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Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Today, O God, bring our Senators' hearts and minds into harmony with Your will, so that they may be assured that their lives are fulfilling Your high purpose. Give them the incentives they need, the trust that is essential, and the joy that is possible as they face the duties and opportunities that lie ahead. Lord, inspire them with the wisdom to correctly use the great power You have given them, so that they and others may be blessed. Bless them with Your maximizing power for the challenges, decisions, and responsibilities of this day. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 14, 2010.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

MOMENT OF SILENCE

Mr. REID. Today, with this moment of silence, we are going to honor the people of Poland because of the tragedy that occurred there a few days ago. I extend my deepest condolences to the people of Poland. That plane carried 96 souls—parents, husbands, wives, and friends. It carried that nation's President, its First Lady, its Deputy Foreign Minister, lawmakers, and so many other military and civilian leaders. It is hard to comprehend. The tragedy and loss is unthinkable, and America grieves alongside our friends in Poland.

I also want to commend Senators DURBIN and JOHANNS for taking the lead on a resolution expressing sympathy for the people of Poland. With this resolution, the Senate formally states our condolences for the people of Poland.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now observe a moment of silence in solidarity with the people of Poland.

(Moment of silence.)

The ACTING PRESIDENT pro tempore. I thank the Members of the Senate.

Who seeks recognition? The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, today, following the remarks by Senators regarding the tragedy in Poland—and we appreciate very much their being here—there will be a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each. The Republicans will control the first 30 minutes, and the majority will control the final 30 minutes.

Following morning business, the Senate will resume consideration of H.R. 4851, the Continuing Extension Act, with the time until 12:30 p.m. equally divided and controlled between the two leaders or their designees. If a point of order is raised against the pending Baucus amendment, at 12:30 p.m. the Senate will proceed to a vote on the motion to waive the Budget Act.

REFLECTION ON POLAND

Mr. REID. Mr. President, I would like to say, recognizing that she is here, that one of the remarkable moments of my career was a time a number of years ago when we were in Poland. The delegation was led by Senator John Glenn, and we were meeting with a number of dissidents in Poland—people who were fighting against the repression coming from the Soviet Union. Senator Glenn said a few words, and then I asked that Senator MIKULSKI, who is so proud of her Polish heritage, be recognized to say a few words to these freedom fighters in Poland, and it was one of the most remarkable speeches I have ever heard.

She was so powerful, talking about her background in Baltimore, her heritage, and I have never, ever forgotten that speech made by the Senator from Maryland. It was one of the most remarkable statements I have ever heard in my professional career.

EXPRESSING SYMPATHY FOR THE PEOPLE OF POLAND

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

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

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Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 479, submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 479) expressing sympathy for the people of Poland in the aftermath of the devastating plane crash that killed the country's President, First Lady, and 94 other high ranking government, military, and civic leaders on April 10, 2010.

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

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

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

The resolution (S. Res. 479) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 479

Whereas the United States and Poland are close allies, with a shared bond of history, friendship, and international cooperation;

Whereas Polish immigrants were among the first Jamestown settlers, and Casimir Pulaski immigrated to the United States to fight in the Revolutionary War;

Whereas more than 9,000,000 Americans of Polish descent now reside in the United States, bringing vitality to major metropolitan areas such as Chicago, Detroit, and New York City;

Whereas Polish-Americans have been leaders in all walks of American life;

Whereas the American people stood in support of the Solidarity movement as it fought against the oppression of the communist government of Poland through peaceful means, eventually leading to Solidarity members being elected to office in open democratic elections held on June 4, 1989, events that helped spark the movement to democracy throughout eastern Europe;

Whereas Poland joined the North Atlantic Treaty Organization (NATO) in 1999, joined the European Union in 2004, and has contributed to United States and NATO operations in Iraq and Afghanistan;

Whereas Poland has enjoyed a thriving and prosperous free market democracy since the end of the Cold War;

Whereas the President of Poland Lech Kaczynski and 95 other people, including Poland's First Lady, the deputy foreign minister, dozens of members of Parliament, the chiefs of the army and navy, and the president of the national bank, were tragically killed in a plane crash in western Russia on April 10, 2010;

Whereas President Kaczynski and his colleagues were traveling to Katyn, Russia for a memorial service to mark the 70th anniversary of the Soviet secret police killing of more than 20,000 Polish officers, prisoners, and intellectuals who were captured after the Soviet Union invaded Poland in 1939;

Whereas Anna Walentynowicz, the former dock worker whose firing in 1980 sparked the Solidarity strike that ultimately overthrew the communist government of Poland, was also killed in the crash;

Whereas Ryszard Kaczorowski, who served as Poland's final president in exile before the country's return to democracy, also perished in the crash;

Whereas Chicago suffered the loss of a respected artist when Wojciech Seweryn, whose father was killed in Katyn, died in the crash;

Whereas Mr. Seweryn recently completed a memorial to the victims of Katyn at St. Adalbert Cemetery in Niles, Illinois, which President Kaczynski planned to visit in May;

Whereas President Barack Obama said, the ''loss is devastating to Poland, to the United States, and to the world. President Kaczynski was a distinguished statesman who played a key role in the Solidarity movement, and he was widely admired in the United States as a leader dedicated to advancing freedom and human dignity.'';

Whereas Former Solidarity leader and ex-president Lech Walesa said, ''Today, we lost part of our intellectual elite in a plane crash. It will take a long time until the wounds of our democracy are healed.''; and

Whereas thousands of Poles gathered in the center of Warsaw and elsewhere around the world on Saturday to mourn those killed in the crash and affirm their continued solidarity with the people of Poland: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest sympathies to the people of Poland and the families of those who perished for their profound loss;

(2) expresses strong and continued solidarity with the people of Poland and Polish-American communities in the United States; and

(3) expresses unwavering support for the Government of Poland as it works to address the loss of many key public officials.

Mr. DURBIN. Mr. President, I also want to join Senator REID in acknowledging the cosponsors of this resolution, and I am sure this list will grow as our colleagues come forward and ask to be added, but I thank Senator JOHANNS for joining me in this effort. I give special thanks to Senator MIKULSKI. We know of her pride in her Polish heritage and we know of her deep respect for the people of Poland and our shared grief over the loss to that great nation. Senators KERRY, VOINOVICH, BROWN of Ohio, CARDIN, and others have also joined me in considering this resolution.

I come to the floor of the Senate, Mr. President, with a heavy heart. I express my sympathy to the people of Poland and to Ambassador Kupiecki who is here representing them. I shared a moment with him earlier this morning and mentioned that when I heard the news of this tragic loss, my thoughts went back immediately to 47 years ago when we lost our President, John Kennedy, and what it meant to our Nation and how devastating it was. This city ground to a halt on that day, and the bells began to peal in the church towers all across Washington every hour on the hour as our Nation reflected on its great loss. It was a time of great sadness, as it should have been in our history, and as I am sure it is now in Poland, as people reflect on the morning of Saturday, April 10, when a plane carrying Polish President Lech Kaczynski, his wife Maria, and 94 other high-ranking government, military and civilian leaders crashed while traveling to a memorial service in Russia that was to recognize and memorialize the dreadful Katyn massacre.

The tragic accident is a devastating loss to the Nation of Poland and to their friends around the world. This photo I brought to the floor shows literally thousands of Poles who gathered in Warsaw on Saturday evening to remember those who died. They were outside St. John's Cathedral in Warsaw grieving for the loss of their President and so many leaders of their nation.

The pain of this sad moment is felt around the world but especially in the city of Chicago, which I am honored to represent. It is home to more Polish American families than anywhere else in the United States. And what a proud heritage they bring to our city, our State, and our Nation; what a contribution they have made. The grief they feel today is a grief we share.

Yesterday, as I mentioned, my fellow Senators joined me in offering this resolution. The United States and Poland share a strong bond of history, friendship, and international cooperation. Polish Americans have become leaders in all walks of life. In the Senate, Senator MIKULSKI and others of Polish heritage have shown that their contribution to America continues to this day. We joined with Poland in our Revolutionary War, and we are so grateful for those Poles who, like Casimir Pulaski and others, stepped forward and joined us in our effort to gain independence. When the time came many decades later, and Poland was seeking its own independence after the Solidarity movement, the United States stood by their side.

We know President Kaczynski was part of that effort, and we know he was in fact interred in prison because he fought for democracy in Poland. He was respected throughout his country for the role he played and the leadership he brought to this modern, free, democratic Poland today. We have stood by Poland as the Solidarity movement grew into a strong, vibrant democracy. We have supported Poland's membership in NATO, so that we are joint allies in an effort to defend the values we share and in the European Union where they have become a modern economy and a major leader in Europe. Poland also stood by the United States as well in our efforts in Iraq and Afghanistan.

As Poles struggle to come to terms with this week's tragedy, the United States will stand with them and will support their government as it works to overcome the loss of so many of its great leaders.

President and Mrs. Kaczynski and their delegation were on a mission to try, so many years later, to close a deep wound to the Polish people of the Katyn massacre of World War II, where more than 20,000 Poles were executed by Soviet secret police and buried in

mass graves in that forest. As the Ambassador said to me this morning, that Katyn Forest is a holy and a cursed place because now this tragedy is added onto the memory of the loss that took place so many years ago.

Russia and Poland have begun to deal with this tragedy, and that is a positive thing. Russian Prime Minister Vladimir Putin recently joined Polish Prime Minister Donald Tusk at a ceremony marking that tragedy. Prime Minister Putin—the first Russian leader to attend that memorial service—said:

> We bow our heads to those who bravely met death here.

This was the beginning of the closure of a critical chapter in the history of those two nations. This is the beginning of healing, which is long overdue. Sadly, the Katyn tragedy has now been compounded by the loss of so many of Poland's leaders who were destined to head to this location in memory of those who had fallen.

Aboard the plane were some of Poland's highest military and civilian leaders—the Deputy Foreign Minister, the Chiefs of the Army and Navy, the president of the national bank, and dozens of Members of Parliament. Two prominent civilian leaders aboard the plane were Wojciech Seweryn and Anna Walentynowicz.

Seweryn was an artist from Chicago and an influential member of Chicago's Polish community. Mr. Seweryn's father died at Katyn, and it soon became his life's passion to honor his father's memory with beautiful memorials that he had built in the United States and in the location of the Katyn Forest. What a bitter irony that he would lose his life journeying to this memorial occasion. Throughout his life he brought awareness to the Katyn tragedy. He led an effort in the Chicago area to construct a memorial in remembrance of the Katyn massacre at St. Adalbert Cemetery, which Poland's President Kaczynski was planning to visit in just a few weeks.

Anna Walentynowicz was a famous civilian leader and a former dock worker whose firing in 1980 sparked the Solidarity strike that ultimately overthrew the Polish Communist government. Due in part to her inspiration, Poland has emerged as a thriving and prosperous free market democracy since the end of the Cold War.

Poland shares a state partnership program with my home State's National Guard, a partnership that has been in place since shortly after the fall of the Berlin Wall. It is one of the many partnerships our Illinois National Guard has with former Warsaw Pact member nations. Since 1993, hundreds of Illinois National Guard members have participated in exchanges with Polish forces in cooperative efforts supporting the conflicts in Iraq and Afghanistan and in other military training and exchanges.

Among those killed in last week's tragedy are officers who were well known to the Illinois National Guard. Several troops in the Illinois Guard have served under the officers who were on President Kaczynski's aircraft. These fine soldiers are in the thoughts of all the people of Illinois and the 13,000 men and women of the Illinois National Guard today.

On Saturday I visited the Polish Consulate in Chicago to pay my respects and leave my regards in the condolence book. People were starting to flock to this site, people in Chicago, driving with Polish flags proudly displayed over their vehicles, to come to this consulate to express their own sorrow for this loss, to join in the long line signing the condolence book, and to leave flowers at the flagpole bearing the Polish flag right outside of the consulate.

I have such admiration for the people of Poland who have endured so many trials and struggles. What has brought them through time and again is faith and family, and those two enduring qualities will help them as they try to cope with this massive crisis that is facing their country.

As the ambassador said to me this morning, there is no doubt that Poland will emerge strong; that this government is going to be stable; that it is going to move forward. He can count as well that we will be at his side and the side of the people of Poland as they rebuild their government and their nation from this tragedy.

I urge my colleagues to join me in cosponsoring of this measure and support passage of the resolution which we just considered on the floor of the Senate.

I yield the floor.

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

Mr. JOHANNS. Mr. President, let me start my comments today by thanking the senior Senator from Illinois. It has been an honor to join with him on this important resolution.

I rise today to pay my respects to the people of Poland, to acknowledge the great work of their President, President Lech Kaczynski, to acknowledge the death of his wife and 94 other Poles who died in the plane crash in western Russia this last Saturday, April 10.

They were traveling to Katyn, Russia for a memorial service to mark the 70th anniversary of the Soviet killing of more than 20,000 Polish officers in 1940.

Among the Polish leaders killed in the plane crash last Saturday were dozens of members of Parliament, revolutionary heroes from 1989, senior military commanders, and the president of the national bank. This is a terrible, heartbreaking loss, not just for Poland but for its close friend and ally, the United States.

The tight bond that has been forged between Poland and this country has been one of the most welcome results of the end of the Cold War. Since the fall of communism, in which the Polish Solidarity movement played a major role, Poland has led the way in building a pro-United States free market democracy. Poland's access to NATO in 1999 has led to invaluable Polish contributions to peace and stability around our world. Polish soldiers have fought side by side with Americans in Iraq and Afghanistan, including in key coalition leadership positions. We have suffered together when our troops took casualties, and today we grieve together.

The foundation of our close partnership was laid by many Polish immigrants to America. Today, over 9 million Americans of Polish descent reside in the United States, including the State of Nebraska. I am very proud to be one of them. My grandparents immigrated here from Poland many decades ago.

The Polish are an important part of this great country and have been since the earliest days of our Nation when they helped settle Jamestown, VA. I am very pleased to introduce this resolution along with the senior Senator from Illinois. The senior Senator may not know this, but he represents some of my relatives in Chicago, and represents them well. I joined with him and all of our colleagues in a moment of silence, as we have done today. I want to pay our respects to the Poles, both in this part of the country and across this great Nation, as well as in Poland. I also acknowledge the great contributions they have made to our country.

I yield the floor.

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

Ms. MIKULSKI. Mr. President, I, too, join with my colleagues to rise to express my deep and heartfelt condolences to the people of Poland on this unbelievable and tragic loss. I thank my colleague Senator DURBIN for organizing this time, joined by Senator JOHANNS of Nebraska.

As one who notes the Senate floor today, I see we stand here not as Democrats and not as Republicans but as Americans who want to extend our heartfelt sympathy to the people of Poland. I thank my colleague for organizing this resolution and for all of his efforts in support of Poland—from the years of trying to get the truth out about the Katyn Forest, to his very able and unstinting efforts to bring Poland into NATO and to advance Polish democracy. I thank him.

I rise here today as a granddaughter of a woman who came from Poland over 100 years ago, when women did not even have the right to vote. When she got off of that boat at Fells Point in Baltimore she was a 16-year-old girl in search of the American dream. Little did she dream that less than 100 years later, her granddaughter would stand on the floor of the Senate, advocating for democracy in Poland, righting the wrongs of World War II. And little did I realize, with the great honor the people of Maryland have given to me, that

I would stand on the floor of the Senate and express sympathy at this tragedy of unimaginable magnitude.

Poland has suffered a loss where the wounds might not ever heal. The facts are now well known. Poland lost their President, Lech Kaczynski, a great leader with a lifetime of service to this country.

The Polish people lost their First Lady, Maria, beloved by the people for her good works and her good deeds. More than 90 other dedicated Polish patriots perished that terrible Saturday morning—esteemed and decorated military officers, the equivalent of our Joint Chiefs; experienced diplomats; elected leaders; the head of their central bank, and citizens who have put their lives on the line for Poland. All were Polish patriots. My heart weeps for the terrible loss and for the people of Poland.

We know the terrible story of the Katyn massacre that brought them to this site, this unbelievable site for the last 70 years saturated with incredible melancholy. In the spring of 1940, the Soviet secret police executed over 20,000 Polish prisoners of war—20,000 Polish military officers. Then there were other intellectuals from law, from science, from medicine. A whole generation of Polish patriots and lenders was murdered in that terrible place, people who died for Polish freedom.

Part of Stalin's efforts to destroy the Polish people was to destroy its leaders. The Nazis then continued what Stalin had begun. Then the world—after a brutal war, the terrible death camps—at Yalta and Potsdam the West abandoned Poland, and Poland, against its will, was forced behind the Iron Curtain.

What do we know about the Polish people? Their nation never dies because their nation does live not only in a government, not only now under a rule of law and a constitution that is serving them so well at this troubled time, but Poland lives within the hearts of its people. No massacre, no Iron Curtain, could ever take it away from them.

During those dark years when Poland continued to be under Soviet domination, there were those who worked to tell the story of what happened at Katyn. Joining with my colleagues in the Congress, I fought for many years to release the information about that horrific massacre, even contacting President Gorbachev, as part of his glasnost and perestroika, to at least release all the information. Finally, in 1990 they began to do it. But it was only now, last Wednesday, 1 week ago, at the site where the massacre occurred, the Prime Minister of Poland, Mr. Tusk, with Mr. Putin, met in that forest where Putin issued a formal apology to the Polish people and said all information and archives would be open.

We were so filled with joy. It was a time of great reconciliation. That is what Saturday was about, it was the continuation of a great and grand reconciliation between these nations.

Kaczynski traveled to bring the leadership there. In the leadership were people who had been trail blazers. Mr. Kaczynski himself had been a member of Solidarity, his wife solidly at his side. And now, as he was President of Poland, forging new relationships, mending the wounds with the Jewish community, it was a time of Polish leadership reaching out to the world in efforts of reconciliation. In this case, Russia reached back.

One of the people who died—it was so poignant—was a woman named Anna Walentynowicz. She was in many ways the Rosa Parks of Solidarity movements. She was a crane operator in the Gdansk shipyard. They fired her for trying to form a union and when Anna stood up, so did Lech Walesa, and Solidarity was born. When he leapt over that wall he took the whole world with him. Down it came, after years of martial law and occupation. We had Solidarity and then ultimately a free Poland.

At this time of great tragedy as we honor those who died in the forest in 1940, and those who died in the forest on Saturday, we can see that hopefully some good would come out of this. It has been a triple tragedy—the massacre of 1940, the coverup by the Soviet Union, and now the Saturday airplane crash. But out of this we hope would come a new sense of cooperation. I acknowledge that the Russian Government has been working with the Polish Government to recover the bodies and send them home with dignity and honor. Their promises of a complete investigation seem to be unfolding and they have invited Polish officials to join with them, side by side.

We hope out of this tragedy might further come other acts of great reconciliation. That is what we need to think about, how Poland continues to move the world to peace and to reconciliation.

I want to acknowledge the people from Poland and what they did for the United States. Pulaski helped fight in our Revolution. Kosciuszko built West Point, was one of the architects of the American Revolution. When he went back home to help Poland be free, he left money with Thomas Jefferson to fight for the abolition of slavery.

Through all of the wars, Poland has always been on the side of the West. During World War II, those who would escape from Poland led the armies in exile. They were at Monte Cassino, they flew in the Kosciuszko Squadron with the RAF, they have been at our side in Iraq and Afghanistan. Wherever there is a fight to be made for freedom, the Poles are there and they need to know, when they make those fights, the United States of America is with them.

For those who died on Saturday in that terrible, melancholy forest, our hearts go with them. To the people of Poland we express our sympathy, but we also express our pride in their stalwart, unrelenting, unflinching commitment to peace and justice in their own country and in the world.

I yield the floor.

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

Mr. DURBIN. Mr. President, I thank the Senator from Maryland. She is of proud Polish heritage. When she spoke of her grandmother coming to Fells Point in Baltimore, I couldn't help but think of my grandmother coming to that same place, 99 years go, from Lithuania, to become part of this American family. I would like to acknowledge, too, on behalf of many who followed her, our gratitude to Poland over the years. Poland was first to democracy in the region, and stood by the Baltic States, particularly Lithuania, their neighbor, as they reached their own level of democracy and freedom.

The Senator from Maryland will be heartened to know that we have just been notified by the cloakrooms that all 100 Senators have asked to be added as cosponsors of this resolution, to show our solidarity with the people of Poland.

I thank the ambassador for his attendance this morning and hope he will express to his government and the people of his country our profound grief at his loss and our determination that our strong friendship with Poland continues.

I yield the floor and suggest the absence a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

RECOGNITION OF THE MINORITY LEADER

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

FINANCIAL REFORM

Mr. McCONNELL. Mr. President, yesterday morning I came to the floor to point out, regretfully, that the financial regulatory bill the Democratic majority plans to introduce in the coming days is fatally flawed. It not only allows endless bailouts for Wall Street, it institutionalizes them, making them official government policy. This is truly astonishing. For nearly 2 years, the American people have been telling us that any financial reform should have two goals: It should prevent the kind of crisis we experienced in the fall of 2008, and it should ensure that the biggest Wall Street banks pay for their own mistakes—the biggest Wall Street banks pay for their own mistakes. Yet

the bill we are being asked to consider does not even begin to solve these fundamental problems. In fact, it exacerbates them. It is almost as if the people who wrote this bill took the pulse of the American people and then put together a bill that endorses the very things they found most repugnant about the first bailout.

The proponents of this bill will make a lot of claims about what this bill does and does not do. But the American people did not go through the financial crisis, did not put up their own collateral to bail out Wall Street only to be deceived about the contents of this Wall Street bill.

We need some truth in advertising here, so let's look at what this bill actually does. Its authors claim the bill gives the government the authority to wind down failing firms with no exposure to the taxpayer. But as a factual matter the bill creates bailout funds, authorizes bailouts, allows for backdoor bailouts in the FDIC, Treasury, and the Fed, and even expands the scope of future bailouts.

It does this, first of all, by creating a new permanent bailout fund, a prepaid $50 billion bailout fund, the very existence of which would, of course, immediately signal to everyone that the government is ready to bail out large banks the same way it bailed out Fannie Mae and Freddie Mac. So the same distortions—the very same distortions that developed within the housing market would inevitably develop in the financial sector. Didn't like Fannie Mae and Freddie Mac? How about 35 to 50 of them? That is what this bill would give us.

Second, it authorizes bailouts for creditors. In other words, it is not enough to bail out a bank; the people who invested in the bank would get a bailout too. Made a bad bet? No problem; the government will bail you out. Made a bad bet on a company that made a bad bet? No problem; the government will bail you out, too—provided, of course, that you are among the creditors favored by the White House. This is great if you are on Wall Street; it is not so great if you are on Main Street. It is great if you are in a union; it is not so great if you are not. This bill institutionalizes the picking of winners and losers and gives the government broad authority in choosing which creditors get paid in full and which ones do not.

Third, the bill gives the government a backdoor mechanism for bailouts by extending to the Federal Reserve an enhanced emergency lending authority that is wide open to abuse. It gives the Federal Deposit Insurance Corporation and Treasury broad authority over troubled financial institutions without requiring them to assume responsibility for their own mistakes. This means that unproductive firms which would otherwise go into bankruptcy would now be propped up by the government like zombies.

Fourth, this bill expands the scope of potential future bailouts—expands the scope of potential future bailouts. It does this by authorizing a financial stability oversight council to designate nonbank financial institutions as potential threats to financial stability and, hence, too big to fail. So a new government board based in Washington would determine which institutions would qualify for special treatment, giving unaccountable bureaucrats and self-appointed wise men in Washington even more power to protect, promote, or punish companies at whim. These favored firms would then have a funding advantage over their competitors, leading to outsized profits and the extension of enormous additional bailout risk for taxpayers even beyond the largest banks.

Fifth, the bill does nothing to correct the massive market distortions that we all know were created by Fannie Mae and Freddie Mac. Job 1 in writing this bill should have been to address the inherent problems caused by these massive government-sponsored entities. This bill ignores that issue entirely.

The American taxpayer has suffered enough as a result of the financial crisis and the recession it triggered. They have asked us for one thing: Whatever you do, they say, do not leave the door open to endless bailouts of Wall Street banks. Whatever you do, the American people have said, do not leave the door open for endless bailouts of Wall Street banks. This bill fails at that one fundamental test.

If there were two lessons we should have drawn from this crisis, one is that if investors are reckless, then they should pay for their recklessness. If investors are reckless, they should pay for their recklessness. The other thing we should have learned is that Washington bureaucrats are horrible at seeing these kinds of crises develop. It should be beyond obvious that more bureaucrats will not prevent the kinds of problems other bureaucrats overlooked.

If you need to know one thing about this bill, it is that it would make it official government policy—official government policy—to bail out the biggest Wall Street banks. This bill would make it official government policy to bail out the biggest Wall Street banks. So if the administration is looking for bipartisan support on this Wall Street bill, they can start by eliminating this aspect of the bill, not because Republicans are asking for it but because community bankers, community bankers all across the country, and American taxpayers are demanding it.

Unfortunately, the administration evidently is more interested in using this debate as a political issue than in actually addressing, on a bipartisan basis, the many weaknesses that are currently built into our economy. For example, it has been reported that the senior Democratic Senator from Arkansas was working on a bipartisan solution to one of the key areas where reform is needed but that she was told by the White House in no uncertain terms that it didn't approve of her efforts at forging a bipartisan deal. It has also been reported that the Democratic chairman of the Banking Committee backed out of bipartisan negotiations under pressure from the White House. The White House spokesman was even more explicit, saying late last month that the White House is not interested in compromising on this legislation. So the White House has been really quite clear. It plans to take the same approach on financial reform as it took on health care—put together a partisan bill, then jam it through on a strictly partisan basis. It should go without saying that this is not the kind of approach most Americans want in Washington, and it is not the kind of approach they were told they could expect from this administration.

We can do better, and we must. Americans are still dealing with the fallout from the financial crisis. Getting this policy right should be our first priority. This bill gets it very, very wrong.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

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

FISCAL RESPONSIBILITY

Mr. LEMIEUX. Mr. President, I come to the floor today to speak on a topic I have addressed many times since I came to the Senate in the fall of last year. Having come from running a business and having worked in State government, every day it is still alarming to me the way Washington spends money. In no other place in America and perhaps no other place in the world is money spent by an organization without any reference to how much money is being taken in. Unfortunately, the situation has gotten to a point where it is completely unsustainable for this country.

We open our newspapers today and we read stories about Greece having to borrow money from the European Union, being so far in debt that the forecast of the country's viability is in question. Yet our country is headed on the same path, but few come to the floor of this Chamber and sound the alarm. I will continue to do that for

the remainder of the time I have here in this body because the future of this country is at peril.

While we have spent too much for many years, the rate and pace of that spending now is beyond control. But it need not be. We need not continue in the ways of spending more money than we can possibly pay back. Let me set the table, if I may, of the financial situation we are in.

Here in 2010, we are about the business of setting up the budget for 2011. You would think the first question we would ask would be, How much money do we expect to take in in 2011? Well, the number is about $2.2 trillion. Yet the projected budget of how much we are going to spend is $3.8 trillion. We will run a deficit in this year alone of $1.6 trillion.

Now, these numbers are so big. Well, $1 trillion—what is $1 trillion? Well, $1 trillion is $1,000 billion—$1,000 billion. A billion is 1,000 million. The numbers are so hard to fathom, but let me explain, if I can, in a way I have often talked about here on the floor. If you put dollar bills side to side, you could cover two football fields with $1 million.

If one laid $1 billion on the ground in one-dollar bills side by side, they could cover Key West, FL, which has a square area of more than 3 miles. They would blanket the city with one-dollar bills with $1 billion. Mr. President, $1 trillion will cover the State of Rhode Island twice. Every one of these dollars is a dollar taken from the American taxpayer, a dollar they could spend on families, on children's education, on homes, on needed repairs. We take those dollars and spend them. Now we spend them beyond an ability to pay them back. Right now, because of the money we borrow, more than $200 billion a year goes to interest payments alone, paying for the money we should not have spent in the past. At our current rate of spending, according to this administration, by the end of this decade, we will have another almost $10 trillion in debt, making our total debt $22 trillion.

At that point, our interest payment each year will be $900 billion. At that point, the budget breaks. At that point, what we call mandatory spending on entitlements, such as Social Security and Medicare and Medicaid, will be all of the budget plus the interest. There will be no money for defense, no money for homeland security, for any of the other programs in government.

If we have this impending crisis, if we are driving the car toward the wall, why aren't we making any changes? Today I am filing legislation to enact a change, enact a mechanism, an architecture to have a discussion on the floor in this Chamber and in the House to find a solution to put America back on a stable financial path. The bill is what I call the 2007 solution. In 2007, the economy was still going strong. It was not until December of that year that we found ourselves beginning the recession.

If I go home to Florida, as I did this past weekend, and talk to Floridians and ask: Could you live on what you had in 2007? Based on these difficult times, my constituents had more money in 2007 than they do in 2010. Why shouldn't the Federal Government be able to live on what we spent in 2007? Why can't that be enough? If we did that, if we froze spending across the board at 2007 levels, when the economy was still going strong, before we injected all this stimulus money, if we go back to a place of normalcy—and, trust me, there was plenty of redundant and wasteful spending in 2007—let's go back to that as a framework. If we were to cap our spending at 2007 levels, by 2013, we would balance the budget and start running a surplus. By 2020, instead of having a $22 trillion national debt that is unsustainable, we would have a $6 trillion national debt. We would have cut it in half. We would have preserved the American dream for our children and grandchildren.

I have four small kids—we just had a baby 2 weeks ago—Max, Taylor, Chase, and Madeleine, 6, 4, 2, and 2 weeks. My greatest fear is, someday one of my kids is going to come to me, when they are an adult, after they have gone to school, and say: Dad, we are going to move to India or Brazil or Ireland or some other country. The opportunities in those countries are better than the ones in the United States. Dad, your generation and the generation before so mismanaged this government that you ruined the American dream. Our taxes now are so high to pay for the debt for things you spent in the past. Our entitlements are so weighty we can't afford them. We are going to leave.

The 2007 solution would solve that problem. How does it work? Every year under this bill, the majority leader of the Senate and the majority leader in the House would have to come to the floor and file a procedure to allow for 50 hours of debate on this floor and on the floor of the House of Representatives to decide how we are going to make cuts to stay within 2007 levels. If the majority leader doesn't do it, the minority leader has the opportunity. If the minority leader doesn't do it, any Senator can do it. Then we will have to, for the first time, have an adult conversation about priorities. Maybe then we would call in the agency heads of the different agencies of government who have had 10, 15, 20 percent-plus increases year after year in their budgets for more than a decade, and we would say: Can you make some cuts? Can you do things more efficiently?

American businesses for the past 3 years have been making tremendous cuts because they have to. We don't make cuts in our agencies. Our agency heads don't meet with the members of their organizations, the tens and thousands of workers who work in the different agencies, and say: Can we do things differently? Can we do things more efficiently?

This morning I had the opportunity to speak to a friend of mine who is about to become speaker of the house of the Florida House of Representatives, a man named Dean Cannon. Right now the Florida legislature is in session. They have to balance their budget, a very unfamiliar notion in Washington, DC. They are cutting billions of dollars from the Florida budget, as they did last year and the year before, because revenues are down because the economy is hurting. They have three choices. They can make cuts, raise taxes, or find new sources of revenue. Right now they are going through the process of cutting because they have to. They are making responsible leadership decisions. That process does not happen in Washington, DC. Under this bill, a framework would be provided that would require that debate. It would require that focus.

The majority of my colleagues are more interested in new programs than making the programs we have run more efficiently and effectively. We cannot afford new programs. We cannot afford the programs we have now. If we keep blindly looking off and pretending we don't have this crisis, the car is going to hit the wall. Our children are going to be in a situation where they can't fulfill the American dream. The 2007 solution says we are going to have a debate for 50 hours on the floor of this Chamber every year about how we can get back to 2007 levels. It doesn't specify where the cuts should be. Shall we make cuts in the Defense Department? Do we need to reform our entitlement programs? Is there waste, fraud, and abuse in Medicare? We would have those discussions. It would be our governing, focusing principle for at least 50 hours. Do we not have 50 hours to figure out whether we can run government more efficiently and effectively?

There are hundreds of billions of dollars we could cut out of the Federal Government and not impact our constituents back home. I am convinced of it. Do we not think there is 10 percent waste in Federal agencies that have not made cuts for more than a decade? If we cut 10 percent across the board in Federal agencies, we would save more than $100 billion a year; 20 percent gets us close to $300 billion. Businesses, families, State governments are doing this right now and have been doing it for years. The 2007 solution, which I hope my colleagues on the other side of the aisle will embrace, says: Let's have a discussion. Let's have the architecture in place to get back to a level of sustainable spending. If we did that, if we were principled about it, we could save this country. It is to that point. The debt is cascading out of control.

I came to this body in September of last year. I stand on the floor of the Senate in April, and we have gone $1 trillion more in debt since I arrived, $1 trillion in a 6- or 7-month period. It took us until 1980, from 1789 to 1980, to go $1 trillion in debt. We did it in 6 or

7 months. Our spending is out of control. We need a solution. We need a framework for a governing leadership discussion. I believe the 2007 solution bill can do that.

I hope my colleagues will embrace this provision. I hope we can create an architecture to put America back on the right path. I know there are people of good conscience on both sides of the aisle, including the man who sits in the chair today, who care about this spending problem. If we could get past partisanship, if we could get past rhetoric and focus on this issue, we could save America.

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.

Mrs. MURRAY. 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.

Mrs. MURRAY. Mr. President, I ask unanimous consent to speak under morning business on the Democratic side.

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

Mrs. MURRAY. Thank you, Mr. President.

UNEMPLOYMENT AND JOB CREATION

Mrs. MURRAY. Mr. President, last Sunday at midnight thousands of people in my home State of Washington, who have lost their jobs through no fault of their own, had the rug pulled out from underneath them. That is because these men and women, who wake up each day to scan the classified ads and send out resumes and travel to interview after interview, had the unemployment benefits they count on suddenly cut off. In losing that critical support, they lost an important source of security they need to help them stay in their homes or make rent and the stability that allows them to continue to afford to look for work.

Over the last 2 weeks, I have traveled throughout my State, talking to my constituents and discussing our economy and working to support job-creation efforts, and I have to say the frustration is very clear. It is written on the faces of so many in my State who just cannot seem to get a break, who have come close to being hired but have been told the time is just not right, they should come back next month or next year. These are people who are struggling job seekers, and they do not hold back when describing what they continue to face. It is an emergency. It is an emergency that affects their ability to pay their bills, their ability to put food on the table, and their ability to keep their job search going. It is an emergency that time and again we have worked hard here to respond to, but time and again we have faced opposition to do that.

Before we left for the recess, we had an opportunity to pass an extension of the unemployment benefits, to respond to that emergency in our job market, and to avoid the uncertainty job seekers across the country now face. Democrats put an unemployment extension out on the table. It was a proposal that was similar to extensions we have done routinely in difficult times, and, as we all know, times have seldom been more difficult. But it has become an all too familiar story now: Those on the other side of the aisle said no and put obstruction before assistance, politics before people, and point-scoring before the needs of those who have lost their jobs.

This week, we have a chance to make things right. The legislation we are trying so hard now to pass this week is very straightforward. This bill will get unemployment insurance to millions of struggling families who rely on it to meet their basic needs, to pay their mortgage, and afford school. It will restore the safety net that is critical to keeping our economy stable. It will give those people who are looking for jobs the means to afford to keep looking for them. And it will keep our economic turnaround on course. It is aimed at helping real families with the real problems they face every day.

But make no mistake, the consequences of not reaching a compromise and passing this bill are just as real. Today, families in every single one of our States are sitting around their kitchen table trying to figure out how they are going to make it through the weeks and months ahead without these payments. Oftentimes, they have spent their day calling employers and going to job fairs with long lines and very few opportunities, filling out more job applications. These families are now looking to us for the help they need in a time of crisis. But every evening these families are turning on the nightly news to hear another story about gridlock in our Nation's Capital. They see this Senate being forced to jump through procedural hoops and endure endless delay tactics to get even emergency legislation passed. They see politics clouding policy, obstruction impeding process, and, do you know what, they are really getting sick of it.

So today I urge all of us to come together and move forward with the same urgency those who have lost their unemployment have, that we join together the way we did to pass the Children's Health Insurance Program or fair pay for women in the workplace or small business tax cuts. We need to restore the faith of the American people and pass this critical extension.

But for those who are fighting to get back to work and support their families once again, unemployment obviously is not enough. We need to be taking every step we can to improve the job market unemployed workers wake up to face every morning because while there certainly have been signs of improvement, we have a lot of work left to do. I certainly believe that work starts with helping our small businesses, which are the heart and soul of our economy.

Growing up, my dad ran a five-and-ten-cent store on Main Street—actually Main Street—in Bothell, WA. All six of my brothers and sisters and I worked there. From an early age, we swept floors, we stocked the shelves, we worked the register. And when small businesses like ours struggled, we all knew the consequences. We saw it in the till at the end of the day. We saw it in the families who were coming to buy things from my dad. Small businesses really were the economic engine of Main Street then, and, do you know what, they still are today.

But what I hear time and again today is that while Wall Street is doing a whole lot better, Main Street is still really struggling and that the small community banks, which are a major source of capital in all of our communities, are not lending. When small banks, which are the lifelines of our small businesses, do not lend, then credit is not flowing, businesses are not hiring, and recovery is not coming to Main Street. That is exactly why I have introduced legislation that would redirect TARP dollars to buy toxic assets such as bad mortgages off the books of our community banks at home to help free up their credit and get them lending to our small businesses again. We have done enough for Wall Street. It is past time we concentrate on helping our small businesses and local employers.

Another way to help improve local job markets and all those who are looking for work is to, of course, lessen the tax burden on our small businesses so they can afford to hire new workers. Over the recess, I had the opportunity to talk to owners of local bakeries and motels and marketing companies and a lot more throughout my entire State, and, do you know what, they all told me the same thing. They want to hire and they want to expand. They even see new opportunities. But the risks for them now are just too great. What they need from us is certainty and security. I told them we are working to provide them with just that. I told them the health care reform bill we just passed includes a 35-percent tax credit that small business owners can receive immediately to help them cover their workers. I encouraged them to hire unemployed workers who have been out of work for more than 60 days because we now are giving them an exemption from their payroll taxes for those new employees. I told them now is the time to make big purchases they want because we have worked to pass legislation that will allow them to write those purchases off immediately. I told them we have worked to ensure that the Small Business Administration is increasing its local lending efforts. But

I also told them, of course, that we have more to accomplish and they, the small businesses, need to be the focus of recovery efforts from this point on.

Another central tenet of improving the job market is included in the historic health care reform legislation we passed into law last month. As we all know, that bill greatly expands access to care in communities across the Nation, but what has gone less noticed is that the bill also greatly expands access to health care careers to help meet that new demand.

I was the Senator in the HELP Committee who was responsible for the health care workforce section of the bill we passed, and I worked to make sure we made numerous investments to create and sustain good-paying health care jobs. Our bill that is now signed into law includes incentives such as loan repayment programs, scholarships, and grants, all to help encourage students to go into high-need fields and to work in underserved areas. It invests in education, training, and retention efforts, not just for new health care workers but for those who are already working to provide quality care in our country. Investments in our health care workforce create jobs. They ease the strain on overworked health care professionals. And it is going to keep Americans healthy so they can be productive on the job.

Finally, I believe we need to pay particular attention to our efforts to hire our Nation's heroes, and they, of course, are our veterans. Right now, the unemployment rate for veterans who are returning from Iraq and Afghanistan is over 21 percent. More than one in five of the men and women who went and fought for our country are returning home only to have to fight to find work. These are disciplined, technically skilled, determined workers who nonetheless have been left to stand at the back of the line or have their resumes lost in a stack somewhere.

Over the last 2 weeks, I talked to many unemployed veterans in my home State of Washington about just what it is that is keeping them from finding work, and, frankly, what they told me was shocking. Many veterans told me they sometimes leave off the fact they are veterans from their resume because employers are looking at it as a negative rather than a positive because of the stigma of the invisible wounds of war. National Guard members talked of coming home to find they have been laid off because their job no longer existed at the company they left behind when they went to serve our country. Other veterans told me the Pentagon and VA transition programs just are not working for today. And they struggle to have employers understand how the technical skills they learned in the military will translate to help them in the civilian working world.

What I heard is unacceptable, and it has to change immediately. So next week I am going to be introducing a bill on the Senate floor that will take a look at why our military skills are not translating into skills that get them jobs when they come home. It will help our veterans get into apprenticeship programs and careers where I know they will excel. It will improve the military and civilian transition process. And we are going to set up a veterans business center within the Small Business Administration to help our veterans get the skills and resources to start their own businesses.

This week on the Senate floor, we have a chance to keep our unemployed workers afloat. It is an unemployment extension that is a lifeline. It is a lifeline that will help allow unemployed workers to continue looking for every job opportunity and to support their families in that process. But ultimately we need to get these workers into the boat. We need them to get good, stable jobs. That means supporting our community banks, reducing the tax burden on small businesses, and expanding opportunities for health care workers and our returning heroes—our veterans.

As I said earlier, the American people are watching us. They want us to have the same urgency they feel in their lives every day. They want to know their dinner table debates are our floor debates. They want to know that creating jobs is our No. 1 priority and that we will be at the back of those who are trying so hard to get back to work.

So I come to the floor to urge everyone to come together to pass this important extension of unemployment benefits, put politics aside for a couple weeks and months, and help us all work together to create job opportunities and get Americans back to work.

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

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

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

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

FINANCIAL REFORM

Mr. DODD. Mr. President, I rise this morning to try and set the record straight, if I can, on some of the rhetoric I have heard over the last 24 hours or so regarding the financial reform efforts I have been engaged in along with my colleagues on the Senate Banking Committee for the past 38 months.

I became chairman of the Banking Committee in January of 2007, about 38, 39 months ago. Since that time, of course, we have held countless hearings and meetings to deal with the financial crisis beginning in January and February of 2007. In fact, the very first hearings we held were on the foreclosure crisis in the Nation and trying to get the attention of the previous administration, Secretary Paulson and others, to pay attention to the situation that was emerging. Our economy was collapsing and too many people were losing their homes, an economic catastrophe was looming, and, frankly, there was not enough attention being paid initially to this issue by the previous administration. Nonetheless, we worked forward. So, today, we find ourselves on the brink of making an effort to deal with this problem.

After listening to some of the rhetoric of the last 24 hours, I wonder if we are in not only the same Chamber in the same city but on the same planet when it comes to the efforts that have been made to try and reach bipartisan agreement to deal with financial reform. I have almost unlimited patience, as many of my colleagues know, but that unlimited patience is being tested by some of the comments I have heard. So I felt incumbent to respond this morning to some of these accusations about the effort being made to achieve a proposal on financial reform that might attract broad support in this Chamber, unlike other efforts that have been made over the past several years, as I have said repeatedly during the many months we have been working on this important legislation.

These are complex issues. We have gone through the most serious financial crisis since the Great Depression. That is how serious this is. In the words of financial leaders in this country and elsewhere, we were on the brink of a meltdown of the entire financial system in this country, and we came perilously close to having that occur. For those 7 million who lost their homes or the 8.5 million who have lost their jobs, it might as well have been a financial meltdown, not to mention the retirement incomes that evaporated and, of course, the loss of confidence in our future, along with health care and a variety of other things that have happened to working families in this country.

During the course of this debate, as critical as it is, of these complex matters that make up the structure of the architecture of our financial system, it is critical to the future of our economy and the livelihoods of millions of middle-class Americans across this Nation that this debate should not be sullied by misinformation or derailed by those who would try and make it just another partisan game. Playing politics with this issue is dangerous indeed. Unfortunately, the talking points deployed by the Wall Street lobbyists, in an effort to protect the status quo, leave my constituents and many Americans vulnerable to yet another economic crisis. Those arguments are littered with falsehoods—outright falsehoods—that I regret to say are now being repeated by people who should know better and, frankly, do know better.

So today and this morning I wish to set the record straight. I wish to start by attacking one of the wildest and, frankly, most dishonest objections to this legislation, which is the notion that it is somehow a partisan document. I consider the minority leader and the ranking member of the Banking Committee to be good friends. They are patriots, with whom I have worked over many years on many issues. Senator SHELBY and I have been working together for over 1 year on these issues, and I cannot, for the life of me, understand how anyone can claim with a straight face that what I have tried to achieve on this bill is a partisan effort. I have spent the last year seeking bipartisan consensus.

In February of 2009, over 1 year ago, with the new Obama administration freshly sworn in, I insisted from the very beginning that Senator SHELBY's staff be included in meetings with the White House and Treasury Department on all financial matters. When I had the opportunity to take over the chairmanship of the HELP Committee, the committee charged with the responsibility of writing the health care reform legislation, I chose to stay as chairman of the Banking Committee, in no small part because I received commitments from Senator SHELBY and others that we would work together on this financial reform legislation.

