment can persist long after recovery begins. This downturn will continue affecting American families for months and years to come.

That is why we need to extend Federal unemployment benefits now. Without an extension, over 1 million Americans, including thousands of Minnesotans, will lose their benefits this month. Without those unemployment benefits, many families will have no other way to keep paying their mortgage and buying groceries. Even with some economic progress, there are still six applicants for every job opening, and in some industries there are simply no jobs to be found.

Our obligation to America's working families is a serious one. When there are jobs to be had, working and middle-class families keep our economy running. After Wall Street's indiscretions were the cause of an economic collapse and our government bailed them out, we are in no place to tell America's families that there is not enough help to go around. Their interests should have been placed ahead of the big banks from the start.

Further, the provisions that are currently being blocked will also provide

for the vital COBRA subsidy. Right now, the COBRA subsidy is helping American families retain their health care coverage while they continue to look for work. Facing a medical crisis while being employed and uninsured is a burden most families simply cannot withstand. We should not be putting Americans in that position when it is due to no fault of their own.

We should not be driving them to a place where they simply have run out of options. This procedural stalling is unacceptable. I have heard from Minnesota's employment commissioner that the expiration and subsequent agreement on an extension will be an administrative burden on our State, not to mention an inefficient use of State resources.

The delays are also stressful and disruptive for Minnesota's families. This is the case in all 50 of our States. So I call on all of my colleagues to come together today and stand behind the principle, the principle of supporting American families when times are tough. This is the principle on which we should all be focused and all be judged.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN.) The Senator from South Dakota is recognized.

AMENDMENT NO. 3338 TO AMENDMENT NO. 3336

(Purpose: To create additional tax relief for businesses, and for other purposes.)

Mr. THUNE. Madam President, I call up amendment No. 3338 and ask for its immediate consideration.

Mr. BAUCUS. Madam President, is the Senator asking unanimous consent to set aside the pending amendment?

Mr. THUNE. I would like to have my amendment be made pending.

Mr. BAUCUS. You wish to set aside the pending amendment?

Mr. THUNE. Yes.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 3338 to amendment No. 3336.

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

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

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

Mr. THUNE. Madam President, as we all know, our economy is suffering. We have an unemployment rate that is currently at 9.7 percent. Furthermore, we have large portions of the population that are either underemployed or have dropped out of the workforce because of limited job prospects.

There are a variety of factors that have contributed to this recession. The government's response so far has been largely ineffective, particularly with regard to employment, and I would argue that the best thing that we can do to address the issue of unemployment and having to extend unemployment benefits and COBRA and other types of benefits, all of which are considered in this underlying bill, is to get people back to work.

That is fundamentally the very best thing that we can be doing—focusing on how we create jobs, how we grow this economy, how we provide opportunities for those who have lost their jobs, who are underemployed, to get back into the workforce. That, to me, ought to be the focus of our efforts in the Senate.

The bill that was passed about a year ago, the stimulus legislation which we now know is going to cost somewhere in the neighborhood of $862 billion without interest, with interest well over $1 trillion, was all borrowed money. It is going to add $1 trillion to the national debt.

Despite that amount of spending, only $6.2 billion was spent on tax incentives for small businesses, and another $730 million was spent in funding for the Small Business Administration. So I want to think about for a moment what that means in terms of the dimensions of the bill that was passed last year. We had a $1 trillion bill. Together the incentives for small business in that bill represented less than 1 percent of the total cost.

We all know small businesses have a much greater impact on the economy and on employment than that number represents. Small businesses employ more than half of all of the Nation's private sector employees. They create nearly two-thirds of all of the new jobs and create a disproportionate number of the patents that are issued in our Nation.

At the time we voted last year on the stimulus bill, I believe now this was one example of the priorities in that legislation that were misplaced if we are intent on and focused as a laser on creating jobs and getting this economy growing again.

I made the argument at the time, as did many of my colleagues—and we offered amendments in support of that belief—that the best way to get the economy growing again is not to focus on a lot of government spending on new government programs, but, in fact, to provide incentives for small businesses, the engines of our economy; to get out there and to start investing and to start creating jobs.

So I offered an amendment that was an alternative to the stimulus bill a year ago, which, according to the economic model developed by the President's economic adviser, would have created twice as many jobs, and it would have cost half of what this stimulus legislation is going to end up costing the taxpayers of this country—again, all of which is borrowed from future generations.

While the Senate passed a smaller jobs bill last week, Senators in the Chamber were blocked from offering amendments. I wanted to offer this amendment a week ago when we considered the other jobs bill that passed through here. That was a $15 billion jobs bill which I think is now pending action in the House of Representatives.

But I am offering this amendment now because we have this underlying tax extenders bill, and I think it is important that we discuss and debate how best we can stimulate the economy, how best we can grow the economy, get it expanding again, and how best we can create jobs to get people back to work. It seems to me, again, that ought to be the first priority on which we as a Senate get focused.

What my amendment would do is, it would, for the year 2010, extend depreciation. It would permanently increase the section 179 deductions that allow small business to expense more of the investment they make as opposed to having to depreciate those.

By lowering the cost of new capital expenditures, these provisions would encourage companies to invest in new equipment, make capital purchases, capital investments; it would increase both growth and employment. It would also eliminate capital gains taxes on small business investment.

This simple, permanent reduction in taxes was supported by the President in his State of the Union Address, and it would increase investment as well in small businesses. This amendment also would allow a 20-percent deduction for small business income. We currently have a lot of small business owners who pay their taxes at the individual level. It is called flowthrough income. They have a small business. The income flows through to their individual tax returns and so they pay at individual tax rates, and those tax rates are set to rise on small businesses beginning in 2011. In fact, a lot of our small businesses, about half, are going to be impacted by those increases in marginal income tax rates that will occur in 2011. This would help mitigate the impact of those increases on the 20 million people working in small businesses, those small businesses which would be taxed at a higher rate under the President's tax proposals.

Finally, this bill would prevent Davis-Bacon prevailing wage requirements from raising the cost for projects funded under the stimulus bill. While I understand the importance of good wages, projects that comply with Davis-Bacon restrictions see labor costs on average 22 percent higher than market rates. This stimulus bill was the first time where that requirement was inserted into this sort of a stimulus bill designed to create jobs and grow the economy. Waiving these provisions will help eliminate the confusion and stretch taxpayer dollars so we get more bang for our buck in the amount of dollars currently out there, hopefully, trying to create jobs.

My amendment would be paid for by redirecting unspent or unobligated stimulus funds from the bill passed last year. Out of that $862 billion in spending, according to what we hear from

the administration's Web site, recovery.org, about 37 percent of that money has been spent as of the end of this last year. Bear in mind, a lot of that money is obligated, but we understand that the unspent, unobligated amount on the spending portion, not on the tax portion, is about $160 billion. It would seem to me that if the purpose of all our efforts is to create jobs, we ought to begin to think about who creates those jobs. Two-thirds of the jobs in our economy are created by small businesses. Why then should we not be focusing our efforts on creating incentives for small businesses to invest? Frankly, that would have been the way I would have gone about the stimulus bill.

Many of my colleagues offered amendments, and many of them supported my amendment. I think I had 37 votes for my amendment that would have focused in the stimulus bill of a year ago more on small businesses, whereas the bill that ultimately passed only spent under 1 percent of that total amount, almost $1 trillion, on small businesses which are the economic engine, the job creators in the economy.

If we can figure out ways to get small businesses some relief so they can start hiring again, we address all these other issues—9.7 percent unemployment which, incidentally, the promises made when the big stimulus bill passed last year was that if we didn't pass this stimulus bill, unemployment would go up to 8 percent. We have blown way by. That is at 9.7 percent. We were told it would create millions of jobs. We know now that since its passage last year, we have actually lost 2.7 million jobs in the economy. Clearly, the prescription put in place is not working. I argue that is largely because it was misdirected. It was directed toward creating new bureaucracies in Washington, perhaps some government jobs, but the fact is, the good-paying, permanent jobs in our economy are created in the private economy. The biggest creator of those jobs is small businesses.

Frankly, we ought to be looking at what types of policies can we put in place that will create an environment in which small businesses can go back out there, make investments, put people back to work and then we start, hopefully, bringing the unemployment rate down, get people back employed again, and a lot of these measures we are now having to take with regard to unemployment benefits hopefully would cost the taxpayers a lot less. The best thing we could do for people who are without a job is to get them back to work. The best way to do that is to get small businesses hiring again.

One final point. One of the things I hear repeatedly from small businesses in South Dakota and across the country is there is a sort of paralysis about investors looking at investing in different areas and different projects. But looking at Washington, DC, and seeing all this policy uncertainty, they see this cloud over the economy. It is creating economic anxiety. What I hear from a lot of small businesses and people who create jobs is that they are worried about the policy uncertainty in Washington, DC. Is Washington going to pass this massive new health care bill which includes an employer mandate that would raise taxes on small businesses? Is Washington going to pass a climate change bill that has punishing energy taxes, particularly on areas in the Midwest? I have a couple of power plants in my State that are on ice right now because of uncertainty about what is going to happen with regard to coal-fired power.

There is a lot of uncertainty out there swirling around about what Congress might do or, worse yet, what the EPA might do on their own. There is uncertainty about what is going to happen with taxes. Are we going to see taxes go up in 2011? In fact, for small businesses, about half who do allow their income from their small business to flow through to their individual income tax return are going to see those marginal rates increase when they go from 33 to 36 and 35 to 39.6 percent, significant tax increases, which is why I have a deduction for small business income as part of this amendment. We need to bring some certainty to small businesses in the area of taxes, certainty with regard to regulation, certainty with regard to the litigation environment. We have so much uncertainty swirling around Washington, it is creating a huge cloud.

Now we have a situation where small businesses are making decisions based upon political factors rather than economic factors. We want them making decisions based upon economic factors, not worrying what has become the new center of gravity, and that is Washington, DC. Washington cannot create permanent, good-paying jobs in our economy. Those can only be recreated in the economy as we unleash small businesses and entrepreneurs and provide incentives for them to do what they do best. That is to grow their businesses and to make capital investments and to create jobs.

I hope my colleagues will support this amendment. It is paid for. It is offset. This doesn't add anything to the debt. We don't have to borrow money. All we do is redirect unspent, unobligated stimulus moneys, moneys left over from last year's stimulus bill toward small business tax incentives which, frankly, many of us argue—and I argued at the time and I hope more people agree now—should have been a greater focus of the stimulus in the first place. If we are serious about creating jobs, we have to go to where the job creators are. The economic engine is small business. My amendment creates tax incentives for them to go out and create jobs and does it in a way that doesn't add to the deficit, doesn't add more borrowing and allows the small businesses to do what they do best.

I encourage my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. I ask unanimous consent to speak as in morning business.

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

Mr. MERKLEY. Madam President, I rise to address the Republican filibuster attacking the American worker and the Republican filibuster attacking America's small businesses.

I had the chance to go home this weekend. I started my trip home in Deschutes County where there is 14 percent unemployment. Next door to Deschutes, Crook County has 16.8 percent unemployment. That is only counting workers officially unemployed as opposed to those who have given up on finding jobs. I went down to Klamath County to the south, with 12.6 percent unemployment. I went to Hood River and Columbia Gorge, Washington County, the Portland metropolitan area. Everywhere I went in Oregon, whether it be eastern or western or north or south—because I was in every quarter this weekend—citizens wanted to know why are the Republicans attacking the American worker and American small business?

Across this country, our working families are in trouble. They are looking to this body for help. They want to know when are we going to get it done. And by ''it,'' they mean extension of unemployment benefits. They want to know when are we going to get extended the COBRA health benefits. They want to know when we are going to fix the Medicare rates that changed today and dropped more than 20 percent so that it is that much harder to get into the door of a doctor if you are a senior. They want to know why transportation projects are grinding to a halt, even though we need those jobs.

The answer lies in this Chamber. This attack on the American worker by the Republican filibuster is unacceptable. This attack on the American senior is unacceptable. This attack on American small business is unacceptable.

Not only does this directly impact working Americans and retired Americans, it also affects the economy. Unemployment insurance, COBRA extensions are good for the economy. They help put food on the table. They help pay the rent. All of that money stays in our economy. All of it goes for most families, because they have bills to pay to businesses in the communities. Those businesses can then pay their workers and pay their contractors. One of the best bangs for the buck in terms of economic growth is right before us in unemployment insurance and a COBRA extension.

I have puzzled over this challenge. Because what I have observed is this: When it comes to giving away money

out of the Treasury to the wealthiest Americans, my colleagues across the aisle are delivering it on a silver platter to the wealthiest and best off. But when it comes to a plan to assist working Americans and seniors and small businesses, my colleagues across the aisle, through this Republican filibuster, are taking the hatchet to them. They are saying: Working Americans don't count. We only want to have benefits on the silver platter for the wealthiest.