When I introduced a discussion draft of this proposal back in November—almost 6 months ago—Senator SHELBY indicated we had bipartisan consensus on at least 70 percent of the bill back in November. To get closer to a full agreement, I created four bipartisan working groups almost 6 months ago, each of which was charged with achieving real and meaningful progress in various sections of the bill. Even when Senator SHELBY and I found areas where we could not agree, I continued to reach out to other members of the committee, including my friend and colleague from Tennessee, Senator CORKER, and others, spending weeks working to try to achieve a consensus on financial reform. It is not even a slight exaggeration to say we spent countless hours—phone calls, meetings, e-mails, discussion drafts—day after day, week after week, month after month, to try to get closer and closer to a proposal our colleagues could support.

We can see the results. The bill we marked up in our committee last month was much changed from the proposal I made in November, the initial discussion draft, to reflect the work that had gone on over those many weeks and months and the ideas brought to the table by colleagues of both parties from members of that committee and others. My friends on the other side of the aisle may not like every line in the bill that will now be before us in a few short days, but at the very least let us not pretend the bipartisan work that produced this legislation didn't happen. It did happen. That is a disservice to yourselves—those who make these allegations—and their good staffs who worked hard over these many weeks with my Democratic staff and others to produce this product.

If Members wish to vote against the bill, they can do that. That is their right to do so. They can go on record in support of leaving their constituents vulnerable to more lost jobs, more foreclosures, more shuttered small businesses, more wiped out retirement accounts. It is up to each individual Member to decide for themselves that is the vote they wish to cast when it comes to this effort. But the outcome of this debate will, mark my words, affect the economic security of ordinary Americans, and they deserve to know the truth of what has happened.

Today, I wish to talk about bailouts. Nobody likes them.

Under our proposal, they will never happen again. As the President said in his State of the Union Address, bailing out some of the large banks whose own mismanagement caused the crisis was ''about as popular as a root canal.'' That, of course, happened under the previous administration, I should note.

But serious legislators of both parties realized that we had no choice. Our system was so broken that these companies had become too big to fail. If we did nothing else, our entire economy could collapse, we were told.

You would think that if you wanted to avoid being backed into that corner again, if you wanted to avoid more bailouts, you would oppose efforts to protect the status quo. But Wall Street special interests needed a way to defend this broken system. After all, for many of them, the kind of mismanagement that costs us millions of jobs is the way they pad their profits and pay their lobbyists. So they turned to Frank Luntz, their political strategist.

Let me tell you what he came up with. I will quote from Mr. Luntz's memo that was leaked, I will quote from his partisan memo:

> The single best way to kill this legislation is to link it to the big bank bailout.

No matter what is proposed, no matter what is in the bill, no matter what protections it includes, call it a bailout. It is a naked political strategy. If it succeeds and this legislation goes down, and another crisis sinks the American economy, then the next recession and all of the damage it will bring to the working families of this country will have happened for the sake of that false talking point that Mr. Luntz has been proposing. I don't expect Frank Luntz to care about the truth of what we are engaged in here. That is not his job. He is a political strategist. He is to provide political talking points to people when you want to defeat something. I don't expect the bank lobbyists and special interests to care about the truth; they don't seem to worry about that. But the American people deserve better from us in this Chamber.

That is why I have been so dismayed over these last 24 hours to hear Members of this body repeat the utter falsehood—concocted by special interests whose jobs and pensions are plenty secure, thank you very much—that this bill will lead to more bailouts.

Frank Luntz suggested that allies of the big banks say:

> If there is one thing we can all agree on, it's that the bad decisions and harmful policies by Washington bureaucrats that in many ways led to the economic crash must never be repeated.

The minority leader, speaking yesterday, said:

> If there's one thing Americans agree on when it comes to financial reform, it's this: Never again should taxpayers be expected to bail out Wall Street from its own mistakes. We cannot allow endless taxpayer-funded bailouts for big Wall Street banks. That's why we must not pass the financial reform bill that's about to hit the floor.

Remember what Frank Luntz said:

> The single best way to kill any legislation is to link it to the big bank bailout.

It is straight from the Wall Street special interest talking points. That is what they are determined to do to defeat this bill—suggest somehow that there is a bailout provision in this bill. Nothing could be further from the truth.

The bill, as drafted, ends bailouts. Nothing can be more clear in the legislation. For the very first time, our Nation will have someone with the job of monitoring risks to the financial system and sounding the alarm before those risks can take down the entire system, as it almost did. The bill imposes sufficient standards on Wall Street firms that create those risks.

Our bill establishes a financial stability oversight council to monitor risks and requires the Federal Reserve to write strict rules, including stronger requirements regarding capital, leverage, liquidity, and risk management on the largest financial companies, making it hard for them to get too large and limiting the risk they represent. Cracking down on the biggest players is critical to ending bailouts.

If a Wall Street firm does become too large or too complex and poses a grave threat to our financial stability, the Federal Reserve has the power to restrict its risky activities, restrict its growth, and even to break up those institutions. I will repeat that. If a Wall Street firm becomes too large and too complex, the Federal Reserve has the power under our bill to prohibit those activities, including even breaking up those institutions.

Additionally, our bill extends oversight to dangerous nonbank financial companies, such as AIG, that could pose a risk to our financial stability, as it did.

It prohibits banks and other financial institutions that own banks from engaging in proprietary trading, making risky bets with money that doesn't even belong to them.

Second, our bill eliminates the Federal Reserve's ability to prop up individual institutions using what is called

the 13(3) authority, another way to stop banks from thinking that they could be bailed out if in fact they engage in activities that cause them to begin to fail. The Fed's lending authority is strictly restricted, not expanded, as some have claimed.

Third, our bill sets up predictable, orderly, and safe processes for shutting down dangerous Wall Street firms that fail without endangering the entire economy. No financial firm will ever again be ''too big to fail.'' Quite the opposite. We insist that the provisions be in place so that it can never again make the claim that they are too big to fail.

Large, complex financial companies will be required to submit plans for their own shutdown—we call them living wills—if the company goes under. Companies that fail to produce a realistic plan will be hit with tougher capital requirements, restricted in how much they can grow, and even can be broken up.

Most large financial companies would be resolved through the normal bankruptcy process. That is the presumption in our bill—receivership.

Where bankruptcy is not an option, the bill creates a mechanism for the FDIC to unwind those companies. The management will be fired, shareholders will be wiped out, and creditors will take their losses. Middle-income families on Main Street won't have to pay a penny. The largest Wall Street firms would have to put up money for a $50 billion fund to cover the costs of liquidating the failed financial firm, and any shortfall will be made up by the largest and riskiest financial firms. Why should the American taxpayer have to pay for unwinding these companies? They should put up the money themselves. Let them pay for the unwinding that goes on. Don't charge it to the American taxpayer. Our bill includes those provisions.

Wall Street doesn't like this fund, and they are plenty content to let taxpayers continue to pay the price for industry mistakes. Let me be clear, despite what their apologists may claim, these funds can only be used by the FDIC and only used to liquidate the failed company, not prop it up.

To review, our bill imposes tougher standards on large, risky Wall Street firms. It eliminates the Federal Government's capacity to bail out individual companies. It requires that financial firms write their own shutdown plans and even pay for the liquidation process if it is needed.

Here is what I have to say to Wall Street. If you have a better idea, let's hear it. If you have other ideas, let's debate them. But if all you have is black-and-white talking points that bear no relation to reality, don't reflect the efforts that have gone on for months to try to produce a proposal that might gain broad support here in this Chamber, then get out of the way and let the serious legislators work. Don't write this off by quoting a political strategist's talking points, when all of this effort has been made over these many months.

I am told by my staff—and I have dealt with 42 pieces of legislation in 39 months—that about 37 have become the law of the land. I made a determination as chairman to work together, wherever possible, to achieve common points. So my history is to try to achieve that wherever possible, and I take great offense at the suggestion that it has been otherwise.

The outcome of this debate affects the economic security of every single American and every single American family. What we have been through, we should never have to go through again. Our bill takes steps to try to achieve that. It is not that we are going to stop every economic crisis in the future. That would be a foolish suggestion. But what we have done is fill in the gaps that allowed this crisis to occur and provide tools for the coming generation so they can address future economic crises and still allow for the vitality of a financial services sector to produce jobs, create wealth, allow credit to flow and capital to form so our economy can prosper again.

Trying to achieve those three goals has been the hallmark of what I have tried to put together with the bill, along with my colleagues on the committee. I believe we have done a good job in achieving that. I would be the last one to claim perfection. If people have other ideas, that is what the process is for. But to castigate it and label it as nothing more than a partisan debate and suggest that somehow what we have done here is to perpetuate ''too big to fail'' is poppycock. It is unfortunate that at this hour in this debate, that is all we hear from on the other side.

The door is still open. We are not yet on the floor debating this bill. I will have meetings with Senator SHELBY and others. My patience is running out. I have extended the hand, and I have written provisions in the bill to accommodate various interests. I will not continue doing this if all I am getting from the other side is a suggestion that this is a partisan effort. We have been through it over and over on the floor for the last year and a half. I think the American people are sick of it. They want to see us work together to achieve results that benefit them, not some political party, or narrow ideology, and certainly not the narrow interests on Wall Street.

In the coming days, I will give you a bill I think we can vote for and stand up and proudly support and, more importantly, one that we can say to the American people we will not have to go through what we have been through in the last 2 years, and never again should another generation face the kinds of risks we did because of the gaps that existed in our financial regulatory structure.

I ask unanimous consent that the entire Frank Luntz memo be printed in the RECORD. I want the public to read it so they will know what we are up against here with this political chicanery.

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

THE LANGUAGE OF FINANCIAL REFORM

(By Dr. Frank Luntz, Jan. 2010)

THE FINANCIAL REFORM CLIMATE

SETTING THE CONTEXT

This document is based on polling results and an Instant Response dial session conducted after the House of Representatives passed ''Financial Reform'' legislation and prior to the Senate's consideration of the bill. The document helps capture not just how Americans feel about the ''financial crisis'' (they believe it still exists) and potential reform initiative (they're against)—and how they want to address the issue (carefully).

When it comes to the financial crisis, there is one clear consensus—the crisis is a stain on the fabric of America's economy that will linger for years to come. The impact of the crisis is real and has reverberated throughout every part of our society. Rule #1:

When addressing the crisis, never forget its impact on your audience. Above all else, never EVER minimize the pain.

1. Americans are divided on the cause of the crisis. The consequences of the crisis may be undeniable, but its cause is debatable.

—To conservatives: government policies caused the bubble and its ultimate crash. Fannie Mae, Freddie Mac, the Federal Reserve, and the Community Reinvestment Act all had a role in the catastrophe. The government inflated economic bubbles with easy credit policies. Interest rates were kept intentionally low. Low-income families were encouraged to become homeowners despite the knowledge that many would never be able to pay them back. Government bought and backed these subprime loans, essentially encouraging brokers to find more subprime clients—risk be damned.

—To liberals: the roots of the crisis lie in Big Business and the marketplace. Mortgage companies peddled adjustable rate mortgages without ever explaining the future costs. Credit card companies flooded college campuses with high interest credit cards. Wall Street firms traded mortgage-backed securities and created credit default swaps that played key roles in the economic calamity. Contracts written in legalese, coupled with the risks of adjustable rate mortgages, were never explained to the average consumer—perhaps intentionally. Those that blame the market are passionate about the need for more reform.

—But to a majority of Americans believe that individuals who ran up their credit cards and took out mortgages they couldn't afford are also responsible for the calamity that ensued.

What industries bear the brunt of the blame? Home mortgage companies (33%) and banks (31%) are seen as primarily responsible. But it is not the companies so much as the leadership of the companies that are to blame. . .

But the largest percentage of Americans believes ''all of them'' played a role in today's economic conditions.

2. You must acknowledge the need for reform that ensures this NEVER happens again. Despite the different perspectives on the causes of the crash, there is an agreement that the crisis must be addressed—that changes must be made so the mistakes that led to this point are never repeated. The status quo is not an option. The system failed

us—all of us—and the causes of the failure must be corrected.

3. Now, more than ever, the American people question the government's ability to effectively address the issue. Billions in handouts to Wall Street. A stimulus bill that isn't creating jobs. Cash for Clunkers. Health Care. A ''Credit Card Bill of Rights'' that increases fees and interest rates on consumers. The American people believe Washington has gone wrong, and these legislative initiatives have become symbols of Washington's inability to do anything right. A majority of both Republican and Democrats believe that. . .

WORDS THAT WORK

If there is one thing we can all agree on, it's that the bad decisions and harmful policies by Washington bureaucrats that in many ways led to the economic crash must never be repeated.

This is your critical advantage. Washington's incompetence is the common ground on which you can build support.

Ordinarily, calling for a new government program ''to protect consumers'' would be extraordinarily popular. But these are not ordinary times. The American people are not just saying ''no.'' They are saying ''hell no'' to more government agencies, more bureaucrats, and more legislation crafted by special interests.

Incredibly, these results are PRIOR to efforts to educate voters about the inherent problems of the legislation. One reason why initial support for more government action is rooted in the simple belief that government cannot effectively regulate the financial markets at any level . . .

4. Public outrage about the bailout of banks and Wall Street is a simmering time bomb set to go off on Election Day. To put it mildly, the public dislikes taxpayer bailouts of private companies. Actually, they HATE it.

In fact, a vote in favor of creating a permanent bailout fund of private companies is like committing political hari-kari. Frankly, the single best way to kill any legislation is to link it to the Big Bank Bailout.

WORDS THAT WORK

Taxpayer-funded bailouts reward bad behavior. Taxpayers should not be held responsible for the failure of big business any longer. If a business is going to fail, no matter how big, let it fail.

5. The public is angriest about lobbyist loopholes. Part of public perception that Washington cannot do anything right is the belief that lobbyists write most of the bills. The American people are tired of add-ons, earmarks, and backroom deals—but they are mad as hell at ''lobbyist loopholes.'' This bill is riddled with such loopholes. You must put proponents of the legislation on the defensive, forcing them to attempt to justify the ''lobbyist loopholes'' and exemptions placed in the bill:

—Why were pawnbrokers exempted?

—What about car dealers?

—Vegas casinos and their credit lines?

The power of this argument cannot be underestimated. When participants in our dial sessions heard that the casinos and pawnbrokers were exempted from the legislation, someone remarked, ''We have become the Roman Senate.''

Highlight the exemptions. Broadcast them. Remind them, ''The legislation is filled with lobbyist loopholes that exclude certain wealthy, powerful industries from regulations.'' As Churchill would say, that statement is the ''soft white underbelly.'' When the participants were presented a list of nearly a dozen objections to the bill, the lobbyist loopholes blew away virtually every other argument against the legislation.

6. You must be an agent of change. We have spent so much time in this analysis on general economic perceptions because that's what you need to address. You have to be on the side of change. Always. The financial crisis is not a theoretical economic textbook concern. The pain felt by the crisis is real and omnipresent. Retirement funds were depleted. Homes were foreclosed. Jobs were eliminated. The status quo is unacceptable. However, it's wrong to assume government can correct the problem without addressing its role in the crisis, yet that is what Congress is trying to do. What to say? ''It addresses market excesses but keeps government excesses in place.'' The American consumer wants more easily understood contract language so that consumers have all the information they need.

7. Demand accountability—government accountability. Despite creating economic conditions comparative to the Great Depression, it is important to ask some basic questions—What government regulator lost their job for their hand in the crisis? What government policies were changed? What laws were repealed? The obvious answer is none.

WORDS THAT WORK

We don't need another Federal government agency. We don't need bigger government. What we need is a better approach that promotes accountability, responsibility and effective oversight.

Yet, Congress is poised to add another Washington agency with more Washington bureaucrats on top of existing laws and regulations. In fact, the proponents of the new government agency and regulations are the same members of Congress who created and supported the housing bubble.

WORDS THAT WORK

The architects of failure are now designing the rescue. Many of the same members of Congress responsible for the legislation that helped create the housing bubble and the Wall Street financial crisis are now attempting to create another new government agency with an unlimited budget and almost unlimited regulatory powers.

I'm sorry to say this but they don't know what they're doing. They have gotten it wrong time and time again and now they want to do it yet again.

The perceived incompetence of Washington extends to its leadership. Barney Frank, the Chairman of the House Financial Services Committee, is an example. Frank's favorable rating is 13%. His unfavorable rating is 30% (though a majority don't give him any rating at all—so don't make him the enemy. Washington is the enemy.)

8. More bloated government bureaucracy is not the solution. We're witnessing out-of-control federal spending. The Government takeover of health care and other industries has Americans questioning the competence of government. They want smarter solutions, not more of the same. ''A new agency with new bureaucrats is not change we can believe in.'' It's not change at all. As our dial session participants agreed, ''It's another agency to clean up a mess from a different agency.''

WORDS THAT WORK

The financial crisis hurt all of us. Homes were lost. Jobs were destroyed. Businesses closed. There is enough blame to go around. We need a solution to the problem, not more of the same. Creating another costly government bureaucracy on top of existing bureaucracy isn't a solution—it helped cause the problem. This time, let's get it right.

9. Devil is in the details. Every bill passed by Congress is larded up with pork, handouts, and earmarks. The American people have lost faith in Congress, and no matter how good a bill sounds, they want to know ''What is in the fine print?''

10. Caution: Unintended consequences ahead. The government caused the Savings and Loan crisis by changing the rules. Congress jacked up fees and interest rates on consumers after enacting the ''Credit Card Bill of Rights.'' What will be the effects and impact of the CFPA? How will small business be affected? Will choices be limited? Will consumer fees be impacted? Evidence suggests the answer is definitely ''yes''.

LANGUAGE FINDINGS

11. Enforcement of current law trumps creation of new laws. Despite the need for reform, the public believes real reform means ensuring current laws are enforced rather than adding another layer of agencies, laws, regulations, and red tape on top of the existing agencies, laws, regulations, and red tape.

WORDS THAT WORK

We don't need more laws. We need better enforcement of current laws. We don't need more bureaucrats. We need the people in charge to do their jobs as they were meant to be done. We don't need layers and layers of additional federal bureaucracy. What we need is to instill accountability, responsibility and effective oversight to what is being done already.

12. The bailout provisions get the most visceral reaction. It is not often you come across an issue where people of all political stripes come together so stridently on an issue. Taxpayer bailouts of CEOs and companies are such an issue.

WORDS THAT WORK

Bailouts for Wall Street. Government takeovers of insurance companies. Trillions of taxpayer dollars to bail out CEOs and their risky investment schemes. And now Congress is preparing to enact legislation to pass a law with $4 trillion more for more bailouts. Should people who write the financial reform laws be the same ones who helped cause the crisis? Should taxpayers be punished and the big banks and credit card companies be rewarded? The time has come to take a stand. Oppose the big bank bailout bill.

13. ''Bureaucrats'' are worse than ''bureaucracies.'' While Americans don't like bureaucracy, they loathe bureaucrats even more. In fact, America's disdain of bureaucrats is almost as high as Americans' dislike and mistrust of lobbyists.

14. Americans want to end the legalese and confusion in contracts. The strongest argument in favor of the CFPA is the claim the agency would somehow end confusing contracts written by lawyers in language only lawyers can understand. When was the last time a government agency made things easier to comprehend?

WORDS THAT WORK

We must require greater transparency and more easily understood contract language so that consumers have all the information they need.

15. Just the facts, ma'am. In the testing of the ads and other communications, it is clear that Americans want more than just red meat rhetoric. You have to give them two concrete facts to prove your case—or you will be just another special interest group playing politics with their lives. Two facts. Two statistics. Two clear-cut statements of evidence.

16. Personalize the impact. It's small business owners, and not small businesses, that will be harmed by this legislation. Yes, they recognize small business as a key component of the economy, but stronger arguments against creation of the CFPA lie elsewhere. Americans want to support small businesses, but are more willing to support a person who owns a small business. Make it personal.

17. It's not ''reform.''—This is not a reform bill. It is the ''Stop the Big Bank Bailout bill.'' This is important.

18. Small business ownership is about the American Dream. The most popular images of small business owners both projected optimism with signs saying ''grand opening'' or ''open.''

WORDS THAT WORK

Owning a small business is part of the American Dream and Congress should make it easier to be an entrepreneur. But the Financial Reform bill and the creation of the CFPA makes it harder to be a small business owner because it will choke off credit options to small business owners. That will make it harder to start a new company and harder to expand an existing one.

19. No surprise here. The strongest image ad we tested pertained to the bailout provisions and the ''lobbyist loopholes'' for the casino industry.

20. The Final Word. The department store Syms used the slogan ''an educated consumer is our best customer.'' We could easily say an educated citizen is the biggest opponent or, your biggest ally against the creation of the Financial Reform bill and the CFPA.

WORDS TO USE

Accountability, Transparency & Oversight, Lobbyist Loopholes, Enforcement of Current Laws, Bureaucrats, Wasteful Washington Spending, Never Again, Government Failures and Incompetence, Let's Help Small Businesses, Big Bank Bailout Bill, Bloated Bureaucracy, Fine Print, Unintended Consequences, Special Interests, Hard Working Taxpayers, Another Washington Agency, Unlimited Regulatory Powers, Devil Is in the Details, Red Tape.

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

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. KAUFMAN. Mr. President, I ask unanimous consent to extend morning business.

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

The Senator from Delaware.

ENDING TOO BIG TO FAIL

Mr. KAUFMAN. Mr. President, I have come to the floor several times now to discuss the problem of too big to fail, which I believe is the most critical issue to be addressed in any financial reform bill.

Financial institutions that are too big to fail are so large, so complex, and so interconnected that they cannot be allowed to fail nor follow the normal corporate bankruptcy process because of the dire threat that would pose to the entire financial system.

The largest six bank holding companies—Bank of America, JPMorgan Chase, Citigroup, Wells Fargo, Goldman Sachs, and Morgan Stanley—are certainly too big to fail. The term may also cover a larger set of institutions.

After all, last year's most vaunted stress tests of the largest bank holding companies covered 19 institutions, and even that exercise did not include many other systemically significant nonbank financial institutions, including Fannie Mae and Freddie Mac, insurance companies, derivatives clearinghouses, and hedge funds.

While many in government and industry want to eliminate the term ''too big to fail,'' the fact is these too-big-to-fail financial institutions are bigger, more powerful, and more interconnected now than ever before.

Only 15 years ago, the six largest U.S. banks had assets equal to 17 percent of overall gross domestic product. The six largest U.S. banks now have total assets estimated in excess of 63 percent of gross domestic product. That goes from 17 percent of GDP just 15 years ago to 63 percent of GDP now.

While some still argue there are benefits to having very large financial conglomerates—and I am sure there are—virtually everyone agrees the problem of too big to fail needs to be address. The disagreement is how this be done.

I was interested to hear Senator MCCONNELL on the Senate floor yesterday say we must never use taxpayer money again to bail out too-big-to-fail institutions. But no one wants to do that. No one is thinking about that. No one is planning to do that.

The question is, What is the solution to prevent these institutions from failing in the first place? The other party has put forward no solution, and doing nothing is by far the worst solution of all.

The minority leader came to the floor today and said the bill before the Senate is good for Wall Street and bad for Main Street. That is simply an astounding statement to make. Main Street wants Congress to act. Main Street wants Congress to ensure that Wall Street never engages in reckless behavior again. Yet what does the minority leader offer?

Despite the experience of Lehman Brothers, the minority leader apparently believes we should do nothing and simply stand back in the future and let these megabanks fail when they take risks that go wrong.

The minority leader said yesterday:

> The way to solve this problem is to let the people who made the mistakes pay for them. We won't solve this problem until the biggest banks are allowed to fail.

Astounding. His answer is, the resolution of too-big-to-fail banks needs to be dealt with through the bankruptcy process. In my view, that approach is dangerous and irresponsible.

If we do nothing and wait for another crisis, future Presidents—whether Republican or Democratic—will face the same choices as President Bush: Whether to let spiraling, interconnected, too-big-to-fail institutions, such as AIG, Citigroup, and others, collapse in a contagion, sending the economy into a depression or step in ahead of bankruptcy and save them with taxpayer money.

If that happens, the choice of allowing bankruptcy will mean tremendous economic pain on Main Street America. So some Congress in the future will similarly be faced with another TARP-like decision, which in the fall of 2008 many in both parties believed they had no choice but to support, including the minority leader.

Relying on bankruptcy law is not the answer. The approach by many conservatives and those on the other side of the aisle is to simply let them fail and let U.S. bankruptcy law—where shareholders get wiped out and creditors take a haircut—reimpose the discipline in the financial system that was lacking in the runup to the crisis.

For example, Peter Wallison and David Skeel have argued in the Wall Street Journal:

> The real choice before the Senate is between the FDIC and the bankruptcy courts. It should be no contest, because bankruptcy courts do have the experience and expertise to handle a large-scale financial failure. This was demonstrated most recently by the Lehman Brothers bankruptcy.

If bankruptcy was a cure in Lehman Brothers, it was one that almost killed the patient. When former Treasury Secretary Hank Paulson decided to let Lehman Brothers go into bankruptcy, our global credit markets froze and creditors and counterparties panicked and headed for the hills. Instead of imposing market discipline, it only prompted more bailouts and almost brought down the entire financial system. It ultimately took 18 months to close out the case on Lehman Brothers, an eternity for financial institutions that mark to market and fund their balance sheets on an interday basis.

Bankruptcy is an even more unattractive option when one considers that Lehman was an investment bank, while today's megabanks operate under the bank holding company umbrella. It is virtually impossible to have an integrated resolution of a large and complex bank holding company. The bank subsidiary would go into FDIC resolution, the insurance affiliates would go into State liquidation procedures, the securities affiliate would go into chapter 7, while other affiliates and overall holding companies would go into chapter 11.

A plan this unwieldy is no plan at all. In fact, the only way to truly eliminate the problem with too-big-to-fail banks is for Congress to act. It is true that I believe we should go further than the current bill. I would break these big banks apart, thus limiting their size and leverage. Given the consequences of failing to do enough to prevent another financial crisis, the safest thing to do today is for Congress to put an end to too big to fail. If you believe these megabanks are too big, if you reject the choice of bankruptcy that will lead to a recession or depression, then breaking them up is the logical answer. That is the only way that greatly diminishes the future probability of another financial disaster. The Great Depression of the 1930s must be avoided at all cost.

Two years ago, permitting Lehman Brothers to enter bankruptcy brought about the Great Recession, the most painful economic downturn this country has seen since the Great Depression. If we were to let other institutions fall into bankruptcy, adopting the minority leader's approach, the horrors our economy would have faced would make the realities of the past 2 years pale in comparison.

I certainly don't want to rely on bankruptcy to break the boom-bust-bailout cycle. I believe Congress should break the cycle today. We should not follow an abdication of regulatory responsibility with an abdication of democratic government. As representatives of the people most hurt by the financial crisis, Congress should act decisively to ensure that we benefit again from decades of financial stability, not do nothing, which most assuredly would leave us to live on the precipice of financial disaster, as the minority leader would have us do.

We need a full and straightforward debate in the Senate about what Congress must do. In my view, the mere existence of too-big-to-fail institutions perpetuates a long cycle of boom, bust, bailout. Instead of hopelessly trying to impose order and discipline in a chaotic crisis, we need to clearly, decisively, and preemptively deal with the problem of too big to fail now.

As Senator LEVIN pointed out this week, when he kicked off the Permanent Subcommittee's hearings on its investigation of the financial crisis, there are many eerie parallels between this crisis and the one in the late 1920s and early 1930s. In both cases, bankers were derelict in their duties, while drawn to disruptive and excessive speculation, fueled in part by their compensation arrangements. Does that sound familiar? Bankers were derelict in their duties, while drawn to disruptive and excessive speculation, fueled in part by their compensation arrangements.

In the 1930s, in response to these problems, we built an enduring regulatory framework that put our entire financial system on stable footing for decades. We simply cannot afford another financial meltdown. The choice is clear. But it is also clear that the worst thing we can do is to take the dangerous risk of doing nothing. To me, the choice that is best for the American people is clear.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I also rise to discuss financial reform and, to be blunt, to try to set the record straight about some misleading statements that have been made on this floor about both the process and the substance of the bill that the Banking Committee reported out recently.

Under Chairman DODD's leadership and working with ranking minority member Senator SHELBY, I have worked hard, since coming to the Senate, to understand the root causes of the crisis we are only now beginning to emerge from economically but to recognize that we have to have a robust solution in place to make sure we are never again confronted with the type of crisis and the lack of preparation this Nation faced back in the fall of 2008.

I also come to this body, as you know, as someone who spent an awful lot of time around the capital markets. Quite candidly, I will put my free market, procapitalist credentials up against anybody's in this body. But I come to the floor as well as someone who has tried to recognize that the financial crisis—perhaps more than any other issue we have addressed—doesn't have a Democratic or a Republican root of origin, nor does it have a partisan solution set. We have to recognize that, perhaps on this piece of legislation more than ever, we have to have a bipartisan basis to establish a long-term financial framework for the next hundred years.

I am very proud of the fact that we have worked so far in a bipartisan way. I have particularly appreciated, over the last year, the partnership I have built with Senator CORKER of Tennessee, where we both recognize that while we both have backgrounds in business and both have experience and exposure to the capital markets, there is a great deal of complexity in trying to rewrite the financial rules in the sense that it will be not only for this country but because the rest of the world will follow what America does, for the whole world. So it will require a great deal of humility and a recognition that we have more to learn.

Because of that, Senator CORKER and I, starting early in 2009, began holding a series of seminars, in fact, where we brought in established financial leaders and invited members of both parties to come and learn with us as we tried to put in place rules and regulations governing the financial system. While I have been disappointed, particularly by the Republican leader's comments yesterday, I am not naive. I still believe there is a path to a bipartisan bill. What we need to do is to simply lower the rhetoric and do what is needed for the American people.

Let's put in place a robust set of rules and a robust regime of reform that will ensure that never again will the American taxpayer have to bail out firms that are too big to fail. While there were differences that we had on how we approached health care reform, this is one area where—whether it is a liberal blogger group or a tea party convention—there is a unanimity of opinion that never again should the taxpayers be put at risk because of the financial interconnectedness of large firms.

Soon, the Senate will consider the bill Chairman DODD has put together. While there are bits and pieces that different folks will disagree with, this is a strong bill that vastly improves regulation and the structure of our financial markets. Let me repeat that Senator DODD has put together a strong bill. One part of the bill Senator CORKER and I have been particularly engaged in deals with systemic risk in ending the notion of too big to fail. That was the subject yesterday of some wildly inaccurate statements on this floor, which I am here to address.

I have to admit I am deeply invested in this section, and that investment comes in no small part because of the months of work Senator CORKER and I put into this area. Let me acknowledge at the front end that there are parts of this section that both Senator CORKER and I will want to change and amend. Those changes and amendments we would probably reach agreement on in perhaps 5 or 10 minutes, but the basic structure we set up is one I believe will lead to meaningful financial reform.

Now, let's go to what we are talking about. We recognized at the outset that never again could we allow the financial system and the interconnectedness of this financial system to come to the brink of crisis and, in effect, the regulatory system and the legal system have no recourse and rules on how we deal with an impending crisis.

One of the things we recognized at the outset was that in the past there was very little collaboration and coordination between different regulators. You might have a Prudential supervisor who is looking at the depository institution and having one view of an institution; and you might have the regulator looking at the bank holding structure and having another view. Because these complex institutions may also have security aspects, the SEC is over here. But there was no coordinated place where this collaborative view, beyond the stovepipes and beyond the silos, could all come together and recognize that while the institution's single actions in a single sector might not pose a systemic risk, that in toto these risks, when aggregated together, put our financial system in jeopardy.

So what do we propose? Along with Senator CORKER and experts from the industry, we propose creating a Systemic Risk Council that would, in effect, be the early warning system for our overall financial system to spot these large, systematically important institutions and, in effect, put some speed bumps in their path.

I may not even agree with some of the Members of my own side of the aisle that we ought to go out proactively and break up these institutions just because they are too large. Size, in and of itself, was not the problem. It was the interconnectedness of their activities and the fact that if you started to pull on the string of some of these activities, the effect that had basically collapsed the whole house of cards. It was not size alone, it was interconnectedness and recognizing how to spot that interconnectedness at the front end, and putting some speed bumps on these systemically large institutions that is important.

One of the things we found was that oftentimes the regulators did not have current, real-time data on the extent of these transactions and this interconnectedness. So a part of the bill that has received very little attention is the creation of the Office of Financial Research, which will aggregate, on a daily basis, all the status of transactions of all these institutions and allow us to have at least the transparency at the regulator level to know what is going on and allow the regulators never again to say: Well, the last piece of data we had was the last quarterly report. This information will flow up to the Systemic Risk Council, and the Systemic Risk Council will then be able to put in place what I call speed bumps on these systematically large institutions.

Increase capital. One of the questions that comes back time and again from financial experts, we need to increase the capital reserve levels of many of these large institutions. We have to look at their liquidity ability. In many cases the institutions that failed during the crisis were not insolvent but there was a rush because of fear in the system and the liquidity crisis this caused, so how do we be sure we use liquidity in a better way?

Leverage, traditional additional financial institutions—I look at our neighbors in Canada, about a 20-to-1 leverage ratio. We saw on some of the off-balance sheet operations not 10- or 20-to-1 traditional ratios, but 50- or 100-to-1 leverage ratios.

We put in place as well something that has been advocated by folks at New York Fed—it originally comes out of the University of Chicago—a whole new set of financial structure in these large institutions that will convert to equity in the precursor, before a crisis takes place. In effect, shareholders will be diluted by this contingent capital requirement, putting again more pressure on management not to make undue risks.

We believe these speed bumps, while they may not prevent any future crisis, will be huge impediments to these large systemically risky institutions taking undue risks and outrageous actions.

We have also put a new requirement in place, one that again has not gotten a lot of review. We will literally require the management of these large institutions to put in place their own funeral plans, their own plans on how they will unwind their institutions through an orderly bankruptcy process.

I believe there were large systemically important institutions in the fall of 2008 that in effect came to the regulators and in effect said we are so big and interconnected that we do not know how to unwind ourselves.

Never again should we allow that to happen. We allow the regulators to work, and in effect bless the funeral plans these systemically large institutions will put in place.

We think we have put in place these appropriate barriers that will restrict some of the unduly risky activities from these large institutions, but you cannot predict and cannot foresee every crisis. So what we need to do is set a framework on how we would address the crisis if these speed bumps and this early warning system does not fully function. I do not, actually, candidly, completely agree with my colleague from Delaware. I do believe we need a strong, robust bankruptcy process that gives predictability to investors so they know what will happen through the normal dissolution of a firm that has made mistakes in the marketplace. We need to ensure that bankruptcy becomes the normal default process. Again, as I mentioned, having these large firms write their own funeral plans, write their own bankruptcy plans that have to be approved by the regulators, will give us guidance on that path.

But we also have to realize when there may be a management team that does not see the handwriting on the wall or when a firm is, even with all of these checks, falling into the potential of its failure causing systemic risk, we still have to have the ability to act.

Let me state very clearly, the resolution process that was put in the Dodd bill, no rational management team would ever elect to choose because resolution will not lead to conservatorship, resolution will lead to receivership and extermination of the firm. The firm's common share equity will be wiped out, the firm's management will be wiped out—resolution will never be chosen as a preferred route. Bankruptcy will be the preferred route.

Even in that case, we still put additional protections in place so that no future administration, having seen the blowback from the public on using resolution in 2008—I cannot imagine any future administration actually wanting to use this mechanism, but to ensure, again—Senator CORKER and I spent a great deal of time on this—that we have, again, protections so resolution is not misused, we put very strict criteria in before it can be implemented. We require three keys, in effect, to be turned simultaneously—in effect the nuclear option analogy of different keys being turned before this tool could be used.

We require the Chair of the Federal Reserve, the FDIC, and the Treasury Secretary in consultation with the President to all agree that we have to act, to move a firm into resolution rather than going through bankruptcy.

But that, again, is not all. Senator CORKER, I think rightfully, pointed out that we need, in case there were an overly aggressive administration, a judicial check as well. So we put an additional judicial check in place before resolution could be implemented—resolution only as the last resort, only as a path that makes sure that the parts of this systemically important firm can be transferred to some other existing entity, not preserved. The firm will be wiped out, but the functions that are important do not bring down the overall financial system.

One of the most curious comments of the Republican leader yesterday was the critique that, if you invoke resolution, the question becomes where is the money going to come from and who is going to pay for it? What I found very curious in the Republican leader's comments yesterday was that we—and this was by no means set in stone—put in place a $50 billion fund that would be prefunded by the industry; not the $150 billion that was in the House bill that could rightfully create moral hazard, but in effect a dollar amount up front. It could go down lower. That would basically keep the lights on at these institutions until the FDIC could go out and, in effect, borrow against the unencumbered assets of this firm to get the real dollars in place to keep the resolution process going in an appropriately functioning way.

Is $50 billion the right number? It may not be. Reasonable people can disagree; $25 billion might be the right number. There might be other paths. Senator CORKER and I worked on the notion of a trust that could be created. But what I find curious is no one in the financial sector that we have spoken to thinks this dollar amount is a bailout. No one in the financial sector has said this will be an adequate amount of capital to resolve a whole crisis. The funding to resolve the whole crisis will come from the ability we give the FDIC to borrow against the unencumbered assets.

If there is a better way to get there, we are all for it. At least I can say for my side, I am willing to look at any other option. But what I find curious is, I believe if we had not put up this industry prefunded amount, in effect a bridge until we can actually get the FDIC process in place, we would hear criticisms, at least from some, saying not putting up any industry prefunding would allow taxpayer exposure. One of the things we want to make sure is that taxpayers, again, are never, ever exposed to the kind of risk that took place in 2008.

I would also add that whatever these prefunds, trust instruments, or even the funding that would come from borrowing against the unencumbered assets, we need to buy a little time so it is not done in a haphazard way so any of these funds will be ultimately recouped after the crisis from the industry based on those institutions that benefited, those institutions that also were part of the causation.

Again, let me stress all of these funds, whatever will be repaid—and again whatever funds that are invested in these institutions in the interim will not go in, as what happened in 2008, as common equity as an effort to, in effect, prop up the systemically important firms. But it will go in as, in effect, top in the creditor process, debtor-in-possession financing.

Did we get this perfect? No, perhaps not. There are ways, again, that we can improve. But the framework we put in place, the almost uniform response we have received, has been we have taken a gigantic step toward ending too big to fail in a rational, thoughtful approach.

I see my colleague, the Senator from Tennessee, has arrived on the floor. I again compliment him for his work, for the fact both of us said at the outset for neither of us was this religion. We just need to get it right. If we have to ruffle a few feathers on both sides of the aisle so that never again are the American taxpayers put in the position they were in 2008, then so be it.

I appreciate the good work of the Senator from Tennessee on this effort. I appreciate our working together on the preference toward bankruptcy, on the recognition that we have to have that judicial check, that we cannot go out and grab firms willy-nilly that are not depository, that are systemically important. I think we have taken giant steps forward.

I ask my colleagues from both sides of the aisle to lower the rhetoric a bit, to recognize this can and still should be a place where this Senate can work in a bipartisan fashion to put in place a set of rules so we can, with the appropriate speed bumps in our financial system for those firms that are systemically important—that we do put in financial rules of the road for the 21st century, that we do allow America to continue to be the financial capital of the world and the innovation in financial products capital of the world. I think we can still get there.

I look forward to work not only with my friend from Tennessee but colleagues from both sides of the aisle to get it right.

I yield the floor.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I wish to speak for a couple of minutes. I think I have permission to do that. Then I wonder if I can have permission from the Presiding Officer to enter into maybe a couple of minutes colloquy with my friend from Virginia?

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object, might I inquire, under the current procedure, when is the bill expected to be reported?

The PRESIDING OFFICER. The bill is to be reported at this time.

Mr. BAUCUS. At this time?

The PRESIDING OFFICER. At this time.

Mr. BAUCUS. Mr. President, I suggest the regular order be followed.

The PRESIDING OFFICER. Is there objection to the request?

Mr. BAUCUS. That would allow the Senators to speak.

Mr. President, I ask the bill be reported and the Senator then be recognized to speak, Senator CORKER first and then Senator LEMIEUX.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

CONTINUING EXTENSION ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4851, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4851) to provide a temporary extension of certain programs, and for other purposes.

Pending:

Baucus amendment No. 3721, in the nature of a substitute.

The PRESIDING OFFICER. Under the previous order, the time until 12:30 will be equally divided between the two leaders or their designees.

The Senator from Tennessee is recognized.

Mr. CORKER. Mr. President, I appreciate it. I had not planned to come to the floor today, but my great friend, Senator WARNER from Virginia, is here. I did want to clarify a couple of things. I did not hear all of his comments.

I very much appreciate the partnership we have had, the work we have been able to do together. I think what is happening on this financial regulation bill is a lot like what happened during the health care debate in many ways. There is something that is being focused on. Some of it is sort of being blown out of proportion.

I did want to clarify something. Senator WARNER spent a lot of time talking about a couple of titles in the bill that Senator DODD has put forth. There are other places in this bill that do, in fact, create an opportunity for large institutions that fail to continue on. Treasury got involved in this bill a couple of weeks before—about a week before it came to committee. There are some loopholes in this bill that give Treasury and the FDIC the ability to allow large institutions to continue on without failing. My sense is the Senator from Virginia knows what those are. My sense is the Senator from Connecticut, who is the chairman of the committee, knows what those are. And my sense is that on those topics—and they do exist, so criticisms about the Dodd bill allowing potentially creation of loopholes for large institutions not to go through an orderly liquidation or bankruptcy, are valid. But the fact is I think we can fix those in about 5 minutes.

My point is I think everyone understands what Treasury did. I think everyone understands what the FDIC did. I think we can come to a conclusion in solving that very quickly. But I wanted to clarify that was not part of the title that Senator WARNER came up with.

The focus, then, has been on this $50 billion fund. I think Senator WARNER eloquently talked about the fact this was a lot of debate. The FDIC wanted $50 billion as a debtor-in-possession fund to be operating, to figure out what the assets of these firms were worth before they sold them off. Treasury wanted no fund.

My guess is that at the end of the day, on one hand you are protecting taxpayers more fully, on the other hand you are not—but my guess is, the Senator from Virginia and the Senator from Connecticut might drop that in about 5 minutes—not that the Senator from Virginia is actually advocating, he is just trying to solve that problem. My point is I think that is something that in about 5 minutes could be solved.

So I do think what Senator WARNER has said is true; that is, the rhetoric around this, an issue that could be dealt with literally in about 5 minutes, is probably overheated. The fact is, what we need to do is figure out a way to focus on this issue in an intelligent way.

I think that, as the Senator from Virginia mentioned, people on both extremes want to make sure that if a large institution in this country fails, it is just like the small institutions in this country—they go out of business. And I think we are united on that. Are there some flaws that exist? Yes. Did the bill get a little sideways at the end? Yes. But do people understand the way we can deal with this in an intelligent, thoughtful way and fix that? Yes.

I wonder if the Senator from Virginia would wish to not maybe get into specifics but agree that there are some flaws that need to be corrected, but we know what they are, and they can be corrected pretty quickly, can they not?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Let me just acknowledge that we may—the Senator from Tennessee and I may differ slightly on how large some of the things the Treasury and FDIC put in at the end—because clearly one of the things that I think the Senator from Tennessee—and we can very quickly get into the weeds, but the weeds are important on this—the so-called 13–3 authority of the Fed would no longer be used for specific institutions, but the ability to help supplement around a liquidity crisis so that we don't have firms move from a liquidity crisis into a solvency crisis was an important tool, but it was perhaps misused in the past in terms of targeted at specific firms rather than issue-wide.

There are certain other aspects that I believe can be corrected, but the overriding point that I think Senator CORKER and I both want to make is I

think we put together, at least in title I and title II—and I think there has been good work done in other parts of this bill as well, but in title I and title II, systemic risk, too big to fail resolution—we have put the framework in place that while some on both ends of the political extremes may be attacking, the overwhelming response has been that this is a good framework. Like any piece of legislation, it needs some fine-tuning, but the fine-tuning ought to be preserving this framework, perhaps moving back from some of the pieces the FDIC and Treasury put in place. But we can get there, and this is too important to allow this piece of legislation to be drawn by the aisle that separates this body into Republican and Democratic camps. We need to put a piece of legislation and solution in place that sets the financial framework and predictability for the next century, and I think we have gone a long way toward doing that.

Mr. CORKER. Mr. President, I want to speak for 60 more seconds and then stop. I thank the Senator from Montana and the Senator from Florida for allowing me to do this. I want to be clear and say we have had a great partnership, numbers of us have. Some of the claims in this bill about preserving too big to fail are legitimate because of some changes that occurred about 10 days before the bill came to committee, maybe a week. But the fact is, they can be very easily fixed, and I think we all know how to fix them, and they can be fixed very quickly.

The prefunding issue is an issue that, to me, is a legitimate debate. If it needs to go to zero, the framework, as Senator WARNER just talked about, is still intact. It still works exactly the same way. It is a debate as to whether you want to absolutely make sure taxpayers are protected. But if people think this prefund is something that looks like a bailout, let's drop it, let's get rid of it, let's end it. Let's let borrowing capacity at the FDIC be the only avenue.

But my point is, these are all—in the scope of things, they are being made into really big things, when, in essence, a couple of semithoughtful people could solve these things in just a few minutes and we could move on to other aspects of the bill that do need to be corrected.

The one place I think the Senator from Virginia and I might differ more greatly is that I do think there are other issues in this bill that create problems that need to be resolved, and I hope the spirit we have shown with each other will emanate on both sides of the aisle—I think it will—and that we will work through those, too, and end up with a good bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. LEMIEUX. Mr. President, I rise to speak today on this extenders bill that we will vote on here on a point of order that I will make in just a few minutes. The purpose of this point of order is this: Not too long ago in this Congress, we passed legislation called pay-go, and what pay-go is supposed to mean is that we will pay as we go in this Congress; that when we create a new program, we extend a current program, we will pay for it; that we will not continue to borrow against our children's future. I was here in the Senate when we had that debate. It was a debate that came down to a purely party-line decision.

I am new to this body, and I wanted to vote for this because I believe pay-go might actually be something that limits the out-of-control spending of Washington. I talked to my colleagues, and some of my colleagues who have been around longer than I said: Look, Senator, it is not really going to do anything. They are just going to move to waive it every time it comes into effect. They are not going to play by the rules. They are not going to pay for things as you go. It is just cover.

I wanted to vote for it. I struggled with it. In the end, I did not vote for it. And here we are just a few months—2 months past February 12 when the President signed this pay-as-you-go legislation—only 19 days after that, we waived it on a bill very similar to this, and now we are going to seek to waive this legislation again to spend $19 billion and put it on the tab of our children and our grandchildren.

Let's talk about what this bill is. It would extend unemployment compensation and it would extend COBRA, which is health care benefits for people who lose their jobs. If we were to vote on this and pay for it, I think 100 Senators would vote for it. Shortly before the recess for the holiday break, there was an agreement in this Chamber between Republicans and Democrats that we would find the money to pay for this so that we wouldn't have to put it on the backs of our children, so that we would not have to borrow the money from China, so that we wouldn't have to increase our growing debt and deficit.

Our national debt is now nearly $13 trillion. It has gone up $1 trillion in the short time I have been here in the Senate. To give you reference on that, it took until 1980, from the founding of this country until 1980 for us to amass our first trillion dollars in debt.

The system of spending is unsustainable. I spoke on the floor this morning about it. But don't just take my word for it; take Ben Bernanke, the Chairman of the Federal Reserve, who testified today before the Joint Economic Committee of Congress and said this government must begin to make difficult choices to address its deficits and warned that postponing them will only make them more difficult. So here today we are going to spend another $19 billion and put it off on our children, and they will have to pay for it because we are going to have to borrow this money.

We are not supposed to be able to waive this rule, this legislation, unless it is an emergency. This is no emergency, and that is the basis of my point of order I will make here in just a few minutes.

What is an emergency? Well, most of us think it is what Merriam-Webster says it is: an unforeseen combination of circumstances resulting in a state that calls for immediate action—an unforeseen combination of circumstances. Has it been unforeseen that we were going to have to extend unemployment compensation? Was it unforeseen that we were going to have to extend COBRA? Of course, it is not. We knew we were going to have to do this, but there is an unwillingness in this Congress to pay for things. There is a willingness to put the debt upon our children and our grandchildren.

The Budget Act of 1974 that we operate under says that an emergency is necessary, essential or vital, sudden, quick coming into being and not building up over time, urgent, pressing, compelling, unforeseen, unpredictable, not permanent, temporary in nature. None of those requirements are met by this attempt to waive the pay-as-you-go requirements. Why do we have pay-go if we are just going to waive it every time we think we need to spend more money?

This is no emergency. This is just part and parcel of the problem we have in Washington of continuing to spend in an unsustainable way. And when, 5 years or 10 years from now, we are in the same situation Greece is in; when we have failed this country for our children; when we have $900 billion in interest payments alone in 2020 on our current course, which will not allow us to spend money on anything else because that plus mandatory spending will be all there is in the budget; when our economic system fails because we have failed to make the decisions to control our spending, you will know why—because of the decisions that are being made today, in 2010, in April, decisions to add another $19 billion to our national debt.

I yield the floor. I reserve my right to speak shortly before the vote is called at 12:30.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 3721, AS MODIFIED

Mr. BAUCUS. Mr. President, pursuant to the previous order, I have a modification to my amendment at the desk, and I so modify my amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Continuing Extension Act of 2010''.

SEC. 2. EXTENSION OF UNEMPLOYMENT INSURANCE PROVISIONS.

(a) IN GENERAL.—(1) Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(A) by striking ''April 5, 2010'' each place it appears and inserting ''June 2, 2010'';

(B) in the heading for subsection (b)(2), by striking ''APRIL 5, 2010'' and inserting ''JUNE 2, 2010''; and

(C) in subsection (b)(3), by striking ''September 4, 2010'' and inserting ''November 6, 2010''.

(2) Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 438), is amended—

(A) in paragraph (1)(B), by striking ''April 5, 2010'' and inserting ''June 2, 2010'';

(B) in the heading for paragraph (2), by striking ''APRIL 5, 2010'' and inserting ''JUNE 2, 2010''; and

(C) in paragraph (3), by striking ''October 5, 2010'' and inserting ''December 7, 2010''.

(3) Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act, as contained in Public Law 111–5 (26 U.S.C. 3304 note; 123 Stat. 444), is amended—

(A) by striking ''April 5, 2010'' each place it appears and inserting ''June 2, 2010''; and

(B) in subsection (c), by striking ''September 4, 2010'' and inserting ''November 6, 2010''.

(4) Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking ''September 4, 2010'' and inserting ''November 6, 2010''.

(b) FUNDING.—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

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

''(E) the amendments made by section 2(a)(1) of the Continuing Extension Act of 2010; and''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Temporary Extension Act of 2010 (Public Law 111–144).

SEC. 3. EXTENSION AND IMPROVEMENT OF PREMIUM ASSISTANCE FOR COBRA BENEFITS.

(a) EXTENSION OF ELIGIBILITY PERIOD.—Subsection (a)(3)(A) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3(a) of the Temporary Extension Act of 2010 (Public Law 111–144), is amended by striking ''March 31, 2010'' and inserting ''May 31, 2010''.

(b) RULES RELATING TO 2010 EXTENSION.—Subsection (a) of section 3001 of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), as amended by section 3(b) of the Temporary Extension Act of 2010 (Public Law 111–144), is amended by adding at the end the following:

''(18) RULES RELATED TO APRIL AND MAY 2010 EXTENSION.—In the case of an individual who, with regard to coverage described in paragraph (10)(B), experiences a qualifying event related to a termination of employment on or after April 1, 2010 and prior to the date of the enactment of this paragraph, rules similar to those in paragraphs (4)(A) and (7)(C) shall apply with respect to all continuation coverage, including State continuation coverage programs.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of section 3001 of division B of the American Recovery and Reinvestment Act of 2009.

SEC. 4. 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) and as amended by section 5 of the Temporary Extension Act of 2010 (Public Law 111–144), is amended—

(1) in subparagraph (A), by striking ''March 31, 2010'' and inserting ''May 31, 2010''; and

(2) in subparagraph (B), by striking ''April 1, 2010'' and inserting ''June 1, 2010''.

SEC. 5. 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 of Health and Human Services may implement the amendments made by this section by program instruction or otherwise.

SEC. 6. EXTENSION OF USE OF 2009 POVERTY GUIDELINES.

Section 1012 of the Department of Defense Appropriations Act, 2010 (Public Law 111–118), as amended by section 7 of the Temporary Extension Act of 2010 (Public Law 111–144), is amended by striking ''March 31, 2010'' and inserting ''May 31, 2010''.

SEC. 7. EXTENSION OF NATIONAL FLOOD INSURANCE PROGRAM.

(a) EXTENSION.—Section 129 of the Continuing Appropriations Resolution, 2010 (Public Law 111–68), as amended by section 8 of Public Law 111–144, is amended by striking ''by substituting'' and all that follows through the period at the end and inserting ''by substituting May 31, 2010, for the date specified in each such section.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be considered to have taken effect on February 28, 2010.

SEC. 8. COMPENSATION AND RATIFICATION OF AUTHORITY RELATED TO LAPSE IN HIGHWAY PROGRAMS.

(a) COMPENSATION FOR FEDERAL EMPLOYEES.—Any Federal employees furloughed as a result of the lapse in expenditure authority from the Highway Trust Fund after 11:59 p.m. on February 28, 2010, through March 2, 2010, shall be compensated for the period of that lapse at their standard rates of compensation, as determined under policies established by the Secretary of Transportation.

(b) RATIFICATION OF ESSENTIAL ACTIONS.—All actions taken by Federal employees, contractors, and grantees for the purposes of maintaining the essential level of Government operations, services, and activities to protect life and property and to bring about orderly termination of Government functions during the lapse in expenditure authority from the Highway Trust Fund after 11:59 p.m. on February 28, 2010, through March 2, 2010, are hereby ratified and approved if otherwise in accord with the provisions of the Continuing Appropriations Resolution, 2010 (division B of Public Law 111–68).

(c) FUNDING.—Funds used by the Secretary to compensate employees described in subsection (a) shall be derived from funds previously authorized out of the Highway Trust Fund and made available or limited to the Department of Transportation by the Consolidated Appropriations Act, 2010 (Public Law 111–117) and shall be subject to the obligation limitations established in such Act.

(d) EXPENDITURES FROM HIGHWAY TRUST FUND.—To permit expenditures from the Highway Trust Fund to effectuate the purposes of this section, this section shall be deemed to be a section of the Continuing Appropriations Resolution, 2010 (division B of Public Law 111–68), as in effect on the date of the enactment of the last amendment to such Resolution.

SEC. 9. SATELLITE TELEVISION EXTENSION.

(a) AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.—

(1) IN GENERAL.—Section 119 of title 17, United States Code, is amended—

(A) in subsection (c)(1)(E), by striking ''April 30, 2010'' and inserting ''May 31, 2010''; and

(B) in subsection (e), by striking ''April 30, 2010'' and inserting ''May 31, 2010''.

(2) TERMINATION OF LICENSE.—Section 1003(a)(2)(A) of Public Law 111–118 is amended by striking ''April 30, 2010'', and inserting ''May 31, 2010''.

(b) AMENDMENTS TO COMMUNICATIONS ACT OF 1934.—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended—

(1) in paragraph (2)(C), by striking ''April 30, 2010'' and inserting ''May 31, 2010''; and

(2) in paragraph (3)(C), by striking ''May 1, 2010'' each place it appears in clauses (ii) and (iii) and inserting ''June 1, 2010''.

SEC. 10. EXTENSION OF SMALL BUSINESS LOAN GUARANTEE PROGRAM.

(a) APPROPRIATION.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, $80,000,000, for an additional amount for ''Small Business Administration—Business Loans Program Account'', to remain available until expended, for the cost of 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) and 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 shall be as defined in section 502 of the Congressional Budget Act of 1974.

(b) EXTENSION OF SUNSET DATE.—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 ''April 30, 2010'' and inserting ''May 31, 2010''.

SEC. 11. 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 FOR CONGRESSIONAL ENFORCEMENT.—This Act, with the exception of section 4, is designated as an emergency for purposes of pay-as-you-go principles. In the Senate, this Act is designated as an emergency requirement pursuant to section 403(a) of S. Con. Res. 13 (111th Congress), the concurrent resolution on the budget for fiscal year 2010.

(c) EMERGENCY DESIGNATION FOR STATUTORY PAYGO.—This Act, with the exception of section 4, is 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)).

Mr. BAUCUS. Mr. President, shortly, the Senate will vote on the motion to waive the Budget Act for the consideration of my amendment and this important bill to extend unemployment

insurance benefits and other vital safety net programs.

We need to waive the Budget Act to allow this bill to move forward. We need to waive the Budget Act for the people who depend on unemployment insurance benefits.

We need to waive the Budget Act for people like the Montanans from whom I have heard.

We need to waive the Budget Act for Bonnie from Whitefish, MT. Bonnie lost her job in property management last year, and has been scraping by on unemployment benefits ever since. Bonnie has already sacrificed much, but she is still falling behind on her rent. She is unable to afford many necessities. Unemployment benefits help her get by from day to day.

We need to waive the Budget Act for people like Richard from Bozeman. Unemployment insurance has helped keep Richard afloat as he searches for a job. So far, Richard has applied for more than 150—think of it! 150—jobs and has had only 2 temporary part-time positions to show for his effort. Though his financial situation is grim, it would be even more so without unemployment benefits.

We need to waive the Budget Act for people like the single father from Missoula. He has been out of work for weeks. He exhausted his State benefits, and is now receiving Federal extended benefits. He recently called the Montana Unemployment Insurance Claims Processing Center for additional help because he does not know how he can take care of his daughters.

Unemployment benefits help these Montanans to pay the bills. Unemployment benefits help these Montanans and millions of Americans who, through no fault of their own, have fallen victim to this Great Recession.

The average unemployment benefit is $335 a week. These days, $335 only stretches so far.

Benefits have lapsed for 200,000 Americans. Since Authority expired a few days ago. If we do not pass this bill this week, another 200,000 Americans could lose their benefits.

Responding to recessions is the very definition of an emergency. Responding to this kind of need is why the Budget Act built in motions to waive the budget in the first place. The budget needs to have flexibility to address truly unusual circumstances like today's economy.

Extending unemployment insurance benefits is a good investment to make now. It is an investment, in our economy.

Unemployment benefits help our unemployed neighbors. And in helping our neighbors, unemployment benefits also help to keep open the neighborhood grocery store, and the neighborhood gas station.

In helping our unemployed neighbors, unemployment benefits also help the economy. The nonpartisan Congressional Budget Office says that extending additional unemployment benefits would have one of the largest effects on economic output and employment per dollar spent compared with any other action we could take. CBO says for each dollar spent, increasing aid to the unemployed could increase the gross domestic product by up to $1.90. That is 2 to 1. For every dollar spent on unemployment benefits, that could increase gross domestic product by $1.90. Households receiving unemployment benefits spend their benefits right away. That is very important. They don't save it; they spend it. That spurs demand for goods and services. That boosts production and leads businesses to hire more employees.

Some critics insist that emergency spending to address the recession is busting the budget. Some critics blame emergency spending and the Recovery Act for the huge budget deficits we face today.

We do need to address our Nation's fiscal circumstances, of course, we do. We are currently laboring to reach an agreed-upon package of offsets to pay for much of the long-term extension in unemployment insurance and other programs the Senate passed on March 10.

And on a larger level, we also need to balance the Nation's revenues and outlays. The President's fiscal commission will begin its work a week from Tuesday. We will need to think about fundamental tax reform as part of that exercise. And we will need to make sure that we get a dollar's worth of value for every taxpayer dollar the government spends.

But let me set the record straight. Emergency spending like this bill and the Recovery Act is responsible for only a small share of the deficit.

In fact, the cost of the Recovery Act is projected to be less than 10 percent of the total deficit legacy over the next 10 years.

The chart behind me tells the story. The majority of the deficit we will face over the next 10 years stems from inherited policies. The tax cuts enacted under the previous administration, the wars in Afghanistan and Iraq, and the economic downturn itself explain nearly $11 trillion of our deficit over the next 10 years.

These policies were enacted before the current administration and before this Congress. Because these policies were not paid for, we are now facing huge deficits.

Unemployment benefits are not the cause of the deficit. We should not balance the budget on the backs of the unemployed.

Right now, it is essential we pass a temporary extension of unemployment benefits. It is essential we help Americans put food on the table. It is essential to pay the bills, while they continue to look for work.

So let us waive the Budget Act for Bonnie from Whitefish.

Let us extend unemployment insurance benefits for Richard from Bozeman, MT.

Let us extend this vital lifeline for the single father from Missoula and for his daughters who depend on him.

And in this great recession, let us waive the Budget Act to enact this temporary extension of unemployment insurance for the hundreds of thousands of Americans struggling, through no fault of their own, just to get by.

It is true that very soon we must significantly address the budget deficit. The real test will be the degree to which this country, the President, and the Congress buckle down and start to reduce the budget deficit during times of prosperity; that is, after we get out of this recession and when unemployment levels start to reach sensible, lower levels. That is when we face the true test of whether we reduce the budget deficit. It is our responsibility to do so. We should let unemployment benefits be extended. We should not have to pay for those now. But soon, when the unemployment rate falls, when the country comes out of the recession, then it is up to us to go the extra mile to make sure we, in a responsible way, start to address the huge deficits. When we do, it will keep interest rates low, and other countries will have more confidence in the United States. I daresay they have confidence now, but they will have even more confidence. I very much expect and hope that this body will exercise that effort responsibly to begin to tackle huge deficits.

Now is not the time. Soon we will face the time. It is not now.

I suggest the absence of a quorum and ask unanimous consent that time under the quorum be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEMIEUX. Mr. President, I thank my colleague, the chairman of the Finance Committee. I appreciate his comments about the need for this body to enter into a discussion about fiscal discipline. I offered legislation today to have a requirement that we would have a debate every year to talk about bringing spending back to 2007 levels, prior to the stimulus, prior to the recession, certainly a time when this country had a much better economy than now. If I asked Floridians if they could live off of what they had in 2007, they would be happy to have that much money. Whatever the architecture is, we need to get into that. Our budget deficit and the debt are cascading out of control.

I disagree with my colleague that we can wait until the recession is over. While I am optimistic that we will soon be turning the corner, times are very tough in my State. I don't know if it is

going to be next year or the year after that we are out of this recession. We have the worst unemployment we have had since we have been keeping records in Florida, 12.2 percent. I don't know that we can wait, especially when we hear the Chairman of the Federal Reserve say we must act now.

Recently, we were in a situation where bonds went out to issue, and the Wall Street Journal reported that the yield rate the Federal Government had to offer on those bonds, the interest rate was more than Warren Buffett had to offer. Warren Buffett was a better investment than the United States. Why is that? It is because the world is beginning to believe the United States can't manage its debt. Places such as Brazil have had their stock market increase 100 percent in the last year because they are now seen as a better investment than this country.

We can't wait. We can't wait for 6 months or a year from now. Perhaps the time has already gone too far.

I raise a point of order pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

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

Mr. LEMIEUX. I raise a point of order against the emergency designation in the pending substitute amendment and note this is not a budget point of order. It doesn't kill this provision. It only requires that it be paid for by the end of the year. Everybody is for extending unemployment compensation. Everyone is for paying for COBRA. The point is, pay for it.

The PRESIDING OFFICER. Does the Senator wish to raise a point of order?

Mr. LEMIEUX. I have raised a point of order. I repeat, pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010, I raise a point of order against the emergency designation provision in the pending substitute amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Pursuant to section 904 of the Congressional Budget Act and section 4(g)(3) of the Statutory Pay-As-You-Go Act, I move to waive all applicable provision of those acts and applicable budget resolutions for consideration of the pending amendment, No. 3721, as modified, and the underlying bill, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the motion.

The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

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

The yeas and nays resulted—yeas 58, nays 40, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—58

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

NAYS—40

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brown (MA)	Graham	Reid
Brownback	Grassley	Risch
Bunning	Gregg	Roberts
Burr	Hatch	Sessions
Chambliss	Hutchison	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lugar	

NOT VOTING—2

Bennett	Leahy

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40.

Three-fifths of Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The emergency designation is stricken.

Mr. REID. Madam President, I enter a motion to reconsider.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, with the consent of the minority, I suggest we go into a period of morning business for 1 hour, and at 2 o'clock we go back on this bill. As soon as Senator COBURN comes—Chairman BAUCUS will be here around 2:15 and he will be ready to offer his first amendment. If there are any procedural issues, which there shouldn't be because this point of order was not well taken—so if there is anything we need to do, staff will be working on that so that procedurally we can get to him.

We all know that at 2:15 we will be back on the bill, and Senator COBURN will be offering his first amendment.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that we go into a period of morning business until 2 p.m., and at that time we go back on the bill, and that Senator COBURN be recognized to offer an amendment at 2:15.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that during the time of morning business, Senator WARNER and his colleagues be allowed to enter into a colloquy.

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

The Senator from Virginia.

JUDICIAL NOMINEES

Mr. WARNER. Madam President, I appreciate the opportunity to get back into morning business. A number of my freshman and sophomore colleagues and I have come to the floor to discuss an important issue. We also came to the floor during the final throes of the health care debate. We are here to raise the issue that, while we are enormously proud to be Members of the Senate and respect the traditions of the Senate, something seems a little strange when 15 months into this President's administration, we still have approaching 100 nominees who have not been voted up or down so that they can serve in these most important positions to make sure we get our country back on the right path.

We are going to reiterate these issues, and we will come back to try to urge Senators who have concerns about nominees to come to the floor and make their case against the nominees. They ought to be voted up or down, and if they are not approved, the administration can move on to someone else. But 15 months is a long time. As a former CEO in business and a former Governor, I think this President ought to have his team in place.

First, this is an issue that a number of us have raised over a period of time. We all have previous experience before coming on this body. I call on my colleague, the Senator from Minnesota, Senator KLOBUCHAR, to make a few comments.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I thank the Senator from Virginia.

As a member of the Judiciary Committee, I have seen what is going on here. We get these nominations through our committee, and then they vanish into thin air. You can look at the numbers with what is going on here. You have a situation where President Bush had 100 circuit and district court confirmations during the first 2 years of his Presidency. To date, President Obama has only 18. There are literally dozens of nominees waiting.

Why does this matter? We can spend the whole morning spouting numbers

and talking about the times and differences between the months. Why does it matter? This is about a drug dealer who doesn't get prosecuted, someone who is running a drug ring, because there is not a judge to bring the case in front of. I was a prosecutor running an office of 400 people, and I saw what would happen if we didn't have judges. It is also about a felon in possession of a gun, and they can't bring up his case because they have a heavy docket of criminal, civil, and corporate cases, and because of this you cannot get criminals off the street. Or this is about complicated white-collar crimes such as the one with Bernie Madoff. In a recent case in Minnesota, there was a lengthy trial involving a guy who got a 50-year sentence. If we don't have the judges to handle these things, criminals will be out there committing crimes. That is what this is about.

I will say this before I turn it over to my colleague, the Senator from New Hampshire. President Bush had 100 circuit and district court confirmations during the first 2 years of his Presidency. Today, President Obama has 18. If we are going to hit this hundred number and get 82 more judges confirmed, we are going to have to do nearly 3 per week.

The new Members of the Senate are here to say let's get this done because justice delayed is justice denied.

I turn this over to Senator SHAHEEN.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am here to join my colleagues to raise our concerns about what is undoubtedly a deliberate attempt to keep President Obama's nominees from getting through the Senate and taking over their jobs, regardless of whether it is a court justice or whether it is the Director of the Office of Violence Against Women. I was on the floor a couple months ago because the Director of the Office of Violence Against Women, from New Hampshire, had been held up 2 months after unanimously being approved in the committee. She was held up not because it had anything to do with her qualifications but because somebody objected to something else—who knows what. The person who objected never had to tell why they were objecting.

That is the situation we are in now. We have 94 nominees being held up by the other side of the aisle, and they are not telling us why they are holding up these nominees. They have to come forward and allow a vote. It is time for us to move forward on the judiciary nominees—on all of those 94 nominees—and get a vote and keep government moving.

Mr. WARNER. Madam President, I thank the Senator. She realizes the importance of getting a team in place, whether it is judicial or administrative.

Somebody who feels very passionate about this and a lot of other issues is the Senator from Vermont. He wishes to speak.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Madam President, I think most Americans understand that in the Senate, and in government in general, honest people will have honest differences of opinion. They debate issues, represent constituencies, and vote. Sometimes you win and sometimes you lose. I think there is a growing anger and frustration when a lot of what takes place on the floor has nothing to do with an honest debate on the issues but simply obstructionism, obstructionism, obstructionism.

The American people have a hard time understanding when you have well-qualified nominees for the judicial positions, when some of these nominees have gotten out of committee with unanimous or almost support, it takes months and months to get these nominees approved so they can do their job.

As the Senator from Minnesota said a moment ago, the issue is that justice delayed is justice denied. We have some dangerous people out there who should be tried and found guilty and sent to jail. We have ordinary citizens who have claims before courts and they want their day in court. Right now, they cannot get that day because the courts are backed up because we don't have enough judges. So I hope very much that we can get moving and do what has to be done, and that is to appoint these judges. I hope we can get an up-or-down vote on them.

I yield the floor.

Mr. WARNER. Madam President, again, there are judicial nominees and there are administrative nominees. I ask my friend, the newest Member of the Senate, who comes from a different business than I—I came from the telecom business and he comes from a different business.

Mr. FRANKEN. I kind of came from telecom.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Madam President, I am going to tie together judicial nominees and administrative nominees. You heard from my colleague, Senator KLOBUCHAR from Minnesota. She talked about how President Bush had, during his first two years in office, about 100 judicial nominees confirmed, and it is 18 judges so far for President Obama. The district court nominees who have been reported out of committee are waiting almost twice as long to be confirmed as during the Bush administration, and circuit court nominees are waiting five times longer. I have heard my colleagues from the other side say, well, the President isn't nominating judges as fast as President Bush did. First, you would think if that were the case, they would have to wait less time because there are fewer of them. The reason he has been nominating fewer is because they are holding up Christopher Schroeder, from the Office of Legal Policy at DOJ. He is the guy who vets nominees for judgeships. He was reported out of the Judiciary Committee in July of 2009. We could not get him a vote on the floor. Then he wasn't carried over. The Republicans objected, so now he has been renominated earlier this year and reported out again. We cannot get a vote on him. He is the guy who helps the President vet the people for the judgeships.

I don't want to hear complaints from my friends on the other side about the pace of the judgeships being nominated, when they are holding up the guy who helps the President vet the judgeships.

This is a perversion of the filibuster. The whole point of the filibuster was that our Founders said the Senate was the saucer to cool the passions of the House of Representatives, right? We wanted to prevent the tyranny of the majority. This isn't about that—not when you are holding somebody up, and then when you have the vote, it is 99 to 0. That has nothing to do with what the purpose of the filibuster is. Do you know what this is? This is running out the clock. This is used to stop business before the Senate.

The American people ought to be incensed about this, because what this is doing is slowing down anything from getting done on jobs, on Wall Street reform, and on energy. That is what this is about. This is about not letting this President and this Congress achieve anything. This is about obstructionism.

I yield back to the Senator from Virginia.

Mr. WARNER. I thank my colleague from Minnesota. In his case in point, we had a judicial nominee endorsed by a Republican Governor, reported out unanimously, filibustered, and then she was confirmed 99 to 0.

I respect the traditions of the Senate, but something is broken. I now ask the Senator from Colorado to speak. He is actively talking with the people of Colorado who hired him for this position. He hears the frustration they express about why can't you get things done.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Madam President, there is not a person in this Chamber, I guarantee you, who does not go home at the end of the week and hear from people of their State—Democrats, Republicans, or unaffiliated voters—''what in the world are you guys doing back there? What's with all the political games being played? Why can't people act in a bipartisan way?''

I think it is important to say that we are talking about a bunch of nominations that actually have broad bipartisan support. Most of them passed out of committee by voice vote—certainly on a bipartisan basis.

As the Senator from Virginia was saying, there is instance after instance where there has been delay, delay, delay, only to see somebody pass 97 to 0 or 98 to 0. That is not about partisanship or about Republican versus Democrat. To me, that is about Washington

being completely out of touch with the real world. The real world doesn't act this way. They don't use rules to make excuses for not getting their work done. The real world doesn't say we are frightened to debate these issues. The real world doesn't take people who are qualified for their jobs and prepared to serve this country at an enormously difficult time in our history and say: Let's put it off until next week or the week after that or the week after that. Nobody here is saying we should not have a vote. Nobody here is saying we should not have a debate. We are saying that the American people deserve better than that. By the way, people may not know this. In this institution, it is actually possible to put a hold on somebody and not say who you are.

I say to the Senator from Virginia, as the Governor of the Commonwealth of Virginia, how could you ever have gotten anything done if that were the case?

It is possible to put a hold on somebody in this institution and never explain why you did it. You do not know what the issue is. That is why we need to have this debate and move forward.

Everybody in this Chamber has an obligation, whether they are Democrat or Republican, to look at the merits of the nominees and to vote their conscience on those nominees. But the American people are enormously frustrated with the current state of affairs. They want an open and sensible conversation about the policy choices we face as a country, and I think they want an end to the political games.

It is important we are all here today. I hope there are others who will join us in the days ahead. I thank the Senator from Virginia for organizing this discussion.

Mr. WARNER. Madam President, again, this should not fall on partisan lines. We welcome those Senators on the other side of the aisle who are frustrated by this process and want to bring, while respecting the traditions of the Senate, rationality back to the process.

My good friend from Delaware, while he is a freshman Senator, has served in this institution longer than most of us and has watched the transformation of this institution. I would love to have Senator KAUFMAN's comments on this issue.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, some things have changed. I came here in 1973 working for now-Vice President BIDEN. Back then, if you asked the American people what they most disliked about Washington, they would say partisan bickering, the back-and-forth. That is what they really do not like about what goes on.

My basic reaction is, and I have said to people that today what looks like a lot of partisanship—basically, Senators like each other. This is not about people not liking each other. There is not a Senator on the Republican side of the aisle whom I do not have a positive relationship with and feel good about. You can say that about the issues. What I say is there is a difference on the issues. Basically, we disagree about the issues. But I do have a hard time, when it comes to judicial nominations especially, on the rationale for the argument because it is not a matter of issues.

We have differences about some judges, but the vast majority of judges still being held are judges we all agree are competent judges. So why is it they are not being confirmed, especially when we talk about the two areas about which most Americans are so concerned? One is crime, that we deal with crime and deal with it in a quick manner; that people are given a fair trial, but then if they are guilty, they are put in jail. All Americans agree to that. To do that, one of the key chokepoints for us is the judges. We need the judges to be confirmed in order to deal with crime.

The other area, as I know my friend from Virginia is so aware, is the business side. If you are a businessperson, you need certainty. You need the ability to know, if you have a dispute, that you can get it handled in a court and that you get prompt action. That is what everyone wants. With many of these things, it isn't as important that you win as it is that you get an answer. When we have vacancies in district and circuit courts, that holds up everything.

The final point is, there were always differences of opinion, but starting about the 1980s, the judges became a football. They just became a football. When I hear about the old wars—it is like the Hatfields and McCoys. Who was the first Senator to hold up the most number of judges and when did it happen? Our judge did this. You did this. We did that. It really sounds like the Hatfields and McCoys on the floor sometimes.

I am saying it is time to put that behind us. It is time to put that behind us, especially when it comes to these judges whom we know are competent; where there is agreement, there is no disagreement. I defend the right of the minority to hold up judges they think are not competent. We had three judges in a row who were confirmed by unanimous votes of the Senate.

What I am saying is it is time to put that behind us. The American people are looking to us to behave in a bipartisan manner. Again, we are going to have partisan differences on some judges, but when we have judges where there is bipartisan agreement, the American people are stymied to understand why in Washington we are behaving this way. I call on my colleagues to work together and see if we cannot get these judges confirmed.

I thank the distinguished Senator.

Mr. WARNER. I thank the Senator from Delaware for his comments and perspective.

Again, while many of my colleagues talk about this related to judges, we have, as the Senator from Minnesota said, members of the DOJ who are held up. We have a very qualified and talented individual up for Treasury Under Secretary for International Affairs. They are enormously important positions.

I know my friend and colleague, the Senator from Maryland, wishes to speak on this subject matter.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Maryland.

Mr. CARDIN. Mr. President, I thank Senator WARNER for taking this time to bring to the attention of our colleagues a very serious problem.

One of the most fundamental responsibilities for a Member of the Senate is to advise and consent on the President's nominations. There are literally hundreds of appointments that are going to require our confirmation—more than that; thousands, actually, that we have to confirm. Our responsibility is to take the appointments the President has given us, to evaluate them, and then to act, either to confirm or not confirm.

The American people depend on these individuals being in office to perform the services they need, whether it is services that come forward in the Department of the Treasury in dealing with the economic issues of this Nation, the regulatory functions that are important to protect consumers in America, to be able to give those who have been wronged an opportunity in our judicial system to have courts that can handle their dockets in a timely way. All that is dependent upon the Senate carrying out its responsibility to advise and consent to take up the nominations of the President.

Look at what has happened in this Congress. Let me point out the district court judges. District court judges are the judges who hear the overwhelming number of cases. If you have a problem and you go to Federal court, you go to district courts. That is where 99 percent of the cases are going to be heard.

In 2002, when George Bush became President, 35 of his district court appointments were confirmed. They waited on average 13 days after being reported by the Judiciary Committee for confirmation votes on the floor of the Senate. On this date, there were no further pending district court appointments that required the confirmation of the Senate. We had acted on every one of them.

Now let's take a look at the current situation. This Senate has only confirmed 11 of President Obama's district court nominations, and they waited on average 43 days. There are 17 district court nominations that have been reported out by the Judiciary Committee. Most have been reported by voice vote, by unanimous vote, no controversy at all with most of these nominations, and they have been pending on average 46 days.

This is an intentional action by the Republicans to block the ability of

President Obama to place his appointees either in the courts or in his administration. That is just wrong. If you have a disagreement, let's debate it. If there is a legitimate concern, let's talk about it. But that is not what is happening here.

The people of Maryland, the people around this Nation are being denied essential services because of a partisan strategy to block this body from timely considering the appointments by the President. That is just wrong. It is time we bring an end to it. It is time the Democrats and Republicans work together in the best interests of the American people.

I yield my time to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Maryland for his comments. Again, we want to be respectful of Senate traditions, but it just seems at this moment in time, with so many issues our country is confronting, we need a rational process. We need to be able to explain, as the Senator from Colorado said, to the American folks why we are not getting business done. Part of the reason we are not getting business done is the President does not have his team in place, judges are not in place, and a lot of time is wasted on the Senate floor with needless filibusters.

There is another freshman Senator with whom I have had a number of conversations, my good friend from North Carolina. This is a little different from the way she operated as State senator in Raleigh, NC. I would love to hear her comments.

Mrs. HAGAN. Mr. President, I thank the Senator from Virginia for helping us come together to talk about this issue because it is of critical importance.

In North Carolina, we have two justices for the Fourth Circuit Court coming before this body. They were heard in the Judiciary Committee back in January. They are ready to go. However, once again, the individual who is to vet justices has not been heard, Chris Schroeder. We need to bring him up. Although both of these individuals, Judge Wynn and Judge Diaz, have come out of the Judiciary Committee, they are waiting to come up for a vote. They are behind in the queue from all the other district court judges who have not come forward. I will say that my colleague, Republican Senator BURR, is in total agreement with both of these nominees. We need to bring them forward for a vote. The interesting fact is that one of these positions has been open since 1994. Talk about justice delayed is justice denied. It is high time this body had an opportunity to vote to put forward Judge Diaz and Judge Wynn to represent our State on the Fourth Circuit Court of Appeals.

Mr. WARNER. Mr. President, I thank the Senator for her comments, again recognizing that some of the judges she is talking about have had bipartisan support. If this was a question of qualifications, it ought to be legitimately questioned and debated.

I know there are other colleagues showing a little bit of the radical transformation we are making. Having freshmen Senators speak is part of that.

I now call on my good friend from Pennsylvania to add his comments. I believe the Senator from Pennsylvania has judges in Pennsylvania and other appointees who have been pending.

Mr. CASEY. I thank the Senator from Virginia for getting us together to talk about something that is fundamental. Basically, we are talking about our system of justice. We heard the number of days, when we compare this administration to the prior administration, it takes to confirm a judge on the appellate court or on the district court.

It is important for people to realize that we are not talking about saying they on the other side should be voting for all of our judges or they should be endorsing them, even though when they come to the Judiciary Committee we have had tremendous bipartisan votes on a lot of these judges.

Here is a lot of what the American people do not understand. They can understand that when Senators are making their minds up about how to vote on a particular nominee to be on a district court or on an appeals court, we might have a difference of opinion as it relates to judicial philosophy, for example, or the experience of this particular individual or their character, their ability to serve with integrity. All of those basic considerations we have to weigh and I think by extension the American people weigh when they are deciding whether or not someone is fit to serve on a district court or appellate court. All of those considerations are considerations Democrats and Republicans will weigh, but we cannot do that unless we can get a vote, unless we can put a nominee in front of the Senate for an up-or-down vote based upon their record, based upon their views and philosophy. But this idea of obstructing purely for political reasons, sometimes to slow down the President's agenda for no good reason, sometimes to bottle up things in the Senate, makes no sense as all. Why don't our colleagues want these nominees for various positions in our system of justice to go before the Senate to have an up-or-down vote, and then we can have a debate as part of that about their qualifications or about their educational background or their ability. We can certainly do that. This idea of obstructing for political and partisan reasons makes no sense to us, and I am sure it makes no sense to the American people.

I yield the floor.

Mr. WARNER. What we have heard in the case of Pennsylvania, as we heard from all of us, is frustration. As the Senator from Colorado said, folks who have legitimate complaints about an individual, whether they are a judge or a Presidential appointee, ought to bring them to the floor and debate them. While we want to be respectful of Senate traditions, I think allowing the process to go along without using the existing rules to try to force us to confront these issues does not make any sense when our country faces many enormous challenges.

I call on my good friend from Colorado who, while he served in the other body, has obviously had a longtime family tradition of public service. I am sure the folks in Colorado are scratching their heads about the rules under which we operate.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I thank Senator WARNER.

I did want to touch on the concerns of the people of Colorado with respect to the discussion we are having today. I want to start by saying that one of the fundamental roles of the Senate is to advise and consent the President of the United States. We do not even have a chance to advise the President, much less consent, because of the anonymous holds and the slowdown tactics that have been utilized when it comes to all these important nominees.

We ought to have a chance to debate on the floor of the Senate, which is the advisory role, and we may find some judges do not pass muster, but they deserve an up-or-down vote on the floor of the greatest deliberative body in the world, the U.S. Senate. That is not happening.

I note that some of my colleagues pointed out two cases where Judge Thompson from Rhode Island for months was stalled on the Executive Calendar. There was no reason given. When she was finally brought to the floor, there was a 98-to-0 vote, a unanimous vote. What was the problem? Why couldn't she be confirmed earlier?

With Judge Keene from the State of the Senator from Virginia, we had to have a cloture vote to bring her to the floor—4 months. She was approved 99 to 0. There was no objection expressed to her sitting on the circuit court. This is senseless. This is absurd.

In Colorado, we have had two vacancies on our district court for many months, going on years now. That bench is undermanned right now. Those judges are appealing to Senator BENNET and me to get two more judges for reinforcements so that docket can be reconsidered. Those district court judges are not being moved on the floor of the Senate so that we can advise and then, hopefully, consent.

We have a Federal attorney whom we need to see confirmed. There has been no movement there as well. So for me, the Senate is not keeping faith with the people of our respective States and not keeping faith with the people of the United States.

I know we can do better. I know the American people, when they look here to Washington right now, wonder why we are behaving like children. Children

have an excuse, don't they, Senator? They are children. We are not. We have greater responsibilities. I hope we can set aside our differences, bring these nominees to the floor, across the board, and have an up-or-down vote.

I would suggest that perhaps we ought to bring a block of nominees to the floor under a unanimous consent request. They have all been vetted. The President needs to have a full complement of people in his administration to do the work of the American people.

Again, I thank Senator WARNER. We will continue to beat these drums until these nominees have had a chance to be voted upon. This is crucial to me and to the challenges our country faces here today.

Mr. WARNER. I thank the Senator from Colorado for his comments and his great perspective on this issue, and again, part of what he is raising is that we want to consider the rules and traditions. Today, we have all these freshmen and sophomore Members coming to the floor and saying the process seems to be broken. We want to urge our colleagues on the other side to allow the process to move forward and to suggest that we are not going to let business as usual continue to go on. We want to give them appropriate notice. There is no attempt to ambush on process here, but we are saying enough is enough. We owe it to this body and we owe it to the folks across the country.

Madam President, someone who comes to this floor regularly to talk about health care and a series of other issues has these same issues facing him in his great State of Ohio, and he wishes to make some comments on this as well.

Mr. BROWN of Ohio. I appreciate the work Senator WARNER is doing, along with Senator HAGAN and Senator UDALL. I came to the Senate 3½ years ago. I am personally not a lawyer, and I have, obviously, never sat as a judge, but I understand the custom here is that, typically, if there is a Senator from a State with the same party affiliation as the President, that Senator makes a recommendation to the President for a Federal judgeship or a district Federal judgeship, and normally the President will accept that. My senior Senator, my colleague from Ohio, is a Republican. So rather than block him out of the appointment process, the confirmation process, I asked him to join with me and we put together a committee for the northern district in Ohio for a judge vacancy. Actually, there were two, one in the northern district and we did one in the southern district. We had a panel of, I believe 17 people. The northern district panel was actually majority Republican. I am a Democrat; the President is obviously a Democrat. The southern district was a majority Democrat, barely. The panel did lengthy interviews of about 20 potential judges each—Federal judges—for the one vacancy in the northern district and the one in the southern district. In these interviews were people who were active in their communities, who donated their time and spent 2 or 3 full days.

The panel then submitted to me the top three candidates in both the northern and southern districts, and I interviewed each of the three and chose who I thought would be the best Federal district judges. I then spoke with Senator VOINOVICH and he signed off on them. Both of these candidates were then submitted to the President, who in turn submitted them to the Senate and the Judiciary Committee. The Judiciary Committee voted overwhelmingly for each of them. Yet they still haven't come to a vote on the Senate floor.

I couldn't have done this in a more bipartisan and fair way to make it happen, and I know Senator VOINOVICH wishes to move on these judges. He signed off on them, and on the day we announced them we put out a joint statement where we said these were important judgeships and that we had selected the right people.

As Senator CARDIN said, this is wrong. There are backlogs in these courts and, as Senator HAGAN of North Carolina said, we need to fill these positions. As has been said, justice delayed is justice denied. There are backlogs both in the northern and southern district and we have these two ready to be voted on. We could do it today. It could be done by unanimous consent request, as Senator UDALL of Colorado suggested. We could do that.

There are now two new vacancies in Ohio, and so we will start that process. But it doesn't make sense that President Obama's district court nominees have waited twice as long after being favorably reported by the Judiciary Committee to be voted upon. So in addition to the other judges who have been vetted by a whole process—from the State senator to the FBI, to the President, to the Senate Judiciary Committee—it is time now for a vote. And most of these will be unanimous or close to it.

I think there will be overwhelming support for Judge Pearson in the northern district and Judge Black in the southern district. They have proven they are ready to go and they would be good judges. Both are U.S. magistrates now, so they have gone through other vetting processes for those jobs. I hope my colleagues will decide to accept these and move on, because we have so many other things to do. This delay and obstructionism on judges is wrong and we need to move on.

Madam President, I thank Senator WARNER for his leadership on this issue.

Mr. WARNER. I thank the Senator from Ohio. A lot of my colleagues and I talk about judges, but this goes way beyond judges. As a matter of fact, a Senator who has been a leader on this issue, my friend, the Senator from Montana, has come to this floor on other occasions by himself to talk about certain other nominees the President has put forward, and my understanding is that some of these nominees were held up because of totally unrelated issues.

I don't know about the folks in Montana, but the folks in Virginia are scratching their head and saying: What do Canadian tobacco laws have to do with a Presidential nominee for a totally different type of job that has nothing to do with Canada or tobacco? So I would like my good friend, Senator TESTER, to speak to these issues.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, I thank my colleague for the recognition and for his leadership and his ability to see through the fog that has been created here in the Senate.

You know I am a farmer. Most folks in this body know I am a farmer and I have been my entire life. One of the things farmers can't deal with is idle hands. When there is work to be done, you roll up your sleeves and you get out there and you get the work done. In Montana, right now it is planting season, and the folks there who are in agriculture—as with small businesses and working families, but in agriculture particularly—are looking at either getting their fields ready or they are in the field putting seeds in the ground because the work is there and it has to be done. You have an opportunity to do it, and you do it.

Well, it is planting season in the Senate all the time. Whether it is creating jobs or turning the economy around or fixing health care or whatever it may be, we have important work to do. The folks on the other side of the aisle, I guess, are watching the clouds roll by, because the fact is, it is time to go to work. Obstructionism is not something that takes a lot of skill, but getting things done requires hard work, and it is time to get things done.