It is working Americans who made this Nation great. It is the American middle class that created the strongest economy in the world. It is the American public school system and our working families that have come up with the industriousness and the ingenuity to take this Nation forward.

When I am talking about the silver platter the Republicans have for the wealthiest in America, let's examine the details. Unfunded Republican program, 2001 tax cuts, a $1.35 trillion giveaway, borrowed from the next generation, from our children. That is quite a gift. That is quite a silver platter. The 2003 tax cuts, $350 billion delivered on a silver platter for the wealthiest Americans. Medicare Part D, an unfunded program, $400 billion on a silver platter; the Iraq and Afghanistan wars, almost $1 trillion—$944 billion—through June of 2009. The total this year will exceed $1 trillion, unpaid for, unfunded, borrowed from our children.

There have been some colleagues rising to say how this is a matter of being consistent in paying for American programs. But when you check the record, they voted time and time again for unfunded giveaways to the wealthiest Americans—the 2001 tax cuts, the 2003 tax cuts. And they voted for other programs I like but they were not funded, and I include in that Medicare Part D.

When I hear a colleague talking about fiscal responsibility, it is a little like listening to Bernie Madoff talking about tough accounting rules; it is a little bit like hearing from Brett Favre about promising he will retire; it is a little bit like listening to Simon Cowell delivering a lecture that people should not utilize sarcasm. Because after these trillions of dollars of unfunded giveaways, my colleagues have put together a Republican filibuster to attack the American worker in a completely inconsistent manner.

I have a different outlook. I think many of my colleagues here have a different outlook. We should be here to make America work for working Americans. That means when they are hurting, we are going to assist them with unemployment insurance, we are going to help with the COBRA extension, we are going to help with these loans to small businesses, and we are going to help our seniors by fixing that Medicare provision. We are not going to take the hammer to those programs. We are going to assist our working families.

Because of this Republican filibuster, nearly 1.2 million Americans will lose their benefits, and by June this number will grow to 5 million unemployed workers who will be left without vital benefits if Congress does not act.

Let's talk about that small business provision. Small business owners have been hurt because the Small Business Administration's general business loan program expired yesterday, making it more difficult for our small businesses to access loans in an already difficult business climate.

My colleague from South Dakota was just on the floor speaking about the importance of helping small businesses. But I say to him and the Republican filibuster attacking small business in America: Come to this floor and say enough is enough; I am going to stand with our workers and our seniors and our small businesses.

It is time to end the political posturing, take our eyes off November and put our eyes on the challenge of American families, and pass this legislation right away.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Madam President, first of all, I want to thank the Senator from Oregon for those very passionate comments. We have had the opportunity to join in a number of forums to speak out about the importance of creating jobs in America and of helping those who through no fault of their own have lost their job, and I thank the Senator for his eloquence and passion again this evening.

I come to the floor to also add my voice to what I believe to be an outrageous situation. I say this with all due respect to my friend from Kentucky. We work together on a number of issues, and I look forward to continuing to do that. But on this I believe what is being done is absolutely wrong. It is outrageous.

We are in a situation right now where nearly 135,000 Michigan residents will lose the unemployment assistance they need by the end of this month if we do not take action immediately. That is just in 1 month as to people who have been hit by nothing less than an economic tsunami.

We have a sense of urgency when an earthquake happens, when storms come, and the floods come. Well, to families across this country, the storms have come. They have been here—in our case for years—and we need to have the same sense of urgency as any other disaster would call us, focusing not only on helping people who have lost their job but in creating jobs.

I am proud to be a part of a caucus that has placed jobs at the forefront and a President who, last year, started at the beginning of the year with a jobs bill, a Recovery Act, and moving on, and this year with an entire jobs agenda. But the reality is that until jobs are created, we have millions of people in this country who have played by the rules all their lives, paid their taxes, cared about their families, gave back to their communities, and their only sin is the fact that they have lost their job through no fault of their own.

They are trying to keep a roof over their head, keep food on the table, keep the heat on, trying to make sure their kids have what they need. Most of them are receiving $200 or $300 a week to try to hold it together while they go job training, while they look every day for work. People want to work. This is not about people who do not want to work. People want to work. But we have six people applying for every one job in America.

So while we focus on job creation and partnering with the private sector to make that happen, we have millions of people in America who do not understand how something such as merely extending unemployment benefits could be held up. Last night, the unemployment benefits stopped that process now. This month, people are getting notices, afraid about what is going to happen to themselves and their families.

What we have is a misuse of the rules, in my judgment. What we have is an objection, and it is one for which we have been down here many times. We have the charts now. We have had it happen over 116 times this session, where we have seen objections, bringing to a halt the will of the majority, blocking the democratic process of voting—of simply voting—and being able to solve problems and move things forward.

I received an e-mail from a woman in Livonia, MI, who lost her job last year. She took the opportunity to go back to school to get new job skills to become a registered dietitian. But now, as she is doing that, because of this obstruction, this woman is going to lose the help she needs to allow her to make it and keep a roof over her head while she is turning the corner and gaining new skills to get a new job. The rug is, frankly, being pulled out from under her, and I think that is outrageous.

She is not alone. As I indicated before, we have nearly 135,000 people in Michigan who will lose the help they need under unemployment benefits by the end of this month if we do not act, and act immediately.

I received another e-mail from a woman in Greenbush, MI. She and her husband both worked at the same manufacturing plant. It is a common story in Michigan. They both lost their job. She writes:

> We are both seeking work and schooling for new careers. We have both eceived a letter from the unemployment office that our benefits will end. We have no other source of income and we fear we will lose our home.

This is real for millions of people across this country, millions of middle-class families who assume that in a disaster, an economic disaster, their government, the people of the country, will step up to help. That is what unemployment benefits are all about.

It is time to act, it is time to stop blocking democracy. If my friend from

Kentucky has an amendment to offer, offer it, debate it, and vote. But just blocking us from exercising our right to vote is not the American way. The American way is to vote, to act, to make decisions, not to block. We have seen way too much of blocking democracy from our Republican colleagues in these last months and months.

I also want to speak to other provisions in this bill because I find it interesting that within hours of the health care summit last Thursday, the blocking of this bill showed us what the health care plan is by Republicans: cut people off from help with COBRA, cut doctors' benefits. That came within hours of the health care summit. We are now getting calls from people who are concerned about whether their doctor is going to be available.

Are senior citizens under Medicare going to be able to see their same doctor because of the cuts that will happen if we do not act immediately? People who one day lost their job, the next day lost their health care—we have been able to help them through the jobs bill we passed last February to be able to continue their health insurance through work. It is expensive to do under something called COBRA, but we have been able to help them do that by helping to pay on a short-term basis for part of that cost.

So the health care summit happens on Thursday, and hours later there is an objection that will stop health care for hundreds of thousands if not millions of Americans, and stop the ability of doctors to be reimbursed at a fair rate to be able to care for their patients. This is, in my judgment, an absolutely outrageous situation, and it has to stop.

I thank our chairman of the Finance Committee for his work and advocacy and being here on the floor calling for us to vote. I am hopeful people around the country will speak out loudly between tonight and tomorrow and that we will be able to come to the floor and stop what is effectively blocking the democratic process and blocking our ability to vote, to make decisions, and to move forward.

We have millions of Americans who are counting on us to understand what is happening in real people's lives every day—not political games, not all the partisanship, but real people's lives—who are going to get up tomorrow morning and say: OK, what do I do now? How am I going to keep my roof over my head? And how am I going to continue to go to school to get that new skills I need? How am I going to put food on the table for my family? That is what is affecting people across this country.

In addition to the millions of people who have lost their job and are on unemployment, we have millions of others who are one paycheck away from being in the very same situation—people who could be spending in the economy now to be able to help move things forward, who are afraid of what happens next. Part of that fear is not only will they have a job, but what happens if they do not? And what is the message that is sent if we do not make it clear we will be there for them if that happens? Will they be able to continue to have the basics to keep their family going?

I strongly urge we do everything possible. I know we will stop this obstruction, to allow the democratic process to go forward, to allow us to vote, to solve problems, to move this bill forward, and send a very strong message that we understand what is happening to millions of families who have faced a disaster of epic proportions. It is truly as much a disaster as anything else any community has ever felt in terms of losing their jobs and fighting and working to get something.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, we are here to do the people's business. The folks in our home States elected us to do what is right. Most folks don't care too much about the process, as long as we get our job done and as long as it is reasonable, within the boundaries of reasonableness, and as long as they think we give the subject considerable thought. I think we agree that is true. I think it is largely true that most of the people would think: Well, gee, why don't you go ahead and pass that extenders thing you are talking about back there because it is the right thing to do.

People need to collect their unemployment checks. They need their health insurance. Some of these tax provisions need to be continued; otherwise, this is a job-killer action the other side is taking. It is a job destroyer. To not continue these provisions actually destroys jobs. That is not what we want to do.

On another matter: The Senator from South Dakota proposes an amendment to make a series of tax cuts for small business. I might say that some of these tax cuts, the ones he proposes, actually have merit. We in the Finance Committee hope to address small business tax cuts in a markup perhaps as early as this month. This is a jobs agenda. It is additional legislation to help create jobs, preserve jobs, and help the recovery come along a little more quickly.

The offset, however, that the Senator from South Dakota proposes is another matter. The Senator from South Dakota seeks to pay for his amendment by cutting funding from the Recovery Act, and that idea does not have much merit, at least not in this Senator's judgment. Pretty much the last thing we should do is to be seeking to cut the Recovery Act.

The nonpartisan Congressional Budget Office, the independent organization we rely upon around here—both sides of the aisle in both bodies—says the Recovery Act is working. The Congressional Budget Act says that in the third quarter of last year, for example, the Recovery Act caused between 600,000 and 1.6 million people to have jobs. That sounds as though it is working to me. The CBO also said these people had jobs who would not otherwise have had jobs. I, therefore, think we should not be cutting back on the Recovery Act; rather, we should let it work its will.

The investments the Senator from South Dakota seeks to cut in addition are largely within the jurisdiction of the Appropriations Committee and, thus, I will defer to the chairman of the Appropriations Committee who I think at the appropriate time will have quite a bit to say about this Thune amendment and will speak to it at greater length. I suggest that is an appropriate time to have a more lengthy discussion on this matter.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

CONGRATULATIONS TO MINNESOTA'S 2010 OLYMPIANS

Mr. FRANKEN. Madam President, 50 years ago this month, a group of athletes gathered in Squaw Valley, CA, for the Winter Olympics. A part of the U.S. contingent—the 1960 men's ice hockey team—unexpectedly surprised the world and brought home the Olympic gold medal by defeating the Soviet Union, Czechoslovakia, and Canada. Of these 17 remarkable men, 8 were from my home State, the great State of Minnesota. As anyone could see from watching this year's games, this outsized contribution from Minnesotans continues to this day.

Twenty years after this ''forgotten miracle,'' Team USA again shocked the world by miraculously defeating Finland and the vaunted Soviet Union to again win the gold medal. Thirteen Minnesotans played for the 1980 ''Miracle on Ice'' team, and a 14th was their coach.

This year's Olympic men's ice hockey team was considered by many not to have a chance for a medal. They were too young, too inexperienced; they had not played together before. And the U.S. men had not defeated Canada in Olympic play in 50 years. Yet a week ago, despite being the underdog, Team USA upset the favored Canadians in their own arena.

After defeating Switzerland and soundly beating Finland in the semifinals, Team USA played Canada a second time last night for the gold medal. Although we fell behind early, Zach

Parise—a Prior Lake, MN, native—tied the game with under a minute to play. Sadly for us, Canada would end up scoring in overtime to win the gold medal. But that cannot take away from what was truly a golden performance by the Americans. Jamie Langenbrunner, from Cloquet, did a stand-up job as captain, leading and pulling together a team that also included Minnesotans Erik Johnson, from Bloomington, and David Backes, from Blaine.

The American women's ice hockey team was expected to be great. And they were. Before falling to Canada, they had outscored their opponents 40–2. With Edina native Natalie Darwitz as captain, as well as Jenny Potter from Edina and Gigi Marvin from Warroad, they brought home a well-earned silver medal.

And of the 12 members of the U.S. Olympic curling team, 8 are from Minnesota. Natalie Nicholson of Bemidji and Allison Pottinger of Eden Prairie were on the women's team. The men's team was an all-Minnesota affair with John Shuster and Jason Smith of Chisholm, Chris Plys and Jeff Isaacson of Duluth and John Benton of St. Michael. Even their coach, Phil Drobnick is from Eveleth, MN.