These judicial appointments we have to do right now in the Senate are critically important. They are critically important for this country and for the process to work, and yet they are being held up for literally no reason whatsoever or just because they can be held up.

Let me give a quick statistic, because we always compare what goes on in past administrations. I can tell you that in the first 2 years of the Bush Presidency he had 100 circuit and district court nominations confirmed. To date, President Obama has had 18 over 2 years in. This is idle work. Idle hands get nothing done. It is time to go to work in the Senate, it is time to do away with the obstructionism, and it is time to put the Senate back on the side of the people.

Mr. WARNER. I thank the Senator for those comments, and in the interest of full disclosure, I might try to use that line about idle hands—as a matter of fact, in a speech later this afternoon.

I know we have been joined by one more of our freshman colleagues who

may not have grown up as a farmer but who understands equally as well the importance of this body getting its work done, and that is my friend, the Senator from Illinois, Senator BURRIS.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. I thank my colleague from Virginia, Senator WARNER, who has taken a leadership role on this important and crucial issue in the Senate.

At a time when we are looking at trying to move all this major legislation and solve problems for the people of America, we find ourselves stymied with regard to our third branch of government. The upcoming vacancy on the Supreme Court has already started a lot of talk across the Nation, despite the fact that we don't even have a nominee as yet. But let's forget about that. We must still focus on a number of immediate judicial nominations.

My Republican friends continue to delay and obstruct, and for what reason, I have no idea. Take, for example, my home State of Illinois. There are currently five judicial vacancies, two in the central part of the State and three in the northern part, which is, of course, where we have Chicago. The caseload is tremendous on those current judges and so there are all these delays. If you want to know why it takes so long to bring someone to trial, that is because the judges there are overworked and the numbers there need to be brought up to par with what the requirements call for.

Illinois is not alone. This is happening all over the country. So the numbers are such that we have all of these nominees who have been nominated, and some have been cleared by the committee unanimously. On some of the other judges, whom we did get confirmed, we had to go through cloture. They cleared the committees, they were blocked, but then, when we got to vote on them, the result was 99 to 0. That is uncalled for. So we must do what we can in order to make sure that the judicial process is not being delayed. That is, after all, our third branch of government. That is where justice is rendered for individuals who have violated any of the Federal laws.

My Republican friends are holding these up. They are blocking these important nominations and stopping the Senate from performing its constitutional duty to advise and consent. We cannot consent because of the delay tactics they are using. As a former attorney general of my State, I have a deep understanding of how this obstructionism brings our justice system to a standstill, and justice delayed, of course, is justice denied. It is simply inexcusable.

I urge my Republican colleagues to stop blocking these qualified nominees, stop playing political games at the expense of our court system—the third branch of our government—and let's bring all of those nominees to a vote.

I thank the Senator, and I yield to him.

Mr. WARNER. I thank the Senator from Illinois.

Madam President, I think we have had more than a dozen Senators speak this afternoon. I appreciate all of them coming out on relatively short notice.

We raised these issues before we went on recess, because we want to be respectful not only of traditions but to our colleagues on the other side. We recognize, as the Senator from Colorado has said, that there are rules that allow us to ask unanimous consent to bring these folks up, and in future days and weeks we will use those rules to try to urge a full-fledged debate, and not just on judicial nominees. As the former CEO of a business, and the former CEO of a State, I know there are a whole host of administrative nominees which are part of the administration that this President needs to get in place.

I thank the Presiding Officer for the time we have had to share our concerns about this process. Again, I encourage my colleagues and friends on the other side to allow us to get this fixed, to get back to the substantive debates that are so important—financial reregulation, energy, and jobs—and that the American people deserve and demand.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CENSUS 2010

Mr. BURRIS. Madam President, in 1790, Secretary of State Thomas Jefferson became the first government official to perform the essential duties laid out in Article One Section Two of the U.S. Constitution.

He oversaw a team of marshals, who fanned out across all 13 United States to conduct the very first U.S. census.

In those days, it took quite a long time to gather an accurate count and certify the results.

But, in many ways, that first census laid the cornerstone of our democracy.

It codified the principle that our system of government depends upon accurate representation of the people.

And, even today, that's exactly what the census is all about.

It determines the size of the House of Representatives, and ensures that congressional districts and electoral votes are distributed accurately.

It helps target Federal funding for schools, hospitals, community centers, infrastructure projects, and a whole host of other programs.

In short, it helps our government work the way it is intended in each community, so everyone's voice can be heard.

It is about nothing less than who we are as a country.

It is about enfranchisement, and civic duty, and ensuring the success of the American system of self-government.

That is why our Constitution mandates that the census take place every 10 years.

And that is why, 220 years after Thomas Jefferson started this tradition, we are once again asking all Americans to stand up and be counted.

Our country has grown by leaps and bounds since Jefferson's time. Making sure we get an accurate count can be a complicated process, but it has never been more important, especially for low-income and minority communities, which are in the greatest need for the resources that will be allocated based on this census.

The problem is that many of these communities also have low participation rates—so they are often undercounted, and receive less funding than they deserve.

That is why we need make a special effort to reach out to these communities.

We need to let everyone know how important it is to participate, so we can get a clear, accurate snapshot.

Fortunately, unlike in Jefferson's day, the 2010 census will not take several months to complete—it will take about 10 minutes.

This year's form is one of the shortest in history—and it bears a close resemblance to the original questionnaire that was used in 1790.

Filling it out will be quick and easy—but it will make a world of difference.

I ask my fellow Americans to join me in doing their civic duty, as required by the Constitution. Take 10 minutes to fill out and return this census form. It could be the most productive 10 minutes of the decade. It will make your vote count for more on election day. It will make sure hospitals, fire departments, and police departments are up to the task of serving your community. It will secure adequate funding for roads, bridges, rail lines, and other important infrastructure. And it will help us reaffirm the unwavering commitment shared by all Americans—to a representative government—a government of the people, by the people, and for the people; a government that serves not only the best interests of this great country but of the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak as in

morning business for no more than 5 minutes.

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

TRIBUTE TO TOMASZ MERTA

Mr. BROWN of Ohio. Mr. President, I rise as a result of the resolution offered earlier today commemorating the tragic deaths of so many Polish leaders, especially the death of Tomasz Merta, who is the Minister of Culture in Poland.

I worked with Tomasz Merta a couple times over the last 25 years. In the early 1990s, he was a very young man, was still in his twenties, and he worked with Ohio State's Mershon Center, where I worked, helping his country's government transition from communism to democracy. We worked on everything from curricula writing to training teachers.

I worked with him again when I was a Member of Congress. This time I went to Ukraine, and he helped us train Ukrainian teachers, helped write curriculum, and help those Ukrainian teachers teach government courses on civic education in Kiev.

So Tomasz Merta, born in 1965, graduate of Warsaw University, got a Ph.D. His whole career was all about love of country, all about democracy, all about doing the right thing. He, in the nineties and since, was a prolific writer. He wrote articles about democracy, articles about teaching democracy, articles about building democracy. He was so important to this country. He was one of the youngest leaders who was killed on this terrible, tragic flight.

He had a terrific future. He was the Secretary of State and the Minister of Culture and National Heritage. We will all miss him. Tomasz, as his nickname was—Tomek is his real name. Tomasz is like Thomas and Tommy. Tomasz was a devoted husband, the father of three daughters.

I last saw him several years ago in Kiev. I so appreciate what he did. As I will say now in Polish: I offer my deep condolences to the people of Poland for this tragic loss.

Tomasz and some of his friends taught me some Polish. I must admit I read it, but the pronunciation he helped me with—he and Alicija and others in Poland. I am so sad about his loss. I am so sad for his country. I am so sad for his wife and his three beautiful daughters. I know that country will mourn his loss as it mourns the loss of so many other Polish patriots.

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

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

The bill clerk proceeded to call the roll.

Mr. COBURN. 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. Under the previous order, morning business is closed.

CONTINUING EXTENSION ACT OF 2010—Continued

The ACTING PRESIDENT pro tempore. The Senate will resume consideration of H.R. 4851.

The Senator from Oklahoma is recognized.

AMENDMENT NO. 3723

Mr. COBURN. Mr. President, if anybody has been watching the Senate today, there was a point of order made that the spending we are going to pass to pay for unemployment insurance extension benefits and benefits for health insurance for those people, in terms of buying through their former employers, as well as the sustainable growth rate formula, failed to be overriden.

We will have another vote on that because the majority side was missing one Member, and they will eventually win on that. What that says is, we are once again back to the point where we refuse to make the hard choices to pay for things we need to do today by eliminating things that are not as important.

The point of order was on the fact that it is an emergency so, therefore, we can say: Time out. But those who voted to override it fail to recognize the other major emergency that is happening in our country. We have $12.8 trillion worth of debt as of today. We are going to add another $1.4 to $1.5 trillion this year, this calendar year; that the increase in the cost of that debt over the last 12 months will require an additional, next year, $125 billion worth of expenditures.

There has to come a point in time when we grow to the responsibility that has been given to us; that is, make hard choices. It is very easy to pass an unemployment insurance bill by charging it to our children. The majority leader has graciously agreed to give me an opportunity to offer three different ways to pay for that. I am going to put those out today. One amendment now, which we will vote on, another amendment later, and then a third amendment later.

Most of the ideas for cutting spending, quite frankly, have come from my colleagues on the other side, and many of them you have already voted for. So it is going to be an interesting exercise today. The majority leader also spoke to me before lunch saying it did not matter because I was going to lose anyway.

That sends a signal. The leadership of our Senate today says: We do not have to pay for things.

Prior to leaving here, we agreed on a compromise of tax loophole closures that would have paid for this for a period of 30 days. The bill we voted on back then was for 30 days. We have now before us an identical bill before us for 60 days. It is going to cost $18.2 billion. That is what CBO says. The question I have to ask is, is it morally right for us to steal that money from our children's future or make hard choices about wasteful spending today? The choices are not hard other than in our stubbornness that we don't want to agree.

When businesses are taken over, when a larger business buys a smaller business, the first thing they do is become great cash managers of the business. In other words, they make sure the money in the business is always working for the business. So if there is excess cash lying around in accounts, they take that money and reduce whatever outstanding debts they have or forgo borrowing money and use that cash in a more efficacious and serious manner. The first amendment I will offer is asking us to do nothing but the same.

At the end of last year, the Federal Government had on its books money it borrowed but had not spent of $676 billion. That is what is sitting in accounts, money we have borrowed that is not being utilized efficiently. At the end of next year, at the end of fiscal 2011, according to the OMB, it will be $614 billion. That is almost half of the debt we will borrow this year. This first amendment simply says: Let the administration utilize its executive prerogatives and instead of us borrowing $18.2 billion from our children and then paying interest on that—and, by the way, the interest on that $18.2 billion that will go on in perpetuity, because we are not retiring any debt, is about $900 million, almost $1 billion a year. Why would we borrow money when we have money sitting there that is not being utilized effectively and pay almost $900 million every year? Why would we borrow again next year an extra billion to pay for the money we are going to borrow to fund this program?

Let me give an example of where this money lies. In our own accounts to run the legislature, we have $1.450 billion sitting there. In other words, it has not been promised to do anything. It is sitting there. It was sitting at $1.876 billion at the end of last fiscal year. It is projected to be $1.481 billion next year. We are keeping that money in the bank and not using it.

The Department of Agriculture has $20 billion and is estimated in 2011 to have still $12 billion sitting in an account that we are paying interest on that is not being utilized, not obligated for anything at the time, unobligated.

What all these figures show when you total them up is that we are sending money so fast to agencies, they can't spend it. In other words, we are throwing money at the agencies far faster than they can spend it, and it would be wise and prudent of us to send less money—still with the same rules, still with the same instruction, to utilize their money better.

The chairman of the House Appropriations Committee, Congressman

OBEY, has already agreed to do that on the summer jobs program in certain accounts.

The idea behind this amendment is to take some of the $1 trillion that is sitting in accounts that is not obligated—in other words, it will not be utilized this year; it won't be utilized for at least 2 years—and utilize that rather than charge our children.

I have used Madeline's picture a lot, but I don't think you can overutilize this picture. This little girl was caught on the street outside of Washington protesting. Obviously, her parents put her up to it. At the time she was wearing a sign that says: I am already $38,375 in debt and I only own a dollhouse. At the end of this fiscal year, she will be $45,000 more in debt, and she will still only own a dollhouse. Why would we want to do that?

This bill adds $500 for every man, woman, and child in this country. Why wouldn't we want to not charge it to them and utilize what we have in excess now, the inefficient use of the cash balances we have, to pay for something we all agree we want to pay for but the disagreement is over whether we should steal it from our children or actually make hard choices? These are not even hard choices. These are easy choices. We were told, when we came to an agreement prior to the April recess, that the reason this wasn't acceptable in the House is they didn't want to set the precedent of starting to pay for things when we are spending money. I would put forth that the American people are ready for us to start doing that. They are ready for us to start making tough choices. They think we need to make tough choices.

Out of every dollar we spend, we are borrowing 43 cents against the future. That is what happened last year. It will actually be probably higher this year. Maybe not. But somewhere about 43 cents out of every dollar the Federal Government spends is borrowed. Is there a time that we should stop and pause and say: Maybe a review is in order of our priorities, looking at the priorities of the Federal Government? I know that builds a lot of resistance in this body. But what I would like somebody to tell me is, when is that time? Is it when the Chinese won't buy our bonds anymore? Do we wait for the firestorm to come where we are at critical mass and then the choices are limited and few? Or do we start making the proper decisions now and live up to the authority and responsibility given to us?

There is a saying that the easiest thing in the world is to spend somebody else's money. I also think it is the most addictive thing in the world. We can see that. It doesn't matter whether it is Republicans in charge or Democrats. We have not seen the kind of behavior in Congress that will get our Congress out of the financial problems we face.

In terms of an almost $4 trillion budget, $18 billion doesn't seem like a lot, but if you keep doing that every 60 days, in a year you have done over $120 billion that you will add to the debt. Our kids will get to pay it back, but they will get to pay it back on compounded interest.

The interesting thing is what the OMB and CBO agree to. Actually, CBO came out with the latest numbers. We are going to borrow $9.8 trillion if we don't change things over the next 9 years, and fully 50 percent of that will be borrowed money to pay interest on the money we have already borrowed. Should we not do what is right for the unemployed but also what is right for the Madelines of this world in terms of protecting their future?

I call up amendment No. 3723 and ask for its consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment No. 3723.

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

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

The amendment is as follows:

(Purpose: To pay for the full cost of extending additional unemployment insurance and other Federal programs by rescinding unspent federal funds not obligated for any purpose)

At the end of the amendment, insert the following:

SEC. ___. RESCISSION OF UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, the greater of $20,000,000,000 and the amount determined necessary under the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 124 Stat. 8) to offset the budgetary effect of this Act, excluding this section, in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

Mr. COBURN. Here is a fairly painless way—just more efficient management of the money we have—of paying for this needed program without charging it to the children. We don't have to go to the bond market to borrow more. We don't have to incur an additional $900 million a year of debt, a tremendous benefit to those who follow us. The question is, when will we decide to start being responsible?

I am going to be offering two other amendments, if this one is not agreed to, that will give specific choices. Wait to hear the howling. In other words, nothing is less important than unemployment insurance. Said the other way, everything is more important. In other words, we can't cut anything to pay for unemployment insurance.

Let's talk about that for a minute. Just through competitive bidding, if we had mandatory competitive bidding in the Federal Government—in other words, we will not buy things that are not competitively bid—we would save $62 billion a year. But we have sweetheart deals out the kazoo. We have earmarks that have noncompetitive bidding. We have contracts that the government does without competitive bidding. We could save $62 billion a year by instituting competitive bidding.

Here are examples. It was recently reported that the Defense Department rewards no-bid work to small contracts for repairs at military bases costing taxpayers $148 million more than they were competed for. This is in 1 year on repair contracts. That is just on the repair of small items on military bases. We could save $148 million a year. Federal funds were spent by the State of Wisconsin, $47.5 million, on two Spanish-made passenger trains, no competitive bid. The Legal Services Corporation, 37 out of 38 consultant contracts had not been competitively bid. The Department of Interior inspector general issued a report on sole-source contracting within the Department of Interior total savings; $44.5 million, had they used competitive bidding.

If we go through all of the agencies, what we come up with is a potential savings of billions and billions of dollars; as a matter of fact, enough to extend this same bill for 7 months, if we use competitive bidding. But that will not be considered important. It is going to be too important to do that so we will borrow the money from our children.

Let's look at ourselves. In 2010, the legislative branch received $4.7 billion in discretionary funding, a 6-percent increase over last year. Do we know of any other people who got those kinds of increases who work in small business or private enterprise in a down economy? Last year and this year alone, every day without this bill we are adding $4.3 billion to our debt a day. Is that an emergency? I think that is the real emergency, that we are absolutely stealing opportunity from our children and grandchildren.

When Members of the Senate or the House don't utilize all their funds—and I average turning back about $600,000 a year—that money does not go back to the Treasury. It is consumed in other areas of the legislative branch. There is a disincentive for Members to be efficient with the dollars they are allotted as they represent their individual States. We ought to change that. There ought to be an incentive to be efficient. We ought to change it to where whatever we turn back goes to retire the debt, not goes back to spend on something that is not a priority.

If you look at the Department of Agriculture, for which one of my amendments will have some recommended eliminations, there are hundreds of millions of dollars that are wasted every year. But when we offer an

amendment that is going to have a program that both the Bush administration and the Obama administration have recommended be removed, we are going to have people say: Oh, no, you can't do that because maybe 1,000 people or 1,500 people want that gravy train, when we have 10 million people unemployed. So we are going to keep the gravy train for the small numbers and borrow the money from our children and grandchildren to take care of unemployment benefits.

In 2009, the Department of Agriculture made errors in payments and overpaid by $4.2 billion in that year alone. Think about that. That is just the Department of Agriculture. Should we not eliminate that to pay for unemployment insurance or should we borrow from our children? Which is it we should do? Should we make the hard choice and force the Department of Agriculture to clean up its act or should we borrow the money from our kids? It is a lot easier to just borrow it from our kids. Then we do not have to work. Oh, by the way, we do not get any of the complaints from the administration that: You are making our job too hard—let alone the fact that they are not efficient and oftentimes not effective.

In 2008, the Agriculture Department had 7,000 different employees attend conferences around this country. There was $22 million of expenditures in 2005 alone. The USDA is ranked among the four worst Federal agencies in paying its travel credit bills on time. As a matter of fact, they get charged interest because they cannot even pay their bills on time. Ten percent of their travel cards are in delinquent status. They have embezzlement cases on their credit cards. But have we done the work to clean that up? No. Have we gone after the $4.5 billion in overpayments? No. Mr. President, $4.5 billion a year for 10 years is $45 billion. Just cleaning up one aspect of improper payments at only the Department of Agriculture will pay for this bill for 4 months. But we will not do the hard work. We do the easy work. And the easy work is to put the credit card into the machine and not think about how that is going to steal opportunity and potential from those who follow us.

The Department of Defense—everybody says: Well, you can't go after the Department of Defense. My question is, Why not? It is the only Federal Government agency that cannot even come close to an audit anywhere. We cannot even audit their books they are in such a mess. But what we do know is we can save at least $36.5 billion from the Department of Defense by putting in competitive bidding, by making cogent management changes that every small business in this country runs on in the practices that are there. But it has not been changed. We have not insisted it be changed. We have not limited funding in areas that are noncritical to our troops to force the Department of Defense to come up and save this $36.5 billion.

Mr. President, 10 to 15 percent of everything that is spent in the Pentagon is wasted. Why wouldn't we go after that? Because somebody will accuse us of not supporting our troops? Well, what are our troops fighting for? They are fighting for the future of their kids and our country. Yet we refuse to look where the payments can be made in a way that is more efficient in the elimination of waste and fraud, with the institution of competitive bidding so we are not borrowing $18.2 billion against our kids and grandkids. Why do we refuse to do that? Is it too hard? Do we love our jobs so much that we love our jobs more than our children and our grandchildren? I do not think that is the case. I think the case is that we are focusing on the wrong emergency.

The emergency in front of us is that in 2020 we are going to have a debt-to-GDP ratio of 90 to 100 percent. Every economist in the world will agree that will suppress our potential growth by at least 2 percent a year. So we will go in a downward spiral. When you have that kind of a debt-to-GDP ratio, what happens is the debt service—the money that pays the interest—is not available to invest in capital and equipment to grow jobs, to improve efficiencies, to expand our Nation's economic base. We are adding to that problem by being irresponsible in terms of paying for an $18.2 billion program.

Over the past 4 years, I have identified in the Federal Government waste, fraud, abuse, and duplication in excess of $350 billion a year. When I bring those amendments to the floor, they get voted down—not because they disagree with them but because we do not have the political will to make the hard choices.

The Congress, in a historic move, passed the health care bill that is going to continue to allow $150 billion of fraud a year to come out of Medicare and Medicaid. We did not do anything to fix it. There are no significant changes in the health care bill that will address a source of $150 billion in losses. Why? Because it is too hard? Kids are not important?

We are at a turning point in our country like we have never been before. We have never been walking into a financial situation that will totally limit our ability to get out of a situation. We can come out of this recession. But if we do not change the trajectory of the way we spend money and put the government back within the limited role the Constitution says it is to have, then the future will not only be economically not bright but not bright from a standpoint of liberty.

I have told my colleagues—and we are going to have this on every bill that comes before the Senate—it does not matter if it is a supplemental spending bill for the war, we ought to be paying for it. Rather than borrowing it from our kids, we ought to be paying for it. We ought to be making the hard choices about what is not as important as supporting our troops rather than charging the extra funding to our grandkids. So we are going to go through at least three cycles of votes on every bill that comes to the floor that is not paid for, that will add to the debt. I am not going to serve my last year in the Senate and say I did not do everything I could to try to put us back on track. So when we vote that this is an emergency and we do not have to pay for it, we are not hurting us. You are not hurting TOM COBURN. You are hurting the generations that follow us.

It would be different if we had an efficient, effective, well-run Federal Government that was within the bounds of what the Constitution said we were supposed to be doing. But we are not anywhere close to that. There is so much fraud, so much waste, so many well-connected goodies going to the well-endowed and well-heeled in this country because they have a connection politically, and we need to clean it out.

Everything ought to be competitively bid. There is no reason for it not to be competitively bid. To pass up that $65 billion a year because we do not do it—there is another thing we do. We spend $8 billion a year maintaining properties the Federal Government does not want. Think about that. For 3 years, I have tried to get through real property reform and cannot get it through. We either need to tear these structures down so we quit spending money on them or sell them, but we should not continue to spend $8 billion a year on buildings and properties we do not need. We have not done a thing to solve that problem in the last 3 years.

I have a book full of further examples. Just think about this: We want people to go into math, engineering, science, and technology. Everybody agrees with that. We know if we can get our younger students going into those areas, that is where they are going to have their greatest benefits of having a wonderful living in utilizing those skills.

The Federal Government has 105 different programs through six different agencies to incentivize math, engineering, science, and technology. The administrative cost for 105 different programs is ridiculous, and not 1 of them has a metric on it of whether it is working. So every time somebody raises the issue, some Senator comes and creates another new program, and we pass it, and we never look at what we are doing already. We do not eliminate things that are not effective. We do not put metrics on it to say we are going to look at this every year, and if it is not working we are going to get rid of it or we are going to fix it, and we are not going to create another program. Yet we have 105 different programs.

In the month of December, my staff found 640 separate instances just like that where we have duplication of programs across government agencies. In

the last debt limit extension, we passed one of my amendments that said the GAO must report to us a government-wide assessment of all the duplications in all the programs because Congress does not know it. We do not know what is out there. So we see another problem. It does not matter that we may have 105 programs working on it; we go create another one. That is called incompetence. It is also called laziness.

Just inside the Department of Education are 230 duplicative programs and $10 billion in waste, fraud, and mismanagement—230. Why? Because we refuse to do the hard work of oversight.

So when we vote on this amendment, what we are going to be voting on is whether we have the courage to start making choices. If you vote to defeat this amendment, what you are saying is you lack the courage to do the hard work to pay for something out of waste today and mismanagement of Federal funds and you think the Madelines of this world ought to pay for that lack of integrity and lack of hard work. And there is not another reason for it.

We are going to hear why you should not vote for this. We are going to hear why it is going to be hard if we take $18.2 billion out of the management accounts of all these agencies. It is just going to be, out of what is there, about 3 percent of the cash that is sitting idle—about 3 percent of what will be idle in 2011. What is idle this year, it will be less than 3 percent; it will be about 2.5 percent. Yet we are going to vote it down. We are going to vote it down because we care more about making a political point than doing the hard work of getting our country back on track.

We do not have forever to get our country back on track. If we get to 90 to 100 percent of our GDP, the job of making these decisions becomes 3 and 4 and 5 and 6 and 7 times more difficult because we will have less growth. We have a precarious economy right now. It is coming out of a recession. We want that growth to boom. We want those jobs to be created. When we borrow more money, we are putting a brake on that.

So if we can utilize the money we already have, we get the stimulatory effect of getting people unemployment insurance that buys the necessities of life, but we are not adding to the debt, which depresses the economy.

I will close for right now on this amendment. I will ask for the yeas and nays at a time that is agreeable to the majority leader.

I note the absence of a quorum.

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

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

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

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

Mr. SESSIONS. Mr. President, we seem to be muddling along here with short-term extensions and incremental stimulus bills to deal with a failure as this Congress decides what we are going to do about unemployment insurance and physicians' pay and things of that matter that are in the bill.

I believe this is an important discussion, I do, and I am worried about where we are. This legislation before us would add another $18.1 billion to the national debt. Just like that, another $18 billion. Oddly, that is almost the same amount of money that was tacked on to the Defense bill last year, and I produced a chart about it and demonstrated what happens when we get into that mode of appropriating, when we forget what our budget is and we treat everything as an emergency and just ignore our budget and spend. The truth is, this cannot continue.

Every witness we have had before the Budget Committee—every one—two-thirds of which are usually called by our Democratic leader, and usually about one-third are Republican witnesses—have all said our spending and our debt is at an unsustainable rate. They didn't say that lightly. What they meant was it is unsustainable. We cannot continue to spend like this and to borrow this amount of money on top of the $800 billion that is now being spent that we appropriated last year—$800 billion. Every penny of that $800 billion is borrowed because we don't have the money. We are already in debt to fund another $800 billion in stimulus, and we will have to, of course, borrow that.

I think a lot of people haven't understood that. People tell me, when I am in my State, that they are shocked, stunned, and worried about our spending. They know we are spending too much, but I don't think they know how much we actually are spending and how much we are adding to our debt and that it can threaten the future viability of the American economy for a short-term benefit.

I will just remind my colleagues that the history of stimulating an economy with borrowed money has not been too good. If it was, Japan would have a booming economy today. They have been trying this year after year and it has not worked for them.

We were told we would have an unemployment rate that would stop at 8 percent if we would just pass this $800 billion and borrow the money and spend it today to stimulate the economy. It sounds so good. It sounds so tempting. But I didn't believe it was an appropriate allocation of that much money, No. 1; and No. 2, that the money we were being asked to spend was going to be spent in ways that would stimulate the economy and create jobs.

I cited here before the vote an op-ed in the Wall Street Journal by Gary Becker, the Nobel Prize winner from the University of Chicago. Mr. Becker said that, in his opinion, the bill fell far short of being the kind of stimulative spending that would create jobs and help this economy bounce back and, therefore, he had to oppose it. Mr. Becker is in his seventies and he was just sharing his experience. He had another person participate with him in the research that led them to that recommendation. Was Mr. Becker proven right or not?

The great tragedy—the biggest tragedy with the stimulus package—was what little stimulus we got. If you spend $800 billion, it is breathtaking how much that can be done with it. The Alabama general fund budget for the entire State, including State government and State troopers and all of that is less than $2 billion. But $800 billion? That is huge. So I am worried about what we are doing.

At the time the legislation passed—this stimulus package that added so much to our debt—the Congressional Budget Office, whose Director is hired by our Democratic majority, had good people working in that office. They try to do a good job. They have some economists who I think have been successful in years past at predicting things. They said: Yes, if you spend $800 billion in the next 2 to 3 years, you will have an economic benefit during that period, there is no doubt. They didn't predict a lot—not nearly as much as a lot of people said it would do—but they predicted some benefit. But do you know what they said? They said over 10 years that this economic spending, this borrowing to spend, would actually weaken the economy and the total growth over 10 years would be less than if we did not pass the stimulus package at all. It does appear if they were in error, their error was that we did not get as much growth as they predicted in the short run. But when you spend $800 billion, surely you are going to get some benefit—some, economically. But we have not gotten what we need. It was not crafted in that way.

It was a bill that said it was going to fix crumbling infrastructure, and what happened? We spent less than 4 percent of this money on bridges and roads. We spent it mostly on social spending, we spent it on State aid, we spent it on a lot of different things. But at least when you build a road you have a highway that is there and it will be there for another 50 or 100 years, making the Nation more productive and efficient. But this other kind of spending has produced so little for us. I express my concern about that.

All of this is where we are. The point is simply this. The spending track we are on is unsustainable because in 2008 our total public debt was $5.8 trillion. It is more than that if you consider the gross debt, the internal debt, but this is what is held by private investors from around the world and in the United States—$5.8 trillion. By 2013 it will double to $11.8 trillion; by 2019 it will be $17.3 trillion, and there is no plan to pay it down. But in 2019, 2020, we are talking about deficits of almost another $1 trillion a year. So we are not even close to moving to a balanced

budget, much less paying down this debt.

Where does the money come from? As I said, we borrow that. This chart shows what the borrowing costs are. When you borrow money, people pay interest, you pay them interest on the money they give you. They loan you money, you pay them rent on the money. They do not give you money for no good reason.

In 2009 we paid $187 billion in interest that 1 year. Remember, Alabama's general fund budget is $2 billion; the Federal highway bill a year or so ago was $40 billion. We spent $187 billion, almost five times the highway bill. But look what happens in 2020 after we spent all this money and run up our debt—$840 billion in interest payments in 1 year. That exceeds the Defense bill, it exceeds any other bill in our budget. It is a stunning number. These are Congressional Budget Office numbers based on the President's budget. Surely something will intervene. We will elect somebody, somewhere—in this Senate, probably—who is going to say no to this because the American people are getting hot about it. Some people are going to be wondering why they are no longer here, if they keep up with this kind of stuff.

They say don't worry about this, it is just $18 billion, and after the $800 billion, $18 billion may look small. But let me show you what I demonstrated previously with $18 billion when you cheat, or you add it and bust the budget by one $18 billion expenditure.

In 2010 we slipped another $18 billion on the Defense appropriations bill, and added it to the debt. People said don't worry, it is just $18 billion. But it goes into the baseline. It goes into your basic funding of the government. So what happens next year when you say OK, we are not going to spend this $18 billion. They say: You are cutting spending. We cannot do that. You can't cut spending. Besides, we need an increase in spending—inflation was 2 percent. We need at least 2 percent.

The State Department got a 30-percent increase in funding this past year. The Environmental Protection Agency got a 30-percent increase in funding.

Look at that. What if you do it another year? You come up with another $18 billion. You got around the budget, you declared it an emergency event and you spent another $18 billion. It is not just $18 billion because you have $18 billion in the first baseline, you add another to it and that year it has cost the taxpayers $36 billion. Let's say the next year, 2013, now you are adding $18 billion to $36 billion and it is $54 billion in your baseline. You have another budget gimmick to add $18 billion and you end up with $72 billion that year.

This is how we get out of control. And you end up, that $18 billion, when it goes into the baseline and we do not understand how it occurred, increases our spending to a degree that we should not do. So that ends up, if you add it up, to $990 billion from an $18-billion-a-year gimmick, manipulation, violation of the budget.

What I want to say is this bill before us today violates the budget. It is for unemployment compensation, it is for other things that are not emergencies. They are part of our governmental operation that needs to be paid for. Luckily, we have some money to pay for it. We have it in an unspent stimulus package. We have some opportunities that our Democratic colleagues have said they could take money from in the past. If we put all those together we could pay for this, fund this bill without having to borrow it all.

I am at a point where I am not inclined to go along with this anymore. I think the American people are of the same mind. What we have to do is we have to lead and we have to be responsible like our Governors. They are having to face challenges. Our mayors are having to face challenges. They are making tough decisions. But not us. We spend more, not less. We are spending more. I believe we have done enough. We have gone beyond what is logical and reasonable. We are in the realm of reckless and dangerous and it is time for us to begin having a national discussion in this country and in this Congress about how much we can borrow to spend today to make our life better today and then shift that debt to the future.

The reason CBO said that the $800 billion would not advance the economy over 10 years, it actually would hurt the economy over 10 years, is that you crowd out investment. If the government borrows $800 billion, it is not available for private people who need to go out and borrow money. It has already been loaned to the government. It crowds out, the economists said, private borrowing.

Also, we have an interest on it that we have to carry and pay every year that is a burden on every generation. Every young person after us will carry that interest burden. It hurts them and makes them less able to prosper and to have economic growth. So it is a moral question: How much can we afford to benefit ourselves this very day and shift it to our children and to what extent do we need to be responsible? I think it is time to get responsible, so reluctantly I feel an obligation to vote no to this legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I stand in strong support of the comments of my distinguished colleague from Alabama. Of course I agree with virtually every single Member of the Senate that these programs need to be extended. But I also agree with many Members here, and the huge majority of the American people, that we need to pay for it. We cannot keep running up the deficit as though it had no consequence to us and our economy and our children and grandchildren. The American people get it. Certainly my constituents in Louisiana get it. They say of course you need to extend necessary programs and of course you cannot run up the deficit to do it every 2 months.

Mr. President, $18 billion—the distinguished Senator from Alabama has used the figure over and over, and he is right, $18 billion, but it is $18 billion for 2 months of extension. So we are supposed to come back every 2 months and put another $18 billion on our kids' and grandkids' tab? It is $108 billion over a year of increasing deficit and debt that is already at historic levels. That is crazy.

We can do better. We can meet both of those commonsense objectives of the American people. We can extend necessary programs and we can do it in a way that does not add to deficit and debt. We have several ways to do that. We have a menu of proposals. We will have votes a little later on about doing that. In fact, before the recess we had discussions on the floor of the Senate and we had come to agreement here in the Senate about an extension without increasing the deficit and debt. Unfortunately it was rejected by the Speaker of the House. So it is not as though this goal of achieving both of those important objectives is impossible. It is absolutely possible and many different Members have laid out how to get there.

Let's follow the common sense of the American people. Let's follow the common sense of folks all across Louisiana who say of course you need to extend necessary programs and of course you cannot add to the deficit and debt every month, every 2 months that you need to do this, $18 billion a pop, $108 billion. That is a good part of $1 trillion over 1 year.

I want to focus on a particular part of this package that is particularly galling, quite frankly, for someone such as me from Louisiana. A tiny part of this overall bill is extending the National Flood Insurance Program. Again, I hope everyone agrees we need to extend the National Flood Insurance Program. I certainly agree with that. I have certainly fought for that. It is about 1 percent of this bill.

Do you know what percent it is of the debt increase, the deficit increase? It is zero percent of that because that extension does not even increase the deficit or debt in any way. So it should not be held up by this debate in any way, shape, or form—a necessary program, 1 percent of the bill in terms of dollar figures, zero deficit and debt increase, zero impact on that central issue. Why can't we at least come together and extend that necessary program immediately and not have that held up at all? It never should have been held up before the recess. It should not be held up now. There is a simple way to fix that and the simple way is to take that portion of the bill out; to extend it immediately. I do not think there is any opposition to the underlying extension of the program. It has zero impact on the deficit and debt

so there is no reason for it to be caught up in this other debate.

With that in mind, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3203. That is a bill I have introduced that extends the National Flood Insurance Program for the same amount of time as this underlying bill but does it separately. I ask that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER (Mr. FRANKEN.) Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object, I might note that the Senator seeks to take up and pass one of the specific provisions in the underlying bill, section 7 in the underlying bill. Since the Senator seems to be endorsing a part of the underlying bill, and the pending Baucus amendment, I might ask the Senator to amend his request to provide for the passage of all of the underlying bill and pending Baucus amendment.

Mr. VITTER. I will be happy to do that in a version that is paid for, incorporating the very sensible, commonsense objections that have been offered to pay for all of this extension. So I would be happy to amend my request in that manner if the Senator would agree to it.

Mr. BAUCUS. So the Senator is not willing to amend his request for passage of all of the underlying bill containing the section 7?

Mr. VITTER. Not if it increases the deficit and debt $108 billion a year. No, sir, I am not. And the American people are not. And the American people are getting fed up with it.

Mr. BAUCUS. Mr. President, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Reclaiming my time, the suggestion was pretty simple. There is the one element of this bill which is a necessary program for all of the United States, particularly for flood-prone areas. It is 1 percent of the overall bill, but it is zero percent of the deficit and debt increase. It has no impact on deficit and debt. So the suggestion was pretty simple: Why don't we take that out? Why have that stalled because of this broader debate? Let's take that out and pass it. There should be no objection to that. Everybody is for the program. It does not increase the deficit and debt. Unfortunately, there is objection from the Democratic chairman.

I hope we have given the chairman and other Members of the majority the detailed proposal. It is, as the chairman said, taking section 7 out and passing it separately because it has no deficit and debt impact. I would urge the chairman and others to look at that and to hopefully agree to that because—I heard the objection. I don't understand the basis for the objection, and I would be happy to hear the basis for the objection because I just don't understand it.

Mr. BAUCUS. Mr. President, the Senator from Louisiana supports part of the bill. I would just ask the Senator to broaden his mind to support all of the bill. That way, we can get this done.

Mr. VITTER. Sort of like the ''Louisiana purchase'' with health care reform. Let's put one sweetener in the bill to pass something really bad—a $108 billion debt increase over a year. Let's take one hostage, including folks who are held hostage who need this insurance, to pass a debt increase that big because otherwise that is a stinker.

I get it. I have seen that deal played out over and over, including with the ''Louisiana purchase'' for health care reform. I am not taking that offer, no offense. I hope the Senator will reconsider my very reasonable proposal.

I yield the floor.

Mr. BAUCUS. Mr. President, there are a number of reasons to oppose the amendment offered by the Senator from Oklahoma. First, it would reverse the considered judgment of the Congress as expressed through the annual appropriations process. Congress has spoken on appropriations that are authorized and obligated, and his amendment defers that considered judgment. I will defer, frankly, to the chairman of the Appropriations Committee to address these concerns in greater detail when he arrives on the floor.

Second, the House of Representatives has made it clear that it views unemployment insurance and the other provisions in this bill as emergency provisions. The House has made clear that it would send the bill back to us again if we adopted the amendment by the Senator from Oklahoma. That is clear. I have had conversations with the House. It is clear that it would be sent back, and that would needlessly delay much needed aid to the people receiving unemployment insurance benefits. Let's not forget that there are so many people—200,000 people, in fact—who are not receiving benefits because we let the legislation expire. It has expired. So 200,000 people today who are entitled to unemployment insurance payments are not getting them, and if we send the bill back to the House again, that is further delay. It will not be long before that number of 200,000 is going to double to 400,000. That is just playing games with the lives of unemployed Americans.

Third, and perhaps most dramatically, the amendment would delegate powers to rescind $20 billion to the unelected Director of the Office of Management and Budget. This would be a breathtaking abdication of Congress's power of the purse. In the Federalist Papers, the power of the purse is described as the most singular power to protect the rights of the free people. We should not quickly surrender that power, and the Senator's amendment would surrender that power to the tune of $20 billion. The Senator's amendment would give the Director of the Office of Management and Budget a blank check. It would give him the power to cut whatever unobligated balances he should choose. This is truly a sweeping grant of power, and it is truly a dramatic surrender of that power.

The Senator from Oklahoma talked about budget deficits. He and I agree. We do, as a nation, need to address the budget deficits. As a rhetorical question, he asked: When is the time to make the changes to balance the budget? The Senator asked the question as if the answer were self-evident, but the answer is not self-evident.

A wise person once said: For every difficult question, there is usually a very simple answer and it is usually not true. This is an example of that maxim at work.

The simple answer in this case would be to require the government to balance the budget every year, year-in and year-out. That is pretty simple. That answer, even though it sounds nice, would be wrong. The Nation should balance the budget over the course of a business cycle. We should spend in a recession and exercise more discipline when the country is very prosperous to get the budget under control.

But the Nation should not attempt to balance the budget in the grips of a recession. Why is that? That is because in a recession, business slows down. People actually pay less tax revenue to the government. In a recession, spending on automatic stabilizer programs automatically increases, like unemployment benefits, food stamps, and many others. That is what should happen during a recession. To do otherwise would be economically disastrous.

To try to balance the budget in the grips of a recession would mean raising taxes or cutting spending even more than is automatically occurring. That would reduce the amount of demand in the economy, and that would further slow economic growth and put even more people out of work. So most reputable economists would say you should not try to balance the budget in a recession. There is pretty broad agreement on that point among reputable economists.

So that is why it does not make sense to try to balance the budget this year. Yes, we should balance the budget over the business cycle, but we should not try to raise taxes and cut spending even more to balance the budget right now. And that is why it does make sense to spend money on unemployment insurance benefits as an emergency matter.

As the nonpartisan Congressional Budget Office has said, spending on unemployment insurance benefits is one of the most effective things Congress can do to increase economic growth. It is one of the most effective things we can do to save and create jobs. For every dollar we spend on unemployment insurance benefits, the Congressional Budget Office says economic growth is increased by up to $1.90; it is

almost a 2-to-1 return on our investment. That is a pretty sound investment.

That is the economic reason why it makes sense to spend now on unemployment insurance benefits and to balance the budget over a longer period, but even more compelling is the human reason. The human reason is people such as the single dad in Missoula, MT, who depends on the extra unemployment insurance benefits to support his daughters and put food on the table. He called the Montana unemployment office, and we learned that this fellow said he honestly did not know how he was going to make ends meet without these benefits. The Senate should not be playing games with the lives of people like this man and his daughter in Missoula and all of the other men and women around the country who desperately depend on unemployment payments to make ends meet. Congress should not balance the budget on the backs of the unemployed.

Last of all, we must reject amendments like these. That is why we should pass the underlying bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, this is the third time we find ourselves debating the same rescission amendment that sounds like good policy on first blush but in fact is not.

Members need to understand that this amendment is irresponsible governing, and causes harm to our national and international security, and to our economy.

Members on the other side of the aisle have frequently criticized the majority party for asking them to vote on measures that they have not had a chance to thoroughly read or comprehend.

But that is certainly what Members are being asked to do today.

It is irresponsible to vote in support of this amendment that indiscriminately cuts $20 billion from discretionary projects and services given that we do not know what programs are impacted by such significant cuts.

On January 27 of this year I spoke at some length about an almost identical amendment offered by the junior Senator from Oklahoma, and again on March 3 about an almost identical amendment offered by the junior Senator from Kentucky. Today it is the junior Senator from Oklahoma's turn to offer the amendment again.

I would like to take just a few moments to remind my colleagues of why they voted against this amendment twice already, and why I hope they will again choose to vote against this financially irresponsible and harmful amendment.

The majority of unobligated balances are not eligible for rescission under this amendment because they are, in fact, mandatory funds.

Second, because of the small amount of unobligated funding eligible for rescission, this amendment indiscriminately rescinds prior year unobligated funding from certain critical programs, jeopardizing our national defense, and our homeland security.

I have mentioned this before, but need to mention it again because nothing has changed between January, March and today.

While we cannot say with certainty which programs are impacted by this amendment, here are some of the expected impacts based on current discretionary unobligated balances available.

We require the Department of Defense to budget up front for all the costs required to procure military equipment such as ships or aircraft. But it takes several years to complete construction.

For shipbuilding specifically, funds provided to the Department of Defense are available for obligation for 5 years.

Rescinding unobligated funds now could require the Navy to cancel contracts for ships under construction and layoff thousands of workers across our Nation's shipyards.

In terms of our veterans who have returned from war or have fought bravely in past wars, this amendment could impact the construction of new hospitals by the Veterans Administration. It takes a few years to build a hospital. The Veterans Administration requests full funding for a construction project in the first year. As a result, the VA has 43 active major construction projects at various stages of completion totaling over $1.6 billion in unobligated balances. This could be wiped out. Over 49,000 construction jobs would be terminated with the loss of that funding, further delaying critical services to our brave men and women who have served. We made a solemn promise to them.

Rescinding unobligated balances in the Department of Homeland Security could stop the construction of the Coast Guard national security cutter and would rescind funding for the purchase of explosive detection systems. Rescinding unobligated balances in NOAA could create a minimum 6-month gap in coverage for the geostationary weather satellite system which focuses directly over the United States and constantly and accurately monitors storm conditions. Over 200 employees would lose their jobs.