Tony Benshoof of White Bear Lake is an Olympic luger. Kaylin Richardson of Edina was in her second Olympics, competing in alpine skiing. Wynn Roberts of Battle Lake was a competitor in the biathlon. Rebekah Bradford of Apple Valley is an Olympic speedskater. And Caitlin Compton and Garrott Kuzzy, each of Minneapolis, competed in cross-country skiing.

And there are many other Olympic athletes, like Lindsey Vonn, who have strong Minnesota ties but reside now in other States—which have mountains.

Yesterday marked the end of the 2010 Winter Olympic Games in Vancouver. I am so proud to see that there were more athletes in this year's Olympics from Minnesota than from any other State. Twenty-one Minnesotans took part in these games. Most were in their first Olympics. A few others were in their second Games. Natalie Darwitz has been to three. Jenny Potter has now been to four, winning a medal every time. Isn't that something—four-time medal-winning Olympian and mother of two.

Twenty-one athletes from all over Minnesota who now will be going back to tending a bar or being a teacher or being an engineer or a mom. Natalie Nicholson will return to Red Lake Indian Reservation as a nurse practitioner. The men's ice hockey players will be going back to finish the National Hockey League season. John Shuster will be getting married. All will continue to inspire us.

I congratulate every single one of these competitors. Each has shown tremendous grit and determination to earn a place representing our Nation at these Winter Olympics. Whether you won a medal, or simply gave it your all and competed, each of you is a champion.

Olympians make the children of our State and Nation dream of what they might do, and grownups like me dream of what we wish we could do, all while fulfilling their dreams on the world's stage and representing our Nation admirably. We owe them thanks for their hard work, their perseverance, and most of all their heart. And I hope I have the chance in the coming weeks to meet with each of these Minnesota athletes so I can congratulate them in person.

RECOGNIZING JESSE WHITE TUMBLERS

Mr. DURBIN. Madam President, I rise to congratulate a well-loved Chicago institution on a landmark anniversary.

For 50 years, the Jesse White Tumblers troupe has delighted audiences in Illinois and beyond and opened doors of opportunity for thousands of young people.

Jesse White, the man who gave the team its name, is probably best known today as Illinois' secretary of state and the first African American ever elected to statewide office in the ''Land of Lincoln.''

As a child, Jesse White was studious and well behaved. He was also a phenomenal athlete. His passion for sports won him a scholarship to Alabama State University, where he was all-conference in baseball and basketball for all 4 years.

After college, Jesse White served 2 years in the U.S. Army as a paratrooper.

Then sports opened another door for him. Jesse White was able to fulfill what for many of us is only a dream. He played professional baseball for the Chicago Cubs Triple-A farm team.

Returning to Chicago after his baseball days, Jesse White decided to become a Chicago Public Schools teacher. He also worked nights as a physical education teacher for the Chicago Park District.

In 1959, the park district asked him to create an acrobatic show. The result was so impressive that the troupe began performing on a regular basis. Its mission was—and remains—to keep children in school, off of drugs, and out of gangs in the Chicago area. And it has been a huge success.

A half century later, more than 11,000 young people have participated in the Jesse White Tumblers. Becoming a Jesse White Tumbler is no easy task. Thousands of young people apply every year but only a fraction are chosen. To make the team, members must stay in school and maintain at least a C average. They have to obey the law and stay out of gangs and away from drugs and alcohol. In exchange, the young athletes get to experience the excitement and glory of performing before appreciative fans. They also receive tutoring and college scholarship opportunities, performance fees, and a chance to travel and perform around the world.

The power of the Jesse White Tumblers to transform young lives and open new doors may be best illustrated by the story of three brothers. They performed together with the Tumblers, but at some point they decided together to drop out and join a gang. One of the brothers was murdered by a rival gang. The second brother, seeking to avenge his brother's death, killed an innocent man by mistake and ended up going to jail for murder. Instead of following in his brothers' footsteps, the third brother decided to rejoin the Jesse White Tumblers. The direction and discipline he received helped him not only avoid the pitfalls of his siblings but helped him earn a college education and eventually a law degree from the University of Notre Dame.

Multiply that story hundreds or even thousands of times and you begin to understand the importance of the Jesse White Tumblers.

The Jesse White Tumblers have earned their reputation as an icon in the State of Illinois. The program has done wonders, and I wish it another 50 years of continued success.

LIBRARY OF CONGRESS OFFICE IN JAKARTA, INDONESIA

Mr. LUGAR. Madam President, as my colleagues are aware, the Library of Congress, LOC, diligently works to keep the Congress fully informed on a plethora of issues. Today I would like to highlight the important work of a component of the LOC that is less known to colleagues, and that is its operation in Southeast Asia. The work of this regional operation immensely contributes to U.S. understanding of Southeast Asia, the Pacific Islands, China and India, thereby facilitating our foreign policy objectives.

The LOC office is one of six overseas offices operated by the Overseas Operations Division of the LOC. Staff to the overseas offices ''acquire, catalog, preserve and distribute library and research materials . . . and provide assistance to the U.S. Congress.''

For too many Americans, Southeast Asia is a distant unknown. In reality, the region is of significant economic importance to the American people. The approximately 580-million citizens—and consumers—of the 10 nations comprising the Association of Southeast Asian Nations, ASEAN, represent the fourth largest market for American exports.

Based in Jakarta, the mission of the LOC regional operation is diverse. Primary among its responsibilities is to provide research and information services to the U.S. Congress and the Congressional Research Service. Jakarta LOC staff also manage the Cooperative Acquisitions Program, CAPSEA, whereby they acquire materials from countries in the region on behalf of the LOC and member institutions, which

include 30 U.S. research libraries and 10 international research libraries.

It is important to note the ongoing, extensive assistance the Senate Foreign Relations Committee receives from the Jakarta LOC office. Research and preparation for committee projects on issues ranging from global food security, to international trade, nonproliferation, the Extractive Industries Transparency Initiative, EITI, counterterrorism and human trafficking, have been augmented by the diligent efforts of LOC staff in Jakarta and elsewhere in the region.

The Jakarta LOC office ensures that the U.S. Congress and the Congressional Research Service have up-to-date legal and legislative regional information, and it assists other U.S. Government agencies in providing and sharing open source information as well as acquiring publications.

The Jakarta LOC office has also worked with the House Democracy Partnership, HDP, and The Asia Foundation to create a legislative library for the National Parliament of Timor-Leste and to train the library staff, and is cooperating with the HDP to develop a parliamentary research service and an improved information technology system there.

Indonesia is a young democracy. Its Parliament is confronted with many challenges, including the development of its own operational and staff infrastructure. The LOC office in Jakarta serves as a bridge facilitating communications and meetings between the staff of the U.S. Congress and the Indonesian Parliament. Our counterparts in the Indonesian Parliament have expressed appreciation for this initiative.

In conclusion, I am grateful for the assistance provided to the U.S. Senate by the Southeast Asia LOC office, and wanted to take this opportunity to openly convey my appreciation.

ADDITIONAL STATEMENTS

REMEMBERING SAM HAMILTON

● Mr. NELSON of Florida. Madam President, I speak today to commemorate the life of a true friend of Florida, Mr. Sam Hamilton, who passed away on Saturday. In September of last year, Mr. Hamilton became the Director of the United States Fish and Wildlife Service. That was a fitting position for a man who had dedicated 30 years to protecting the Nation's natural resources and wildlife.

Long before he was Director of Fish and Wildlife, Mr. Hamilton was committed to this country's wild spaces. Just last month, I was fortunate enough to attend the groundbreaking ceremony for an Everglades restoration project called the Picayune Strand, and Mr. Hamilton was there. It was a proud day for us all, but certainly for a man who had worked so long on Everglades issues and knew how much this project would benefit the endangered Florida panther. On that unusually cold morning, he spoke about his experience in the Youth Conservation Corps at 15 years old in Mississippi and how that molded his dedication to wildlife conservation. Mr. Hamilton started his career with the U.S. Fish and Wildlife Service in Texas. He moved up the ranks to become the southeast region's director based in Atlanta.

During his time in Atlanta, he oversaw the Service's role in restoring the Everglades ecosystem. He took the Service's role of advising Federal agencies with regard to the Endangered Species Act seriously. He knew the ins and outs of the Apalachicola-Chatahoochee-Flint River Basin, and worked to protect the threatened and endangered species that call that system home, like the gulf sturgeon and the purple bankclimber mussel.

Mr. Hamilton was an avid fisher and hunter, and this gave him perspective on how to work with people from different backgrounds towards a common goal of conserving America's wildlife and the habitat that sustains it. I know that I echo my friends at the Department of the Interior like Secretary Ken Salazar and the Assistant Secretary for Fish and Wildlife and Parks Tom Strickland when I say that Mr. Hamilton will be sorely missed and his great contributions to my state and the country at large will not be forgotten. And to his family: wife Becky, sons Sam Jr. and Clay, and grandson Davis, you are in our thoughts during this difficult time. Thank you for helping your husband, father, and grandfather to serve this country.●

TRIBUTE TO KATHERINE PATERSON

● Mr. SANDERS. Madam President, I wish to acknowledge the lifetime work and recent achievements of Katherine Paterson of Barre, VT. Recently, Ms. Paterson was named National Ambassador for Young People's Literature by the Librarian of Congress James H. Billington.

Katherine Paterson's accomplishments as an author surely merit her appointment. She has twice been awarded the prestigious Newbery Medal, once for ''Bridge to Terabithia'' and a second time for ''Jacob Have I Loved.'' In addition, she won the National Book Award, also twice, for ''The Great Gilly Hopkins'' and ''The Master Puppeteer.'' Nor are these the only major recognitions of her importance as one of the major writers of our time. She has won 19 additional literary awards for other works, including the Hans Christian Andersen Medal, the Astrid Lindgren Memorial Award and the Governor's Award for Excellence in the Arts, which was awarded to her by her home State of Vermont.

Katherine Paterson was named a Living Legend by the Library of Congress in 2000.

Her most recent book is ''The Day of the Pelican,'' a moving, dramatic story of a refugee family's flight from war-torn Kosovo to America. It is the 2010 selection for Vermont Reads, a statewide reading program.

Katherine Paterson has long been dedicated to promoting literacy among young people, which makes her appointment as National Ambassador for Young People's Literature particularly appropriate. She has chosen ''Read for Your Life'' as the theme for her platform for the upcoming 2 years as National Ambassador. Throughout her tenure, she will be a most articulate advocate for the importance of literature in young people's lives.

We in Vermont are proud of Katherine Paterson's accomplishments as a writer. We are proud of her dedication to literacy among young readers. And, at this moment, we are proud that our national library, the Library of Congress, has conferred upon her this new honor, and the enlarged task of being the Nation's leading advocate for young people's literature.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

PROPOSED CONSTITUTION FOR THE VIRGIN ISLANDS—PM 47

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

To the Congress of the United States:

In accordance with the requirements of Public Law 94–584 (the ''Act''), I hereby transmit to the Congress a proposed constitution for the United States Virgin Islands (USVI). The constitution, drafted by the Fifth Constitutional Convention of the United States Virgin Islands, was submitted to me on December 31, 2009, by Governor John P. deJongh, United States Virgin Islands. In submitting the proposed constitution, Governor deJongh expressed his concerns about several provisions of the proposed constitution, but he also expressed his hope that the people of the United States Virgin Islands continue to ''move ahead towards [their] goal of increased local governmental autonomy.''

The Act requires that I submit this proposed constitution to the Congress,

along with my comments. The Congress then has 60 days to amend, modify, or approve the proposed constitution. If approved, or approved with modification, the constitution will be submitted for a referendum in the Virgin Islands for acceptance or rejection by the people.

In carrying out my responsibilities pursuant to the Act, I asked the Department of Justice, in consultation with the Department of the Interior, to provide its views of the proposed constitution. The Department of Justice concluded that several features of the proposed constitution warrant analysis and comment, including: (1) the absence of an express recognition of United States sovereignty and the supremacy of Federal law; (2) provisions for a special election on the USVI's territorial status; (3) provisions conferring legal advantages on certain groups defined by place and timing of birth, timing of residency, or ancestry; (4) residence requirements for certain offices; (5) provisions guaranteeing legislative representation of certain geographic areas; (6) provisions addressing territorial waters and marine resources; (7) imprecise language in certain provisions of the proposed constitution's bill of rights; (8) the possible need to repeal certain Federal laws if the proposed USVI constitution is adopted; and (9) the effect of congressional action or inaction on the proposed constitution.

To assist the Congress in its deliberations about this important matter, I attach the analysis of the Department of Justice, with which the Department of the Interior concurs. I believe that the analysis provided by the Department of Justice warrants careful attention.

I commend the electorate of the Virgin Islands and its governmental representatives in their continuing commitment to increasing self-government and the rule of law.

BARACK OBAMA.

THE WHITE HOUSE, *February 26, 2010.*

NOTICE RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE ACTIONS AND POLICIES OF CERTAIN MEMBERS OF THE GOVERNMENT OF ZIMBABWE AND OTHER PERSONS TO UNDERMINE ZIMBABWE'S DEMOCRATIC PROCESSES OR INSTITUTIONS—PM 48

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

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent to the *Federal Register* for publication the enclosed notice stating that the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions is to continue in effect beyond March 6, 2010.

The crisis constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions has not been resolved. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For these reasons, I have determined that it is necessary to continue this national emergency and to maintain in force the sanctions to respond to this threat.

BARACK OBAMA.

THE WHITE HOUSE, *February 26, 2010.*

MESSAGE FROM THE HOUSE DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 6, 2009, the following enrolled bill, previously signed by the Speaker of the House, was signed on February 26, 2010, during the adjournment of the Senate, by the President pro tempore (Mr. BYRD):

H.R. 3961. An act to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and Intelligence Reform and Terrorism Prevention Act of 2004 until February 28, 2011.

MESSAGE FROM THE HOUSE

At 2:04 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 227. Concurrent resolution supporting the goals and ideals of National Urban Crimes Awareness Week.

H. Con. Res. 238. Concurrent resolution recognizing the difficult challenges Black veterans faced when returning home after serving in the Armed Forces, their heroic military sacrifices, and their patriotism in fighting for equal rights and for the dignity of a people and a Nation.

MEASURES REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 227. Concurrent resolution supporting the goals and ideals of National Urban Crimes Awareness Week; to the Committee on the Judiciary.

H. Con. Res. 238. Concurrent resolution recognizing the difficult challenges Black veterans faced when returning home after serving in the Armed Forces, their heroic military sacrifices, and their patriotism in fighting for equal rights and for the dignity of a people and a Nation; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4626. An act to restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

H.R. 4691. An act to provide a temporary extension of certain programs, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. NELSON of Florida (for himself and Mr. LEMIEUX):

S. 3050. A bill to direct the Secretary of Agriculture to convey to Miami-Dade County certain federally owned land in Florida, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VITTER:

S. 3051. A bill to suspend flood insurance rate map updates in geographic areas in which certain levees are being repaired; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MENENDEZ:

S. 3052. A bill to address the establishment and maintenance of the Systemic Resolution Fund of the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 3053. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to permit the Abandoned Mine Reclamation Fund to be used for transportation and use of dredged materials for abandoned mine reclamation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MENENDEZ:

S. 3054. A bill to amend the Energy Policy and Conservation Act to establish efficiency standards for bottle-type water dispensers, commercial hot food holding cabinets, and portable electric spas; to the Committee on Energy and Natural Resources.

By Mr. CASEY:

S. 3055. A bill to require the Secretary of Commerce to award grants to municipalities to carry out community greening initiatives, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. BAUCUS (for himself, Mr. TESTER, Mr. DURBIN, Mr. ISAKSON, Mrs. MURRAY, Mr. REID, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. LEAHY):

S. Res. 427. A resolution designating the first week of April 2010 as ''National Asbestos Awareness Week''; to the Committee on the Judiciary.

By Mr. LEMIEUX (for himself and Mr. COBURN):

S. Res. 428. A resolution expressing concern about violations of civil liberties taking place in Venezuela and commending the people of Venezuela for their steadfast support of democracy; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 384

At the request of Mr. LUGAR, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 384, a bill to authorize appropriations for fiscal years 2010 through 2014 to provide assistance to foreign countries to promote food security, to stimulate rural economies, and to improve emergency response to food crises, to amend the Foreign Assistance Act of 1961, and for other purposes.

S. 405

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 405, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 428

At the request of Mr. DORGAN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 428, a bill to allow travel between the United States and Cuba.

S. 535

At the request of Mr. NELSON of Florida, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 535, a bill to amend title 10, United States Code, to repeal requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 621

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 621, a bill to amend the Public Health Service Act to coordinate Federal congenital heart disease research efforts and to improve public education and awareness of congenital heart disease, and for other purposes.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 749

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 749, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 841

At the request of Mr. KERRY, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 902

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 902, a bill to provide grants to establish veteran's treatment courts.

S. 941

At the request of Mr. CRAPO, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 941, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearm laws and regulations, protect the community from criminals, and for other purposes.

S. 1067

At the request of Mr. FEINGOLD, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1067, a bill to support stabilization and lasting peace in northern Uganda and areas affected by the Lord's Resistance Army through development of a regional strategy to support multilateral efforts to successfully protect civilians and eliminate the threat posed by the Lord's Resistance Army and to authorize funds for humanitarian relief and reconstruction, reconciliation, and transitional justice, and for other purposes.

S. 1204

At the request of Mrs. MURRAY, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1204, a bill to amend the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001 to require the provision of chiropractic care and services to veterans at all Department of Veterans Affairs medical centers, and for other purposes.

S. 1643

At the request of Ms. SNOWE, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1643, a bill to amend the Internal Revenue Code of 1986 to allow a credit for the conversion of heating using oil fuel to using natural gas or biomass feedstocks, and for other purposes.

S. 1744

At the request of Mr. SCHUMER, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1744, a bill to require the Administrator of the Federal Aviation Administration to prescribe regulations to ensure that all crewmembers on air carriers have proper qualifications and experience, and for other purposes.

S. 1966

At the request of Mr. DODD, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1966, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 2760

At the request of Mr. UDALL of New Mexico, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2760, a bill to amend title 38, United States Code, to provide for an increase in the annual amount authorized to be appropriated to the Secretary of Veterans Affairs to carry out comprehensive service programs for homeless veterans.

S. 2794

At the request of Mr. SCHUMER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2794, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the donation of wild game meat.

S. 2796

At the request of Mr. ENZI, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2796, a bill to extend the authority of the Secretary of Education to purchase guaranteed student loans for an additional year, and for other purposes.

S. 2919

At the request of Mr. UDALL of Colorado, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2919, a bill to amend the Federal Credit Union Act to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes.

S. 2961

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2961, a bill to provide debt relief to Haiti, and for other purposes.

S. 2998

At the request of Mrs. GILLIBRAND, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2998, a bill to temporarily expand the V nonimmigrant visa category to include Haitians whose petition for a family-sponsored immigrant visa was approved on or before January 12, 2010.

S. 3021

At the request of Mr. FEINGOLD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 3021, a bill to amend the Public Utility Regulatory Policies Act of 1978 to authorize the Secretary of Energy to promulgate regulations to allow electric utilities to use renewable energy to comply with any Federal renewable electricity standard, and for other purposes.

S. 3036

At the request of Mr. BAYH, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 3036, a bill to establish the Office of the National Alzheimer's Project.

S. 3043

At the request of Mrs. GILLIBRAND, the names of the Senator from Ohio (Mr. BROWN), the Senator from Illinois (Mr. BURRIS) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3043, a bill to award planning grants and implementation grants to State educational agencies to enable the State educational agencies to complete comprehensive planning to carry out activities designed to integrate engineering education into K–12 instruction and curriculum and to provide evaluation grants to measure efficacy of K–12 engineering education.

S. RES. 372

At the request of Mr. LEVIN, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. Res. 372, a resolution designating March 2010 as ''National Autoimmune Diseases Awareness Month'' and supporting efforts to increase awareness of autoimmune diseases and increase funding for autoimmune disease research.

S. RES. 409

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 409, a resolution calling on members of the Parliament in Uganda to reject the proposed ''Anti-Homosexuality Bill'', and for other purposes.

S. RES. 414

At the request of Mr. KERRY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 414, a resolution expressing the sense of the Senate on the recovery, rehabilitation, and rebuilding of Haiti following the humanitarian crisis caused by the January 12, 2010, earthquake in Haiti.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 3053. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to permit the Abandoned Mine Reclamation Fund to be used for transportation and use of dredged materials for abandoned mine reclamation, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation concerning the beneficial use of materials derived from river dredging activities. This concept was the subject of a Committee Resolution passed by the Committee on Environment and Public Works on October 26, 2005.

This legislation relates directly to the deepening of the Delaware River, which was authorized in the 1992 Water Resources Development Act. The project deepens from 40 to 45 feet the main shipping channel of the Delaware River from Philadelphia and Camden, NJ, to the mouth of the Delaware Bay. Deepening the river will help sustain and grow the maritime economy of the Delaware Valley region, as the river's current depth, which has remained stagnant since 1941, does not accommodate the size of most modern ships.

Despite the tremendous benefit the deepening will have on the region, some concerns have been raised regarding the disposal of the dredge material that will be produced during the deepening process. Currently, the Army Corps of Engineers dredges the river every year to maintain the 40-foot depth and deposits materials in Corps-owned sites along the river. While capacity remains at these sites, there are compelling questions about whether dredge material may have other useful purposes.

On October 26, 2005, the Committee on Environment and Public Works passed a Resolution requesting the Army Corps of Engineers to study the beneficial uses of dredge material from the Delaware River, including the potential for use in coal and other mine restoration areas. The Corps has undertaken this study with funding I secured for the past several years and intend to request this year and in the future. The outcome of this study could yield tremendous benefits for the Nation, including in the Delaware Valley region and in Pennsylvania, where there are already proposals to use the dredge materials.

One such proposal involves using dredge material from the Delaware River Deepening project to reclaim abandoned mine lands in northeast Pennsylvania. One likely benefit would be stream quality improvement in the Pocono Mountains due to a reduction in acid mine flows. This proposal would also help advance an economic development project in Hazleton, PA, which could potentially create thousands of jobs and contribute to the economic development of a region still impacted by the decline of the coal industry. The use of dredge material for these purposes has been endorsed by numerous local elected officials, state legislators and members of the community.

The legislation I have introduced would authorize the use of funding under the Abandoned Mine Reclamation Fund for the transportation and use of dredge material in the reclamation of abandoned mines. Specifically, an eligible use of this funding would be for dredging material from the Delaware River for use in abandoned mines around the State of Pennsylvania. This use could significantly reduce the amount of additional dredge material deposited along the river as well as advance the mine cleanup effort which has been ongoing for decades in Pennsylvania.

I urge my colleagues to support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 427—DESIGNATING THE FIRST WEEK OF APRIL 2010 AS ''NATIONAL ASBESTOS AWARENESS WEEK''

Mr. BAUCUS (for himself, Mr. TESTER, Mr. DURBIN, Mr. ISAKSON, Mrs. MURRAY, Mr. REID, Mrs. BOXER, Mrs. FEINSTEIN, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 427

Whereas dangerous asbestos fibers are invisible and cannot be smelled or tasted;

Whereas the inhalation of airborne asbestos fibers can cause significant damage;

Whereas asbestos fibers can cause mesothelioma, asbestosis, and other health problems;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival time for those diagnosed with mesothelioma is between 6 and 24 months;

Whereas generally, little is known about late-stage treatment of asbestos-related diseases, and there is no cure for such diseases;

Whereas early detection of asbestos-related diseases may give some patients increased treatment options and might improve their prognoses;

Whereas the World Health Organization, the Environmental Protection Agency, and the Surgeon General currently state that there is no safe level of exposure to asbestos;

Whereas the United States has reduced its consumption of asbestos substantially, yet continues to consume almost 2,000 metric tons of the fibrous mineral for use in certain products throughout the Nation;

Whereas asbestos-related diseases have killed thousands of people in the United States;

Whereas exposure to asbestos continues, but safety and prevention of asbestos exposure already has significantly reduced the incidence of asbestos-related diseases and can further reduce the incidence of such diseases;

Whereas asbestos has been a cause of occupational cancer;

Whereas thousands of workers in the United States face significant asbestos exposure;

Whereas thousands of people in the United States die from asbestos-related diseases every year;

Whereas a significant percentage of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of a significant number of office buildings and public facilities built before 1975;

Whereas people in the small community of Libby, Montana have asbestos-related diseases at a significantly higher rate than the national average and suffer from mesothelioma at a significantly higher rate than the national average; and

Whereas the establishment of a ''National Asbestos Awareness Week'' will raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate—

(1) designates the first week of April 2010 as ''National Asbestos Awareness Week'';

(2) urges the Surgeon General to warn and educate people about the public health issue of asbestos exposure, which may be hazardous to their health; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the Office of the Surgeon General.