The Senator from Oklahoma argues that if funding is not spent immediately, then it is not necessary. This reasoning is irresponsible when it comes to overseeing taxpayers' dollars and the capitalization of large projects such as ships, hospitals, and satellites. I am certain everyone in this Chamber knows that a ship is not built in a year. I hope everyone knows that a hospital is not built and equipped in a year. I hope everyone knows that satellites are not built and launched every year.

In addition to the potential impact on large procurements, this amendment could impact the funding of programs the Congress voted on and agreed to provide only a few months ago. The impact of these cuts could have significant consequences for many critical services such as HUD programs providing affordable housing to our Nation's low-income citizens—we had a great debate on that here—or funding for climate change research or funding to purchase explosive detection equipment for airports.

This is a bad amendment with bad consequences. It is time for us, the Members of the Senate, to act responsibly. We have a well established process for funding the Federal Government. It involves the Budget Committee that sets our allocations. It involves the consideration and approval by the Senate of every appropriations bill. I can assure my colleagues in this Chamber that the Appropriations Committee takes this responsibility seriously. Every agency budget is reviewed and oversight provided throughout the year. Each year the Appropriations Committee recommends rescissions of funds that are not needed, but those rescissions are based on detailed oversight and understanding of the programs, not indiscriminate action such as this amendment.

This amendment is not based on careful review, would harm many worthwhile programs, and fails to meet the test of proper oversight.

Therefore, I urge my colleagues to oppose the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

AMENDMENT NO. 3723, AS MODIFIED

Mr. COBURN. I send to the desk a modification of the pending amendment.

The PRESIDING OFFICER. The Senator has the right to modify his amendment at this time.

The amendment is so modified.

The amendment, as modified, is as follows:

At the end of the amendment, insert the following:

SEC. ____. RESCISSION OF UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, the greater of $40,000,000,000 the amount determined necessary under the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 124 Stat. 8) to offset the budgetary effect of this Act, excluding this section, in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

Mr. COBURN. Mr. President, I am prepared for the vote anytime the chairman of the Finance Committee is ready to proceed.

Mr. BAUCUS. Mr. President, I move to table the Coburn amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from Vermont (Mr. LEAHY), and the Senator from Rhode Island (Mr. WHITEHOUSE) are necessarily absent.

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

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—51

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

NAYS—46

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

NOT VOTING—3

Byrd	Leahy	Whitehouse

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, we are not in a quorum call; is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, the Republican leader and I have discussed this vote that will take place at 5:45, if the unanimous consent request is granted, and we are going to keep the vote open for a while. There are a number of things people have to do this evening, and there is one Senator, because of the funeral of his best friend, who is going to be getting here late, so we will keep the vote open until he returns from the funeral. Everyone knows that. I have spoken to the Republican leader and he is fine with that.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 5:45 p.m. today the motion to proceed to the motion to reconsider the vote by which the Budget Act was not waived be agreed to, the motion to reconsider be agreed to, and the Senate then proceed to a vote on the Baucus motion to waive all applicable Budget Act points of order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COBELL V. SALAZAR SETTLEMENT

Mr. DORGAN. Mr. President, while we are waiting, I want to speak about two issues. First is something called the Cobell settlement, which perhaps many will not know about. It is the settlement of a class action lawsuit against the federal government for mismanaging the trust accounts of American Indians for well over a century.

The trust accounts for American Indians come from property that belonged to the Indians that the federal government holds in trust. The trust was managed by the U.S. Interior Department and many accounts over a long period of time were mismanaged. Revenue from oil wells, from extraction of minerals, and revenue from leasing lands for cattle never showed up in the accounts or mailboxes of the Indians who owned the property. Many of these Indians and members of the class action have long since passed away, not having survived the 14 years of this lawsuit. The lawsuit has been ongoing for some 14 years now, and the Federal court has become very impatient while waiting for Congressional approval.

At long last, the Interior Secretary, Secretary Salazar, negotiated an agreement to settle the Cobell suit. Friday, April 16th, is the third date which the court set for Congress to act on this settlement. We will miss this date just as we missed the first two dates. The court has just now indicated that it will approve a fourth date by which the Congress must act to approve this settlement of Indian claims. The judge has also indicated that if Congress does not act, he will invite some Members of the Congress to his court to talk about why action was not taken. That would probably be an interesting constitutional issue.

In any event, the judge in this case is very impatient and wants to see the settlement approved by Congress.

The first Americans, Indians who are owed this money and for whom the settlement was acceptable and, the Interior Secretary, who has called me many times urging approval of the settlement, are also very impatient. I hope we will not miss a fourth deadline established by the Federal court.

Republicans and Democrats in this Chamber and in the House of Representatives have an obligation. Literally, money was stolen from American Indians, from property they owned and the income from that property that was supposed to go for their assistance and living conditions because it was owned by them, and in many cases these accounts were mismanaged, and in some cases the money was stolen.

This settlement, which will be paid from the United States Judgement Fund, is fair and is long overdue. It will settle a lawsuit that has languished for about 14 years. I hope, in working with the House of Representatives, we will not miss another deadline. Perhaps if we do, the judge will ask some Members of Congress to visit with him. We will see what happens as a result of that.

Mr. President, on another matter, I ask unanimous consent to speak for 5 more minutes as in morning business.

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

BRIGADIER GENERAL MICHAEL J. WALSH

Mr. DORGAN. Mr. President, I would not criticize another Member of the Senate on the floor of the Senate—certainly not by name—unless I first had told the Senator I was intending to do so. I have done that, and I will shortly explain why.

There is a man named GEN Michael Walsh, a commander in the Corps of Engineers. He is an extraordinary general. He is a one-star general, a brigadier general, and he has been recommended for the rank of major general. That recommendation was made nearly 6 months ago.

Six months ago, the Armed Services Committee, with the support of Senator LEVIN, the chairman, and Senator JOHN MCCAIN, the ranking member, unanimously approved the promotion to major general for Michael Walsh. Six months ago that action was taken in the committee. There has been no major general rank for General Walsh because it has been held up on the Senate floor, with what is called a hold, by a Member of the Senate, Senator VITTER from Louisiana.

The fact is, this is an extraordinary general, a general who has been to war. This is a general who went to Iraq to fight for this country. This general has 30 years of distinguished service to America, a patriot. He doesn't make the policy at the Corps of Engineers. This is a commander who executes the policy at the Corps of Engineers.

My colleague, in letters to the Corps of Engineers, is upset with the Corps of Engineers and is demanding they do certain things that the Corps in some cases cannot and in other cases will not do because it is unwise. Some of the demands have been met where the Corps believed it was appropriate, although it has not been funded yet because that has to be done by the Appropriations Committee. The Corps cannot meet other demands. I opposed one of the significant ones brought to the Appropriations Committee, and upon my opposition, the full Appropriations Committee voted against it. So it is not going to happen.

But to hold up a general's rank to major general, hold up his promotion and have him now 6 months behind other generals both in pay and promotion and opportunity is just unfair. It is just not fair. This is not someone who can fix the aches and pains and ills and concerns of my colleague from Louisiana.

This is a general who is a patriot and has served this country for 30 years. I don't think he ought to be used as a pawn in some concerns about water policy or concerns about issues in New Orleans or Louisiana dealing with flood control and responding to the needs of that city and that State. As chairman of the committee that funds energy and water programs, I can tell you that we have sent billions and billions of dollars down to Louisiana and to New Orleans—I am proud to have done it—in order to say, after Hurricane Katrina and during the rebuilding, to the people of Louisiana: You are not alone, we are with you. We have spent a lot of money doing that. I am proud to have been a part of that.

But the demands that are required now by Senator VITTER in order for him to lift a hold on the move to the rank of major general for a one-star general who has served this country for 30 years and fought in Iraq, in my judgment, are unfair. We should not hold a general's promotion and career hostage to the demands of one Member of the Senate. That is exactly what has happened for 6 months.

I ask unanimous consent to have printed in the RECORD a January 13 letter from my colleague to the Corps of Engineers. It is a letter from my colleague, Senator VITTER; a March 12 letter in response to that letter by the Corps of Engineers to Senator VITTER; a March 16 letter to the Corps of Engineers from Senator VITTER; and, finally, a March 19 letter back to Senator VITTER from the Corps of Engineers.

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

U.S. SENATE,
Washington, DC, January 13, 2010.

Brigadier General MICHAEL J. WALSH,
Commander, Mississippi Valley Division, United States Army Corps of Engineers, Vicksburg, MS.

DEAR GENERAL WALSH: Here is a detailed brief of the issues I would like you to address for me to release my current nomination hold. This list was also hand delivered to you and your staff in our meeting November 5, 2009.

Issues for Resolution:

OUTFALL CANALS/PUMP TO THE RIVER

Request: Corps provide a formal commitment to complete a comprehensive risk analysis associated with the three options laid out in the Corps pumping station report within 18 months, suspend any activity unless the activity is consistent with options 2 and 2a described in the Corps report, and conduct a feasibility level of analysis (including a cost estimate) for the project.

OUACHITA LEVEES

Request: Corps performs bank stabilization or levee setbacks as needed to stabilize the flood control structures.

Cite past practice by the Corps in performing levee setbacks under FCA of 1928 and the MR&T Program, or,

Raise the issue that much of the bank caving has been caused by barge wakes, which are the result of the federal navigation channel project, or,

Use P.L. 84–99, 33 USC 701, Flood Emergencies.

AGMAC

* * *

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS,
Washington, DC, March 12, 2010.

Hon. DAVID VITTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR VITTER: This letter is in response to your letter of January 13, 2010, and follow up to meetings held on November 19, 2009 and March 2, 2010, regarding issues that you would like the Army Corps Engineers to address in order for you to release your current nomination hold on Brigadier General (P) Michael J. Walsh. We have thoroughly analyzed all nine issues. Our response to each issue raised in your January 13, 2010 letter follows below. We have made every effort to provide you the best way forward within the limits of existing law, funding and policy for each of the nine issues.

ISSUE 1: OUTFALL CANALS/PUMP TO THE RIVER

REQUEST: Corps provide a formal commitment to complete a comprehensive risk analysis associated with the three options laid out in the Corps pumping station report within 18 months, suspend any activity unless the activity is consistent with options 2 and 2a described in the Corps report, and conduct a feasibility level of analysis (including a cost estimate) for the period.

In fulfillment of the requests of the Louisiana Coastal Protection and Restoration Authority (CPRA), the Southeast Louisiana Flood Protection Authority-East, Jefferson Parish, and the Sewerage and Water Board of New Orleans, which you have supported, the Corps previously agreed to construct the permanent structures and pump stations with adaptability measures that will facilitate addition of Options 2 or 2a features should either option be authorized and funded by Congress for construction or undertaken and funded by non-Federal interests in the future. In light of the limited service life of the existing temporary pumps (estimated to expire in 2011–2013), it is vitally important for the protection of the citizens of New Orleans that a permanent pumping solution be implemented as quickly as possible, and suspension of any activity not consistent with Options 2 and 2a would create an unacceptable risk to the citizens. The Corps will conduct a supplementary risk reduction analysis as part of the detailed engineering feasibility study, including the National Environmental Policy Act (NEPA) compliance documentation, for Options 2 and 2a, if Congress appropriates funds for the study. When completed we would transmit the study to the Office of Management and Budget for consideration of submission to Congress for appropriate action. This study would provide the information necessary to allow the Congress to make an informed decision on authorization of Option 2 or 2a. As we discussed, we estimate that it will cost $15.6 million and take approximately 36 months to complete this study (including NEPA compliance).

ISSUE 2: OUACHITA RIVER LEVEES

REQUEST: Corps performs bank stabilization or levee setbacks as needed to stabilize the flood control structures.

At you urging, the Corps is using Public Law (PL) 84–99 to address bank caving associated with recent flood events. We have identified 8 to 9 discrete sites, addressing bank caving along approximately one percent of the Ouachita River and Tributaries project, where it appears that damages have occurred as a result of flood events during the period of October 2009 to January 2010. We anticipate that the cost of pursuing the repair work at these sites will cost approximately $10–$20 million.

The Corps' assessment indicates that the bank caving along the Ouachita River is not attributable to vessel wash. In addition, the bank caving is not associated with features of the Mississippi Rivers and Tributaries (MR&T) project. The authorization for the Ouachita River and Tributaries projects specifies that levee maintenance is a non-Federal responsibility. Congress has not enacted a general provision of law that would supplant this non-Federal responsibility or that would allow the Corps to correct levee damages that are not associated with flood events.

ISSUE 3: ACADIA GULF OF MEXICO ACCESS CHANNEL (AGMAC)

REQUEST: Corps work with the state (CPRA) using existing CWPPRA projects along Freshwater Bayou to develop a plan to build significant bank stabilization and spoils build-up within the 902 limit before January 1, 2010.

The AGMAC request envisions the placement of dredged material along the Freshwater Bayou and refers, directly or indirectly, to two distinct authorities: 1) the Port of Iberia navigation project authorized in Water Resources Development Act (WRDA) of 2007 at a total cost of $131,250,000; and 2) the CWPPRA authorization that provides for the creation, protection, restoration, and/or enhancement of wetlands to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations. The Port of Iberia authorization directs the Corps to "use available dredged material . . . [on] the west bank of the Freshwater Bayou to provide incidental storm surge protection . . ." This authorization would allow the Corps to place available dredged material from the Port of Iberia navigation project along the west bank of the Freshwater Bayou provided this work provides incidental storm surge protection and is within the applicable section 902 cost limitation. You are correct that CWPPRA provides independent authority to create wetlands along the Freshwater Bayou. The Corps will work with the State and others to explore use of CWPPRA authority to implement a project along the Freshwater Bayou. The CWPPRA Task Force identifies and selects which projects will be pursued under this authority. If the project is selected as a nominee, then the CWPPRA Technical Committee will consider it at an April 4, 2010 public meeting for further evaluation as a Priority Project List 20 Candidate Project.

ISSUE 4: MORGANZA TO THE GULF

REQUEST: Corps restart the lock design on the Houma Navigation Canal, provide separate authority for the Houma Navigation Lock project or the next WRDA bill, and help expedite the 404 permitting process on existing projects.

The Houma Lock is part of the Morganza to the Gulf hurricane and storm damage risk reduction project, which was authorized in WRDA 2007 at a total cost of $886,700,000. Following Hurricanes Katrina and Rita, the levee design criteria for this project changed and, as a result, the project can no longer be built for the amount envisioned by the Congressional authorization. Some design work on the Houma Lock had been completed based on the design criteria used in the original project plan, but because this criteria had changed, the Corps halted further design work on the Lock pending the redesign of the overall project plan that takes the new criteria into account. The Corps is not authorized to construct the Houma Lock as an independent, freestanding project or as a separable element of the Morganza to the Gulf project, and additional authorization will be required to construct the Morganza to the Gulf project in accordance with the new design criteria. The Post Authorization Change report required to support the request for additional authorization is scheduled to be completed by December 2012. The Corps is willing to resume design of the Houma Lock using the new criteria, but has insufficient funds to resume this effort and complete the overall project plan. The Corps will work with others to expedite the Section 404 permitting process. Additionally, enclosed, as a legislative drafting service, is draft legislation for separate authority for the Houma Navigation Lock.

ISSUE 5: WEST BANK AND VICINITY

REQUEST: Corps provide for O&M costs associated with proposed navigation project on the Algiers Canal. Corps policy states: (1) ''If the waterway users are subject to fuel taxes paid into the IWTF, there are not any non-Federal cost sharing requirements in connection with the Federal project improvements to the waterway (not for LERRD, construction, or OMRR&R)''; (2) Section 206 of the Inland Waters Revenue Act of 1978, as amended, (33 U.S.C. Section 1804) contains the listing of inland waterways subject to fuel taxes paid in to the IWTF. The Gulf Intracoastal Waterway, from St. Mark's River, Florida, to Brownsville, Texas, is included on that list; and (3) The Corps' decision to provide, in lieu of raising the Algiers Canal Levees to 100-year level of protection, works along the Algiers Canal and the construction of a navigation closure structure complex on the GIWW does not preclude this according to its internal policy associated with navigation and section 206 of the Inland Waters Revenue Act of 1978.

The Gulf Intracoastal Waterway (GIWW) closure structure across the Algiers Canal is part of the West Bank and Vicinity project. Its purpose is to provide hurricane and storm damage risk reduction. The GIWW closure structure will only be operated when needed to prevent damages from storm surge, or during maintenance exercises of the structure and pumps. When Congress authorized this project, it specified that the non-Federal Sponsor is responsible for the costs of operation and maintenance. Additional authority and funding would be required for the Corps to operate and maintain the hurricane and storm damage reduction closure structure across the Algiers canal.

ISSUE 6: NEW ORLEANS TO VENICE, JESUIT BEND 100-YEAR PROTECTION

REQUEST: Formal commitment to Local Preferred Plan (LPP), with milestone schedule, and a minimally visible closure at Oakville.

The Corps is receptive to implementing a LPP for Jesuit Bend as part of the incorporation of non-Federal levees into the Federal New Orleans to Venice project. To date, the State and Plaquemines Parish have not identified a specific LPP that they are certain they want to pursue. They have asked the Corps to assist them in the analytical effort necessary to determine the cost of the plan and whether or not it should be pursued at non-Federal expense. The State and Parish must enter into a written agreement with the Corps in which the State and Parish agree to pay for this analysis. Once the agreement is executed, the Corps will complete the analysis within four months. If the State and the Parish determine that they want to pursue a LPP, the LPP must be approved by the ASA(CW). Our offices will work expeditiously to approve an LPP when presented. The Corps plans to construct a swing gate for closure at Oakville for the West Bank and Vicinity project. This closure option was considered along with several other closure options, including a minimally visible closure option. The Corps has determined that the swing gate option was a superior closure option from a risk, reliability, and operation and maintenance standpoint.

ISSUE 7: LOWER ATCHAFALAYA BASIN BACKWATER FLOOD PROTECTION

REQUEST: Corps produce the study on the backwater flood issue, as committed in writing to Mayor Matte on Nov 2007 and Dec 2008. Because the issue pertains to the Atchafalaya River and the Floodway Basin, such a study clearly should be covered under MR&T. Furthermore, the original solution to the backwater flooding, the Avoca Island Levee Extension, was deemed to be under MR&T; so should any other solution to be studied or proposed.

The Corps has the authority to conduct a study addressing this backwater flooding issue and is working with the local representatives on scope and schedule. The study would determine if there is Federal interest and would determine if the recommended solution can be implemented within existing MR&T project authority or if additional authority would be required. The Corps is willing to pursue this study effort. However, since this study is a new activity, an appropriation is required to initiate this effort.

ISSUE 8: LOUISIANA HIGHWAY 3241

REQUEST: Corps create a significantly accelerated Environmental Impact Statement (EIS) or other timetable compared to the current timetable.

Similar EIS's typically take two to three years to complete. The Corps is working with the Louisiana Department of Transportation and Development to streamline this process and to expedite completion of the Louisiana Highway 3241 EIS. Significant progress has been made on this front and the current schedule for completing this effort already has been reduced to 18 months. The Corps will adopt other streamlining proposals provided they are acceptable under applicable law and regulation. The Corps will provide your office with monthly reports advising you of further schedule adjustments.

ISSUE 9: LOUISIANA WATER RESOURCES COUNCIL

REQUEST: Corps create and fund the Louisiana Water Resources Council, as mandated in WRDA 2007.

The Corps previously planned to establish the Louisiana Water Resources Council with appropriations specifically made available for this purpose. The Corps will now use existing appropriations. The Corps has developed a proposed draft charter that was forwarded to the State of Louisiana on February, 26, 2010, and has received initial comments that are under consideration.

We trust that it is evident the Corps and the Army have listened to you carefully and are providing the answers in this letter as our best attempt to address your concerns. We both look forward to resolving the nomination hold on a very able and deserving General Officer in the very near future.

Very truly yours,

JO-ELLEN DARCY,
Assistant Secretary of the Army (Civil Works).

R. L. VAN ANTWERP,
Lieutenant General, US Army,
Chief of Engineers.

U.S. SENATE,
Washington, DC, March 16, 2010.

Hon. JO-ELLEN DARCY,
Assistant Secretary of the Army (Civil Works), Washington, DC.

Lieutenant General ROBERT VAN ANTWERP,
Commander, U.S. Army Corps of Engineers, Washington, DC.

Re Brigadier General Walsh Issues.

DEAR SECRETARY DARCY AND LIEUTENANT GENERAL VAN ANTWERP: Thank you for our most recent meeting two weeks ago and the commitments you made, including to have the Louisiana Water Resources Council operating within four months of that meeting.

I identified a finite number of follow-up questions/requests at that meeting. Although you always underscore how time-sensitive Brigadier General Walsh's promotion is, you still have not responded to those questions/requests, including in your letter of March 12, 2010.

In one final effort to resolve this impasse, I offer the following very short list of three items, some of the details of which are different from our last discussion. Please indicate in writing if the Corps can honor all of these requests.

1. OUTFALL CAUALS/PUMP TO THE RIVER

Request: Corps conduct within 18 months a formal cost/benefit analysis, using existing Corps' authority and money, of previously cited project options 1, 2, 2a, and any other options the Corps deems advisable to consider. This cost/benefit analysis to be peer reviewed by the soon-to-be operational Louisiana Water Resources Council. The Corps clearly has the authority for this study under previous language and can find the money for it if it wants to. Regarding Lieutenant General Van Antwerp's suggestion at our last meeting that this must be a full feasibility-level analysis, the Corps was given broad authority to do post-Katrina work without full feasibility studies and in an expedited manner, and has not even performed feasibility-level analysis on Option 1.

2. AGMAC

Request:

Option A—Corps provide containment areas for the deposition of spoil material using O&M funds which should be constructed to provide embankment stabilization and reestablish the berm that historically provided storm surge attenuation benefits to Vermilion Parish. Thus, Corps O&M authority can be used to help solve the 902b cost issue. This would be directly analogous to O&M work done on the MRGO. If O&M funds are not available, the Corps/Administration would proactively request and support the appropriation of such O&M funds as are necessary.

Option B—Corps successfully obtain *final approval* at the state level of a CWPPRA program which, when combined with the Corps' WRDA authority, accomplishes the bank build-up as authorized and intended in WRDA. This will require some type of special/emergency CWPPRA meeting.

3. MORGANZA TO THE GULF

Request:

Option A—Corps restart the lock design on the Houma Navigation Canal using existing authority and move the lock forward as an independent project. In 1998, a Chiefs Report established authority to move the lock forward outside of the overall Morganza Project in response to a WRDA 1996–directed study. The Corps would either use this existing authority to move the lock forward independently or proactively support language in the next WRDA to do so. (The reason I am not pursuing Lieutenant General Van Antwerp's suggestion at our most recent meeting that we work on full project authorization language for a 2011 WRDA subject to a Chief's Report, is because the re-study of the project is not due until December 2012, and contingent authorizations for projects have only been granted up to December 31 of the year of a WRDA's passage.)

Option B—Corps outline any other way the entire Morganza to the Gulf project or a significant portion of it is authorized and moves forward under the new WRDA, assuming a new WRDA is passed in 2011. If Corps cannot do this, then you are admitting that you plan on our missing the next WRDA train yet again regarding this vital and long-suffering project, which is completely unacceptable.

These three goals can clearly be met under the Corps' significant existing authority and flexibility. If you truly want to do so but need to explore the above methods more fully before transmitting a written response, please have your staff contact Glen MacDonald of my office and Garrett Graves of the State of Louisiana. If, on the other hand, these three goals are not going to be met by the Corps, I look forward to moving on with an existing Major General for the position in question.

Sincerely,

DAVID VITTER,
U.S. Senator.

DEPARTMENT OF THE ARMY, OFFICE OF THE ASSISTANT SECRETARY, CIVIL WORKS,
Washington DC, March 19, 2010.

Hon. DAVID VITTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR VITTER: This letter is in response to your letter of March 16, 2010. On March 12, 2010, we responded to your previous letter and to questions raised in several meetings addressing nine specific issues. In your letter of March 16, you posed three follow-on questions, which are addressed below. In summary, the responses we provided on March 12, 2010 represent the best way forward within the existing law, funding and policy. The new requests in your most recent letter either require changes to law or changes to policy which, given current legal and fiscal constraints, we regretfully cannot support.

1: OUTFALL CANALS/PUMP TO THE RIVER

REQUEST: Corps conduct within 18 months a formal cost/benefit analysis using existing Corps' authority and money, of previously cited project options 1, 2, 2a, and any other options the Corps deems advisable to consider. This cost/benefit analysis to be peer reviewed by the soon-to-be operational Louisiana Water Resources Council. The Corps clearly has the authority for this study under previous language and can find the money for it if it wants to. Regarding Lieutenant General Van Antwerp's suggestion at our last meeting that this must be a full feasibility-level analysis, the Corps was given broad authority to do post-Katrina work without full feasibility studies and in an expedited manner, and has not even performed feasibility-level analysis on Option 1.

Following Hurricane Katrina, the Administration requested authorization and funding for the work referred to as Option 1 for the purpose of reducing exposure of the interior of the City of New Orleans to surge from Lake Pontchartrain. Congress authorized and funded Option 1 in the 4th Supplemental, P.L. 109–234 and the 6th Supplemental, P.L. 110–252. This construction work is being completed under a design/build contract, which incorporates ongoing planning and design while the project is being built.

Your new request is that the Corps complete a formal cost/benefit analysis of Options 1, 2, 2a, and other possible appropriate options, within 18 months. Determining whether and how the City's interior drainage facilities could be improved is a complex and extensive undertaking. As we have stated previously, the Corps is willing to proceed with such a study; however, we estimate that it will take approximately 36 months to produce a cost/benefit analysis that would provide Congress with adequate information to make an informed decision on whether to authorize construction of Option 2, 2a, or some other option.

You also suggested that we complete the study with existing appropriations. The appropriations provided by Congress were for the purpose of hurricane and storm damage risk reduction. Options 2 and 2a would address interior drainage issues without providing additional storm surge protection. The Administration's focus is on providing the storm surge protection for the City of New Orleans that Congress expected us to provide on a priority basis. It would not be appropriate to divert existing appropriations away from this high priority objective.

2: AGMAC

REQUEST:

Option A—Corps provide containment areas for the deposition of spoil material using O&M funds which should be constructed to provide embankment stabilization and reestablish the berm that historically provided storm surge attenuation benefits to Vermilion Parish. Thus, Corps O&M authority can be used to help solve the 902b cost issue. This would be directly analogous to O&M work done on the MRGO. If O&M funds are not available, the Corps/Administration would proactively request and support the appropriation of such O&M funds as are necessary.

Option B—Corps successfully obtain final approval at the state level of a CWPPRA program which, when combined with the Corps' WRDA authority, accomplishes the bank build-up as authorized and intended in WRDA. This will require some type of special/emergency CWPPRA meeting.

Your new AGMAC request envisions using Operation and Maintenance (O&M) funds to construct containment areas for the deposition of spoil materials to provide embankment stabilization and reestablishment of the berm that historically provided storm surge attenuation benefits to Vermilion Parish. You believe that this would help to solve the section 902 of WRDA 86 cost issue related to the Port of Iberia navigation project authorized in Water Resources Development Act (WRDA) of 2007 at a total cost of $131,250,000. The Corps does not have authority to use O&M funds to construct projects or separable elements of projects, nor does the Army have authority to reprogram O&M or any other Civil Works funds to initiate a previously unfunded project. This is not analogous to O&M work done on the MRGO. In that case, Congress specified that the Corps undertake certain enumerated activities with appropriations made available for O&M.

There is an established nomination process under the CWPPRA program, as outlined in the CWPRRA project standard operating procedure manual dated June 3, 2009, whereby agencies, parishes, landowners, and other individuals may confer to further develop projects. The guidelines suggest that nominated projects should be developed to support one or more ''Coast 2050'' strategies to create, restore, protect or enhance coastal wetlands. Should this project make it through the CWPPRA nomination process, the Corps, as a member of the Task Force, will support its inclusion in the CWPPRA program.

3: MORGANZA TO THE GULF

REQUEST:

Option A—Corps restart the lock design on the Houma Navigation Canal using existing authority and move the lock forward as an independent project. In 1998, a Chief's Report established authority to move the lock forward outside of the overall Morganza Project in response to a WRDA 1996-directed study. The Corps would either use this existing authority to move the lock forward independently or proactively support language in the next WRDA to do so. (The reason I am not pursuing Lieutenant General Van Antwerp's suggestion at our most recent meeting that we work on full project authorization language for a 2011 WRDA subject to a Chief's Report, is because the re-study of the project is not due until December 2012, and contingent authorization for projects have only been granted up to December 31 of the year of a WRDA's passage).

Option B—Corps outline any other way the entire Morganza to the Gulf project or a significant portion of it is authorized and moves forward under the new WRDA, assuming a new WRDA is passed in 2011. If Corps cannot do this, then you are admitting that you plan on our missing the next WRDA train yet again regarding this vital and long-suffering project, which is completely unacceptable.

The Corps does not have authority to implement the Houma Navigation Lock as an independent project. Section 425 of WRDA 1996 authorized a study of an independent lock, but did not authorize construction. Section 425 in part reads . . . ''The Secretary shall conduct a study of environmental, flood control, and navigation impacts associated with the construction of a lock structure in the Houma Navigation Canal as an independent feature of the overall damage prevention study being conducted under the Morganza, Louisiana, to the Gulf of Mexico feasibility study.'' The Corps conducted a study in response to Section 425, but that study did not recommend construction of an independent Houma Navigation Lock feature due to uncertainties of benefits and concerns over justification of an independent lock structure. As a result, a Chief's Report was not completed for the Houma Navigation Lock project.

The Army understands the importance of completing the Morganza to the Gulf project reanalysis, and will continue to look for ways to move forward as expeditiously as possible on the Post Authorization Change report required to support a request for additional authorization. As noted previously, our best estimate is this report will be completed by December 2012. You have our commitment that we will continue to seek ways to accelerate this schedule.

Very truly yours,

JO-ELLEN DARCY,
Assistant Secretary of the Army (Civil Works).

R. L. VAN ANTWERP,
Lieutenant General, US Army,
Chief of Engineers.

Mr. DORGAN. Simply, GEN Michael Walsh is someone I have known for a

long time. He is an extraordinary soldier and a patriotic American who doesn't deserve, and never deserved, to have his promotion derailed for 6 months by one Member of the Senate. That is not fair. That is using this person, this patriot, as a pawn in trying to extract from the Corps of Engineers something the Appropriations Committee has already voted against, in one case.

In other cases, it is something that the Corps of Engineers cannot legally do without authorization from Congress. We cannot do that to soldiers who have served their country. That is not fair.

I am not going to ask consent today because my colleague, Senator LEVIN, previously asked consent, and Senator COBURN from Oklahoma, on behalf of Senator VITTER, the other day objected to this promotion. But I will ask my colleague from Louisiana to stand down on this and give this soldier the respect and honor and the due that is owed him by the Congress.

The Armed Services Committee, with its chairman and ranking Republican member, unanimously decided that this good soldier should be promoted to the rank of a two-star general. That was 6 months ago. Six months later, he is a pawn on the floor of the Senate held by one person trying to extract from the Corps of Engineers some things that the Corps cannot possibly do, and some things that are not wise to do, and I would not support in any event.

As I said when I started, I would not come to the floor of the Senate and criticize a colleague without first informing him of that criticism. I did that. I don't take any measure of satisfaction in criticizing a colleague. But I will tell you this: What happened to this general is just flat wrong. There is no way for anybody in this Congress to justify holding this general hostage for 6 months in his promotion to major general.

I ask my colleague from Louisiana to end this hold, to give this soldier his due. This soldier has earned his second star, and 6 months ago this Congress should have voted in response to the unanimous vote by the Armed Services Committee to give this soldier his second star. I hope that soon my colleague will delete that hold so my colleague from Michigan can seek unanimous consent to do right by GEN Michael Walsh.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, my colleague wishes to offer an amendment. I want to make sure there is time available to him.

Mr. COBURN. I am only going to take 5 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3726 TO AMENDMENT NO. 3721

(Purpose: To pay for the full cost of extending additional unemployment insurance and other Federal programs)

Mr. COBURN. Mr. President, I thank my colleague for giving me a short time to deal with these two amendments. I have an amendment at the desk that I call up.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3726 to amendment No. 3721.

Mr. COBURN. 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.'')

AMENDMENT NO. 3727 TO AMENDMENT NO. 3721

(Purpose: To pay for the full cost of extending additional unemployment insurance and other Federal programs)

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be set aside and my next amendment be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 3727 to amendment No. 3721.

Mr. COBURN. 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. COBURN. Mr. President, I yield the floor to my colleague from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I again ask unanimous consent to speak as in morning business for 5 minutes.

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

THE INTERNET

Mr. DORGAN. Mr. President, we just completed a hearing moments ago in the Senate Commerce Committee on something that has received some headlines recently, although in the scheme of things, it is not ranking with health care or energy or education reform. It is the issue of a circuit court decision a week ago in the Comcast case dealing with the Federal Communications Commission and its ability or inability to be a referee with respect to the free market system and the Internet.

The Internet is an extraordinary innovation in our lives. We tend to take it for granted, I suppose, because it is so normal for all of us every day to use the Internet, whether it is a wireless device or a laptop computer, or whatever. We use the Internet in so many different ways.

The question is: What is the regulatory approach to the Internet? We know what we have done for telephones over the many years, the many decades of regulatory capability. What is it for the Internet?

What we have always had for the Internet from its origin is what is called a free and open Internet, the open architecture. Anybody can get on the Internet with their Web site, and anybody from the rest of the world who has broadband capability or Internet capability can access that site.

A man named Larry and a man named Sergey in a dorm room in California conceived of something which 10 years later we know as Google. What if somebody had said to Larry and Sergey: You know what, you are in a dorm room, you are not much of a business; you only have two employees. We want to charge you for being able to get on our system so others can see you. There would not have been Google, would there?

Free and open architecture of the Internet means anybody, anyplace, any time can access anything. I told a story in the Commerce Committee about going to the home I grew up in in a town of slightly less than 300 people. I had not been back to my boyhood home since I was a teenager. I knocked on the door in my hometown and asked the woman if I could see the home I grew up in. She said: Of course.

In the shed where you walk in first, there was cardboard and tape. And in the kitchen just off the shed, the woman had a camera and a little arm that stuck out of a little appendage she had by the kitchen counter. She was taking a picture of a bracelet that was hanging from this arm. I said: What are you photographing?

She said: I am photographing a bracelet because I sell jewelry on the Internet.

From a town of 250 or 300 people in my little two-bedroom white house in that small town, this woman has an Internet business. Her Web site can be accessed by anybody in the world. She is not a big business person. She makes some money. It could not have happened years ago but can happen now in that small town. It can happen in any town. Anybody around the world can access her Web site. But what if somebody said: We are going to decide which Web sites are going to get on our system. That is a gatekeeper, a provider

that is deciding we are going to pick winners and losers.

We do not do that. We let the marketplace pick winners and losers on the Internet. That is why the Internet grew. Its origin and growth was under something called a nondiscrimination rule. You cannot discriminate. Just like telephone service, you cannot discriminate.

The FCC, under former Chairman Powell, moved the Internet from a telephone service to an information service, and that is what the lawsuit was about. Comcast brought a lawsuit and said under Title I of the Communications Act, as an information service, the FCC does not have the authority with respect to Internet freedom as I call it, to impose net neutrality rules. The circuit court said the FCC does not have that authority under Title I. That gets very technical and very legal.

The question is: What does the FCC do now? The question is what should we aspire to achieve for the Internet in the long term? Some say hands off, let's have what is called in the hearing today a light touch. I said: I am not interested in a light touch; I am interested in the right touch by regulators. I have just seen a decade in which regulators at the SEC and the CFTC and others who engaged in financial regulations said: We are engaged in light touch. In fact, we are engaged in no touch. We will be blind for 8 years. We will not even look. We are regulators, but we intend to get paid. We do not even care what you do. That is the ultimate light touch, but I have had a bellyful of that. I want regulators to regulate effectively to make sure the market remains open and free and fair. That is the job of a regulator. That is the job of the FCC.

We are going to have a big debate about this in the Congress. But first and foremost, I hope the Federal Communications Commission takes action under its own authority because it has plenty of authority to respond to this decision. It has authority under Title II of the Communications Act, and it has other authorities it can use. I encourage it to proceed. I hope that is the case.

Second, Senator SNOWE and I and others on a bipartisan basis will continue to press the Congress to enact net neutrality, what I call Internet freedom, legislation, because if the FCC does not do it, let's make sure we do it in law.

This is a very important issue. The issue of the Internet and the question of who controls the Internet, if anybody, is very important.

At town meetings when somebody says, The Federal Government cannot do anything right, I say there are a number of things it cannot do right, but answer the question, Who invented the Internet? Who created the Internet? The Federal Government did that. It started here. It is a wonderful innovation that has changed our lives in so many wonderful ways. I just described one with the woman living in my former boyhood home. It changed her life. But that is multiplied a billion times around this world.

We need to make certain the Internet remains open and free. The free market system is the best system I know with which to allocate goods and services. I know none better. But I also understand that the free market system needs referees to make sure it remains free and open, to call the fouls, to wear the striped shirt with the whistle and call the fouls when necessary. It did not happen in the financial area. It did not happen at all. When people traded things that did not exist, buying things from people who did not have them, making money on both sides, all of a sudden there should have been regulators saying: Wait, this is gambling. You can't do that. You are putting the American people at risk. On the telecommunications side, we need effective regulatory capability, not to stifle or injure the free market but to protect it.

This is a very important issue in the wake of the circuit court decision. I believe Chairman Genachowski has the capability and authority to move forward in the Federal Communications Commission to do the right thing, and I encourage him to do that.

I know as well going forward that legislation, perhaps not this year but legislation in future Congresses will reaffirm the opportunity for the FCC to protect and nurture a free and open architecture of the Internet. I believe it is critically important.

Mr. BAUCUS. Mr. President, before the Senator yields, in the form of a question, I deeply appreciate the Senator's statement. He is on the right track. I believe the Internet should be free and open, too. I was stunned by the circuit court decision.

I ask the Senator if he could tell us how he thinks the FCC can remedy the situation now without legislation, and if the FCC cannot, we need legislation. But I am asking for the Senator's view again. He already stated it once. Maybe he can expand on it further.

Mr. DORGAN. Mr. President, I thank the Senator from Montana. Let me state the reason for the urgency. I described it today, but it has been said in other venues. Mr. Whitacre from AT&T most famously said it: These are my pipes. I want Google to pay for the use of my pipes. That was a famous statement by Mr. Whitacre. Yes, those pipes belong to the providers, but there is a requirement there be a nondiscrimination approach to the use of those pipes. We do not want providers to set up tollbooths or gates to say: OK, you are a big site out there. We are going to charge you to use this. Maybe that person cannot pay the charge. The billions of people who would access that site now will not have access because there is a gatekeeper who said: We are only going to allow these folks to be on our site. That is the point of it.

There is, it seems to me, a potential problem that could not have existed previously when the nondiscrimination rules existed. But now that the nondiscrimination rules were obliterated, we need to restore them.

The Senator from Montana asked the question how can the Federal Communications Commission do this. I believe there are general powers in the Federal Communications Commission Act, and I believe the Commission itself has general powers that will allow it to act in a manner that the court would view to be in compliance with the law.

The FCC is not interested in doing something that it does not have the legal authority to do. I believe they have the capability. They certainly have the capability to determine that the Internet is regulated under Title II in which they would have the capability to enforce the nondiscrimination rule.

Again, this is not going to be one of those headline issues, but nonetheless it is a very important issue and one we need to get right. The last time we had a discussion about this issue in the Commerce Committee, it was a very contentious discussion. Senator SNOWE and I offered an amendment that lost on an 11-to-11 tie. This is not an easy issue. There are a lot of people who feel strongly on both sides, but I come down on the side of saying the way the Internet was conceived and the way it grew and the way it flourished was with nondiscrimination rules that say anybody—it is the ultimate democracy—anybody anywhere can set up a site and anyone in the world can access that site. That is the genius of this great innovation in our lives.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, the Senate just rejected the previous Coburn amendment by a vote of 51 to 46. The Senate, I might say, rejected an attempt by the Senator from Oklahoma to give the Director of the Office of Management and Budget sweeping powers to cut unobligated balances by billions of dollars.

The Senator from Hawaii, Mr. INOUYE, chairman of the Appropriations Committee, explained why that would be unwise. Essentially, there are many contracts which take more than 1 year to be fulfilled—building ships, for example, aircraft carriers, and so on. It takes a good number of years to build them, and it would make no sense to rescind all those unobligated balances.

The Senator from Oklahoma has two more amendments. One in particular is virtually the same amendment. It gives the Director of OMB powers to cut unobligated balances by billions of dollars, so the arguments of the Senator

from Hawaii would apply there as well. So the same reasons given for opposing the Coburn amendment just a short while ago—and the one that was defeated—should be the same reasons that would apply with respect to this next Coburn amendment that we will be voting on in the not-too-distant future.

The Senator from Oklahoma has another amendment which would reverse decisions of the Congress through the appropriations process, and it also would, I might say, affect some tax provisions that would be inappropriate if we were to pass them now.

I would remind my colleagues if the Coburn amendment were to be adopted, there is another problem with it; that is, the delay of the extension of unemployment benefits. Because if it were to pass, it would have to go over to the House, and I am not quite sure how quickly the House would accept the Coburn amendment. They have said many times they would not accept it; that they would send it back, probably as is, without the pay-fors on the extension of unemployment benefits. So we would just be delaying unemployment benefits to people who were cut off a few days ago because of the failure of Congress to act on the extension.

So I would suggest to my colleagues that the other two amendments the Senator from Oklahoma has offered are very similar to the first amendment he offered. The Senate defeated that first amendment by a vote of 51 to 46, and I suggest that these other two amendments be defeated when they are brought up because then we can give needed unemployment benefits to people who need it during this time of recession.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, not to belabor the point, but at a hearing I held in the Finance Committee this morning, we heard from Mark Zandi, who is the chief economist and cofounder of Moody's Analytics, and he was talking about unemployment benefits.

In fact, part of the hearing was to determine ways to improve the efficiency and effectiveness of unemployment benefits. Actually, the panel came up with a lot of very interesting ideas. Different States are, frankly, using the unemployment program to help create jobs as well as make payments.

Anyway, at this hearing, Mr. Zandi volunteered, frankly, that now is not the time for extension of unemployment benefits to be paid for. He said that is self-defeating. It is unproductive. He said, now that we are in a recession, frankly, unemployment compensation benefits should not be paid for.

Who is Mark Zandi? Mark Zandi is a moderate economist, very well respected by Senators on both sides of the aisle. He also was the adviser for Presidential candidate JOHN MCCAIN—Mark Zandi was. The point is, clearly, he is not a liberal, leftwing economist. I don't know even now if he is a moderate economist. But whatever he is—moderate, leftwing or liberal—he is an economist, and he has worked for Presidential candidate JOHN MCCAIN. He volunteered today on the record at the Finance Committee hearing that it would not be wise to pay for unemployment benefits at this time because that would be self-defeating.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I have at the desk two cloture motions.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Baucus substitute amendment No. 3721 to H.R. 4851, a bill to provide a temporary extension of certain programs, and for other purposes.

John D. Rockefeller, IV, Benjamin L. Cardin, Jeanne Shaheen, Al Franken, Daniel K. Akaka, Kent Conrad, Sheldon Whitehouse, Patty Murray, Tom Udall, Bernard Sanders, Richard J. Durbin, Ron Wyden, Robert P. Casey, Jr., Edward E. Kaufman, Patrick J. Leahy, Mark L. Pryor, Byron L. Dorgan.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the second motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 4851, a bill to provide a temporary extension of certain programs, and for other purposes.

John D. Rockefeller, IV, Benjamin L. Cardin, Jeanne Shaheen, Al Franken, Daniel K. Akaka, Kent Conrad, Sheldon Whitehouse, Patty Murray, Tom Udall, Bernard Sanders, Richard J. Durbin, Ron Wyden, Robert P. Casey, Jr., Edward E. Kaufman, Patrick J. Leahy, Mark L. Pryor, Byron L. Dorgan.

The PRESIDING OFFICER. Under the previous order, the motion to proceed to the motion to reconsider the vote by which the Budget Act was not waived was agreed to, and the motion to reconsider was agreed to. The question on reconsideration is on the Baucus motion to waive all applicable budget discipline for the consideration of amendment No. 3721, as modified, and the underlying bill.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—60

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

NAYS—40

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). On this vote the yeas are 60, the nays are 40. Upon reconsideration, three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The motion to waive the point of order made pursuant to section 4(g) of the Pay-As-You-Go Act having been reconsidered and agreed to, the Chair's previous action sustaining the point of order is annulled and the language previously stricken by the Chair is now restored to the amendment.

Mr. CASEY. Mr. President, I ask unanimous consent that the mandatory quorums, as required under rule XXII, be waived.

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

VOTE EXPLANATION

Mr. MENENDEZ. Mr. President, due to an official event in New Jersey, I was necessarily absent for rollcall vote No. 109. Had I been present, I would have voted ''yea'' on the motion to invoke cloture on the motion to proceed to H.R. 4851, the Continuing Extension Act of 2010.

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

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

HONORING BILL GEORGE

Mr. CASEY. Mr. President, I rise tonight for a very specific purpose. It is to speak about a person I have known a long time—25 years or more—who is currently the President of the Pennsylvania State AFL/CIO, a great labor leader in the Commonwealth of Pennsylvania. I will submit a longer statement for the RECORD due to the late hour, but I did wish to say a few words about him. His name is Bill George, and anyone who knows anything about organized labor in Pennsylvania, anyone who knows anything about the topic of battling on behalf of working men and women, knows the name Bill George. He has been the President of our State AFL/CIO since 1990, 20 years in that position. Prior to that, he was a great leader with the United Steelworkers of America and someone I came to know long before I was a candidate for public office, and certainly in the 15 years or so that I have been either a candidate or a public official he has been a source of great inspiration and a great friend.

Even beyond the work he has done for candidates and for causes, this is someone who understood, at a very young age, what it means to battle—to fight the battles for working men and women, to work together with people to collectively bargain for wages and benefits, making sure that working men and women have a voice, and someone who understood what an election means. At the end of the process of conducting an election, you elect someone to public office—or a group of candidates—and their votes and their actions have an impact on working men and women. Bill George has always understood that. He has always understood that those in our society who do not have a voice need people like him to stand and fight battles.

I know the Presiding Officer is well aware that organized labor—and I think Bill George has been a great example of this—often has been battling the hardest on issues from which they do not necessarily benefit directly. The case in point, the minimum wage. We know that those who are represented by unions in almost every circumstance have a pretty solid wage compared to those who may be making a minimum wage or less. We know organized labor, thankfully over many generations now, has been able to bargain collectively for health care benefits. But even despite that, they have battled for those who do not have health insurance. Bill George has been one of the leaders in Pennsylvania for 20 years, making sure the voice of working men and women have been heard but also making sure the poor had a voice, the vulnerable, the forgotten, the people who have been left out. To use a line from Scriptures, ''The least, the last and the lost'' have been beneficiaries of his great voice and his strength of personality, his commitment to fighting for justice and especially fighting for economic and social justice.

Tonight, as we are here in Washington and voting, there is a huge crowd of Pennsylvanians at the David L. Lawrence Convention Center, a convention center named in honor of one of our greater Governors, a native of Pittsburgh. The AFL/CIO tonight is paying tribute to Bill George and also Dan Rooney, the great owner of the six-time Super Bowl Pittsburgh Stealers and now the Ambassador to Ireland. So I wish to compliment both Dan Rooney and Bill George on their award tonight at the AFL/CIO dinner in Pittsburgh.

But in a very particular way, I wish to commend and salute the work Bill George has done over so many years in our Commonwealth of Pennsylvania, culminating in the last 20 years as President of the Pennsylvania AFL/CIO. Congratulations to Bill George. I know he will stay active in Pennsylvania and beyond, but we want to commend him especially tonight.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. UDALL of Colorado. Mr. President, I listened intently to the Presiding Officer's remarks just before I took the floor, and I, too, wanted to add my congratulations to Bill George and associate myself with his remarks.

I was particularly moved by the comments the Senator made about often organized labor in this country works on behalf of all Americans, all working Americans, and organized labor often does not receive acknowledgment. Sometimes it receives absolutely the opposite, slings and arrows that are often sent toward organized labor.

There is much that organized labor has done over the years that we take for granted in the workplace, everything from workplace safety to pension protection to the 40-hour workweek. Children do not work in our factories anymore because of what organized labor did for many decades.

So, again, that was very moving for me to hear. I salute Mr. George. I also took note of the mention of the six-time world champion Pittsburgh Steelers. In my State we have a two-time world champion football team, the Denver Broncos. It always seemed, though, we had to go through Pittsburgh. Often we fell short, but on two occasions we were able to make it to the Super Bowl itself. We also had to pass the test that the Steelers presented.

(The remarks of Mr. UDALL of Colorado pertaining to the introduction of S. 3201 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

HONORING OUR ARMED FORCES

SERGEANT SEAN DURKIN

Mr. UDALL of Colorado. I want to close and take advantage of another minute or two to speak on a separate note but a related note.

I wish to talk about Sean Durkin. He was a soldier from Fort Carson whom we just lost from wounds that he suffered in Afghanistan in a roadside bomb attack. Those are the most casualty-ridden attacks that our forces have faced over and over, not only in Afghanistan but in Iraq.

Last week, Army SGT Sean Durkin died at Walter Reed because of his wounds. He had been one of three Fort Carson soldiers who were presented a Purple Heart from President Obama when he visited Kabul and went to the military hospital when he was there.

On his Facebook page, he included a quotation from an unnamed marine. This quotation said:

> This is my charge to you. Tell everyone of the heroism of the soldiers who lost their lives and of the soldiers who are fighting to recover what they have lost.

I wanted to tell everyone here, everyone listening, everyone watching of Sergeant Durkin's heroism and ask that we keep in our prayers and our thoughts all of our service men and women and their families as they serve us all over the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

MORNING BUSINESS

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

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

SEXUAL ASSAULT AWARENESS MONTH

Mr. REID. Mr. President, I rise today in recognition of Sexual Assault Awareness Month. During the month of April, I urge my colleagues and Americans around the country to reflect on the effects of sexual assault and domestic violence in their communities and to join me in making a commitment to end this stain on our society. In conjunction with Sexual Assault Awareness Month, our country will observe

National Crime Victims' Rights Week on April 18–24, 2010. This year's theme, Crime Victim's Rights: Fairness, Dignity, and Respect, is a reminder of the progress our country has made as well as the work that still must be accomplished.

As a former U.S. Capitol Police Officer, I understand the effects violent crime can have on a family and community. I recognize the significant role government and other supporting agencies must play in assisting victims of sexual assault and preventing violence. We must never forget that sexual assault is a violent crime with devastating implications.

One in six women and one in thirty-three men reported experiencing rape or attempted rape in the United States. In 2008, an estimated 222,000 rapes or sexual assaults on individuals age 12 and older were reported. One in four women will experience domestic violence from a partner in their lifetime. Each year, an estimated 1.3 million women are victims of physical assault by an intimate partner. These numbers, while terrible, grossly underestimate the problem. Many cases of sexual assault and domestic violence are not reported because victims are afraid to tell the police, their family, or their friends about the abuse.

Such violence affects not only the victims of abuse, but their families, communities, and, most unfortunately, their children. Women, men, and children throughout our country suffer the long-lasting effects of sexual assault and domestic violence through the emotional and physical scars they carry each day.

It is clear we must do more to prevent these crimes and help those who are victimized. I have long supported efforts to recognize, prevent, and combat violent crimes committed against women and children, and I am always seeking to improve Federal laws and programs regarding this issue. In 1990, I was a cosponsor of the original Violence Against Women Act, VAWA, proposal, and I supported passage of the bill when it became law in 1994. Additionally, I support the Family Violence Prevention and Services Act, FVPSA, and I am pushing for greater funding for FVPSA programs and grants.

Countless organizations throughout our country are helping victims of abuse every day, thanks in part to VAWA and FVPSA. It is essential to recognize the organizations committed to providing victims of abuse the assistance they need to overcome the trauma of violence. Please join me in commending the dedicated efforts of the individuals who work tirelessly to stop violence in our communities.

TRIBUTE TO MARK LEET

Mr. MCCONNELL. Mr. President, I rise to honor Mr. Mark Leet of Flemingsburg, KY, for recently receiving the middle school Teacher of the Year award presented by the Veterans of Foreign Wars of the United States, VFW. Mr. Leet was recognized by the VFW for his dedication to educating students about the importance of citizenship and patriotism.

Today, I wish to honor Mr. Leet's dedication to the children of the Commonwealth and congratulate him on this well deserved award.

TRIBUTE TO JESSICA K. VAUGHAN

Mr. MCCONNELL. Mr. President, I rise to congratulate Miss Jessica K. Vaughan of Bowling Green, KY. Miss Vaughan was recently selected by the Veterans of Foreign Wars of the United States to receive the Patriot's Pen scholarship award. This scholarship program is a youth essay contest that gives middle school students from across the Nation the opportunity to articulate their views on democracy.

Miss Vaughan, an eighth grade student, was selected to receive this award based on her essay entitled ''Does Patriotism Still Matter?'' I wish to congratulate Miss Vaughan on her hard work, perseverance and dedication.

TRIBUTE TO MISS SOPHIA BROWN

Mr. MCCONNELL. Mr. President, today I rise to honor Miss Sophia Brown of Louisville, KY. Miss Brown was recently selected by the Veterans of Foreign Wars of the United States to receive the National Voice of Democracy scholarship. This scholarship competition gives high school students from across the Nation the opportunity to write and then record a broadcast based on a selected theme.

I am particularly proud since Miss Brown is a sophomore at my alma mater, duPont Manual High School. She was awarded the scholarship based on her broadcast pertaining to American heroes. I wish to congratulate Miss Brown on her hard work, perseverance and dedication.

TRICARE DEPENDENT COVERAGE EXTENSION ACT

Ms. MIKULSKI. Mr. President, I rise to speak in favor of the TRICARE Dependent Coverage Extension Act.

Last month, President Obama signed the health care reform bill into law. It was a historic day. For the first time in American history we committed to ending the abuses of the insurance industry. We committed to covering every single American. It extends the solvency of Medicare for nearly a decade. It ends the punitive practices of insurance companies that deny coverage based on gender, age, or race. It expands universal coverage to 32 million Americans who have been without insurance. And we pay for it with an emphasis on wellness and quality. We say goodbye to quantity medicine by emphasizing quality medicine. It was a very big deal. But there is more to do.

I voted for health care reform because I listened to the people of Maryland at diners and in the grocery store, at roundtables, tele-town halls, in hearings, and in letters and emails. Time and again I heard, ''Save my Medicare.'' I heard, ''Don't take my mammograms away.'' I heard, ''They turned me down for health insurance because I had a C-Section.'' I voted for health care reform because I listened to the stories of the people. I know that the best ideas come from the people.

Over the recess I heard from another group in Maryland. I met with my wonderful Veterans Advisory Board. They represent Vets from World War Two to Desert Storm. They are my eyes and ears in the veterans' community. One of my board asked me a question. He said, ''We think health care reform is great but we think there is a problem.'' The part of the health care bill that extends parents' health insurance to kids age 26 and younger left out military families. I promised him that if there was a problem, that I would fix it! Wow was he right. Military families in the TRICARE system were left out.

TRICARE is a critical benefit for our military and their families. It covers active duty military, retired military, Coast Guard, National Guard and Reservist in a certain status, and the uniform corps of the Public Health Service and the National Oceanographic and Atmospheric Administration. They were all left out. That is why I am here today—to right this wrong.

I am proud to join Senator UDALL and my colleagues in introducing the TRICARE Dependent Coverage Extension Act. This bill says that if military children can't get insurance through an employer that their parents can keep them on their TRICARE insurance until they reach age of 26. This is the right thing to do. If the kids of a hedge fund manager can stay on their parents' health care until they are 26, then kids in military families should be able to be covered to age 26 too.

I am so proud of the men and women of our military. I stand here today saluting them for their honor, courage, and commitment to our country. Make no mistake. I have my marching orders. I commit to making this right for them. I will fight to see this bill signed into law. Because promises made must be promises kept.

RECOGNIZING THE PETER M. GOODRICH MEMORIAL FOUNDATION

Mr. LEAHY. Mr. President, it is a great pleasure to call the Senate's attention to the inspiring work of Donald and Sarah ''Sally'' Goodrich of Bennington, VT, through their efforts to turn their own devastating personal tragedy into new opportunity and hope for children and families a world away in Afghanistan.

Confronted by the death of their son Peter aboard the flight that struck the south tower of the World Trade Center on September 11, 2001, Don and Sally

Goodrich channeled their grief and energy into a foundation established in his memory—a foundation with a unique and uplifting purpose.

The Peter M. Goodrich Foundation provides food, clean water, shelter and educational opportunities to Afghan children facing extreme hardship, dismal circumstances and little hope for the future. The foundation's mission is far broader than offering basic humanitarian services to a country torn by conflict; its work recognizes the untapped potential of a generation of Afghan children, helping them to rise above hate and to embrace values based on understanding, tolerance and respect.

With this vision and this goal, the Goodrich Foundation supports exchange programs that bring Afghan students to the United States and vocational programs that allow them to put their knowledge and skills to use upon their return to Afghanistan. The foundation also promotes the work of The Afghan Women's Writing Project, which helps Afghan women to be heard in their own right rather than solely through their male relatives. These are just a few examples of the tremendous amount of good the foundation has achieved in less than a decade. We can all be grateful to Sally and Don for opening their hearts, amid their personal grief, and lighting an enduring flame of hope after one of our Nation's darkest hours.

ADDITIONAL STATEMENTS

TRIBUTE TO WALTER J. BISHOP

• Mrs. BOXER. Mr. President, I am pleased to pay tribute to Walter ''Wally'' Bishop, general manager of the Contra Costa Water District—CCWD—as he retires after 18 years of dedicated service.

A native of Washington DC, Mr. Bishop started his career in 1973 as an engineer for the Washington Suburban Sanitary Commission. Upon arriving in California, he went to work as an engineer for the Ventura Regional County Sanitation District in 1975 before moving to northern California, where he worked for the East Bay Municipal Utility District from 1983 to 1992.

The CCWD serves over 550,000 people in Central and Eastern Contra Costa County and carries a large influence on the direction of California water policy, given its location on the Delta's edge. Starting as CCWD's general manager in 1992, Mr. Bishop continually advocated for a customer-first, entrepreneurial approach throughout the district. Under his leadership, CCWD's Los Vaqueros Reservoir Project was permitted, designed, and completed. It was the first major reservoir to be permitted and constructed in more than a decade.

A well-known leader in both State and national water issues, Mr. Bishop has been recognized by numerous organizations for his commitment to water issues and policy. He was recently awarded the Edward J. Cleary Award from the American Academy of Environmental Engineers for his leadership in environmental engineering and management. He has also been a two-term member of the National Drinking Water Advisory Council, which advises the Environmental Protection Agency Administrator on everything that EPA does relating to drinking water.

I commend Mr. Bishop for his 18 years of dedicated service to the CCWD. Along with his friends and colleagues throughout Contra Costa County and the San Francisco Bay Area, I thank him for his efforts and wish him the best as he embarks on the next phase of his life.•

RECOGNIZING THE ASSOCIATED: JEWISH COMMUNITY FEDERATION OF BALTIMORE

• Mr. CARDIN. Mr. President, I would like to take this opportunity to honor The Associated: Jewish Community Federation of Baltimore on its 90th anniversary. The Greater Baltimore Area is comprised of more than 90,000 Jews, many of whom rely on The Associated to provide support and resources to a vibrant Jewish community in the region. The Associated was officially formed in 1920 by the merger of two community organizations, the Federated Jewish Charities with the United Hebrew Charities. The Associated and its agencies have worked hard to better the lives of Jewish Baltimoreans for almost a century.

The talents, commitment, and compassion of Baltimore's Jewish community activists, philanthropists, volunteers, and professionals have created and sustained The Associated. From Harry Greenstein to Marc Terrill, from Jacob Epstein to Jimmy Berg, men and women have provided their experience and expertise to help turn the organization into one of the most powerful and cohesive Jewish federations in the country today.

Through its Jewish Community Services program, The Associated helps support and serve the needs of the entire Baltimore Jewish community. It provides a wide array of counseling programs to help with substance abuse, relationship problems, depression, and grief. Its social workers also offer outstanding support for parents, caregivers, job seekers, teenagers, and senior citizens. All of these programs and initiatives have been vital in helping many Jewish individuals and families improve both their economic and mental health situations while still maintaining a positive connection to the Jewish community.

The Assocaited's international outreach also has been just as profound and important as its local impact. Since the early years of the federation, it has played an active role in the relocation of Jews to Baltimore. It helped more than 3,000 German Jews flee the Nazi regime and settle in the Baltimore area and has provided support for both Iranian Jews and Russian Jews to resettle in Baltimore in recent years as well.

The federation has also played an integral part in strengthening the bond between Baltimore and Israel through its new sister city partnership with the Israeli city, Ashkelon. This relationship has already spurred initiatives that will help educate Jewish leaders in both communities on economic and leadership development. A different partnership with the Ukrainian city of Odessa complements the one with Ashkelon by promoting cross-cultural exchange and education as well.

In honor of its 90th anniversary, the federation is doing what it does best: helping people. The Associated has called on its community to log 90,000 volunteer hours together—1,000 hours for every year of existence. This is just one more act of generosity among countless others The Associated has sponsored throughout the years.

I ask my colleagues to join me in recognizing The Associated: Jewish Community Federation of Baltimore for its continued commitment to tikkun olam—repair of the world—and gemilut chasadim—acts of loving-kindness—as well as all the work it has done to better the lives of Baltimore Jews throughout the past 90 years.•

REMEMBERING CLIFFORD HARDIN

• Mr. JOHANNS. Mr. President, I wish to pay tribute to a great Nebraskan and great American. Last week, we lost a visionary figure who, through years of service, made lasting contributions to our society: former University of Nebraska chancellor and later U.S. Secretary of Agriculture Clifford Hardin.

I was deeply saddened to hear of the passing of Cliff Hardin. His lifetime of service both in government and academia provides a shining example of the impact one person can have.

As chancellor of the University of Nebraska, Cliff was the steady hand that guided the University through a turbulent era. He was appointed to the position in 1954 at the age of 38—the youngest university president in the country at the time. His tenure at Nebraska lasted 15 years.

In reading the many tributes to Cliff over the last week, I was touched by one particular story that showed his true colors. Upon learning that a rival university had plans to place Nebraska's Black football players in one hotel and the White players in a separate hotel, he refused to let the team even board the plane to go to the game. It wasn't long until the other school changed course and offered the same accommodations for all players.

As Secretary of Agriculture, Cliff was a results-oriented advocate for farmers and ranchers in my home State of Nebraska and across the country. He put a premium on bipartisanship, and his

distinguished record of accomplishments set a wonderful example for me during my time as Secretary of Agriculture. As Congress works this year to reauthorize child nutrition programs, his impact is still felt. It was then-Secretary Hardin who established the Food and Nutrition Service within the Department of Agriculture to administer nutrition programs.

I extend my deepest condolences to the entire Hardin family. Cliff leaves behind a legacy of service and leadership. He will be missed but not forgotten.●

TRIBUTE TO DR. RICHARD J. PAPPAS

● Mr. LEVIN. Mr. President, I am proud to recognize Dr. Richard J. Pappas, who assumed the presidency of Davenport University in August 2009 and was formally installed in this role on March 31, 2010. This investiture ceremony was surely a significant milestone for Dr. Pappas and his family, and is the result of many years of dedication and hard work. Indeed, Dr. Pappas is poised to lead this fine institution to new heights as he builds on Davenport University's proud tradition.

With 14 campuses located across Michigan and an enrollment of more than 12,000 students, Davenport University is an important part of the educational landscape of Michigan. With his ''Vision 2015,'' Dr. Pappas has embarked on an effort to reshape and sharpen the focus of the university. Vision 2015 emphasizes academic programming, market position, and financial strength, three aspects critical to the success of a college or university. This is a comprehensive plan, one that will position Davenport University for success for many years.

Throughout his career, Dr. Pappas has proven to be a talented administrator and leader in the field of higher education. Before assuming the presidency of Davenport University, Dr. Pappas served as president of three other institutions: National-Louis University, Lake Michigan College, and Harford Community College. With Dr. Pappas at the helm, Davenport University will benefit from a leader that brings more than three decades of experience in higher education to this position, including 20 years as the head of an institution of higher education. This broad knowledge of the needs of students at both 4-year and 2-year institutions will be especially helpful.

In addition to leading two institutions in Michigan, I am proud to say that Dr. Pappas is a native Michiganian. After growing up in Michigan, he earned his undergraduate degree from Eastern Michigan University and his master's and doctoral degrees from the University of Michigan. He is committed to civic and community endeavors, which is evidenced by his years of involvement in charitable organizations and civic boards. As a result of his many efforts, Dr. Pappas has received several prestigious awards over the years, including the University of Michigan's Norman C. Harris Alumni Award and the National Council for Marketing and Public Relations Pacesetter Award. And above all, Dr. Pappas is a family man and is buoyed by his wife, Pam, and his three children.

Again, I am privileged to have an opportunity to honor Dr. Pappas as he embarks on a wonderful journey. There is no more noble cause than educating our next generation of leaders. His imprint on the lives of these young people will be tremendous, and I know he is well-suited and eager to undertake this challenge. I look forward to hearing about Davenport University's many successes in the years ahead.●

REMEMBERING BRANNON WOODHAM

● Mr. SESSIONS. Mr. President, Brannon Woodham was one of the finest people I have ever known. He combined a deep and mature Christian faith, a love of family that constantly showed itself in his conversations and actions, a rich appreciation of the exceptional nature of his country which he had faithfully served for so many years, and a loyalty to his friends and church.

We were in the same Sunday School class for over 30 years. Ever positive and welcoming, he was one of the constants—a rock really—that set the class's tone and direction. This fellowship and spiritual journey meant much to him and enriched his classmates.

That on this day Brannon would want no pomp and circumstance, there can be no doubt. But, if it were done, he would say better it be done quickly, and, importantly, honestly because he was indeed an honest man. In fact, I think he would want me to express his love to all of you and to note—what we already know—that if his honesty had offended anyone, he would ask pardon, shaking his head ruefully saying he couldn't help it, that was just the way he was made.

In Sunday School class, he was a wise and perceptive participant. He had great spiritual depth, Scriptural knowledge, and mature beliefs. He did not speak too often but when he had something to say, he said it—in plain words. Often his wit brought a burst of laughter—usually because he had hit the nail on the head. As Jesus might say, ''You are close to the kingdom, brother.'' Importantly, those beliefs that he stated, he lived.

Mary and I were honored to be among his friends and were always pleased to have his invitation to his home in the woods when he hosted his storied church supper club. That was a special time of food and fellowship, on his bridge, getting a tour of his workshop—to be at ''his place,'' which he had shared with his beloved Ursula, his partner for 48 years, and to have a direct look into the heart of a great man who lived a good life.

Mary and I often enjoyed lunch with Brannon after church at the Whistle Stop or some such place. In those conversations, his principles shone through and he would talk with pride and joy of his children, grandchildren, the baseball games, going to Auburn, working together. They had a unique bond.

Brannon believed in honesty and hard work—the Protestant ethic, if you will, for which he made no apology.

Politically, he was not a party man, following, I suppose, the best traditions of good civil servants. But he was an encourager to me. He wanted me to be a ''statesman,'' not a politician. I would indeed feel very badly if I had failed him in this regard.

You may not know that he was an excellent writer. He wrote me many handwritten letters—long ones—that I cherish. They were filled with wisdom, good values, sound policy ideas, and what he was hearing from the community. A year or so ago, he gave me a copy of a plan he helped write some 40 years ago as part of a committee for the development of Mobile. He was proud of their work, and indeed their concepts and vision are still valid today.

His accomplishments are many. One of his most important was the critical role he played in the 'growth and character of Ashland Place United Methodist Church for four decades.

As a Southeastern Conference champion wrestler at Auburn, he demonstrated courage, strength, and discipline. There are just two in the ring and only one winner. He was a consistent winner.

I have come to understand the importance of our top civilian personnel at our military bases. Generals come and go but able civilians keep the bases running. Our civilian leaders are crucial to our military's success, and they are promoted on merit and on performance. At Robbins Air Force Base, Brannon led the avionics section that consisted of some 2,300 personnel. A place where errors are not allowed.

I visited him in the hospital, not long after his heart surgery. I thought he looked good, and he felt confident. But Brannon was no Polyanna. He was a realist. His words and manner conveyed that he well knew that he had had serious surgery, that nothing was guaranteed, and in the scheme of things life is short—''but a vapor'' the Scripture says.

Daughter Ursula says later on during his final illness, and as he weakened, he knew the end was near and he was at peace. Of that I have no doubt. See, he knew he had had a good life of family and friends. He had done his best to be true. He was confident in his salvation. He felt blessed. And right he was.

So we celebrate honestly this remarkable and good man: a champion and fearless wrestler; a great leader at one of our Nation's military bases; a

pillar of his church; a faithful and loving husband; an example to all in love of family; a man of principles and conviction; a man of courage, honesty, and honor; but humble, encouraging, and loving.

His values represent the highest and best of our faith, and of our Nation. His family has received a great legacy—which to their credit they fully recognize—and we, his friends, a true lesson in how to live a ''good'' life.

Well done, good friend.●

RECOGNIZING VARNEY'S STORE

● Ms. SNOWE. Mr. President, we frequently hear stories of small businesses across our Nation that are struggling to survive, a trend which has only been exacerbated by the present economic recession. Facing numerous challenges, too many small firms simply end up closing their doors. Yet fortunately, thanks to the generosity of one man, the story has a different ending for one small business in my home State of Maine. Today I honor Varney's Store, a longstanding fixture in the central Maine town of Windsor, that recently reopened to the approval of the store's many loyal customers.

Shirley Varney has been running Varney's Store, a traditional, family-owned convenience store at the corner of Routes 17 and 32 in Windsor, for the past 73 years. Over these many years, she has experienced times of terrible burden and significant difficulty, such as when her husband and business partner sadly passed away 60 years ago. Additionally, Mrs. Varney suffered a stroke several years ago, which has left her confined to a wheelchair. As a result, it became difficult for Mrs. Varney to run her store, which she recently had to close.

The closing of Varney's Store left a noticeable void in the community. Not long after, Mike Richardson, a Maine State trooper and local patron of the store for 35 years, stepped forward to offer a helping hand. Mr. Richardson had developed a lengthy relationship with the Varney family through his patronage of the store, and often came to Mrs. Varney's aid throughout the years. Displaying a true act of kindness, Mr. Richardson petitioned to become Mrs. Varney's legal guardian, committing to look after her and her son, who is also wheelchair bound.

Furthermore, Mr. Richardson had the desire to resurrect the fabled general store, and embarked on an ambitious plan to make significant renovations and reopen the establishment to its dedicated customers. Along with his son Corey, now the manager of the store, Mr. Richardson gutted and revamped the inside, adding new and improved hardware and furnishings. The duo also incorporated a brand new grill area, tables, coolers, counters, and restrooms, and added a new parking lot outside. Mr. Richardson insisted that the unique character and ambiance be maintained, and so the store contains the original wood interior, several old tools, pictures of the original store, and many of the notable antiques that have made this institution so famous in the eyes of its clients. The store still boasts its famous swinging doors, which have been standing for the past 73 years.

Thanks to the hard work and commitment of Mike Richardson, the new Varney's Store hosted a friends and family night on February 20 to celebrate the grand reopening of this famous locale, and the store was back in operation early the next morning, serving breakfast to longtime customers who had awaited its return.

For nearly three-quarters of a century, Varney's Store has offered the people of Windsor and surrounding towns the goods they need for everyday living, but more significantly, it has provided them with a feeling of hospitality. I thank Mrs. Varney for her numerous years of dedicated service to make her store such a welcoming environment. Additionally, the story of Varney's Store resurgence is exemplary of how a neighbor's kindness can give hope to a family and an entire community. It is through the compassionate and gracious deeds of Mike Richardson and his family that Varney's Store has been refurbished and reopened, and I wish him and everyone at Varney's Store much success as they aim to continue its tradition of excellence.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:57 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4887. An act to amend the Internal Revenue Code of 1986 to ensure that health coverage provided by the Department of Defense is treated as minimal essential coverage.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4573) to urge the Secretary of the Treasury to instruct the United States Executive Directors at the International Monetary Fund, the World Bank, the Inter-American Development Bank, and other multilateral development institutions to use the voice, vote, and influence of the United States to cancel immediately and completely Haiti's debts to such institutions, and for other purposes.

ENROLLED BILL SIGNED

At 6:59 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4573. An act to urge the Secretary of the Treasury to instruct the United States Executive Directors at the International Monetary Fund, the World Bank, the Inter-American Development Bank, and other multilateral development institutions to use the voice, vote, and influence of the United States to cancel immediately and completely Haiti's debts to such institutions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5336. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–332, ''Office on Latino Affairs Grant-Making Authority Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5337. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–333, ''Rhode Island Place Shopping Center Working Group Temporary Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5338. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–334, ''Rent Administrator Hearing Authority Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5339. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–335, ''Legalization of Marijuana for Medical Treatment Initiative Applicability Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5340. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–336, ''Real Property Tax Reform Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5341. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–337, ''Healthy DC Equal Access Fund and Hospital Stabilization Temporary Amendment Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5342. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–338, ''Haiti Earthquake Relief Drug and Medical Supply Assistance Temporary Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5343. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 18–339, ''Energy Efficiency Financing Temporary Act of 2010''; to the Committee on Homeland Security and Governmental Affairs.

EC–5344. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Flutolanil; Pesticide Tolerances'' (FRL No. 8817–9) received during adjournment of the Senate in the Office of the President of the Senate on March 31, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5345. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Thifensulfuron methyl; Pesticide Tolerances'' (FRL No. 8818–9) received during adjournment of the Senate in the Office of the President of the Senate on April 8, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5346. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Kasugamycin; Pesticide Tolerances for Emergency Exemptions'' (FRL No. 8808–7) received during adjournment of the Senate in the Office of the President of the Senate on April 8, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5347. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Alkyl (C12–C16) Dimethyl Ammonio Acetate; Exemption from the Requirement of a Tolerance'' (FRL No. 8816–5) received during adjournment of the Senate in the Office of the President of the Senate on April 8, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5348. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Changes in Hourly Fee Rates for Science and Technology Laboratory Services—Fiscal Years 2010–2012'' (Docket No. AMS–ST–09–0016) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5349. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines and Peaches Grown in California; Changes in Handling Requirements for Fresh Nectarines and Peaches'' (Docket Nos. AMS–FV–09–0090; FV10–916/917–1 IFR) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5350. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Citrus Seed Imports; Citrus Greening and Citrus Variegated Chlorosis'' (Docket No. APHIS–2008–0052) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5351. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Irish Potatoes Grown in Colorado; Relaxation of the Handling Regulation for Area No. 3'' (Docket Nos. AMS–FV–08–0115; FV09–948–2 IFR) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5352. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Grapes Grown in a Designated Area of Southeastern California and Imported Table Grapes; Relaxation of Handling Requirements'' (Docket Nos. AMS–FV–09–0085; FV10–925–1 IFR) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5353. A communication from the Chief of Research and Analysis, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Vendor Cost Containment'' (RIN0584–AD71) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5354. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Revised Nomination and Balloting Procedures'' (Docket Nos. AMS–FV–09–0070; FV09–929–1 FR) received in the Office of the President of the Senate on April 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5355. A communication from the Administrator of the Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''U.S. Honey Producer Research, Promotion, and Consumer Information Order; Referendum Procedures'' (Docket Nos. AMS–FV–07–0091; FV–07–706 FR) received in the Office of the President of the Senate on April 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5356. A communication from the Chief of Research and Analysis, Food and Nutrition Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Child and Adult Care Food Program: At-Risk Afterschool Meals in Eligible States'' (RIN0584–AD15) received in the Office of the President of the Senate on April 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5357. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Florida Avocado Crop Insurance Provisions'' (RIN0563–AC22) received in the Office of the President of the Senate on April 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5358. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Basic Provisions; and Various Crop Insurance Provisions'' (RIN0563–AB96) received in the Office of the President of the Senate on April 13, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5359. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, (98) Selected Acquisition Reports (SARs) for the quarter ending December 31, 2009; to the Committee on Armed Services.

EC–5360. A communication from the Under Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral Joseph Maguire, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–5361. A communication from the Under Secretary of Defense, transmitting a report on the approved retirement of Vice Admiral Michael K. Loose, United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

EC–5362. A communication from the Under Secretary of Defense, transmitting a report on the approved retirement of General Charles C. Campbell, United States Army, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC–5363. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost and the Average Procurement Unit Cost for the Longbow Apache Block III (AB3) program exceeding the Acquisition Program Baseline values by more than 25 percent; to the Committee on Armed Services.

EC–5364. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the man-portable and vehicle mounted guided missile systems to replace the current Javelin and Tube-launched, Optically tracked, Wire-guided missile (TOW) systems; to the Committee on Armed Services.

EC–5365. A communication from the Assistant Secretary of Defense (Reserve Affairs), transmitting, pursuant to law, the 2009 annual report relative to the STARBASE Program; to the Committee on Armed Services.

EC–5366. A communication from the Under Secretary of Defense (Personnel and Readiness), Department of Defense, transmitting, pursuant to law, a report relative to activities under the Secretary's personnel management demonstration project authorities for Department of Defense Science and Technology Reinvention Laboratories; to the Committee on Armed Services.

EC–5367. A communication from the Assistant Secretary of Defense (Special Operations/Low-Intensity Conflict and Interdependent Capabilities), Department of Defense, transmitting, pursuant to law, a report relative to the training of the U.S. Special Operations Forces with friendly foreign forces during fiscal year 2009; to the Committee on Armed Services.

EC–5368. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Freedom of Information Act'' (RIN1557–AD22) received in the Office of the President of the Senate on April

12, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5369. A communication from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations; Defining Mutual Funds as Financial Institutions'' (RIN1506–AA93) received during adjournment of the Senate in the Office of the President of the Senate on April 9, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5370. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received during adjournment of the Senate in the Office of the President of the Senate on April 8, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5371. A communication from the Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report relative to the acquisition of articles, materials, and supplies manufactured outside of the United States; to the Committee on Banking, Housing, and Urban Affairs.

EC–5372. A communication from the Chairman and President of the Export-Import Bank, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to the Kingdom of Morocco; to the Committee on Banking, Housing, and Urban Affairs.

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. FEINGOLD:

S. 3197. A bill to require a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces from Afghanistan; to the Committee on Foreign Relations.

By Mr. NELSON of Nebraska:

S. 3198. A bill to provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SNOWE (for herself and Mr. HARKIN):

S. 3199. A bill to amend the Public Health Service Act regarding early detection, diagnosis, and treatment of hearing loss; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. GILLIBRAND:

S. 3200. A bill to designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the ''Zachary Smith Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. UDALL of Colorado (for himself, Mr. BEGICH, Mrs. MCCASKILL, Ms. LANDRIEU, Mr. WARNER, Mr. NELSON of Nebraska, Mr. BENNET, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. KERRY, Mr. BAYH, Ms. KLOBUCHAR, Mrs. LINCOLN, Mr. CASEY, Mr. MENENDEZ, Mr. CARDIN, Mr. BROWN of Ohio, Mr. SANDERS, Mr. LAUTENBERG, Mr. WHITEHOUSE, and Mr. DURBIN):

S. 3201. A bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26; to the Committee on Armed Services.

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

S. 3202. A bill to promote the strengthening of the Haitian private sector; to the Committee on Foreign Relations.

By Mr. VITTER:

S. 3203. A bill to extend the National Flood Insurance Program through May 31, 2010; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BROWN of Ohio:

S. 3204. A bill to authorize the Secretary of Education to award grants to improve access to, sharing of, and use of, education data to improve student outcomes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SCHUMER (for himself, Mr. MENENDEZ, Mr. LAUTENBERG, Mrs. LINCOLN, Mrs. SHAHEEN, Ms. KLOBUCHAR, Mr. CARDIN, Mr. BEGICH, Mrs. MCCASKILL, Mr. LEAHY, Mr. HARKIN, and Mr. SANDERS):

S. 3205. A bill to amend the Internal Revenue Code of 1986 to provide that fees charged for baggage carried into the cabin of an aircraft are subject to the excise tax imposed on transportation of persons by air; to the Committee on Finance.

By Mr. HARKIN (for himself, Mrs. BOXER, Mr. BEGICH, Mr. BINGAMAN, Mr. BROWN of Ohio, Mr. BURRIS, Mr. DODD, Mr. DURBIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. KERRY, Mr. LAUTENBERG, Mr. MERKLEY, Ms. MIKULSKI, Mrs. MURRAY, Mr. SCHUMER, and Ms. STABENOW):

S. 3206. A bill to establish an Education Jobs Fund; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, and Mrs. MURRAY):

S. 3207. A bill to protect victims of crime or serious labor violations from deportation during Department of Homeland Security enforcement actions, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. DURBIN (for himself, Mr. JOHANNS, Mr. KERRY, Ms. MIKULSKI, Mr. VOINOVICH, Mr. BROWN of Ohio, Mr. CARDIN, Mr. REID, Mr. MCCONNELL, Mr. KYL, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KAUFMAN, Ms. KLOBUCHAR, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN):

S. Res. 479. A resolution expressing sympathy for the people of Poland in the aftermath of the devastating plane crash that killed the country's President, First Lady, and 94 other high ranking government, military, and civic leaders of April 10, 2010; considered and agreed to.

By Mr. GREGG (for himself, Mr. MCCONNELL, Mr. BENNETT, Mr. BROWNBACK, Ms. COLLINS, Mr. LIEBERMAN, and Mr. LEAHY):

S. Res. 480. A resolution condemning the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and calling on the military regime in Burma to permit a credible and fair election process and the transition to civilian, democratic rule; to the Committee on Foreign Relations.

By Mr. AKAKA (for himself, Mr. VOINOVICH, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. CARPER, Mr. LAUTENBERG, Mr. BURRIS, and Mr. KAUFMAN):

S. Res. 481. A resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued public service to the Nation during Public Service Recognition Week, May 3 through 9, 2010; to the Committee on Homeland Security and Governmental Affairs.

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

S. Res. 482. A resolution designating April 2010 as ''National 9-1-1 Education Month''; considered and agreed to.

By Mr. LEMIEUX (for himself, Mr. RISCH, and Mr. DEMINT):

S. Con. Res. 57. A concurrent resolution establishing an expedited procedure for consideration of a bill returning spending levels to 2007 levels; to the Committee on the Budget.

ADDITIONAL COSPONSORS

S. 379

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 379, a bill to provide fair compensation to artists for use of their sound recordings.

S. 484

At the request of Mrs. FEINSTEIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 484, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 704

At the request of Mr. HARKIN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 704, a bill to direct the Comptroller General of the United States to conduct a study on the use of Civil Air Patrol personnel and resources to support homeland security missions, and for other purposes.

S. 752

At the request of Mr. DURBIN, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 752, a bill to reform the financing of Senate elections, and for other purposes.

S. 891

At the request of Mr. BROWNBACK, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 891, a bill to require annual disclosure to the Securities and Exchange Commission of activities involving columbite—tantalite, cassiterite, and wolframite from the Democratic Republic of Congo, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1674

At the request of Mr. WYDEN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1674, a bill to provide for an exclusion under the Supplemental Security Income program and the Medicaid program for compensation provided to individuals who participate in clinical trials for rare diseases or conditions.

S. 1743

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1743, a bill to amend the Internal Revenue Code of 1986 to expand the rehabilitation credit, and for other purposes.

S. 2781

At the request of Ms. MIKULSKI, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 2781, a bill to change references in Federal law to mental retardation to references to an intellectual disability, and to change references to a mentally retarded individual to references to an individual with an intellectual disability.

S. 2882

At the request of Mr. KERRY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2882, a bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the treatment of individuals as independent contractors or employees, and for other purposes.

S. 2919

At the request of Mr. UDALL of Colorado, the name of the Senator from Nebraska (Mr. NELSON) 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. 2925

At the request of Mr. WYDEN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2925, a bill to establish a grant program to benefit victims of sex trafficking, and for other purposes.

S. 3031

At the request of Mr. LEAHY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3031, a bill to authorize Drug Free Communities enhancement grants to address major emerging drug issues or local drug crises.

S. 3106

At the request of Mrs. HAGAN, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 3106, a bill to authorize States to exempt certain nonprofit housing organizations from the licensing requirements of the S.A.F.E. Mortgage Licensing Act of 2008.

S. 3195

At the request of Mr. CARDIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3195, a bill to prohibit air carriers from charging fees for carry-on baggage and to require disclosure of passenger fees, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD:

S. 3197. A bill to require a plan for the safe, orderly, and expeditious redeployment of United States Armed Forces from Afghanistan; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, today I am introducing legislation that would require the President to establish a flexible timetable for the responsible drawdown of U.S. troops from Afghanistan. Rep. MCGOVERN and Rep. JONES are also introducing companion legislation in the House.

This bicameral, bipartisan legislation would make clear our timeframe and our intention to focus on a global counterterrorism strategy that is essential to our efforts to combat al Qaeda. As we were reminded again by the nearly successful attack on Christmas day, al Qaeda is an agile enemy with affiliates operating and recruiting around the world. Sending more U.S. troops to Afghanistan this year will not help us deter or thwart attacks by al Qaeda's increasingly dangerous regional affiliates, nor will it eliminate al Qaeda's safe haven in Pakistan. The costly, military-centric, nation-building campaign currently underway in Afghanistan is unsustainable, unrealistic and unnecessary for our counterterrorism goals.

This bill would require the President to set a timetable for drawing down our forces in Afghanistan and identify any variables that would require an extension of that timetable. While I am disappointed by his decision to expand our military involvement in Afghanistan, I commend the President for setting a start-date for redeployment, namely July 2011. Our allies have stated that it has helped ''focus the minds'' of our partners in Afghanistan and around the world. Having a start date is essential, but alone it is insufficient—it should be accompanied by an end date, too. The President should convey to the American and Afghan people how long he anticipates it will take to complete his military objectives. So long as our large-scale military presence remains open-ended, al Qaeda will have a valuable recruiting tool and our partners in Afghanistan will have an incentive to take the back seat, leaving U.S. troops and U.S. taxpayers on the hook.

As our own ambassador to Afghanistan has reportedly stated, sending more troops for an indefinite period of time will only increase Afghan dependency upon the international community, exacerbate misconceptions about why we are there and further enable Afghan leadership to shun responsibility. I do not know what led the ambassador to ultimately endorse the open-ended commitment of additional troops, but I believe his concerns remain valid today. Indeed, President Karzai's recent statements before a variety of audiences only raise more questions about his willingness to take the necessary steps to address corruption and security.

This bill does not itself set a specific date for the withdrawal of U.S. troops. Rather, it requires the President to set a timeline by which the redeployment of U.S. troops will be completed and to identify what variables, if any, would warrant the alteration of that timeline. While the President has set detailed objectives and metrics for Afghanistan, many of our objectives are dependent upon the conduct of officials in the Afghan and Pakistani governments, both of which have been unreliable partners for many years. We must make clear to our partners in both countries that our support is not unconditional and that we will not continue to bear the burden of our current military deployment indefinitely.

Some of my colleagues have suggested that we should give the President's new strategy in Afghanistan a ''chance'' to succeed. After over eight years of war, after so many lost lives and hundreds of billions of dollars spent, I think we need to ask ourselves instead to consider whether an open-ended military presence makes sense. To me, that answer is clearly ''No.'' We will be putting at risk the lives of 100,000 U.S. troops and spending tens of billions of dollars on a military effort that is neither necessary for the national security imperative of pursuing al Qaeda's global network, nor likely to succeed in remaking the situation on the ground in Afghanistan to a meaningful extent.

Addressing the threat from al Qaeda and its affiliates around the world

must be our top national security priority. The attempted terrorist attack on Christmas Day serves as a reminder that we have not put adequate resources into this priority, especially in safe havens such as Yemen. We are spending in Yemen only a tiny of a fraction of what we are spending in Afghanistan even though, according to the President's top terrorism advisor, ''al Qaeda has several hundred members in Yemen.'' We need major adjustments in our global counter-terrorism strategy if we hope to defeat our enemy. Rather than investing a disproportionate amount of our resources in Afghanistan, where al Qaeda has a minimal presence, we need to shift resources to the urgent need of pursuing al Qaeda's global network.

We do not need to maintain a massive military presence in Afghanistan in order to prevent al Qaeda from having freedom of movement in that country. Instead, we need a sustainable counter-terrorism strategy for the region that will also enable us to target any members of al Qaeda that make the mistake of returning. Drawing down U.S. troops from Afghanistan and better investing some of the billions needed to support them there would allow us to increase our ability to pursue al Qaeda as it continues to establish footholds in other locations around the world.

I also continue to be concerned that our massive military presence in Afghanistan has a destabilizing effect, both there and in Pakistan, and that our current strategy is overly dependent on actions by these two partners that have often proved unreliable. As our own ambassador reportedly noted, the last time we substantially increased forces in Afghanistan, namely the deployment of 33,000 additional troops in 2008 and 2009, overall violence and instability increased.