SENATE RESOLUTION 428—EXPRESSING CONCERN ABOUT VIOLATIONS OF CIVIL LIBERTIES TAKING PLACE IN VENEZUELA AND COMMENDING THE PEOPLE OF VENEZUELA FOR THEIR STEADFAST SUPPORT OF DEMOCRACY

Mr. LEMIEUX (for himself and Mr. COBURN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 428

Whereas since his election as the President of Venezuela in 1998, Hugo Chávez has systematically weakened democratic institutions in Venezuela by restricting individual rights and the activities of political parties, discouraging the free exchange of ideas, and centralizing and expanding the powers of the Executive over the other branches of government and the people of Venezuela;

Whereas Article 57 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right of all citizens to freely express their thoughts and opinions;

Whereas Article 68 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right of all citizens to peacefully demonstrate and prohibits the use of firearms or toxic substances to control peaceful demonstrations;

Whereas on May 24, 2007, the Senate approved by unanimous consent Senate Resolution 211, 110th Congress, expressing profound concern about the transgression against freedom of thought and expression that was being carried out in Venezuela by the refusal of President Chávez to renew the broadcasting license of ''Radio Caracas Televisión'', also known as RCTV;

Whereas on May 24, 2007, the European Parliament adopted a Resolution criticizing the non-renewal of the RCTV license for undermining the right of the press to hold the authorities to account;

Whereas Venezuela and Cuba are the only 2 Western Hemisphere countries listed in the United States Commission for International Religious Freedom ''Watch List'' as countries requiring close monitoring due to the nature and extent of violation of religious freedom engaged in or tolerated by their governments;

Whereas the 2009 Report of the United States Commission for International Religious Freedom states that in Venezuela, ''religious communities and leaders viewed as political opponents are routinely targeted and harassed by government officials;

Whereas several international human rights organizations have consistently expressed serious concerns regarding weakening of respect for human rights in Venezuela;

Whereas on January 24, 2010, President Chávez ordered what amounted to a shutdown of ''Radio Caracas Televisión Internacional'' due to its failure to air one of his speeches;

Whereas on the night of January 25, 2010, 2 students were killed and 5 others were injured by gunfire during peaceful demonstrations against the order by President Chávez to shutdown RCTV Internacional;

Whereas the Government of Venezuela has increasingly failed to address the legitimate needs of its people for greater economic, political, and social opportunities and has aggravated political divisions in Venezuela; and

Whereas the Government of Venezuela has engaged in a military build-up that goes beyond the reasonable security concerns of the Venezuelan state and threatens to launch a destabilizing regional arms race: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the recurring and ongoing repression of peaceful demonstrators in Venezuela by security forces and government-affiliated groups;

(2) mourns the loss of life resulting from actions taken by authorities in Venezuela to violently disband peaceful protestors, including the students killed on January 25, 2010, during demonstrations against President Chávez's decision to shutdown ''Radio Caracas Televisión Internacional'';

(3) urges both the people and the Government of Venezuela to choose a path towards democracy, transparency, and tolerance in order to begin the process of achieving national reconciliation and a rebuilding of democratic institutions in their country;

(4) urges the people of Venezuela to remain vigilant against further encroachments on their constitutional and internationally-recognized civil and human rights;

(5) urges President Barack Obama to clearly reject and call attention to the violent measures taken by authorities in Venezuela against citizens who are exercising their constitutionally guaranteed civil liberties;

(6) urges the United States Ambassador to the Organization of American States to call on the member states of the Organization of American States to investigate events taking place in Venezuela and adopt the necessary measures to ensure the Government of Venezuela abides by its commitments under the Inter-American Democratic Charter; and

(7) urges President Obama to provide robust support for peaceful civil society groups in Venezuela and to take measures that protect the flow of uncensored information among the people of Venezuela.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3335. Ms. LANDRIEU (for herself, Mr. VITTER, Mr. WICKER, and Mr. COCHRAN) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

SA 3336. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, supra.

SA 3337. Mr. SESSIONS (for himself and Mrs. MCCASKILL) proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3338. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra.

SA 3339. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3340. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3341. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3342. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3343. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3344. Mr. LEVIN (for himself, Mrs. SHAHEEN, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

SA 3345. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3335. Ms. LANDRIEU (for herself, Mr. VITTER, and Mr. WICKER) submitted an amendment intended to be proposed by her to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

After section 185, insert the following:

SEC. 186. 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''.

SA 3336. Mr. BAUCUS proposed an amendment to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

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:

TITLE I—EXTENSION OF EXPIRING PROVISIONS

Subtitle A—Energy

SEC. 101. ALTERNATIVE MOTOR VEHICLE CREDIT FOR NEW QUALIFIED HYBRID MOTOR VEHICLES OTHER THAN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.

(a) IN GENERAL.—Paragraph (3) of section 30B(k) is amended by striking ''December 31, 2009'' and inserting ''December 31, 2010''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property purchased after December 31, 2009.

SEC. 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 ''February 28, 2010'' each place it appears and inserting ''December 31, 2010'';

(B) in the heading for subsection (b)(2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in subsection (b)(3), by striking ''July 31, 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 ''February 28, 2010'' and inserting ''December 31, 2010'';

(B) in the heading for paragraph (2), by striking ''FEBRUARY 28, 2010'' and inserting ''DECEMBER 31, 2010''; and

(C) in paragraph (3), by striking ''August 31, 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 ''February 28, 2010'' each place it appears and inserting ''January 1, 2011''; and

(B) in subsection (c), by striking ''July 31, 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 ''July 31, 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 (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''1009'' and inserting ''1009(a)(1)''; and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) 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 Department of Defense Appropriations Act, 2010 (Public Law 111–118).

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) is amended by striking ''February 28, 2010'' and inserting ''December 31, 2010''.

(b) CLARIFICATIONS RELATING TO SECTION 3001 OF ARRA.—

(1) CLARIFICATION REGARDING COBRA CONTINUATION RESULTING FROM REDUCTIONS IN HOURS.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) is amended—

(A) in paragraph (3)(C), by inserting before the period at the end the following: ''or consists of a reduction of hours followed by such an involuntary termination of employment during such period'';

(B) in paragraph (16)—

(i) by striking clause (ii) of subparagraph (A), and inserting the following:

''(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 subparagraph (D)(ii), 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).''; and

(ii) by striking subclause (I) of subparagraph (C)(i), and inserting the following:

''(I) such assistance eligible individual experienced an involuntary termination that was a qualifying event prior to the date of enactment of the Department of Defense Appropriations Act, 2010; and''; and

(C) by adding at the end the following:

''(17) SPECIAL RULES IN CASE OF INDIVIDUALS LOSING COVERAGE BECAUSE OF A REDUCTION OF HOURS.—

''(A) NEW ELECTION PERIOD.—

''(i) IN GENERAL.—For purposes of the COBRA continuation provisions, in the case of an individual described in subparagraph (C) who did not make (or who made and discontinued) an election of COBRA continuation coverage on the basis of the reduction of hours of employment, the involuntary termination of employment of such individual after the date of the enactment of the American Workers, State, and Business Relief Act of 2010 shall be treated as a qualifying event.

''(ii) COUNTING COBRA DURATION PERIOD FROM PREVIOUS QUALIFYING EVENT.—In any case of an individual referred to in clause (i), the period of such individual's continuation coverage shall be determined as though the qualifying event were the reduction of hours of employment.

''(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed as requiring an individual referred to in clause (i) to make a payment for COBRA continuation coverage between the reduction of hours and the involuntary termination of employment.

''(iv) PREEXISTING CONDITIONS.—With respect to an individual referred to in clause (i) who elects COBRA continuation coverage pursuant to such clause, rules similar to the rules in paragraph (4)(C) shall apply.

''(B) NOTICES.—In the case of an individual described in subparagraph (C), the administrator of the group health plan (or other entity) involved shall provide, during the 60-day period beginning on the date of such individual's involuntary termination of employment, an additional notification described in paragraph (7)(A), including information on the provisions of this paragraph. Rules similar to the rules of paragraph (7) shall apply with respect to such notification.

''(C) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who are assistance eligible individuals on the basis of a qualifying event consisting of a reduction of hours occurring during the period described in paragraph (3)(A) followed by an involuntary termination of employment insofar as such involuntary termination of employment occurred after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(2) CLARIFICATION OF PERIOD OF ASSISTANCE.—Subsection (a)(2)(A)(ii)(I) of such section is amended by striking ''of the first month''.

(3) ENFORCEMENT.—Subsection (a)(5) of such section is amended by adding at the end the following: ''In addition to civil actions that may be brought to enforce applicable provisions of such Act or other laws, the appropriate Secretary or an affected individual may bring a civil action to enforce such determinations and for appropriate relief. In addition, such Secretary may assess a penalty against a plan sponsor or health insurance issuer of not more than $110 per day for each failure to comply with such determination of such Secretary after 10 days after the date of the plan sponsor's or issuer's receipt of the determination.''.

(4) AMENDMENTS RELATING TO SECTION 3001 OF ARRA.—

(A) Subsection (g) of section 35 is amended by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(B) Section 139C is amended by striking ''section 3002 of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001 of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(C) Section 6432 is amended—

(i) in subsection (a), by striking ''section 3002(a) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a) of title III of division B of the American Recovery and Reinvestment Act of 2009'';

(ii) in subsection (c)(3), by striking ''section 3002(a)(1)(A) of such Act'' in subsection (c)(3) and inserting ''section 3001(a)(1)(A) of title III of division B of the American Recovery and Reinvestment Act of 2009''; and

(iii) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following new subsection:.

''(e) EMPLOYER DETERMINATION OF QUALIFYING EVENT AS INVOLUNTARY TERMINATION.—For purposes of this section, in any case in which—

''(1) based on a reasonable interpretation of section 3001(a)(3)(C) of division B of the American Recovery and Reinvestment Act of 2009 and administrative guidance thereunder, an employer determines that the qualifying event with respect to COBRA continuation coverage for an individual was involuntary termination of a covered employee's employment, and

''(2) the employer maintains supporting documentation of the determination, including an attestation by the employer of involuntary termination with respect to the covered employee,

the qualifying event for the individual shall be deemed to be involuntary termination of the covered employee's employment.''.

(D) Subsection (a) of section 6720C is amended by striking ''section 3002(a)(2)(C) of the Health Insurance Assistance for the Unemployed Act of 2009'' and inserting ''section 3001(a)(2)(C) of title III of division B of the American Recovery and Reinvestment Act of 2009''.

(c) 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 March 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) 2101 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.''.

(d) 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 to which they relate, except that—

(1) the amendments made by subsections (b)(1) shall apply to periods of coverage beginning after the date of the enactment of this Act; and

(2) the amendments made by paragraphs (2) and (3) of subsection (b) shall take effect on the date of the enactment of this Act.

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 ''December 31, 2009'' 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 title 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 1, 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.''.

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 excessive rainfall or 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 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 90 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) INSURANCE REQUIREMENT.—As a condition of receiving assistance under this subsection, eligible producers on a farm that—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (other than for a crop insurance pilot program under that Act) for each crop of economic significance (other than crops intended for grazing), shall obtain such a policy or plan for those crops for the next available crop year, as determined by the Secretary; or

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for each crop of economic significance (other than crops intended for grazing), shall obtain such coverage for those crops for the next available crop year, as determined by the Secretary.

(4) 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 $150,000,000, 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 excessive rainfall and related conditions affecting the 2009 crops.

(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 with excessive rainfall and related conditions on a pro rata basis based on the value of specialty crop losses in those counties during the 2008 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 under this subsection 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) 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.

(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) 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.

(B) PROCEDURE.—The promulgation of the regulations and administration of 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 $15,000,000 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'', $354,000,000, 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 ''February 28, 2010'' and inserting ''December 31, 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 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) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—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 (without regard to whether such succeeding plan year is in the restriction period).

''(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 (without regard to whether such succeeding plan year is in the restriction period).

''(III) 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 4, 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 on or after February 4, 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 February 4, 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—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) the adjusted net income (within the meaning of section 4043) of the plan sponsor for the preceding plan year.

''(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 4, 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).

''(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 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(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 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) LIMITATION TO AGGREGATE REDUCED REQUIRED CONTRIBUTIONS.—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 (without regard to whether such succeeding plan year is in the restriction period).

''(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 (without regard to whether such succeeding plan year is in the restriction period).

''(III) 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 4, 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 on or after February 4, 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 February 4, 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—

''(I) the sum of the dividends declared during the plan year by the plan sponsor plus the aggregate fair market value of the stock of the plan sponsor redeemed during the plan year, over

''(II) 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.

''(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 4, 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).

''(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 4-year period beginning with the election year, and

''(II) if the plan sponsor elects 15-year amortization for the shortfall amortization base for the election year, the 7-year period beginning with the election year.

''(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 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.

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 its experience loss attributable to the net investment losses (if any) 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 a period of 30 plan years.

''(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 such 2 plan years 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 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 its experience loss attributable to the net investment losses (if any) 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 a period of 30 plan years.