Our troop presence in Afghanistan has also provoked greater militancy. The reality is, our presence has driven militants across the border into Pakistan, and may be driving militant groups which normally have tense relationships closer together, compromising our ability to divide al Qaeda from its hosts in Pakistan.

Furthermore, our current military strategy is unlikely to succeed in the face of the ongoing safe haven in Pakistan. The Director of National Intelligence recently testified that unless the Taliban's safe haven in Pakistan ''. . . is greatly diminished, the Taliban insurgency can survive defeats in Afghanistan.'' He went on to state that ''Islamabad has maintained relationships with other Taliban-associated groups that support and conduct operations against U.S. and ISAF forces in Afghanistan.'' Until this sanctuary problem is fully addressed, any gains from sending additional U.S. forces may be fleeting.

Some have argued that we must pursue an open-ended military campaign in Afghanistan if only to prevent instability in Afghanistan from spreading into Pakistan. I, too, am concerned about instability in Pakistan, but I strongly disagree that sending troops to Afghanistan has helped or will improve the situation. According to our intelligence community, instability in Pakistan is driven primarily by poor governance and lack of socioeconomic reform in Pakistan. Even if we increase stability in Afghanistan, Pakistan remains at risk if these issues are not addressed. We must convey to those in Pakistan who support reform that they have our long-term support. That doesn't mean spending many billions of dollars for several years on military operations in Afghanistan. It means making a sustainable commitment to reforms in Pakistan.

We have to be realistic about our goals in Afghanistan. Without a legitimate Afghan partner, our tactical victories will likely be squandered. We may build outposts throughout Helmand and Kandahar but this has little meaning if we are unable to distinguish friend from foe and the Taliban is able to maintain shadow structures throughout the region. It does no good to ''clear'' an area of insurgents to be held by the Afghan police if the police are perceived to be corrupt or unreliable. Nor can military operations address the sense of alienation among the population in the South.

Indeed, such operations may actually undermine long-term stability as they contribute, despite our best efforts, to civilian casualties. In regards to casualties from operations related to things like checkpoints and convoys, for example, Gen. McChrystal recently acknowledged that ''[w]e've shot an amazing number of people and killed a number and, to my knowledge, none ha[ve] proven to have been a real threat to the force.'' This only reinforces the image of the United States as a hostile, occupying force.

Rather than spending $100 billion in Afghanistan in one year, primarily on military operations, it would be far better to make a sustainable commitment to this country. Long-term, gradual change is far more realistic than attempts to radically transform Afghan society at the point of a gun, especially when we have lost the support of key sections of the population. We must also prioritize efforts to promote the rule of law. Without the rule of law, our development efforts are vulnerable to waste, fraud and abuse and will further feed into the corruption that is alienating the population from the government. Indeed, Secretary Clinton has testified that ''siphoning off contractual money from the international community . . . [is] a major source of funding for the Taliban.''

For too long, we have prioritized short term security goals at the expense of the rule of law. We have prioritized quantity over quality in the Afghan National Security Forces. We have compromised the state's monopoly over the use of violence by partnering with—in Gen. McChrystal's words—''polarizing and predatory'' powerbrokers. We have turned a blind eye to corruption and human rights abuses. If we get serious about these issues, it will do more to stabilize the situation than anything we can accomplish by conducting military operations. After so many years in which our military efforts have been shortchanged by the focus on Iraq, we cannot simply turn back the clock and assume that what may have been achievable militarily in Afghanistan years ago is still achievable today.

Even if my colleagues support the President's strategy in Afghanistan, they should acknowledge the need to set a goal for when it should be brought to a close. While I have serious doubts about the wisdom of the current approach, as I have explained, and about pursuing an expansive nation-building agenda in the face of the economic problems facing our own country and the rising casualty rates in Afghanistan, this bill does not dictate a particular strategy for Afghanistan. Rather, it simply requires the President to inform the American people about how long his military strategy is expected to take.

I urge my colleagues to support this bill.

By Mr. UDALL of Colorado (for himself, Mr. BEGICH, Mrs. MCCASKILL, Ms. LANDRIEU, Mr. WARNER, Mr. NELSON of Nebraska, Mr. BENNET, Mr. LEAHY, Ms. MIKULSKI, Mrs. MURRAY, Mr. KERRY, Mr. BAYH, Ms. KLOBUCHAR, Mrs. LINCOLN, Mr. CASEY, Mr. MENENDEZ, Mr. CARDIN, Mr. BROWN of Ohio, Mr. SANDERS, Mr. LAUTENBERG, Mr. WHITEHOUSE, and Mr. DURBIN):

S. 3201. A bill to amend title 10, United States Code, to extend TRICARE coverage to certain dependents under the age of 26; to the Committee on Armed Services.

Mr. UDALL of Colorado. Mr. President, I rise to speak about health insurance reform. I wanted to remind all of us that last month we successfully passed health insurance reform, upon which I think we will have a very strong foundation to build, improve, and strengthen access to health care all across America.

Throughout the long and critically important debate on how best to fix our system, I came to the floor on many occasions, as did the Presiding Officer and a lot of my freshman Senators, to discuss the need for reform. I believe the bill that President Obama signed into law will help struggling Colorado families and hopefully our struggling economy as well.

So I think you and I agree there is a lot of work left to be done, and no bill of this magnitude and importance is perfect. To implement this new law is a major undertaking that will require us in the Congress to revisit and improve upon what we have already done.

In that spirit, I come to the Senate floor to introduce a bill that I believe is a great way to start making those improvements. I thank Senators BEGICH and MCCASKILL for working with me to develop a bill, and Senator MIKULSKI for her hard work and energy and support as well.

Our legislation is entitled ''The TRICARE Dependent Coverage Extension Act.'' It would help fulfill this important goal of the health insurance reform that the Presiding Officer and I support; that is, giving young adults the opportunity to remain on their parents' health care plan until the age of 26.

Young adults across our country are struggling to enter the job market as we get our economy back on track, and this legislation will ensure that the families of our military servicemembers are not left behind when this benefit goes into effect later this year for millions of civilian families and their children.

Currently, the TRICARE Program, which provides health insurance for military servicemembers, retirees, and their families, covers children up to the age of 21, or in some cases up to the age of 23 if they are full-time college students.

The TRICARE Dependent Coverage Extension Act will give young adults of these military families who have not been able to find health care insurance through an employer the opportunity to pay a reasonable premium and remain covered until their 26th birthday on their parents' plan.

Health reform, I think we agree, is meant to ensure that all Americans have access to affordable health care coverage. I cannot think of any of our countrymen more deserving of the peace of mind envisioned by this new law than members of our Armed Forces and their families.

They, in countries all over the world, make tremendous sacrifices every day for our Nation. I think it is over 60 different countries that we have servicemembers serving around the world. They deserve benefits that will keep them healthy and secure.

In addition to the three Senators I mentioned, BEGICH, MCCASKILL, and MIKULSKI, there are 19 of our Democratic colleagues who have also joined in supporting this legislation. I think this outpouring of support on short notice is indicative of how beneficial the bill will be for the families of our armed servicemembers.

Now, we have had our disagreements with the other side of the aisle on how best to reform our health care system as a whole. But I think there are certain areas of common interest we can still find and come together on to improve the lives of the people we are here to serve. I think this is one of those instances, and I want to offer my hand to our Republican friends and hope they will join a group of us in cosponsoring this important piece of legislation.

I sit on the Armed Services Committee in the Senate, and I served on the Armed Services Committee in the House. I would like to think I learned how to spot a good deal for our Nation's soldiers and their families, and this is a good deal.

Again, I would encourage all 100 Senators to consider joining us in this important, straightforward, cost-efficient idea that I am presenting today.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 479—EXPRESSING SYMPATHY FOR THE PEOPLE OF POLAND IN THE AFTERMATH OF THE DEVASTATING PLANE CRASH THAT KILLED THE COUNTRY'S PRESIDENT, FIRST LADY, AND 94 OTHER HIGH RANKING GOVERNMENT, MILITARY, AND CIVIC LEADERS ON APRIL 10, 2010

Mr. DURBIN (for himself, Mr. JOHANNS, Mr. KERRY, Ms. MIKULSKI, Mr. VOINOVICH, Mr. BROWN of Ohio, Mr. CARDIN, Mr. REID, Mr. MCCONNELL, Mr. KYL, Mr. AKAKA, Mr. ALEXANDER, Mr. BARRASSO, Mr. BAUCUS, Mr. BAYH, Mr. BEGICH, Mr. BENNET, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. BURRIS, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DODD, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KAUFMAN, Ms. KLOBUCHAR, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEMIEUX, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PRYOR, Mr. REED, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 479

Whereas the United States and Poland are close allies, with a shared bond of history, friendship, and international cooperation;

Whereas Polish immigrants were among the first Jamestown settlers, and Casimir Pulaski immigrated to the United States to fight in the Revolutionary War;

Whereas more than 9,000,000 Americans of Polish descent now reside in the United States, bringing vitality to major metropolitan areas such as Chicago, Detroit, and New York City;

Whereas Polish-Americans have been leaders in all walks of American life;

Whereas the American people stood in support of the Solidarity movement as it fought against the oppression of the communist government of Poland through peaceful means, eventually leading to Solidarity members being elected to office in open democratic elections held on June 4, 1989, events that helped spark the movement to democracy throughout eastern Europe;

Whereas Poland joined the North Atlantic Treaty Organization (NATO) in 1999, joined the European Union in 2004, and has contributed to United States and NATO operations in Iraq and Afghanistan;

Whereas Poland has enjoyed a thriving and prosperous free market democracy since the end of the Cold War;

Whereas the President of Poland Lech Kaczynski and 95 other people, including Poland's First Lady, the deputy foreign minister, dozens of members of Parliament, the chiefs of the army and navy, and the president of the national bank, were tragically killed in a plane crash in western Russia on April 10, 2010;

Whereas President Kaczynski and his colleagues were traveling to Katyn, Russia for a memorial service to mark the 70th anniversary of the Soviet secret police killing of more than 20,000 Polish officers, prisoners, and intellectuals who were captured after the Soviet Union invaded Poland in 1939;

Whereas Anna Walentynowicz, the former dock worker whose firing in 1980 sparked the Solidarity strike that ultimately overthrew the communist government of Poland, was also killed in the crash;

Whereas Ryszard Kaczorowski, who served as Poland's final president in exile before the country's return to democracy, also perished in the crash;

Whereas Chicago suffered the loss of a respected artist when Wojciech Seweryn, whose father was killed in Katyn, died in the crash;

Whereas Mr. Seweryn recently completed a memorial to the victims of Katyn at St. Adalbert Cemetery in Niles, Illinois, which President Kaczynski planned to visit in May;

Whereas President Barack Obama said, the ''loss is devastating to Poland, to the United States, and to the world. President Kaczynski was a distinguished statesman who played a key role in the Solidarity movement, and he was widely admired in the United States as a leader dedicated to advancing freedom and human dignity.'';

Whereas Former Solidarity leader and ex-president Lech Walesa said, ''Today, we lost part of our intellectual elite in a plane crash. It will take a long time until the wounds of our democracy are healed.''; and

Whereas thousands of Poles gathered in the center of Warsaw and elsewhere around the world on Saturday to mourn those killed in the crash and affirm their continued solidarity with the people of Poland: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its deepest sympathies to the people of Poland and the families of those who perished for their profound loss;

(2) expresses strong and continued solidarity with the people of Poland and Polish-American communities in the United States; and

(3) expresses unwavering support for the Government of Poland as it works to address the loss of many key public officials.

SENATE RESOLUTION 480—CONDEMNING THE CONTINUED DETENTION OF BURMESE DEMOCRACY LEADER DAW AUNG SAN SUU KYI AND CALLING ON THE MILITARY REGIME IN BURMA TO PERMIT A CREDIBLE AND FAIR ELECTION PROCESS AND THE TRANSITION TO CIVILIAN, DEMOCRATIC RULE

Mr. GREGG (for himself, Mr. MCCONNELL, Mr. BENNETT, Mr. BROWNBACK, Ms. COLLINS, Mr. LIEBERMAN, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 480

Whereas the military regime in Burma, headed by General Than Shwe and the State Peace and Development Council, continues to persecute Burmese democracy leader Daw Aung San Suu Kyi and her supporters in the National League for Democracy, and ordinary citizens of Burma, including ethnic minorities, who publically and courageously speak out against the regime's many injustices;

Whereas Daw Aung San Suu Kyi has been imprisoned in Burma for 14 of the last 19 years and many members of the National League for Democracy have been similarly jailed, tortured, or killed;

Whereas the Constitution adopted in 2008 and the election laws recently promulgated effectively prohibit the National League for Democracy, Buddhist monks, ethnic minority leaders, and Daw Aung San Suu Kyi from participating in upcoming elections, and do not leave much opportunity for domestic dialogue among key stakeholders; and

Whereas the persecution of the people of Burma has continued even though the Department of State has pursued a policy of engagement with the military regime designed to secure the release of political prisoners, foster national reconciliation, and facilitate peaceful transition to civilian, democratic rule: Now, therefore, be it

Resolved, That the Senate—

(1) condemns the continued detention of Burmese democracy leader Daw Aung San Suu Kyi and all prisoners of conscience in Burma, and calls for their immediate and unconditional release;

(2) calls on the military regime in Burma to engage in dialogue with the National League for Democracy and other opposition groups, as well as with ethnic minorities, to broaden political participation in an environment free from fear and intimidation;

(3) calls upon the Secretary of State to assess the effectiveness of the policy of engagement with the military regime in Burma in furthering United States interests, and to maintain, and consider strengthening, sanctions against Burma if the military regime continues its systematic violation of human rights and fails to embrace the democratic aspirations of the people of Burma;

(4) calls upon the Secretary of State to engage regional governments and multilateral organizations (including the People's Republic of China, the Association of Southeast Asian Nations, and the United Nations Security Council) to push for the establishment of an environment in Burma that encourages the full and unfettered participation of the people of Burma in a democratic transition to civilian rule; and

(5) calls on the Secretary of State to support the National League for Democracy and the people of Burma in calling for significant constitutional and election reforms by the military regime, which will broaden political participation, further democracy, accountability, and responsive governance, and improve human rights in Burma.

SENATE RESOLUTION 481—EXPRESSING THE SENSE OF THE SENATE THAT PUBLIC SERVANTS SHOULD BE COMMENDED FOR THEIR DEDICATION AND CONTINUED PUBLIC SERVICE TO THE NATION DURING PUBLIC SERVICE RECOGNITION WEEK, MAY 3 THROUGH 9, 2010

Mr. AKAKA (for himself, Mr. VOINOVICH, Mr. LIEBERMAN, Ms. COLLINS, Mr. LEVIN, Mr. CARPER, Mr. LAUTENBERG, Mr. BURRIS, and Mr. KAUFMAN) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 481

Whereas Public Service Recognition Week provides an opportunity to recognize and promote the important contributions of public servants and honor the diverse men and women who meet the needs of the Nation through work at all levels of government;

Whereas millions of individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas public service is a noble calling involving a variety of challenging and rewarding professions;

Whereas Federal, State, and local governments are responsive, innovative, and effective because of the outstanding work of public servants;

Whereas the United States of America is a great and prosperous Nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) defend our freedom and advance United States interests around the world;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fires;

(4) ensure equal access to secure, efficient, and affordable mail service;

(5) deliver Social Security and Medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) enforce laws guaranteeing equal employment opportunity and healthy working conditions;

(9) defend and secure critical infrastructure;

(10) help the Nation recover from natural disasters and terrorist attacks;

(11) teach and work in our schools and libraries;

(12) develop new technologies and explore the earth, moon, and space to help improve our understanding of how our world changes;

(13) improve and secure our transportation systems;

(14) promote economic growth; and

(15) assist our Nation's veterans;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, are committed to doing their jobs regardless of the circumstances, and contribute greatly to the security of the Nation and the world;

Whereas public servants have bravely fought in armed conflict in defense of this Nation and its ideals and deserve the care and benefits they have earned through their honorable service;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 3 through 9, 2010, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week is celebrating its 26th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation during Public Service Recognition Week and throughout the year;

(2) salutes government employees for their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon all generations to consider a career in public service; and

(5) encourages efforts to promote public service careers at all levels of government.

Mr. AKAKA. Mr. President, today I rise to recognize America's public servants, who provide so many of the vital services upon which this nation relies. As the Chairman of the Senate Homeland Security and Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am pleased to once again introduce a resolution honoring these employees in celebration of Public Service Recognition Week.

Every day, Americans rely on our hardworking and talented government employees. Public servants deliver our mail, educate our children, care for our veterans, guard our prisons, protect our borders and communities, and defend our country and the principles of liberty and freedom that we hold dear. They influence the lives of people around the world as diplomats, promoting peace, prosperity, and democracy in conflicted regions, and providing critical assistance to developing and impoverished communities.

Just as President John F. Kennedy did in his 1961 inaugural address, President Obama has called on Americans to make a renewed commitment to public service. Public Service Recognition Week allows us not only to honor and celebrate the works of federal, state and local public employees, but also provides an opportunity for all Americans to explore the many possible careers in public service. Throughout the

nation, public employees use the week to educate their fellow citizens on how government serves them, and how government services make life better for all of us. It is my hope that through these events, many young professionals will decide to pursue a career in public service.

As a former teacher and a life-long public servant, I am proud to highlight the importance of Public Service Recognition Week. The many domestic and global challenges we face make this a critical time for our Nation. Although we have designated a week to pay tribute to government employees, it is also important that we honor the invaluable service of public servants throughout the year. Our way of life—and the strength of our country—would not exist without the work of public employees.

This is the 26th year we have honored our public servants with Public Service Recognition Week during the first full week of May. Each year we use this week to recognize and honor the men and women who serve America as federal, state, and local government employees, and commend their dedication to serving others. I encourage my colleagues to recognize the public servants in their states and join me in this annual celebration.

SENATE RESOLUTION 482—DESIGNATING APRIL 2010 AS ''NATIONAL 9–1–1 EDUCATION MONTH''

Ms. KLOBUCHAR (for herself and Mr. BURR) submitted the following resolution; which was considered and agreed to:

S. RES. 482

Whereas 9–1–1 is nationally recognized as the number to call in an emergency to receive immediate help from police, fire, emergency medical services, or other appropriate emergency response entities;

Whereas in 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that a ''single number should be established'' nationwide for reporting emergency situations, and other Federal Government agencies and various governmental officials also supported and encouraged the recommendation;

Whereas in 1968, the American Telephone and Telegraph Company (AT&T) announced that it would establish the digits 9–1–1 as the emergency code throughout the United States;

Whereas 9–1–1 was designated by Congress as the national emergency call number under the Wireless Communications and Public Safety Act of 1999 (Public Law 106–81; 113 Stat. 1286);

Whereas section 102 of the ENHANCE 911 Act of 2004 (47 U.S.C. 942 note) declared an enhanced 9–1–1 system to be ''a high national priority'' and part of ''our Nation's homeland security and public safety'';

Whereas it is important that policy makers at all levels of government understand the importance of 9–1–1, how the system works today, and the steps that are needed to modernize the 9–1–1 system;

Whereas the 9–1–1 system is the connection between the eyes and ears of the public and the emergency response system in the United States and is often the first place emergencies of all magnitudes are reported, making 9–1–1 a significant homeland security asset;

Whereas more than 6,000 9–1–1 public safety answering points serve more than 3,000 counties and parishes throughout the United States;

Whereas dispatchers at public safety answering points answer more than 200,000,000 9–1–1 calls each year in the United States;

Whereas a growing number of 9–1–1 calls are made using wireless and Internet Protocol-based communications services;

Whereas a growing segment of the population, including the deaf, hard of hearing, deaf-blind, and individuals with speech disabilities are increasingly communicating with nontraditional text, video, and instant messaging communications services and expect those services to be able to connect directly to 9–1–1;

Whereas the growth and variety of means of communication, including mobile and Internet Protocol-based systems, impose challenges for accessing 9–1–1 and implementing an enhanced 9–1–1 system and require increased education and awareness about the capabilities of different means of communication;

Whereas numerous other N–1–1 and 800 number services exist for nonemergency situations, including 2–1–1, 3–1–1, 5–1–1, 7–1–1, 8–1–1, poison control centers, and mental health hotlines, and the public needs to be educated on when to use those services in addition to or instead of 9–1–1;

Whereas international visitors and immigrants make up an increasing percentage of the United States population each year, and visitors and immigrants may have limited knowledge of our emergency calling system;

Whereas people of all ages use 9–1–1 and it is critical to educate those people on the proper use of 9–1–1;

Whereas senior citizens are at high risk for needing to access to 9–1–1 and many senior citizens are learning to use new technology;

Whereas thousands of 9–1–1 calls are made every year by children properly trained in the use of 9–1–1, which saves lives and underscores the critical importance of training children early in life about 9–1–1;

Whereas the 9–1–1 system is often misused, including by the placement of prank and nonemergency calls;

Whereas misuse of the 9–1–1 system results in costly and inefficient use of 9–1–1 and emergency response resources and needs to be reduced;

Whereas parents, teachers, and all other caregivers need to play an active role in 9–1–1 education for children, but will do so only after being first educated themselves;

Whereas there are many avenues for 9–1–1 public education, including safety fairs, school presentations, libraries, churches, businesses, public safety answering point tours or open houses, civic organizations, and senior citizen centers;

Whereas children, parents, teachers, and the National Parent Teacher Association contribute importantly to the education of children about the importance of 9–1–1 through targeted outreach efforts to public and private school systems;

Whereas we as a Nation should strive to host at least 1 educational event regarding the proper use of 9–1–1 in every school in the country every year;

Whereas programs to promote proper use of 9–1–1 during National 9–1–1 Education Month could include—

(1) public awareness events, including conferences and media outreach, training activities for parents, teachers, school administrators, other caregivers and businesses;

(2) educational events in schools and other appropriate venues; and

(3) production and distribution of information about the 9–1–1 system designed to educate people of all ages on the importance and proper use of 9–1–1; and

Whereas the people of the United States deserve the best education regarding the use of 9–1–1: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2010 as ''National 9–1–1 Education Month''; and

(2) urges Government officials, parents, teachers, school administrators, caregivers, businesses, nonprofit organizations, and the people of the United States to observe the month with appropriate ceremonies, training events, and activities.

SENATE CONCURRENT RESOLUTION 57—ESTABLISHING AN EXPEDITED PROCEDURE FOR CONSIDERATION OF A BILL RETURNING SPENDING LEVELS TO 2007 LEVELS

Mr. LEMIEUX (for himself, Mr. RISCH, and Mr. DEMINT) submitted the following concurrent resolution; which was referred to the Committee on the Budget.

S. CON. RES. 57

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXPEDITED CONSIDERATION.

(a) 2007 SPENDING BILL.—For purposes of this resolution, the term ''2007 spending bill'' means a bill that reduces outlays for the fiscal year beginning in the year in which the bill is considered to levels not exceeding the levels for fiscal year 2007. The bill may not increase revenues.

(b) EXPEDITED CONSIDERATION OF 2007 SPENDING BILL.—

(1) INTRODUCTION OF 2007 SPENDING BILL.—A 2007 spending bill may be introduced in the House of Representatives and in the Senate not later than July 12, 2010 or any time after the first day of a session for any year thereafter by the majority leader of each House of Congress. If 5 session days after July 12 in 2010 or after the first day of session any year thereafter the majority leader has not introduced a bill, the minority leader of each House of Congress may introduce a 2007 spending bill (during this time the majority leader may not introduce a 2007 spending bill). If a 2007 spending bill is not introduced in accordance with the preceding sentence in either House of Congress within 5 session days, then any Member of that House may introduce a 2007 spending bill on any day thereafter. Upon introduction, the 2007 spending bill shall be referred to the relevant committees of jurisdiction.

(2) COMMITTEE CONSIDERATION.—The committees to which the 2007 spending bill is referred shall report the 2007 spending bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than 30 calendar days after the date of introduction of the bill in that House, or the first day thereafter on which that House is in session. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(3) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(A) PROCEEDING TO CONSIDERATION.—It shall be in order, not later than 7 days of session after the date on which an 2007 spending

bill is reported or discharged from all committees to which it was referred, for the majority leader of the House of Representatives or the majority leader's designee, to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the House of Representatives to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the 2007 spending bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) CONSIDERATION.—The 2007 spending bill shall be considered as read. The previous question shall be considered as ordered on the 2007 spending bill to its passage without intervening motion except 50 hours of debate, equally divided and controlled by the proponent and an opponent. A motion to limit debate shall be in order during such debate. A motion to reconsider the vote on passage of the 2007 spending bill shall not be in order.

(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to the 2007 spending bill shall be decided without debate.

(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this paragraph, consideration of an 2007 spending bill shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any 2007 spending bill introduced pursuant to the provisions of this subsection under a suspension of the rules pursuant to clause 1 of House Rule XV, or under a special rule reported by the House Committee on Rules.

(E) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(F) VOTE ON PASSAGE.—Immediately following the conclusion of consideration of the 2007 spending bill, the vote on passage of the 2007 spending bill shall occur without any intervening action or motion and shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn. If the 2007 spending bill is passed, the Clerk of the House of Representatives shall cause the bill to be transmitted to the Senate before the close of the next day of session of the House.

(4) FAST TRACK CONSIDERATION IN SENATE.—

(A) IN GENERAL.—Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the Senate or the majority leader's designee to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the Senate to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. A motion to proceed is in order even though a previous motion to the same effect has been disagreed to. All points of order against the motion to proceed to the 2007 spending bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the 2007 spending bill is agreed to, the 2007 spending bill shall remain the unfinished business until disposed of.

(B) DEBATE.—Consideration of an 2007 spending bill and of all debatable motions and appeals in connection therewith shall not exceed a total of 50 hours. Debate shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate on the 2007 spending bill is in order. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the 2007 spending bill, including time used for quorum calls and voting, shall be counted against the total 50 hours of consideration.

(C) AMENDMENTS.—It shall be in order to offer amendments to the 2007 spending bill, provided that any such amendment is relevant and would not result in an overall outlay level exceeding the level included in the 2007 spending bill.

(D) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on the 2007 spending bill and a single quorum call at the conclusion of the debate if requested. Passage shall require an affirmative vote of three-fifths of the Members, duly chosen and sworn.

(E) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a 2007 spending bill shall be decided without debate.

(5) RULES TO COORDINATE ACTION WITH OTHER HOUSE.—

(A) REFERRAL.—If, before the passage by 1 House of an 2007 spending bill of that House, that House receives from the other House an 2007 spending bill, then such proposal from the other House shall not be referred to a committee and shall immediately be placed on the calendar.

(B) TREATMENT OF 2007 SPENDING BILL OF OTHER HOUSE.—If 1 House fails to introduce or consider a 2007 spending bill under this section, the 2007 spending bill of the other House shall be entitled to expedited floor procedures under this section.

(C) PROCEDURE.—

(i) 2007 SPENDING BILL IN THE SENATE.—If prior to passage of the 2007 spending bill in the Senate, the Senate receives an 2007 spending bill from the House, the procedure in the Senate shall be the same as if no 2007 spending bill had been received from the House except that—

(I) the vote on final passage shall be on the 2007 spending bill of the House if it is identical to the 2007 spending bill then pending for passage in the Senate; or

(II) if the 2007 spending bill from the House is not identical to the 2007 spending bill then pending for passage in the Senate and the Senate then passes the Senate 2007 spending bill, the Senate shall be considered to have passed the House 2007 spending bill as amended by the text of the Senate 2007 spending bill.

(ii) DISPOSITION OF THE 2007 SPENDING BILL.—Upon disposition of the 2007 spending bill received from the House, it shall no longer be in order to consider the 2007 spending bill originated in the Senate.

(D) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the 2007 spending bill in the Senate, the Senate then receives an 2007 spending bill from the House of Representatives that is the same as the 2007 spending bill passed by the House, the House-passed 2007 spending bill shall not be debatable. If the House-passed 2007 spending bill is identical to the Senate-passed 2007 spending bill, the vote on passage of the 2007 spending bill in the Senate shall be considered to be the vote on passage of the 2007 spending bill received from the House of Representatives. If it is not identical to the House-passed 2007 spending bill, then the Senate shall be considered to have passed the 2007 spending bill of the House as amended by the text of the Senate 2007 spending bill.

(E) CONSIDERATION IN CONFERENCE.—Upon passage of the 2007 spending bill, the Senate shall be deemed to have insisted on its amendment and requested a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, without any intervening action.

(F) ACTION ON CONFERENCE REPORTS IN SENATE.—

(i) MOTION TO PROCEED.—A motion to proceed to the consideration of the conference report on the 2007 spending bill may be made even though a previous motion to the same effect has been disagreed to.

(ii) CONSIDERATION.—During the consideration in the Senate of the conference report (or a message between Houses) on the 2007 spending bill, and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith, debate (or consideration) shall be limited to 30 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report (or a message between Houses) shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report (or a message between Houses).

(iii) DEBATE IF DEFEATED.—If the conference report is defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(iv) AMENDMENTS IN DISAGREEMENT.—If there are amendments in disagreement to a conference report on the 2007 spending bill, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(G) VOTE ON CONFERENCE REPORT IN EACH HOUSE.—Passage of the conference in each House shall be by an affirmative vote of three-fifths of the Members of that House, duly chosen and sworn.

(H) VETO.—If the President vetoes the bill debate on a veto message in the Senate under this subsection shall be 1 hour equally divided between the majority and minority leaders or their designees.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and is deemed to be part

of the rules of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of bill under this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 2. EFFECTIVE PERIOD.

This resolution shall be effective until fiscal year 2020 or the fiscal year spending levels are returned to fiscal year 2007 levels whichever date first occurs.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3723. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes.

SA 3724. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4851, supra; which was ordered to lie on the table.

SA 3725. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, supra; which was ordered to lie on the table.

SA 3726. Mr. COBURN proposed an amendment to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, supra.

SA 3727. Mr. COBURN proposed an amendment to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, supra.

TEXT OF AMENDMENTS

SA 3723. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes; as follows:

At the end of the bill, insert the following:

SEC. ___. RESCISSION OF UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, the greater of $20,000,000,000 and the amount determined necessary under the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 124 Stat. 8) to offset the budgetary effect of this Act, excluding this section, in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

SA 3724. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING A VALUE ADDED TAX.

It is the sense of the Senate that the Value Added Tax is a massive tax increase that will cripple families on fixed income and only further push back America's economic recovery.

SA 3725. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, insert the following:

TITLE II—OFFSETS FOR THE ACT

Subtitle A—Discretionary Spending

SEC. 211. RESCISSION OF UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, the greater of $10,000,000,000 and the amount determined necessary under the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 124 Stat. 8) to offset the budgetary effect of this Act, excluding this section, in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

Subtitle B—Revenue Offset Provisions

SEC. 221. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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.

SEC. 222. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a), a person receiving rental income from real estate (other than a qualified residence) shall be considered to be engaged in a trade or business of renting property.

''(2) QUALIFIED RESIDENCE.—For purposes of paragraph (1), the term 'qualified residence' means—

''(A) the principal residence (within the meaning of section 121) of the taxpayer, and

''(B) 1 other residence of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 223. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Section 40(B)(6)(E) is amended by adding at the end the following new clause:

''(iv) EXCLUSION OF CERTAIN PROCESSED FUELS WITH A HIGH ACID CONTENT.—The term 'cellulosic biofuel' shall not include any processed fuel with an acid number greater than 25. For purposes of the preceding sentence, the term 'processed fuel' means any fuel other than a fuel—

''(I) more than 4 percent of which (determined by weight) is any combination of water and sediment, or

''(II) the ash content of which is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used on or after January 1, 2010.

SEC. 224. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 3507, subsection (g) of section 32, and paragraph (7) of section 6051(a) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 is amended by striking subsection (i).

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 225. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY.

(a) REPORTING OF FIRST DAY OF EARNINGS TO DIRECTORY OF NEW HIRES.—

(1) IN GENERAL.—Section 453A(b)(1)(A) of the Social Security Act (42 U.S.C. 653a(b)(1)(A)) is amended by inserting ''the date services for remuneration were first performed by the employee,'' after ''of the employee,''.

(2) REPORTING FORMAT AND METHOD.—Section 453A(c) of the Social Security Act (42 U.S.C. 653a(c)) is amended by inserting '', to the extent practicable,'' after ''Each report required by subsection (b) shall''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the amendments made by this subsection shall take effect 6 months after the date of enactment of this Act.

(B) COMPLIANCE TRANSITION PERIOD.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part D of title IV of the Social Security Act to meet the additional requirements imposed by the amendment made by paragraph (1), the plan shall not be regarded as failing to meet such requirements before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of such amendment. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(b) EXTENSION AND MODIFICATION OF COLLECTION OF PAST-DUE DEBT FOR ERRONEOUS PAYMENT OF UNEMPLOYMENT COMPENSATION.—

(1) PERMANENT EXTENSION.—Subsection (f) of section 6402 is amended by striking paragraph (8).

(2) COLLECTION IN ALL STATES.—Subsection (f) of section 6402, as amended by paragraph (1), is amended by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(3) COLLECTION FOR REASONS OTHER THAN FRAUD.—

(A) IN GENERAL.—Paragraph (4) of section 6402(f), as redesignated by paragraph (2), is amended by striking ''due to fraud'' each place it appears.

(B) CONFORMING AMENDMENTS.—Section 6402(f) is amended—

(i) in paragraph (3), as redesignated by paragraph (2)—

(I) by striking ''or due to fraud'' in subparagraph (B), and

(II) by striking ''and due to fraud'' in subparagraph (C), and

(ii) in the heading, by striking ''RESULTING FROM FRAUD''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to refunds payable on or after the date of the enactment of this Act.

SEC. 226. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 227. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 228. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

(b) CONFORMING AMENDMENT.—Section 402A(d)(3)(A) is amended by striking ''A'' and inserting ''Except as provided in paragraph (4), a''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2009.

Subtitle C—Pension Funding Relief

PART I—SINGLE EMPLOYER PLANS

SEC. 231. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

''(II) inform the Pension Benefit Guaranty Corporation of such election in such form

and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

''(I) IN GENERAL.—Dividends and redemptions with respect to applicable preferred

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

treated as an installment acceleration amount with respect to the next succeeding plan year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 232. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

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

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

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

''(1) 2-YEAR LOOKBACK FOR DETERMINING DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9)

of such Code, the funded current liability percentage (as defined in subparagraph (C) thereof) for such plan for such plan year shall be such funded current liability percentage of such plan for the second plan year preceding the first election year of such plan.

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

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

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

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

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

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

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

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

''(d) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

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

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

SEC. 233. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

SEC. 234. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

PART II—MULTIEMPLOYER PLANS

SEC. 241. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to

the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

(b) EFFECTIVE DATES.—

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

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

SA 3726. Mr. COBURN proposed an amendment to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes; as follows:

At the end of the amendment, insert the following:

TITLE II—OFFSETS FOR THE ACT

Subtitle A—Discretionary Spending

SEC. 211. RESCISSION OF UNSPENT AND UNCOMMITTED FEDERAL FUNDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, of all available unobligated Federal funds, the greater of $20,000,000,000 or the amount determined necessary under the Statutory Pay-As-You-Go Act of 2010 (Public Law 111–139; 124 Stat. 8) to offset the budgetary effect of this Act, excluding this section, in appropriated discretionary unexpired funds are rescinded.

(b) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(1) identify the accounts and amounts rescinded to implement subsection (a); and

(2) submit a report to the Secretary of the Treasury and Congress of the accounts and amounts identified under paragraph (1) for rescission.

Subtitle B—Revenue Offset Provisions

SEC. 221. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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.

SEC. 222. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a), a person receiving rental income from real estate (other than a qualified residence) shall be considered to be engaged in a trade or business of renting property.

''(2) QUALIFIED RESIDENCE.—For purposes of paragraph (1), the term 'qualified residence' means—

''(A) the principal residence (within the meaning of section 121) of the taxpayer, and

''(B) 1 other residence of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 223. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Section 40(B)(6)(E) is amended by adding at the end the following new clause:

''(iv) EXCLUSION OF CERTAIN PROCESSED FUELS WITH A HIGH ACID CONTENT.—The term 'cellulosic biofuel' shall not include any processed fuel with an acid number greater than 25. For purposes of the preceding sentence, the term 'processed fuel' means any fuel other than a fuel—

''(I) more than 4 percent of which (determined by weight) is any combination of water and sediment, or

''(II) the ash content of which is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used on or after January 1, 2010.

SEC. 224. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 3507, subsection (g) of section 32, and paragraph (7) of section 6051(a) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 is amended by striking subsection (i).

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 225. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY.

(a) REPORTING OF FIRST DAY OF EARNINGS TO DIRECTORY OF NEW HIRES.—

(1) IN GENERAL.—Section 453A(b)(1)(A) of the Social Security Act (42 U.S.C. 653a(b)(1)(A)) is amended by inserting ''the date services for remuneration were first performed by the employee,'' after ''of the employee,''.

(2) REPORTING FORMAT AND METHOD.—Section 453A(c) of the Social Security Act (42 U.S.C. 653a(c)) is amended by inserting '', to the extent practicable,'' after ''Each report required by subsection (b) shall''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the amendments made by this subsection shall take effect 6 months after the date of enactment of this Act.

(B) COMPLIANCE TRANSITION PERIOD.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part D of title IV of the Social Security Act to meet the additional requirements imposed by the amendment made by paragraph (1), the plan shall not be regarded as failing to meet such requirements before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of such amendment. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(b) EXTENSION AND MODIFICATION OF COLLECTION OF PAST-DUE DEBT FOR ERRONEOUS PAYMENT OF UNEMPLOYMENT COMPENSATION.—

(1) PERMANENT EXTENSION.—Subsection (f) of section 6402 is amended by striking paragraph (8).

(2) COLLECTION IN ALL STATES.—Subsection (f) of section 6402, as amended by paragraph (1), is amended by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(3) COLLECTION FOR REASONS OTHER THAN FRAUD.—

(A) IN GENERAL.—Paragraph (4) of section 6402(f), as redesignated by paragraph (2), is amended by striking ''due to fraud'' each place it appears.

(B) CONFORMING AMENDMENTS.—Section 6402(f) is amended—

(i) in paragraph (3), as redesignated by paragraph (2)—

(I) by striking ''or due to fraud'' in subparagraph (B), and

(II) by striking ''and due to fraud'' in subparagraph (C), and

(ii) in the heading, by striking ''RESULTING FROM FRAUD''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to refunds payable on or after the date of the enactment of this Act.

SEC. 226. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 227. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 228. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

(b) CONFORMING AMENDMENT.—Section 402A(d)(3)(A) is amended by striking ''A'' and inserting ''Except as provided in paragraph (4), a''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2009.

Subtitle C—Pension Funding Relief

PART I—SINGLE EMPLOYER PLANS

SEC. 231. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

''(iv) EXCEPTION FOR CERTAIN REDEMPTIONS.—Redemptions that are made pursuant to a plan maintained with respect to employees, or that are made on account of the

death, disability, or termination of employment of an employee or shareholder, shall not be taken into account under clause (i).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(II) CAP TO APPLY.—If any amount treated as an installment acceleration amount under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 232. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

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

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

effect before the amendments made by this subtitle and subtitle B.

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

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

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

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

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

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

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

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

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

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

''(d) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

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

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

SEC. 233. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

SEC. 234. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—

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

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

PART II—MULTIEMPLOYER PLANS

SEC. 241. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(including any difference attributable to any criminally fraudulent investment arrangement).

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

''(B) EXPANDED SMOOTHING PERIOD.—

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

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

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

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

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

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

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

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

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

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

''(i) the plan actuary certifies that—

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

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

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

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

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

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

(b) EFFECTIVE DATES.—

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

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

SA 3727. Mr. COBURN proposed an amendment to amendment SA 3721 proposed by Mr. BAUCUS to the bill H.R. 4851, to provide a temporary extension of certain programs, and for other purposes; as follows:

At the end of the amendment, insert the following:

TITLE II—OFFSETS FOR ACT

Subtitle A—Revenue Offset Provisions

SEC. 201. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title 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.

SEC. 202. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 is amended by adding at the end the following new subsection:

''(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a), a person receiving rental income from real estate (other than a qualified residence) shall be considered to be engaged in a trade or business of renting property.

''(2) QUALIFIED RESIDENCE.—For purposes of paragraph (1), the term 'qualified residence' means—

''(A) the principal residence (within the meaning of section 121) of the taxpayer, and

''(B) 1 other residence of the taxpayer which is selected by the taxpayer for purposes of this subsection for the taxable year and which is used by the taxpayer as a residence (within the meaning of section 280A(d)(1)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments made after December 31, 2010.

SEC. 203. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Section 40(B)(6)(E) is amended by adding at the end the following new clause:

''(iv) EXCLUSION OF CERTAIN PROCESSED FUELS WITH A HIGH ACID CONTENT.—The term 'cellulosic biofuel' shall not include any processed fuel with an acid number greater than 25. For purposes of the preceding sentence, the term 'processed fuel' means any fuel other than a fuel—

''(I) more than 4 percent of which (determined by weight) is any combination of water and sediment, or

''(II) the ash content of which is more than 1 percent (determined by weight).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold or used on or after January 1, 2010.

SEC. 204. ELIMINATION OF ADVANCE REFUNDABILITY OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 3507, subsection (g) of section 32, and paragraph (7) of section 6051(a) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 6012(a) is amended by striking paragraph (8) and by redesignating paragraph (9) as paragraph (8).

(2) Section 6302 is amended by striking subsection (i).

(c) EFFECTIVE DATE.—The repeals and amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 205. UNEMPLOYMENT INSURANCE PROGRAM INTEGRITY.

(a) REPORTING OF FIRST DAY OF EARNINGS TO DIRECTORY OF NEW HIRES.—

(1) IN GENERAL.—Section 453A(b)(1)(A) of the Social Security Act (42 U.S.C. 653a(b)(1)(A)) is amended by inserting ''the date services for remuneration were first performed by the employee,'' after ''of the employee,''.

(2) REPORTING FORMAT AND METHOD.—Section 453A(c) of the Social Security Act (42 U.S.C. 653a(c)) is amended by inserting '', to the extent practicable,'' after ''Each report required by subsection (b) shall''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—Subject to subparagraph (B), the amendments made by this subsection shall take effect 6 months after the date of enactment of this Act.

(B) COMPLIANCE TRANSITION PERIOD.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part D of title IV of the Social Security Act to meet the additional requirements imposed by the amendment made by paragraph (1), the plan shall not be regarded as failing to meet such requirements before the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of such amendment. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(b) EXTENSION AND MODIFICATION OF COLLECTION OF PAST-DUE DEBT FOR ERRONEOUS PAYMENT OF UNEMPLOYMENT COMPENSATION.—

(1) PERMANENT EXTENSION.—Subsection (f) of section 6402 is amended by striking paragraph (8).

(2) COLLECTION IN ALL STATES.—Subsection (f) of section 6402, as amended by paragraph (1), is amended by striking paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

(3) COLLECTION FOR REASONS OTHER THAN FRAUD.—

(A) IN GENERAL.—Paragraph (4) of section 6402(f), as redesignated by paragraph (2), is amended by striking ''due to fraud'' each place it appears.

(B) CONFORMING AMENDMENTS.—Section 6402(f) is amended—

(i) in paragraph (3), as redesignated by paragraph (2)—

(I) by striking ''or due to fraud'' in subparagraph (B), and

(II) by striking ''and due to fraud'' in subparagraph (C), and

(ii) in the heading, by striking ''RESULTING FROM FRAUD''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to refunds payable on or after the date of the enactment of this Act.

SEC. 206. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) (defining applicable retirement plan) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) (defining elective deferral) is amended to read as follows:

''(2) ELECTIVE DEFERRAL.—The term 'elective deferral' means—

''(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

''(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 207. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 are each amended by striking ''$50'' and inserting ''$100''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 are each amended by striking ''$250,000'' and inserting ''$1,500,000''.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) is amended by striking ''$15'' and inserting ''$30''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 are each amended by striking ''$75,000'' and inserting ''$250,000''.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) is amended by striking ''$30'' and inserting ''$60''.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 are each amended by striking ''$150,000'' and inserting ''$500,000''.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN $5,000,000.—Paragraph (1) of section 6721(d) is amended—

(1) by striking ''$100,000'' in subparagraph (A) and inserting ''$500,000'',

(2) by striking ''$25,000'' in subparagraph (B) and inserting ''$75,000'', and

(3) by striking ''$50,000'' in subparagraph (C) and inserting ''$200,000''.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) is amended by striking ''$100'' and inserting ''$250''.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 is amended by adding at the end the following new subsection:

''(f) ADJUSTMENT FOR INFLATION.—

''(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting 'calendar year 2011' for 'calendar year 1992' in subparagraph (B) thereof.