''(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 such 2 plan years 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 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 ending 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. 501. 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 ''March 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 ''February 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 ''May 3, 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 nonnetwork 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 ''February 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 ''February 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 ''February 28, 2010'' and inserting ''December 31, 2014''; and

(2) in paragraph (3)(C), by striking ''March 1, 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 180 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 180 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 180 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.

Unless specifically provided otherwise, this title, and the amendments made by this title, shall take effect on February 27, 2010, and all references to enactment of this Act shall be deemed to refer to such date unless otherwise specified. 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 ''February 28, 2010'' and inserting ''September 30, 2010''; and

(2) in subparagraph (B), by striking ''March 1, 2010'' and inserting ''October 1, 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.

SA 3337. Mr. SESSIONS (for himself and Mrs. MCCASKILL) proposed an amendment to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. __01. DISCRETIONARY SPENDING LIMITS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by inserting at the end the following:

''DISCRETIONARY SPENDING LIMITS

''SEC. 316. (a) DISCRETIONARY SPENDING LIMITS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, or conference report that includes any provision that would cause the discretionary spending limits as set forth in this section to be exceeded.

''(b) LIMITS.—In this section, the term 'discretionary spending limits' has the following meaning subject to adjustments in subsection (c):

''(1) For fiscal year 2011—

''(A) for the defense category (budget function 050), $564,293,000,000 in budget authority; and

''(B) for the nondefense category, $529,662,000,000 in budget authority.

''(2) For fiscal year 2012—

''(A) for the defense category (budget function 050), $573,612,000,000 in budget authority; and

''(B) for the nondefense category, $533,232,000,000 in budget authority.

''(3) For fiscal year 2013—

''(A) for the defense category (budget function 050), $584,421,000,000 in budget authority; and

''(B) for the nondefense category, $540,834,000,000 in budget authority.

''(4) For fiscal year 2014—

''(A) for the defense category (budget function 050), $598,249,000,000 in budget authority; and

''(B) for the nondefense category, $550,509,000,000 in budget authority.

''(5) With respect to fiscal years following 2014, the President shall recommend and the Congress shall consider legislation setting limits for those fiscal years.

''(c) ADJUSTMENTS.—

''(1) IN GENERAL.—After the reporting of a bill or joint resolution relating to any matter described in paragraph (2), or the offering of an amendment thereto or the submission of a conference report thereon—

''(A) the Chairman of the Senate Committee on the Budget may adjust the discretionary spending limits, the budgetary aggregates in the concurrent resolution on the budget most recently adopted by the Senate and the House of Representatives, and allocations pursuant to section 302(a) of the Congressional Budget Act of 1974, by the amount of new budget authority in that measure for that purpose and the outlays flowing there from; and

''(B) following any adjustment under subparagraph (A), the Senate Committee on Appropriations may report appropriately revised suballocations pursuant to section 302(b) of the Congressional Budget Act of 1974 to carry out this subsection.

''(2) MATTERS DESCRIBED.—Matters referred to in paragraph (1) are as follows:

''(A) OVERSEAS DEPLOYMENTS AND OTHER ACTIVITIES.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014, that provides funding for overseas deployments and other activities, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that purpose but not to exceed—

''(i) with respect to fiscal year 2011, $50,000,000,000 in new budget authority;

''(ii) with respect to fiscal year 2012, $50,000,000,000 in new budget authority;

''(iii) with respect to fiscal year 2013, $50,000,000,000 in new budget authority: and

''(iv) with respect to fiscal year 2014, $50,000,000,000 in new budget authority.

''(B) EMERGENCY SPENDING.—For fiscal year 2011, 2012, 2013, or 2014 for appropriations for discretionary accounts designated as emergency requirements, the adjustment for purposes of paragraph (1) shall be the total of such appropriations in discretionary accounts designated as emergency requirements, but not to exceed $10,454,000,000 for 2011, $10,558,000,000 for 2012, $10,664,000,000 for 2013, and $10,877,000,000 for 2014. Appropriations designated as emergencies in excess of these limitations shall be treated as new budget authority.

''(C) INTERNAL REVENUE SERVICE TAX ENFORCEMENT.—

''(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for enhanced tax enforcement to address the Federal tax gap (taxes owed but not paid) described in clause (ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

''(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

''(I) For fiscal year 2011, $7,171,000,000, for fiscal year 2012, $7,243,000,000, for fiscal year 2013, $7,315,000,000, and for fiscal year 2014, $7,461,000,000.

''(II) For fiscal year 2011, $899,000,000, for fiscal year 2012, $908,000,000, for fiscal year 2013, $917,000,000, and for fiscal year 2014, $935,000,000.

''(D) CONTINUING DISABILITY REVIEWS AND SSI REDETERMINATIONS.—

''(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii)(I), plus an additional amount for Continuing Disability Reviews and Supplemental Security Income Redeterminations for the Social Security Administration described in clause

(ii)(II), the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative not exceeding the amount specified in clause (ii)(II) for that fiscal year.

''(ii) AMOUNTS.—The amounts referred to in clause (i) are as follows:

''(I) For fiscal year 2011, $276,000,000; for fiscal year 2012, $278,000,000; for fiscal year 2013, $281,000,000; for fiscal year 2014, $287,000,000.

''(II) For fiscal year 2011, $490,000,000; for fiscal year 2012, $495,000,000; for fiscal year 2013, $500,000,000; for fiscal year 2014, $510,000,000.

''(iii) ASSET VERIFICATION.—

''(I) IN GENERAL.—The additional appropriation permitted under clause (ii)(II) may also provide that a portion of that amount, not to exceed the amount specified in subclause (II) for that fiscal year instead may be used for asset verification for Supplemental Security Income recipients, but only if, and to the extent that the Office of the Chief Actuary estimates that the initiative would be at least as cost effective as the redeterminations of eligibility described in this subparagraph.

''(II) AMOUNTS.—For fiscal year 2011, $34,340,000, for fiscal year 2012, $34,683,000, for fiscal year 2013, $35,030,000 and for fiscal year 2014, $35,731,000.

''(E) HEALTH CARE FRAUD AND ABUSE.—

''(i) IN GENERAL.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes the amount described in clause (ii) for the Health Care Fraud and Abuse Control program at the Department of Health & Human Services for that fiscal year, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed the amount described in clause (ii).

''(ii) AMOUNT.—The amount referred to in clause (i) is for fiscal year 2011, $314,000,000, for fiscal year 2012, $317,000,000, for fiscal year 2013, $320,000,000, and for fiscal year 2014, $327,000,000.

''(F) UNEMPLOYMENT INSURANCE IMPROPER PAYMENT REVIEWS.—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes $10,000,000, plus an additional amount for in-person reemployment and eligibility assessments and unemployment improper payment reviews for the Department of Labor, the adjustment for purposes paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed—

''(i) with respect to fiscal year 2011, $51,000,000 in new budget authority; and

''(ii) with respect to fiscal year 2012, $51,000,000 in new budget authority.

''(iii) with respect to fiscal year 2013, $52,000,000 in new budget authority; and

''(iv) with respect to fiscal year 2014, $53,000,000 in new budget authority.

''(G) LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP).—If a bill or joint resolution is reported making appropriations for fiscal year 2011, 2012, 2013, or 2014 that includes $3,200,000,000 in funding for the Low-Income Home Energy Assistance Program and provides an additional amount up to $1,900,000,000 for that program, the adjustment for purposes of paragraph (1) shall be the amount of budget authority in that measure for that initiative but not to exceed $1,900,000,000.

''(d) EMERGENCY SPENDING.—

''(1) AUTHORITY TO DESIGNATE.—In the Senate, with respect to a provision of direct spending or receipts legislation or appropriations for discretionary accounts that Congress designates as an emergency requirement in such measure, the amounts of new budget authority, outlays, and receipts in all fiscal years resulting from that provision shall be treated as an emergency requirement for the purpose of this subsection.

''(2) EXEMPTION OF EMERGENCY PROVISIONS.—Subject to the limitations provided in subsection (c)(2)(B), any new budget authority, outlays, and receipts resulting from any provision designated as an emergency requirement, pursuant to this subsection, in any bill, joint resolution, amendment, or conference report shall not count for purposes of sections 302 and 311 of the Congressional Budget Act of 1974, section 201 of S. Con. Res. 21 (110th Congress) (relating to pay-as-you-go), and section 311 of S. Con. Res. 70 (110th Congress) (relating to long-term deficits).

''(3) DESIGNATIONS.—If a provision of legislation is designated as an emergency requirement under this subsection, the committee report and any statement of managers accompanying that legislation shall include an explanation of the manner in which the provision meets the criteria in paragraph (6).

''(4) DEFINITIONS.—In this subsection, the terms 'direct spending', 'receipts', and 'appropriations for discretionary accounts' mean any provision of a bill, joint resolution, amendment, motion, or conference report that affects direct spending, receipts, or appropriations as those terms have been defined and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(5) POINT OF ORDER.—

''(A) IN GENERAL.—When the Senate is considering a bill, resolution, amendment, motion, or conference report, if a point of order is made by a Senator against an emergency designation in that measure, that provision making such a designation shall be stricken from the measure and may not be offered as an amendment from the floor.

''(B) SUPERMAJORITY WAIVER AND APPEALS.—

''(i) WAIVER.—Subparagraph (A) may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(ii) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this paragraph shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(C) DEFINITION OF AN EMERGENCY DESIGNATION.—For purposes of subparagraph (A), a provision shall be considered an emergency designation if it designates any item as an emergency requirement pursuant to this paragraph.

''(D) FORM OF THE POINT OF ORDER.—A point of order under subparagraph (A) may be raised by a Senator as provided in section 313(e) of the Congressional Budget Act of 1974.

''(E) CONFERENCE REPORTS.—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill, upon a point of order being made by any Senator pursuant to this paragraph, and such point of order being sustained, such material contained in such conference report shall be deemed stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

''(6) CRITERIA.—

''(A) IN GENERAL.—For purposes of this subsection, any provision is an emergency requirement if the situation addressed by such provision is—

''(i) necessary, essential, or vital (not merely useful or beneficial);

''(ii) sudden, quickly coming into being, and not building up over time;

''(iii) an urgent, pressing, and compelling need requiring immediate action;

''(iv) subject to clause (ii), unforeseen, unpredictable, and unanticipated; and

''(v) not permanent, temporary in nature.

''(7) UNFORESEEN.—An emergency that is part of an aggregate level of anticipated emergencies, particularly when normally estimated in advance, is not unforeseen.

''(e) LIMITATIONS ON CHANGES TO EXEMPTIONS.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would exempt any new budget authority, outlays, and receipts from being counted for purposes of this section.

''(f) POINT OF ORDER IN THE SENATE.—

''(1) WAIVER.—The provisions of this section shall be waived or suspended in the Senate only—

''(A) by the affirmative vote of two-thirds of the Members, duly chosen and sworn; or

''(B) in the case of the defense budget authority, if Congress declares war or authorizes the use of force.

''(2) APPEAL.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the measure. An affirmative vote of two-thirds of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

''(3) LIMITATIONS ON CHANGES TO THIS SUBSECTION.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.''.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 315 the following new item:

''Sec. 316. Discretionary spending limits.''.

SA 3338. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS) to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; as follows:

At the end, insert the following:

TITLE ——ADDITIONAL BUSINESS TAX RELIEF

Subtitle A—General Provisions

SEC. —01. PERMANENT INCREASE IN LIMITATIONS ON EXPENSING OF CERTAIN DEPRECIABLE BUSINESS ASSETS.

(a) PERMANENT INCREASE.—Subsection (b) of section 179 is amended—

(1) by striking ''$25,000'' and all that follows in paragraph (1) and inserting ''$500,000.'',

(2) by striking ''$200,000'' and all that follows in paragraph (2) and inserting ''$2,000,000'',

(3) by striking ''after 2007 and before 2011, the $120,000 and $500,000'' in paragraph (5)(A) and inserting ''after 2009, the $500,000 and the $2,000,000'',

(4) by striking ''2006'' in paragraph (5)(A)(ii) and inserting ''2008'', and

(5) by striking paragraph (7).

(b) PERMANENT EXPENSING OF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking ''and before 2011''.

(c) EFFECTIVE DATE.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2008.

SEC. —02. EXTENSION OF ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k), as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended—

(1) by striking ''January 1, 2011'' in subparagraph (A)(iv) and inserting ''January 1, 2012'', and

(2) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168, as amended by the American Recovery and Reinvestment Tax Act of 2009, is amended by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''.

(2) The heading for clause (ii) of section 168(k)(2)(B), as so amended, is amended by striking ''PRE-JANUARY 1, 2010'' and inserting ''PRE-JANUARY 1, 2011''.

(3) Subparagraph (D) of section 168(k)(4) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

''(iv) 'January 1, 2011' shall be substituted for 'January 1, 2012' in subparagraph (A)(iv) thereof, and

''(v) 'January 1, 2010' shall be substituted for 'January 1, 2011' each place it appears in subparagraph (A) thereof.''.

(4) Subparagraph (B) of section 168(l)(5), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(5) Subparagraph (C) of section 168(n)(2), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(6) Subparagraph (D) of section 1400L(b)(2) is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(7) Subparagraph (B) of section 1400N(d)(3), as so amended, is amended by striking ''January 1, 2010'' and inserting ''January 1, 2011''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009.

SEC. —03. INCREASED EXCLUSION AND OTHER MODIFICATIONS APPLICABLE TO QUALIFIED SMALL BUSINESS STOCK.

(a) INCREASED EXCLUSION.—

(1) IN GENERAL.—Subsection (a) of section 1202 is amended to read as follows:

''(a) EXCLUSION.—

''(1) IN GENERAL.—In the case of a taxpayer other than a corporation, gross income shall not include the applicable percentage of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent, in the case of stock issued after August 10, 1993, and on or before February 18, 2009,

''(B) 75 percent, in the case of stock issued after February 18, 2009, and on or before the date of the enactment of the American Workers, State, and Business Relief Act of 2010, and

''(C) 100 percent, in the case of stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.

''(3) EMPOWERMENT ZONE BUSINESSES.—

''(A) IN GENERAL.—In the case of qualified small business stock acquired after December 21, 2000, and on or before February 18, 2009, in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer's holding period for such stock, paragraph (2)(A) shall be applied by substituting '60 percent' for '50 percent'.

''(B) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) shall apply for purposes of this paragraph.

''(C) GAIN AFTER 2014 NOT QUALIFIED.—Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2014.

''(D) TREATMENT OF DC ZONE.—The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 1202 is amended by striking ''**PARTIAL**''.

(B) The item relating to section 1202 in the table of sections for part I of subchapter P of chapter 1 is amended by striking ''Partial exclusion'' and inserting ''Exclusion''.

(C) Section 1223(13) is amended by striking ''1202(a)(2),''.

(b) REPEAL OF MINIMUM TAX PREFERENCE.—Paragraph (7) of section 57(a) is amended by adding at the end the following: ''The preceding sentence shall not apply to stock issued after the date of the enactment of the American Workers, State, and Business Relief Act of 2010.''.

(c) INCREASE IN LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 1202(b)(1) is amended by striking ''$10,000,000'' and inserting ''$15,000,000''.

(2) MARRIED INDIVIDUALS.—Subparagraph (A) of section 1202(b)(3) is amended by striking ''paragraph (1)(A) shall be applied by substituting '$5,000,000' for '$10,000,000' '' and inserting ''the amount under paragraph (1)(A) shall be half of the amount otherwise in effect''.

(d) MODIFICATION OF DEFINITION OF QUALIFIED SMALL BUSINESS.—Section 1202(d)(1) is amended by striking ''$50,000,000'' each place it appears and inserting ''$75,000,000''.

(e) INFLATION ADJUSTMENTS.—Section 1202 is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) INFLATION ADJUSTMENT.—

''(1) IN GENERAL.—In the case of any taxable year beginning after 2010, the $15,000,000 amount in subsection (b)(1)(A), the $75,000,000 amount in subsection (d)(1)(A), and the $75,000,000 amount in subsection (d)(1)(B) shall each be increased by an amount equal to—

''(A) such dollar amount, multiplied by

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

''(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $1,000,000 such amount shall be rounded to the next lowest multiple of $1,000,000.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), and (d) shall apply to stock acquired after the date of the enactment of this Act.

(2) LIMITATION; INFLATION ADJUSTMENT.—The amendments made by subsections (c) and (e) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. —04. DEDUCTION FOR ELIGIBLE SMALL BUSINESS INCOME.

(a) IN GENERAL.—Paragraph (1) of section 199(a) is amended to read as follows:

''(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the sum of—

''(A) 9 percent of the lesser of—

''(i) the qualified production activities income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year, and

''(B) in the case of an eligible small business for any taxable year beginning after 2009, 20 percent of the lesser of—

''(i) the eligible small business income of the taxpayer for the taxable year, or

''(ii) taxable income (determined without regard to this section) for the taxable year.''.

(b) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—Section 199 is amended by adding at the end the following new subsection:

''(e) ELIGIBLE SMALL BUSINESS; ELIGIBLE SMALL BUSINESS INCOME.—

''(1) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means, with respect to any taxable year—

''(A) a corporation the stock of which is not publicly traded, or

''(B) a partnership,

which meets the gross receipts test of section 448(c) (determined by substituting '$50,000,000' for '$5,000,000' each place it appears in such section) for the taxable year (or, in the case of a sole proprietorship, which would meet such test if such proprietorship were a corporation).

''(2) ELIGIBLE SMALL BUSINESS INCOME.—

''(A) IN GENERAL.—For purposes of this section, the term 'eligible small business income' means the excess of—

''(i) the income of the eligible small business which—

''(I) is attributable to the actual conduct of a trade or business,

''(II) is income from sources within the United States (within the meaning of section 861), and

''(III) is not passive income (as defined in section 904(d)(2)(B)), over

''(ii) the sum of—

''(I) the cost of goods sold that are allocable to such income, and

''(II) other expenses, losses, or deductions (other than the deduction allowed under this section), which are properly allocable to such income.

''(B) EXCEPTIONS.—The following shall not be treated as income of an eligible small business for purposes of subparagraph (A):

''(i) Any income which is attributable to any property described in section 1400N(p)(3).

''(ii) Any income which is attributable to the ownership or management of any professional sports team.

''(iii) Any income which is attributable to a trade or business described in subparagraph (B) of section 1202(e)(3).

''(iv) Any income which is attributable to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(C) ALLOCATION RULES, ETC.—Rules similar to the rules of paragraphs (2), (3), (4)(D), and (7) of subsection (c) shall apply for purposes of this paragraph.

''(3) SPECIAL RULES.—Except as otherwise provided by the Secretary, rules similar to the rules of subsection (d) shall apply for purposes of this subsection.''.

(c) CONFORMING AMENDMENT.—Section 199(a)(2) is amended by striking ''paragraph (1)'' and inserting ''paragraph (1)(A)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. —05. NONAPPLICATION OF CERTAIN LABOR STANDARDS.

Section 1601 of the American Recovery and Reinvestment Tax Act of 2009 is hereby repealed.

Subtitle B—Transfer of Stimulus Funds

SEC. —11. TRANSFER OF STIMULUS FUNDS.

Notwithstanding section 5 of the American Recovery and Reinvestment Act of 2009 (Pub. Law 111-5), from the amounts appropriated or made available and remaining unobligated under such Act, the Director of the Office of Management and Budget shall transfer from time to time to the general fund of the Treasury an amount equal to the sum of the amount of any net reduction in revenues and the amount of any net increase in spending resulting from the enactment of this Act.

SA 3339. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ARRA REPORTING.

Section 1512 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 287) is amended—

(1) 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 head of an agency distributing recovery funds may impose a civil penalty in an amount not more than $250,000 on a recipient of recovery funds from the 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. 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.—The head of an agency 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) GUIDELINES.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, the head of an agency 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 grant, contract, task order, or other type of funding mechanism—

''(i) made or entered into after the date of enactment of this paragraph (including any renewal of a grant, contract, task order, or other type of funding mechanism after the date of enactment of this paragraph); or

''(ii) that includes terms allowing the terms of the grant, contract, task order, or other type of funding mechanism to be modified by Act of Congress.

''(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), each agency distributing recovery funds shall make available on a website of the agency a list of all recipients of recovery funds from the agency 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 head of the agency, the reason for noncompliance.

''(5) OMB GUIDANCE AND REPORTING.—

''(A) GUIDANCE.—Not later than 30 days after the date of enactment of this paragraph, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall promulgate regulations regarding implementation of this section by agencies.

''(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

(2) by adding at the end the following:

''(i) TERMINATION.—The reporting requirements under this section shall terminate on September 30, 2013.''.

SA 3340. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ARRA PLANNING.

Section 1512(d) of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 288) is amended—

(1) in the subsection heading, by inserting ''PLANS AND'' after ''AGENCY'';

(2) 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

(3) 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.''.

SA 3341. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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 head of an agency distributing recovery funds may impose a civil penalty in an amount not more than $250,000 on a recipient of recovery funds from the 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. 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.—The head of an agency 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) GUIDELINES.—In determining the amount of a penalty under this paragraph for a recipient of recovery funds, the head of an agency 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 grant, contract, task order, or other type of funding mechanism—

''(i) made or entered into after the date of enactment of this paragraph (including any renewal of a grant, contract, task order, or other type of funding mechanism after the date of enactment of this paragraph); or

''(ii) that includes terms allowing the terms of the grant, contract, task order, or other type of funding mechanism to be modified by Act of Congress.

''(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), each agency distributing recovery funds shall make available on a website of the agency a list of all recipients of recovery funds from the agency 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 head of the agency, the reason for noncompliance.

''(5) OMB GUIDANCE AND REPORTING.—

''(A) GUIDANCE.—Not later than 30 days after the date of enactment of this paragraph, the Director of the Office of Management and Budget, in consultation with the Chairperson, shall promulgate regulations regarding implementation of this section by agencies.

''(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.''.

SA 3342. Mr. WEBB (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE ____—TAXPAYER FAIRNESS ACT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Taxpayer Fairness Act''.

SEC. __02. FINDINGS.

Congress finds the following:

(1) During the years 2008 and 2009, the Nation's largest financial firms received extraordinary and unprecedented assistance from the public.

(2) Such assistance was critical to the success and in many cases the survival of these firms during the year 2009.

(3) High earners at such firms should contribute a portion of any excessive bonuses obtained for the year 2009 to help the Nation reduce the public debt and recover from the recession.

SEC. __03. EXCISE TAXES ON EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IMPOSITION OF TAX.—Chapter 46 is amended by adding at the end the following new section:

''SEC. 4999A. EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives a covered excessive 2009 bonus a tax equal to 50 percent of the amount of such bonus.

''(b) DEFINITION.—For purposes of this section, the term 'covered excessive 2009 bonus' has the meaning given such term by section 280I(b).

''(c) ADMINISTRATIVE PROVISIONS AND SPECIAL RULES.—

''(1) WITHHOLDING.—

''(A) IN GENERAL.—In the case of any covered excessive 2009 bonus which is treated as wages for purposes of section 3402, the amount otherwise required to be deducted and withheld under such section shall be increased by the amount of the tax imposed by this section on such bonus.

''(B) BONUSES PAID BEFORE ENACTMENT.—In the case of any covered excessive 2009 bonus to which subparagraph (A) applies which is paid before the date of the enactment of this section, no penalty, addition to tax, or interest shall be imposed with respect to any failure to deduct and withhold the tax imposed by this section on such bonus.

''(2) TREATMENT OF TAX.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(3) NOTICE REQUIREMENTS.—The Secretary shall require each major Federal emergency economic assistance recipient (as defined in section 280I(d)(1)) to notify, as soon as practicable after the date of the enactment of this section and at such other times as the Secretary determines appropriate, the Secretary and each covered employee (as defined in section 280I(e)) of the amount of covered excessive 2009 bonuses to which this section applies and the amount of tax deducted and withheld on such bonuses.

''(4) SECRETARIAL AUTHORITY.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(A) to prescribe the due date and manner of payment of the tax imposed by this section with respect to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(B) to prevent—

''(i) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section,

''(ii) the treatment as other than an additional 2009 bonus payment of any payment of increased wages or other payments to a covered employee who receives a bonus payment subject to this section in order to reimburse such covered employee for the tax imposed by this section with regard to such bonus, or

''(iii) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

(b) CLERICAL AMENDMENTS.—

(1) The heading and table of sections for chapter 46 are amended to read as follows:

''CHAPTER 46—TAXES ON CERTAIN EXCESSIVE REMUNERATION

''Sec. 4999. Golden parachute payments.

''Sec. 4999A. Excessive 2009 bonuses received from major recipients of Federal emergency economic assistance.''.

(2) The item relating to chapter 46 in the table of chapters for subtitle D is amended to read as follows:

''Chapter 46. Taxes on certain excessive remuneration.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SEC. __04. LIMITATION ON DEDUCTION OF AMOUNTS PAID AS EXCESSIVE 2009 BONUSES BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 is amended by adding at the end the following new section:

''SEC. 280I. EXCESSIVE 2009 BONUSES PAID BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) GENERAL RULE.—The deduction allowed under this chapter with respect to the amount of any covered excessive 2009 bonus shall not exceed 50 percent of the amount of such bonus.

''(b) COVERED EXCESSIVE 2009 BONUS.—For purposes of this section, the term 'covered excessive 2009 bonus' means any 2009 bonus payment paid during any calendar year to a covered employee by any major Federal emergency economic assistance recipient, to the extent that the aggregate of such 2009 bonus payments (without regard to the date on which such payments are paid) with respect to such employee exceeds the dollar amount of the compensation received by the President under section 102 of title 3, United States Code, for calendar year 2009.

''(c) 2009 BONUS PAYMENT.—

''(1) IN GENERAL.—The term '2009 bonus payment' means any payment which—

''(A) is a payment for services rendered,

''(B) is in addition to any amount payable to a covered employee for services performed by such covered employee at a regular hourly, daily, weekly, monthly, or similar periodic rate,

''(C) in the case of a retention bonus, is paid for continued service during calendar year 2009 or 2010, and

''(D) in the case of a payment not described in subparagraph (C), is attributable to services performed by a covered employee during calendar year 2009 (without regard to the year in which such payment is paid).

Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. In the case of a payment which is attributable to services performed during multiple calendar years, such payment shall be treated as a 2009 bonus payment to the extent it is attributable to services performed during calendar year 2009.

''(2) DEFERRED DEDUCTION BONUS PAYMENTS.—

''(A) IN GENERAL.—The term '2009 bonus payment' includes payments attributable to services performed in 2009 which are paid in the form of remuneration (within the meaning of section 162(m)(4)(E)) for which the deduction under this chapter (determined without regard to this section) for such payment is allowable in a subsequent taxable year.

''(B) TIMING OF DEFERRED DEDUCTION BONUS PAYMENTS.—For purposes of this section and section 4999A, the amount of any payment described in subparagraph (A) (as determined in the year in which the deduction under this chapter, determined without regard to this section, for such payment would be allowable) shall be treated as having been made in the calendar year in which any interest in such amount is granted to a covered employee (without regard to the date on which any portion of such interest vests).

''(3) RETENTION BONUS.—The term 'retention bonus' means any bonus payment (without regard to the date such payment is paid) to a covered employee which—

''(A) is contingent on the completion of a period of service with a major Federal emergency economic assistance recipient, the completion of a specific project or other activity for the major Federal emergency economic assistance recipient, or such other circumstances as the Secretary may prescribe, and

''(B) is not based on the performance of the covered employee (other than a requirement that the employee not be separated from employment for cause).

A bonus payment shall not be treated as based on performance for purposes of subparagraph (B) solely because the amount of the payment is determined by reference to a previous bonus payment which was based on performance.

''(d) MAJOR FEDERAL EMERGENCY ECONOMIC ASSISTANCE RECIPIENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'major Federal emergency economic assistance recipient' means—

''(A) any financial institution (within the meaning of section 3 of the Emergency Economic Stabilization Act of 2008) if at any time after December 31, 2007, the Federal Government acquires—

''(i) an equity interest in such person pursuant to a program authorized by the Emergency Economic Stabilization Act of 2008 or the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), or

''(ii) any warrant (or other right) to acquire any equity interest with respect to such person pursuant to any such program,

but only if the total value of the equity interest described in clauses (i) and (ii) in such person is not less than $5,000,000,000,

''(B) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

''(C) any person which is a member of the same affiliated group (as defined in section 1504, determined without regard to subsection (b) thereof) as a person described in subparagraph (A) or (B).

''(2) TREATMENT OF CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer with respect to any covered employee.

''(e) COVERED EMPLOYEE.—For purposes of this section, the term 'covered employee' means, with respect to any major Federal emergency economic assistance recipient—

''(1) any employee of such recipient, and

''(2) any director of such recipient who is not an employee.

In the case of any major Federal emergency economic assistance recipient which is a partnership or other unincorporated trade or business, the term 'employee' shall include employees of such recipient within the meaning of section 401(c)(1).

''(f) REGULATIONS.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(1) to prescribe the due date and manner of reporting and payment of any increase in the tax imposed by this chapter due to the application of this section to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(2) to prevent—

''(A) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section, or

''(B) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

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

''Sec. 280I. Excessive 2009 bonuses paid by major recipients of Federal emergency economic assistance.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (F) of section 162(m)(4) is amended—

(A) by inserting ''AND EXCESSIVE 2009 BONUSES'' after ''PAYMENTS'' in the heading,

(B) by striking ''the amount'' and inserting ''the total amounts'', and

(C) by inserting ''or 280I'' before the period.

(2) Subparagraph (A) of section 3121(v)(2) is amended by inserting '', to any covered excessive 2009 bonus (as defined in section 280I(b)),'' after ''section 280G(b))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SA 3343. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS) to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SMALL BUSINESS TECHNICAL ASSISTANCE.

(a) MICROLOAN PROGRAM.—Section 7(m)(4)(B) of the Small Business Act (15 U.S.C. 636(m)(4)(B)) is amended—

(1) by striking ''As a condition'' and all that follows through ''the Administration shall require'' and inserting the following:

''(i) IN GENERAL.—Subject to clause (ii), as a condition of a grant made under subparagraph (A), the Administrator shall require''; and

(2) by adding at the end the following:

''(ii) WAIVER OF NON-FEDERAL SHARE.—

''(I) IN GENERAL.—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i).

''(II) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

''(aa) the economic conditions affecting the intermediary;

''(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

''(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

''(dd) the performance of the intermediary.

''(III) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver would undermine the credibility of the microloan program under this subsection.''.

(b) WOMEN'S BUSINESS CENTER PROGRAM.—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)) is amended—

(1) in paragraph (1), by striking ''As a condition'' and inserting ''Subject to paragraph (5), as a condition''; and

(2) by adding at the end the following:

''(5) WAIVER OF NON-FEDERAL SHARE RELATING TO TECHNICAL ASSISTANCE AND COUNSELING.—

''(A) IN GENERAL.—Upon request by a recipient organization, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for the technical assistance and counseling activities of the recipient organization carried out using financial assistance under this section.

''(B) CONSIDERATIONS.—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

''(i) the economic conditions affecting the recipient organization;

''(ii) the impact a waiver under this clause would have on the credibility of the women's business center program under this section;

''(iii) the demonstrated ability of the recipient organization to raise non-Federal funds; and

''(iv) the performance of the recipient organization.

''(C) LIMITATION.—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the women's business center program under this section.''.

SA 3344. Mr. LEVIN (for himself, Mrs. SHAHEEN, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE VIII—STOP TAX HAVEN ABUSE

SEC. 801. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or impede United States tax enforcement'';

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c), by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE IMPEDING UNITED STATES TAX ENFORCEMENT.—'';

(4) in subsection (a)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf

of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 3345. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 3336 proposed by Mr. BAUCUS to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE VIII—SMALL BUSINESS LOANS

SEC. 801. SHORT TITLE.

This title may be cited as the ''Small Business Job Creation and Access to Capital Act of 2010''.

Subtitle A—Next Steps for Main Street Credit Availability

SEC. 821. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''75 percent'' and inserting ''90 percent''; and

(B) in clause (ii), by striking ''85 percent'' and inserting ''90 percent''; and

(2) in paragraph (3)(A), by striking ''$1,500,000 (or if the gross loan amount would exceed $2,000,000'' and inserting ''$4,500,000 (or if the gross loan amount would exceed $5,000,000''.

(b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(A)—

(A) in clause (i), by striking ''90 percent'' and inserting ''75 percent''; and

(B) in clause (ii), by striking ''90 percent'' and inserting ''85 percent''; and

(2) in paragraph (3)(A), by striking ''$4,500,000'' and inserting ''$3,750,000''.

SEC. 822. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

(1) in clause (i), by striking ''$1,500,000'' and inserting ''$5,000,000'';

(2) in clause (ii), by striking ''$2,000,000'' and inserting ''$5,000,000'';

(3) in clause (iii), by striking ''$4,000,000'' and inserting ''$5,500,000'';

(4) in clause (iv), by striking ''$4,000,000'' and inserting ''$5,500,000''; and

(5) in clause (v), by striking ''$4,000,000'' and inserting ''$5,500,000''.

SEC. 823. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(B)(iii), by striking ''$35,000'' and inserting ''$50,000'';

(2) in paragraph (3)—

(A) in subparagraph (C), by striking ''$3,500,000'' and inserting ''$5,000,000''; and

(B) in subparagraph (E), by striking ''$35,000'' each place that term appears and inserting ''$50,000''; and

(3) in paragraph (11)(B), by striking ''$35,000'' and inserting ''$50,000''.

SEC. 824. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

''(e) INVESTMENT LIMITATIONS.—

''(1) DEFINITION.—In this subsection, the term 'covered New Markets Venture Capital company' means a New Markets Venture Capital company—

''(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

''(B) that has obtained a financing from the Administrator.

''(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

''(A) the regulatory capital of the covered New Markets Venture Capital company; and

''(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.''.

SEC. 825. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

''(5) ALTERNATIVE SIZE STANDARD.—

''(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

''(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

''(i) the maximum tangible net worth of the applicant is not more than $15,000,000; and

''(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than $5,000,000.''.

SEC. 826. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

''(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than $500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of $500,000 and 1 increment of any remaining amount less than $500,000, in order to permit the maximum amount of any loan in a pool to be not more than $500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.''.

SEC. 827. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

Subtitle B—Small Business Access to Capital

SEC. 841. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

''(C) REFINANCING NOT INVOLVING EXPANSIONS.—

''(i) DEFINITIONS.—In this subparagraph—

''(I) the term 'borrower' means a small business concern that submits an application to a development company for financing under this subparagraph;

''(II) the term 'eligible fixed asset' means tangible property relating to which the Administrator may provide financing under this section; and

''(III) the term 'qualified debt' means indebtedness—

''(aa) that—

''(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph;

''(BB) is a commercial loan;

''(CC) is not subject to a guarantee by a Federal agency;

''(DD) the proceeds of which were used to acquire an eligible fixed asset;

''(EE) was incurred for the benefit of the small business concern; and

''(FF) is collateralized by eligible fixed assets; and

''(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

''(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

''(I) the amount of the financing is not more than 80 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency;

''(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

''(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.

''(iii) FINANCING FOR BUSINESS EXPENSES.—

''(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under

clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

''(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

''(aa) a specific description of the expenses for which the additional financing is requested; and

''(bb) an itemization of the amount of each expense.

''(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

''(iv) LOANS BASED ON JOBS.—

''(I) JOB CREATION AND RETENTION GOALS.—

''(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

''(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by $65,000.

''(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

''(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

''(bb) the product obtained by multiplying—

''(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

''(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

''(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

''(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of $4,000,000,000 of financing under this subparagraph for each fiscal year.''.

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking ''subparagraph (B) or (C)'' and inserting ''clause (ii), (iii), (iv), or (v)''.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled before the Committee on Energy and Natural Resources, previously announced for February 9th, has been rescheduled and will now be held on Tuesday, March 16, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of this oversight hearing is to receive testimony on the Bureau of Reclamation's implementation of the SECURE Water Act, (Title 9501 of P.L. 111–11) and the Bureau of Reclamation's Water Conservation Initiative which includes the Challenge Grant Program, the Basin Study Program and the Title XVI Program.

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 email to Gina_Weinstock@energy.senate.gov.

For further information, please contact Tanya Trujillo at (202) 224–5479 or Gina Weinstock at (202) 224–5684.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks.

The hearing will be held on Wednesday, March 17, 2010, at 2:30 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 email to allison_seyferth@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Allison Seyferth at (202) 224–4905.

ORDERS FOR TUESDAY, MARCH 2, 2010

Mr. BAUCUS. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. Tuesday, March 2; that following the prayer and the 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 for 1 hour, with the time equally divided and controlled between the two leaders or their designees, with Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate proceed to executive session to consider the nomination of Barbara Keenan, as provided for under the previous order.

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

PROGRAM

Mr. BAUCUS. Madam President, under a previous order, the time following morning business until 12:15 p.m. will be equally divided and controlled between Senators LEAHY and SESSIONS or their designees. At 12:15 p.m., the Senate will proceed to a rollcall vote on the motion to invoke cloture on the nomination of Barbara Keenan to be a U.S. circuit judge for the Fourth Circuit.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BAUCUS. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Tuesday, March 2, 2010, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

OVERSEAS PRIVATE INVESTMENT CORPORATION

KATHERINE M. GEHL, OF WISCONSIN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2010, VICE COLLISTER JOHNSON, JR., TERM EXPIRED.

MICHAEL JAMES WARREN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2011, VICE DIANE M. RUEBLING, TERM EXPIRED.

DEPARTMENT OF DEFENSE

MICHAEL J. MCCORD, OF VIRGINIA, TO BE PRINCIPAL DEPUTY UNDER SECRETARY OF DEFENSE (COMPTROLLER). (NEW POSITION)