''(2) ROUNDING.—If any amount adjusted under paragraph (1)—

''(A) is not less than $75,000 and is not a multiple of $500, such amount shall be rounded to the next lowest multiple of $500, and

''(B) is not described in subparagraph (A) and is not a multiple of $10, such amount shall be rounded to the next lowest multiple of $10.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 208. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO ROTH DESIGNATED ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) is amended by adding at the end the following new paragraph:

''(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

''(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

''(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

''(ii) section 72(t) shall not apply, and

''(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

''(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

''(C) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.''.

(b) CONFORMING AMENDMENT.—Section 402A(d)(3)(A) is amended by striking ''A'' and inserting ''Except as provided in paragraph (4), a''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2009.

Subtitle B—Pension Funding Relief

PART I—SINGLE EMPLOYER PLANS

SEC. 211. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(iv) ELECTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(III) LIMITATION ON YEARS TO WHICH AMOUNTS CARRIED FOR.—No amount shall be carried under subclause (I) or (II) to a plan

year which begins after the first plan year following the last plan year in the restriction period (or after the second plan year following such last plan year in the case of an election year with respect to which 15-year amortization was elected under paragraph (2)(D)).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(I) such dollar amount, multiplied by

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

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

''(E) EXTRAORDINARY DIVIDENDS AND REDEMPTIONS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 212. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

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

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

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

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

preceding the first election year of such plan.

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

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

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

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

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

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

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

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

''(d) ELECTION.—

''(1) IN GENERAL.—The plan sponsor of a plan may elect to have this section apply to not more than 2 eligible plan years with respect to the plan, except that in the case of a plan to which section 106 of this Act applies, the plan sponsor may only elect to have this section apply to 1 eligible plan year.

''(2) AMORTIZATION SCHEDULE.—Such election shall specify whether the rules under subsection (b) or (c) shall apply to an election year, except that if a plan sponsor elects to have this section apply to 2 eligible plan years, the plan sponsor must elect the same rule for both years.

''(3) OTHER RULES.—Such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE PLAN YEAR.—For purposes of this subparagraph, the term 'eligible plan year' means any plan year beginning in 2008, 2009, 2010, or 2011, except that a plan year beginning in 2008 shall only be treated as an eligible plan year if the due date for the payment of the minimum required contribution for such plan year occurs on or after the date of the enactment of this clause.

''(2) PRE-EFFECTIVE DATE PLAN YEAR.—The term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan.

''(3) INCREASED UNFUNDED NEW LIABILITY.—The term 'increased unfunded new liability' means, with respect to a year, the excess (if any) of the unfunded new liability over the amount of unfunded new liability determined as if the value of the plan's assets determined under subsection 302(c)(2) of such Act and section 412(c)(2) of such Code equaled the product of the current liability of the plan for the year multiplied by the funded current liability percentage (as defined in section 302(d)(8)(B) of such Act and 412(l)(8)(B) of such Code) of the plan for the second plan year preceding the first election year of such plan.

''(4) OTHER DEFINITIONS.—The terms 'unfunded new liability' and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

(b) ELIGIBLE CHARITY PLANS.—Section 104 of the Pension Protection Act of 2006 is amended—

(1) by striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) by adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer (determined without regard to section 414(c) of the Internal Revenue Code) and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the Pension Protection Act of 2006.

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2007, except that a plan sponsor may elect to apply such amendments to plan years beginning after December 31, 2008. Any such election shall be made at such time, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury.

SEC. 213. LOOKBACK FOR CERTAIN BENEFIT RESTRICTIONS.

(a) IN GENERAL.—

(1) AMENDMENT TO ERISA.—Section 206(g)(9) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(D) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(i) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(I) such percentage, as determined without regard to this subparagraph, or

''(II) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) APPLICABLE PROVISION.—For purposes of this subparagraph, the term 'applicable provision' means—

''(I) paragraph (3), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary of the Treasury, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(II) paragraph (4).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 436(j) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(3) SPECIAL RULE FOR CERTAIN YEARS.—Solely for purposes of any applicable provision—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2008, and before October 1, 2010, the adjusted funding target attainment percentage of a plan shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 1, 2007, and before October 1, 2008, as determined under rules prescribed by the Secretary.

''(B) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(i) subparagraph (A) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.

''(C) APPLICABLE PROVISION.—For purposes of this paragraph, the term 'applicable provision' means—

''(i) subsection (d), but only for purposes of applying such paragraph to a payment which, as determined under rules prescribed by the Secretary, is a payment under a social security leveling option which accelerates payments under the plan before, and reduces payments after, a participant starts receiving social security benefits in order to provide substantially similar aggregate payments both before and after such benefits are received, and

''(ii) subsection (e).''.

(b) INTERACTION WITH WRERA RULE.—Section 203 of the Worker, Retiree, and Employer Recovery Act of 2008 shall apply to a plan for any plan year in lieu of the amendments made by this section applying to sections 206(g)(4) of the Employee Retirement Income Security Act of 1974 and 436(e) of the Internal Revenue Code of 1986 only to the extent that such section produces a higher adjusted funding target attainment percentage for such plan for such year.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning on or after October 1, 2008.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 214. LOOKBACK FOR CREDIT BALANCE RULE FOR PLANS MAINTAINED BY CHARITIES.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(f) of the Employee Retirement Income Security Act of 1974 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year shall be the greater of—

''(I) such ratio, as determined without regard to this subparagraph, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007, and before September 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and before January 1, 2011, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3) of the Internal Revenue Code of 1986.''.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 430(f) of the Internal Revenue Code of 1986 is amended by adding the following at the end thereof:

''(D) SPECIAL RULE FOR CERTAIN YEARS OF PLANS MAINTAINED BY CHARITIES.—

''(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after August 31, 2009, and before September 1, 2011, the ratio determined under such subparagraph for the preceding plan year of a plan shall be the greater of—

''(I) such ratio, as determined without regard to this subsection, or

''(II) the ratio for such plan for the plan year beginning after August 31, 2007 and before September 1, 2008, as determined under rules prescribed by the Secretary.

''(ii) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year—

''(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before September 1, 2007, as determined under rules prescribed by the Secretary.

''(iii) LIMITATION TO CHARITIES.—This subparagraph shall not apply to any plan unless such plan is maintained exclusively by one or more organizations described in section 501(c)(3).''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after August 31, 2009.

(2) SPECIAL RULE.—In the case of a plan for which the valuation date is not the first day of the plan year, the amendments made by this section shall apply to plan years beginning after December 31, 2008.

PART II—MULTIEMPLOYER PLANS

SEC. 221. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT RULES.

(a) ADJUSTMENTS.—

(1) AMENDMENT TO ERISA.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period—

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary of the Treasury on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary of the Treasury for purposes of section 165 of the Internal Revenue Code of 1986.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary of the Treasury shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by such Secretary under section 302(d)(1) and section 412(d)(1) of such Code.

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) is amended by adding at the end the following new paragraph:

''(8) SPECIAL RELIEF RULES.—Notwithstanding any other provision of this subsection—

''(A) AMORTIZATION OF NET INVESTMENT LOSSES.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may treat the portion of any experience loss or gain attributable to net investment losses incurred in either or both of the first two plan years ending after August 31, 2008, as an item separate from other experience losses, to be amortized in equal annual installments (until fully amortized) over the period —

''(I) beginning with the plan year in which such portion is first recognized in the actuarial value of assets, and

''(II) ending with the last plan year in the 30-plan year period beginning with the plan year in which such net investment loss was incurred.

''(ii) COORDINATION WITH EXTENSIONS.—If this subparagraph applies for any plan year—

''(I) no extension of the amortization period under clause (i) shall be allowed under subsection (d), and

''(II) if an extension was granted under subsection (d) for any plan year before the election to have this subparagraph apply to the plan year, such extension shall not result in such amortization period exceeding 30 years.

''(iii) NET INVESTMENT LOSSES.—For purposes of this subparagraph—

''(I) IN GENERAL.—Net investment losses shall be determined in the manner prescribed by the Secretary on the basis of the difference between actual and expected returns (including any difference attributable to any criminally fraudulent investment arrangement).

''(II) CRIMINALLY FRAUDULENT INVESTMENT ARRANGEMENTS.—The determination as to whether an arrangement is a criminally fraudulent investment arrangement shall be made under rules substantially similar to the rules prescribed by the Secretary for purposes of section 165.

''(B) EXPANDED SMOOTHING PERIOD.—

''(i) IN GENERAL.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met may change

its asset valuation method in a manner which—

''(I) spreads the difference between expected and actual returns for either or both of the first 2 plan years ending after August 31, 2008, over a period of not more than 10 years,

''(II) provides that for either or both of the first 2 plan years beginning after August 31, 2008, the value of plan assets at any time shall not be less than 80 percent or greater than 130 percent of the fair market value of such assets at such time, or

''(III) makes both changes described in subclauses (I) and (II) to such method.

''(ii) ASSET VALUATION METHODS.—If this subparagraph applies for any plan year—

''(I) the Secretary shall not treat the asset valuation method of the plan as unreasonable solely because of the changes in such method described in clause (i), and

''(II) such changes shall be deemed approved by the Secretary under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1).

''(iii) AMORTIZATION OF REDUCTION IN UNFUNDED ACCRUED LIABILITY.—If this subparagraph and subparagraph (A) both apply for any plan year, the plan shall treat any reduction in unfunded accrued liability resulting from the application of this subparagraph as a separate experience amortization base, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years rather than the period such liability would otherwise be amortized over.

''(C) SOLVENCY TEST.—The solvency test under this paragraph is met only if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period, taking into account the changes in the funding standard account under this paragraph.

''(D) RESTRICTION ON BENEFIT INCREASES.—If subparagraph (A) or (B) apply to a multiemployer plan for any plan year, then, in addition to any other applicable restrictions on benefit increases, a plan amendment increasing benefits may not go into effect during either of the 2 plan years immediately following such plan year unless—

''(i) the plan actuary certifies that—

''(I) any such increase is paid for out of additional contributions not allocated to the plan immediately before the application of this paragraph to the plan, and

''(II) the plan's funded percentage and projected credit balances for such 2 plan years are reasonably expected to be at least as high as such percentage and balances would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D or to comply with other applicable law.

''(E) REPORTING.—A plan sponsor of a plan to which this paragraph applies shall—

''(i) give notice of such application to participants and beneficiaries of the plan, and

''(ii) inform the Pension Benefit Guaranty Corporation of such application in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall take effect as of the first day of the first plan year ending after August 31, 2008, except that any election a plan makes pursuant to this section that affects the plan's funding standard account for the first plan year beginning after August 31, 2008, shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to such plan year.

(2) RESTRICTIONS ON BENEFIT INCREASES.—Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(D) of such Act and 431(b)(8)(D) of such Code, as added by this section, shall take effect on the date of enactment of this Act.

Subtitle C—Discretionary Spending

SEC. 231. PURPOSE.

The purpose of this subtitle is to offset spending in this Act with discretionary spending.

SEC. 232. PAYMENTS TO DECEASED INDIVIDUALS AND ESTATES.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Agriculture shall not provide to any deceased individual or estate of such an individual any agricultural payment under Public Law 110-246, or any law amended by this law, after the date that is 1 program year (as determined by the Secretary with respect to the applicable payment program) after the date of death of the individual.

(b) REPORT.—As soon as practicable after the date of enactment of this Act, and annually thereafter, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and post on the website of the Department of Agriculture, a report that describes, for the period covered by the report—

(1) the number and aggregate amount of agricultural payments described in subsection (a) provided to deceased individuals and estates of deceased individuals; and

(2) for each such payment, the length of time the estate of the deceased individual that received the payment has been open.

SEC. 233. RESCINDING 9-YEAR OLD UNUSED EARMARKS.

(a) DEFINITION.—In this section, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark, as defined for purposes of Rule XXI of the Rules of the House of Representatives.

(b) RESCISSION.—Any earmark of funds provided for any Federal agency with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year, except that the agency head may delay any such rescission if the agency head determines that an additional obligation of the earmark is likely to occur during the following 12-month period.

(c) IDENTIFICATION AND REPORT.—

(1) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(2) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(A) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance, and the year when the funding expires, if applicable;

(B) the number of rescissions resulting from this section and the annual savings resulting from this section for the previous fiscal year; and

(C) a listing and accounting for earmarks provided for Federal agencies scheduled to be rescinded at the end of the current fiscal year.

SEC. 234. OVER-THE-ROAD BUS SECURITY ASSISTANCE (PRESIDENTIAL TERMINATION).

(a) IN GENERAL.—Section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1182) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53; 121 Stat. 266) is amended—

(1) in the table of contents in section 1(b), by striking the item relating to section 1532;

(2) by redesignating sections 1533 through 1542 as sections 1532 through 1541, respectively;

(3) in section 1531(e)(1)(E), by striking ''section 1534'' and inserting ''section 1533''; and

(4) in section 1534(c)(4) (6 U.S.C. 1185(c)(4)), as so redesignated, by striking ''and eligible recipients under section 1532''.

(c) APPLICABILITY.—Notwithstanding the amendment made by subsection (a), any grant made under section 1532 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1532) before the date of enactment of this Act shall remain in effect under the terms and for the duration of the grant.

SEC. 235. RESOURCE CONSERVATION AND DEVELOPMENT (PRESIDENTIAL TERMINATION).

Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.) is repealed.

SEC. 236. BROWNFIELDS REVITALIZATION FUNDING (PRESIDENTIAL TERMINATION).

Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604) is amended by striking subsection (k).

SEC. 237. ENVIRONMENTAL INFRASTRUCTURE CONSTRUCTION PROJECTS (PRESIDENTIAL TERMINATION).

The Water Resources Development Act of 2007 (Public Law 110–114) is amended by repealing the following sections:

(1) Section 5039 (121 Stat. 1206).

(2) Section 5061 (121 Stat. 1215).

(3) Section 5065 (121 Stat. 1217).

(4) Section 5082 (121 Stat. 1226).

(5) Section 5085 (121 Stat. 1228).

SEC. 238. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS (PRESIDENTIAL TERMINATION).

Section 20154 of title 49, United States Code, is repealed.

SEC. 239. RESCISSIONS FROM THE DEPARTMENT OF COMMERCE (HOUSE PASSED).

There are rescinded $111,500,000 from the Department of Commerce under the heading ''NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION'', under the subheading ''DIGITAL-TO-ANALOG CONVERTER BOX PROGRAM'' to be derived from unobligated balances made available under this heading in title II of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 128).

SEC. 240. RESCISSIONS FROM THE DEPARTMENT OF TRANSPORTATION (HOUSE PASSED).

There are rescinded $44,000,000 from the Department of Transportation under the heading ''NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION'', under the subheading ''CONSUMER ASSISTANCE TO RECYLE AND SAVE PROGRAM'' to be derived from unobligated balances made available in title XIII of Public Law 111–32 and in Public Law 111–47.

SEC. 241. RESCISSIONS FROM THE FOOD AND NUTRITION SERVICE OF THE DEPARTMENT OF AGRICULTURE (HOUSE PASSED).

There are rescinded $361,825,000 from the Department of Agriculture under the heading ''FOOD AND NUTRITION SERVICE'', under

the subheading ''SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)'' to be derived from unobligated balances available from amounts placed in reserve in title I of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 115).

SEC. 242. RESCISSION FROM THE RURAL DEVELOPMENT PROGRAM OF THE DEPARTMENT OF AGRICULTURE (HOUSE PASSED).

There are rescinded $102,675,000 from the Department of Agriculture under the heading ''RURAL DEVELOPMENT PROGRAMS'' to be derived from the unobligated balances of funds that were provided for such accounts in prior appropriation Acts (other than Public Law 111–5) and that were designated by the Congress in such Acts as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 243. DISPOSAL OF $4 BILLION WORTH OF EXCESS, SURPLUS, UNDERPERFORMING, AND UNNEEDED FEDERAL PROPERTY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with the heads of executive agencies, before FY 2011, shall dispose of up to $4,000,000,000 in real property that is—

(1) a parcel of real property under the administrative jurisdiction of the Federal Government that is—

(A) excess;

(B) surplus;

(C) underperforming; or

(D) otherwise not meeting the needs of the Federal Government, as determined by the Director; and

(2) a building or other structure located on real property described under paragraph (1).

(b) EXCLUSION.—The disposal of real property under this section excludes any parcel of real property or building or other structure located on such real property that is to be closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(c) REPORTS.—The Director shall provide an itemized report to Congress of the real property disposed of, including the savings and revenues resulting from such disposals and the reasons each property was chosen and how it was disposed.

SEC. 244. ELIMINATION OF EXCESSIVE ADMINISTRATION AND WASTEFUL SPENDING, AND CONSOLIDATION OF DUPLICATIVE PROGRAMS, AT THE DEPARTMENT OF LABOR AND OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal law, the Secretary of Labor and the heads of other Federal agencies shall consolidate all job training and employment programs carried out through the Department of Labor or any of those Federal agencies. In carrying out the consolidated programs, the Secretary of Labor shall reduce the cost of administering such programs.

(b) DEFINITIONS.—In this section:

(1) FEDERAL AGENCY.—The term ''Federal agency'' includes the Department of Veterans Affairs, the Department of Education, the Department of Health and Human Services, the Department of Housing and Urban Development, the Department of Commerce, the Department of Homeland Security, and the Department of the Interior.

(2) JOB TRAINING AND EMPLOYMENT PROGRAM.—The term ''job training and employment program'' includes the programs carried out under subtitle B of title I, section 167, and section 173A, of the Workforce Investment Act of 1998 (42 U.S.C. 2811 et seq., 2912, and 2918a).

SEC. 245. REPORT ON FUNDING FOR EXCESSIVE ADMINISTRATION, WASTEFUL PROJECTS, OR DUPLICATIVE PROJECTS AT THE DEPARTMENT OF LABOR AND OTHER FEDERAL AGENCIES.

(a) PURPOSE.—The purpose of this section is to identify accounts from which funds could be rescinded, to assist in offset the costs of labor spending programs such as unemployment insurance programs with a specific focus on the Department of Labor.

(b) STUDY.—The Secretary of Labor and the head of every other Federal agency shall conduct a study in which the head of the agency identifies—

(1) each account of the agency that the head estimates will have unobligated funds at the end of the program year ending after the date of enactment of this Act, and the amount of the unobligated funds estimated for each such account; and

(2) each account of the agency that the head determines is overfunded (due to funding for excessive administration, wasteful projects, or duplicative projects), and the amount of the overfunding for each such account.

(c) REPORT.—Not later than 30 days after the date of enactment of this Act, the head of each Federal agency shall submit to Congress a report containing the results of the study, and make the report publicly available on the Web site of the agency.

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 a hearing has been scheduled before the Senate Committee on Energy and Natural Resources. The hearing will be held on Tuesday, April 27, 2010, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider the nominations of Philip D. Moeller and Cheryl A. LaFleur, to be Members of the Federal Energy Regulatory Commission.

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 may do so by sending it to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150, or by e-mail to Amanda_kelly@energy.senate.gov.

For further information, please contact Sam Fowler or Amanda Kelly.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests. The hearing will be held on Wednesday, April 28, 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. 1241, to amend Public Law 106–206 to direct the Secretary of the Interior and the Secretary of Agriculture to require annual permits and assess annual fees for commercial filming activities on Federal land for film crews of 5 persons or fewer;

S. 1571 and H.R. 1043, to provide for a land exchange involving certain National Forest System land in the Mendocino National Forest in the State of California, and for other purposes;

S. 2762, to designate certain lands in San Miguel, Ouray, and San Juan Counties, Colorado, as wilderness, and for other purposes;

S. 3075, to withdraw certain Federal land and interests in that land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws;

S. 3185, to require the Secretary of the Interior to convey certain Federal land to Elko County, Nevada, and to take land into trust for the Te-moak Tribe of Western Shoshone Indians of Nevada, and for other purposes; and

H.R. 86, to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to allison_seyferth@energy.senate.gov.

For further information, please contact David Brooks or Allison Seyferth.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 14, 2010, at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 14, 2010, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on April 14, 2010, at 10 a.m. in room 406 of the Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to

meet during the session of the Senate on April 14, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Using Unemployment Insurance to Help Americans Get Back to Work: Creating Opportunities and Overcoming Challenges.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 14, 2010, at 9:30 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Oversight of the Department of Justice.''

The PRESIDING OFFICER. Without objection, it is so ordered.

EUROPEAN AFFAIRS SUBCOMMITTEE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 14, 2010, at 2:40 p.m., to hold a European Affairs subcommittee hearing entitled ''Unfinished Business in Southeast Europe.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on April 14, 2010, at 2:30 p.m. to conduct a hearing entitled ''Deployed Federal Civilians: Advancing Security and Opportunity in Afghanistan.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management support of the Committee on Armed Services be authorized to meet during the session of the Senate on April 14, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on april 14, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff be allowed floor privileges during the consideration of the pending bill: Randy Aussenberg, Claire Green, and Dustin Stevens.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CONGENITAL DIAPHRAGMATIC HERNIA AWARENESS DAY

Mr. CASEY. I ask unanimous consent that the Judiciary Committee be discharged from further consideration, and the Senate now proceed to S. Res. 204.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 204) designating March 31, 2010, as ''National Congenital Diaphragmatic Hernia Awareness Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 204) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 204

Whereas the congenital diaphragmatic hernia birth defect is one of the most prevalent, life-threatening birth defects in the United States;

Whereas the congenital diaphragmatic hernia birth defect is a severe, often deadly birth defect that has a devastating impact, in both human and economic terms, affecting equally people of all races, sexes, nationalities, geographic locations, and income levels;

Whereas the congenital diaphragmatic hernia birth defect occurs in 1 in every 2,000 live births in the United States and accounts for 8 percent of all major congenital anomalies;

Whereas, in 2004, there were approximately 4,115,590 live births in the United States, and in approximately 1,800 of those live births, the congenital diaphragmatic hernia birth defect occurred, causing countless additional friends, loved ones, spouses, and caregivers to shoulder the physical, emotional, and financial burdens the congenital diaphragmatic hernia birth defect causes;

Whereas there is no genetic indicator or any other indicator available to predict the occurrence of the congenital diaphragmatic hernia birth defect, other than through the performance of an ultrasound during pregnancy;

Whereas there is no consistent treatment or cure for the congenital diaphragmatic hernia birth defect;

Whereas the congenital diaphragmatic hernia birth defect is a leading cause of neonatal death in the United States;

Whereas 50 percent of the patients who do survive the congenital diaphragmatic hernia birth defect have residual health issues, resulting in a severe strain on pediatric medical resources and on the delivery of health care services in the United States;

Whereas proactive diagnosis and the appropriate management and care of fetuses afflicted with the congenital diaphragmatic hernia birth defect minimize the incidence of emergency situations resulting from the birth defect and dramatically improve survival rates among people with the birth defect;

Whereas neonatal medical care is one of the most expensive types of medical care provided in the United States and patients with the congenital diaphragmatic hernia birth defect stay in intensive care for approximately 60 to 90 days, costing millions of dollars, utilizing blood from local blood banks, and requiring the most technically advanced medical care;

Whereas the congenital diaphragmatic hernia birth defect is a birth defect that causes damage to the lungs and the cardiovascular system;

Whereas patients with the congenital diaphragmatic hernia birth defect may have long-term health issues such as respiratory insufficiency, gastroesophageal reflux, poor growth, neurodevelopmental delay, behavior problems, hearing loss, hernia recurrence, and orthopedic deformities;

Whereas the severity of the symptoms and outcomes of the congenital diaphragmatic hernia birth defect and the limited public awareness of the birth defect cause many patients to receive substandard care, to forego regular visits to physicians, and not to receive good health or therapeutic management that would help avoid serious complications in the future, compromising the quality of life of those patients;

Whereas people suffering from chronic, life-threatening diseases and birth defects, similar to the congenital diaphragmatic hernia birth defect, and family members of those people are predisposed to depression and the resulting consequences of depression because of anxiety over the possible pain, suffering, and premature death that people with such diseases and birth defects may face;

Whereas the Senate and taxpayers of the United States want treatments and cures for disease and hope to see results from investments in research conducted by the National Institutes of Health and from initiatives such as the National Institutes of Health Roadmap to the Future;

Whereas the congenital diaphragmatic hernia birth defect is an example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can generate therapeutic interventions that directly benefit the people and families suffering from the congenital diaphragmatic hernia birth defect;

Whereas collaboration, technological innovation, scientific momentum, and public-private partnerships can save billions of Federal dollars under Medicare, Medicaid, and other programs for therapies, and early intervention will increase survival rates among people suffering from the congenital diaphragmatic hernia birth defect;

Whereas improvements in diagnostic technology, the expansion of scientific knowledge, and better management of care for patients with the congenital diaphragmatic hernia birth defect already have increased survival rates in some cases;

Whereas there is still a need for more research and increased awareness of the congenital diaphragmatic hernia birth defect and for an increase in funding for that research in order to provide a better quality of life to survivors of the congenital diaphragmatic hernia birth defect, and more optimism for the families and health care professionals who work with children with the birth defect;

Whereas there are thousands of volunteers nationwide dedicated to expanding research,

fostering public awareness and understanding, educating patients and their families about the congenital diaphragmatic hernia birth defect to improve their treatment and care, providing appropriate moral support, and encouraging people to become organ donors; and

Whereas volunteers engage in an annual national awareness event held on March 31, making that day an appropriate time to recognize National Congenital Diaphragmatic Hernia Awareness Day: Now, therefore, be it

Resolved, That the Senate—

(1) designates March 31, 2010, as ''National Congenital Diaphragmatic Hernia Awareness Day'';

(2) supports the goals and ideals of a national day to raise public awareness and understanding of the congenital diaphragmatic hernia birth defect;

(3) recognizes the need for additional research into a cure for the congenital diaphragmatic hernia birth defect; and

(4) encourages the people of the United States and interested groups to support National Congenital Diaphragmatic Hernia Awareness Day through appropriate ceremonies and activities, to promote public awareness of the congenital diaphragmatic hernia birth defect, and to foster understanding of the impact of the disease on patients and their families.

HONORING BLACKSTONE VALLEY TOURISM COUNCIL

Mr. CASEY. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 468, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 468) honoring the Blackstone Valley Tourism Council on the celebration of its 25th anniversary.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 468) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 468

Whereas, on April 8, 2010, the Blackstone Valley Tourism Council will celebrate the 25th anniversary of its founding;

Whereas, since 1985, the Blackstone Valley Tourism Council has been at the forefront of sustainable destination development, community building, resiliency, education, and scholarly research;

Whereas the Blackstone Valley Tourism Council is a non-profit corporation registered as a 501(c)(3) educational organization and is authorized under Section 42–63.1–5 of the Rhode Island General Laws as the State-designated regional tourism development agency for the Blackstone Valley of Rhode Island;

Whereas the development region of the Blackstone Valley Tourism Council follows the length and width of the Blackstone River Watershed, from the many tributaries in southern Massachusetts, to the end of the river at the headwaters of the Narragansett Bay in Rhode Island;

Whereas the Blackstone Valley Tourism Council represents the Rhode Island cities of Pawtucket, Central Falls, and Woonsocket, and towns of Cumberland, Lincoln, North Smithfield, Smithfield, Glocester, and Burrillville;

Whereas the Blackstone Valley is the birthplace of the American Industrial Revolution that began in 1790 in Pawtucket, Rhode Island, when Samuel Slater began textile manufacturing in a wooden mill on the banks of the Blackstone River;

Whereas, since its beginning, the Blackstone Valley Tourism Council has worked to develop, promote, and expand the economic and community development base for the cities and towns in the Blackstone Valley to create a viable visitor and cultural destination that preserves the historic heritage of the region;

Whereas the Blackstone Valley Tourism Council works as an interpreter and educator of the history and ecology of the Blackstone River, initiates ongoing international relationships of major importance to the region, provides input on future riverfront and economic development, and develops various recreational activities;

Whereas the work that the Blackstone Valley Tourism Council accomplishes benefits from its partnerships with local social and community development organizations, municipalities, regional and State economic development organizations, educational institutions, and National and international entities;

Whereas the Blackstone Valley Tourism Council was the first recipient of the Ulysses Prize from the United Nations World Tourism Organization (UNWTO) that merits distinction for innovative contributions to tourism policy, sustainable tourism planning, environmental protection and new technologies, and in 2006, the Council received the UNWTO.Sbest Certification in tourism governance, the only organization in the United States to earn this certification; and

Whereas, in 2008, the World Travel and Tourism Council (WTTC) recognized the Blackstone Valley Tourism Council with its Tourism for Tomorrow Destination Award, a prestigious sustainable tourism development award, in recognition of the integrated, community-centered, resilient approach of the Council to tourism development and community building: Now, therefore, be it

Resolved, That the Senate—

(1) honors the Blackstone Valley Tourism Council on the celebration of its 25th anniversary; and

(2) wishes the Council continued success.

NATIONAL 9–1–1 EDUCATION MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 482 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 482) designating April 2010 as ''National 9–1–1 Education Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 482) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 482

Whereas 9–1–1 is nationally recognized as the number to call in an emergency to receive immediate help from police, fire, emergency medical services, or other appropriate emergency response entities;

Whereas in 1967, the President's Commission on Law Enforcement and Administration of Justice recommended that a ''single number should be established'' nationwide for reporting emergency situations, and other Federal Government agencies and various governmental officials also supported and encouraged the recommendation;

Whereas in 1968, the American Telephone and Telegraph Company (AT&T) announced that it would establish the digits 9–1–1 as the emergency code throughout the United States;

Whereas 9–1–1 was designated by Congress as the national emergency call number under the Wireless Communications and Public Safety Act of 1999 (Public Law 106–81; 113 Stat. 1286);

Whereas section 102 of the ENHANCE 911 Act of 2004 (47 U.S.C. 942 note) declared an enhanced 9–1–1 system to be ''a high national priority'' and part of ''our Nation's homeland security and public safety'';

Whereas it is important that policy makers at all levels of government understand the importance of 9–1–1, how the system works today, and the steps that are needed to modernize the 9–1–1 system;

Whereas the 9–1–1 system is the connection between the eyes and ears of the public and the emergency response system in the United States and is often the first place emergencies of all magnitudes are reported, making 9–1–1 a significant homeland security asset;

Whereas more than 6,000 9–1–1 public safety answering points serve more than 3,000 counties and parishes throughout the United States;

Whereas dispatchers at public safety answering points answer more than 200,000,000 9–1–1 calls each year in the United States;

Whereas a growing number of 9–1–1 calls are made using wireless and Internet Protocol-based communications services;

Whereas a growing segment of the population, including the deaf, hard of hearing, deaf-blind, and individuals with speech disabilities are increasingly communicating with nontraditional text, video, and instant messaging communications services and expect those services to be able to connect directly to 9–1–1;

Whereas the growth and variety of means of communication, including mobile and Internet Protocol-based systems, impose challenges for accessing 9–1–1 and implementing an enhanced 9–1–1 system and require increased education and awareness about the capabilities of different means of communication;

Whereas numerous other N–1–1 and 800 number services exist for nonemergency situations, including 2–1–1, 3–1–1, 5–1–1, 7–1–1, 8–

1–1, poison control centers, and mental health hotlines, and the public needs to be educated on when to use those services in addition to or instead of 9–1–1;

Whereas international visitors and immigrants make up an increasing percentage of the United States population each year, and visitors and immigrants may have limited knowledge of our emergency calling system;

Whereas people of all ages use 9–1–1 and it is critical to educate those people on the proper use of 9–1–1;

Whereas senior citizens are at high risk for needing to access to 9–1–1 and many senior citizens are learning to use new technology;

Whereas thousands of 9–1–1 calls are made every year by children properly trained in the use of 9–1–1, which saves lives and underscores the critical importance of training children early in life about 9–1–1;

Whereas the 9–1–1 system is often misused, including by the placement of prank and nonemergency calls;

Whereas misuse of the 9–1–1 system results in costly and inefficient use of 9–1–1 and emergency response resources and needs to be reduced;

Whereas parents, teachers, and all other caregivers need to play an active role in 9–1–1 education for children, but will do so only after being first educated themselves;

Whereas there are many avenues for 9–1–1 public education, including safety fairs, school presentations, libraries, churches, businesses, public safety answering point tours or open houses, civic organizations, and senior citizen centers;

Whereas children, parents, teachers, and the National Parent Teacher Association contribute importantly to the education of children about the importance of 9–1–1 through targeted outreach efforts to public and private school systems;

Whereas we as a Nation should strive to host at least 1 educational event regarding the proper use of 9–1–1 in every school in the country every year;

Whereas programs to promote proper use of 9–1–1 during National 9–1–1 Education Month could include—

(1) public awareness events, including conferences and media outreach, training activities for parents, teachers, school administrators, other caregivers and businesses;

(2) educational events in schools and other appropriate venues; and

(3) production and distribution of information about the 9–1–1 system designed to educate people of all ages on the importance and proper use of 9–1–1; and

Whereas the people of the United States deserve the best education regarding the use of 9–1–1: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2010 as ''National 9–1–1 Education Month''; and

(2) urges Government officials, parents, teachers, school administrators, caregivers, businesses, nonprofit organizations, and the people of the United States to observe the month with appropriate ceremonies, training events, and activities.

ORDERS FOR THURSDAY, APRIL 15, 2010

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Thursday, April 15; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the majority controlling the first 30 minutes and the Republicans controlling the final 30 minutes; that following morning business, the Senate resume consideration of H.R. 4851, the Continuing Extension Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CASEY. Mr. President, rollcall votes are expected to occur throughout the day in an effort to complete action on the bill. As a reminder, cloture motions were filed on the substitute and the bill. The filing deadline for first-degree amendments is 1 p.m. If we are unable to complete the bill tomorrow, we will have a cloture vote on the substitute amendment Friday morning.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 8 p.m., adjourned until Thursday, April 15, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

EDWARD CARROLL DUMONT, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FEDERAL CIRCUIT, VICE PAUL R. MICHEL, RETIRING.

JOHN A. GIBNEY, JR., OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA, VICE ROBERT E. PAYNE, RETIRED.

DEPARTMENT OF JUSTICE

DONALD J. CAZAYOUX, JR., OF LOUISIANA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE DAVID R. DUGAS.

PAMELA COTHRAN MARSH, OF FLORIDA, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF FLORIDA FOR THE TERM OF FOUR YEARS, VICE GREGORY ROBERT MILLER.

ZANE DAVID MEMEGER, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS, VICE PATRICK LEO MEEHAN.

PETER J. SMITH, OF PENNSYLVANIA, TO BE UNITED STATES ATTORNEY FOR THE MIDDLE DISTRICT OF PENNSYLVANIA FOR THE TERM OF FOUR YEARS, VICE THOMAS A. MARINO, RESIGNED.

EDWARD L. STANTON, III, OF TENNESSEE, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF TENNESSEE FOR THE TERM OF FOUR YEARS, VICE DAVID F. KUSTOFF, RESIGNED.

JOHN F. WALSH, OF COLORADO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLORADO FOR THE TERM OF FOUR YEARS, VICE TROY A. EID, RESIGNED.

STEPHEN R. WIGGINTON, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS, VICE RONALD J. TENPAS, RESIGNED.

HENRY LEE WHITEHORN, SR., OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE WILLIAM R. WHITTINGTON, RESIGNED.

ARTHUR DARROW BAYLOR, OF ALABAMA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF ALABAMA FOR THE TERM OF FOUR YEARS, VICE JESSE SEROYER, JR.

MICHAEL ROBERT BLADEL, OF IOWA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE CHARLES E. BEACH, SR.

KEVIN ANTHONY CARR, OF WISCONSIN, TO BE UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF WISCONSIN FOR THE TERM OF FOUR YEARS, VICE WILLIAM P. KRUZIKI, RESIGNED.

DARRYL KEITH MCPHERSON, OF ILLINOIS, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF ILLINOIS FOR THE TERM OF FOUR YEARS, VICE KIM RICHARD WIDUP.

KEVIN CHARLES HARRISON, OF LOUISIANA, TO BE UNITED STATES MARSHAL FOR THE MIDDLE DISTRICT OF LOUISIANA FOR THE TERM OF FOUR YEARS, VICE WILLIAM CAREY JENKINS, RETIRED.

FOREIGN SERVICE

THE FOLLOWING—NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

JUDITH HINSHAW SEMILOTA, OF ILLINOIS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF AGRICULTURE

ELIZABETH A. AUTRY, OF VIRGINIA
MICHAEL G. FRANCOM, OF MARYLAND
CARLOS A. GONZALEZ, OF VIRGINIA
ROBIN H. GRAY, OF VIRGINIA
M. MELINDA MEADOR, OF VIRGINIA
COREY W. J. PICKELSIMER, OF VIRGINIA
VALERIE RALPH, OF VIRGINIA
JORGE SANCHEZ, OF THE DISTRICT OF COLUMBIA
REY S. SANTELLA, OF VIRGINIA
GERALD H. SMITH, OF MARYLAND
KELLY A. STANGE, OF THE DISTRICT OF COLUMBIA
A. ELISABETH WAGNER, OF GEORGIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA.

DEPARTMENT OF STATE

EMILIA R. ADAMS, OF TENNESSEE
EMILY CALDWELL ANDERSON, OF NORTH CAROLINA
STEVEN W. ANDERSON, OF NORTH CAROLINA
DAVID E. ARNOLD, OF FLORIDA
QUENTIN R. BARBER, OF INDIANA
OLGA ELENA BASHBUSH, OF VIRGINIA
ALISON WILLIAMS BAUERLEIN, OF THE DISTRICT OF COLUMBIA
STEWART WILLIAM BEITZ, OF SOUTH CAROLINA
MONICA SUE BLAND, OF NEBRASKA
ASHLEY LORRAINE BRADY, OF TEXAS
KYLA LAUREN BROOKE, OF CALIFORNIA
MATTHEW K. BUNT, OF WASHINGTON
TODD V. CHRISTIANSEN, OF FLORIDA
MARISA NICOLE COHRS, OF WASHINGTON
KELLY ANN COHUN, OF VERMONT
ELLEN ANNE COLLERAN, OF MASSACHUSETTS
BARBARA HERMINIA CORDERO, OF FLORIDA
CYNDEE J. CROOK, OF WASHINGTON
LYN DEBEVOISE, OF CALIFORNIA
ROBERT F. DOYLE III, OF THE DISTRICT OF COLUMBIA
JEFFRY W. DUFFY, OF PENNSYLVANIA
GOTTLIEB JOHANNES DUWAN, OF VIRGINIA
HEATHER JUNE FARRAR, OF MARYLAND
KANISHKA GANGOPADHYAY, OF MARYLAND
MATTHEW J. GARRETT, OF KANSAS
JEFFREY D. GRINGER, OF WASHINGTON
MATTHEW M. HABINOWSKI III, OF NEW HAMPSHIRE
PAMELA JANE HACK, OF NEW HAMPSHIRE
ANDREW HALUS, OF PENNSYLVANIA
SEAN R. HANTAK, OF ILLINOIS
ANN MCCAMISH HARDMAN, OF KENTUCKY
BRYAN RH. HARRISON, OF ILLINOIS
IAN HAYWARD, OF THE DISTRICT OF COLUMBIA
HENRY ALEXANDER HENEGAR III, OF GEORGIA
CHELSIA CHUNSA HETRICK, OF NEW MEXICO
MARILYN J. HOLLERAN, OF FLORIDA
BRANDON ALLEN HUDSPETH, OF TEXAS
LILIANE VERLAGE HUDSPETH, OF TEXAS
BRANDI N. JAMES, OF GEORGIA
GREGORY B. KELLER, OF ARIZONA
ABDUL-RAHMAN KENYATTA, OF FLORIDA
MICHELE ANN KIMPEL GUZMAN, OF CALIFORNIA
DAMON PATRICK KITTERMAN, OF VIRGINIA
SCOTT ERIC KOFMEHL, OF PENNSYLVANIA
JUSTIN LEE KOLBECK, OF CALIFORNIA
ADAM JESSE LENERT, OF TEXAS
AARON I. MARTZ, OF TEXAS
WOSSENYELESH MAZENGIA, OF THE DISTRICT OF COLUMBIA
CAMERON DAVID MCGLOTHLIN, OF NORTH CAROLINA
LUIS F. MENDEZ, OF NEW JERSEY
JOHANNA R. MEREJO, OF NEW JERSEY
LORI J. MICHAELSON, OF THE DISTRICT OF COLUMBIA
ROYA MILLER, OF PENNSYLVANIA
BROOKE SUMMERS MOPPERT, OF FLORIDA
DAVID VAUGHAN MUEHLKE, OF NEW HAMPSHIRE
DAVID R. MYERS, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER MARKLEY NYCE, OF CALIFORNIA
TULA CRUZ ORUM, OF CALIFORNIA
C. DARREN PERDUE, OF VIRGINIA
GREGORY WILLIAM PFLEGER, JR., OF VIRGINIA
SUSAN M. PLOTT, OF TEXAS
BRIANNA ELIZABETH POWERS, OF FLORIDA
ROBYN KATHERINE PRINZ, OF CALIFORNIA
ROBERT ERIC REEVES, OF VIRGINIA
AJ REI-PERRINE, OF WASHINGTON
VICTORIA CHARLOTTE REPPERT, OF MASSACHUSETTS
JOHN V. RHATIGAN, OF NEW YORK
KEVIN J. ROSIER, OF LOUISIANA
MELISSA A. SAN MIGUEL, OF CALIFORNIA
AMY CHRISTINE SENNEKE, OF ILLINOIS
EMILY C. SHAFFER, OF VIRGINIA

BRIAN LOYD SHELBOURN, OF TEXAS
SHENOA LIAN SIMPSON, OF VIRGINIA
ANNE M. SLACK, OF NEW HAMPSHIRE
ESTHER PAN SLOANE, OF NEW YORK
JOSHUA TEMBLADOR, OF NEW YORK
KAREEN KAY-ANN THORPE, OF NEW YORK
VERONICA TORRES, OF ILLINOIS
PEI J. TSAI, OF WASHINGTON
MICHAEL JOHN WHIPPLE, OF TEXAS
DAVID W. WHITTED, OF GEORGIA
MATTHEW DOUGLAS WHITTON, OF VIRGINIA
ROSALYN NUNEZ WIESE, OF FLORIDA
ANGELINA MARIE WILKINSON, OF FLORIDA
KATHLEEN ANNE YU, OF MARYLAND

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

BENJAMIN J. ABBOTT, OF NEW YORK
VANESSA GRACE ACKER, OF TEXAS
AVERY ALPHA, OF THE DISTRICT OF COLUMBIA
MATTHEW J. ARMSTRONG, OF VIRGINIA
CASSANDRA L. BABILYA, OF VIRGINIA
GOLDEN BAKER, OF THE DISTRICT OF COLUMBIA
MEGAN A. BAKER, OF THE DISTRICT OF COLUMBIA
MORGAN COLLIN BAKER, OF VIRGINIA
BLAKE A. BALCH, OF VIRGINIA
PATRICK BALL, OF TEXAS
WILLIAM BARNA, OF WASHINGTON
SAMUEL M. BARRIENTOS, OF CALIFORNIA
STEVEN JAY BARTLETT, OF VIRGINIA
RICHARD E. BARTON, OF VIRGINIA
ALISON L. BEHLING, OF WEST VIRGINIA
JOSEPH STEPHEN BERNATH, OF THE DISTRICT OF COLUMBIA
ERICK W. BERTRAND, OF VIRGINIA
SOMER BESSIRE-BRIERS, OF VIRGINIA
RICHA SONI BHALA, OF ILLINOIS
ALISSA BIBB, OF VIRGINIA
D. JAMES BJORKMAN, OF UTAH
JANE BLAIR, OF THE DISTRICT OF COLUMBIA
BENJAMIN B. BORAAS, OF VIRGINIA
STEPHANIE R. BOVEN, OF KENTUCKY
CYNTHIA BOWER, OF VIRGINIA
ROYCE MELBERT BRANCH II, OF TEXAS
ERIC G. BRAY, OF THE DISTRICT OF COLUMBIA
CHERYL A. BREEDLOVE, OF VIRGINIA
ALISON SARAH BROWN, OF WASHINGTON
EDGAR A. BROWN, OF VIRGINIA
IAN T. BROWN, OF TEXAS
BARRETT BRYSON, OF CALIFORNIA
LAUREN KAY BULCHER, OF MARYLAND
THOMAS P. BURKE, OF THE DISTRICT OF COLUMBIA
ALFRED JOHN CANIGLIA III, OF IOWA
DANIEL M. CAPLAN, OF MARYLAND
DAVID CARBAJAL, OF NEW YORK
ANGELA K. CARSON, OF THE DISTRICT OF COLUMBIA
MAUREEN CHAO, OF WASHINGTON
ANDREW CHAPMAN, OF NORTH CAROLINA
SAMUEL I. CHERNAWSKY, OF THE DISTRICT OF COLUMBIA
WILLIAM D. CHRISTEN, OF VIRGINIA
HAYLEE COHEN, OF VIRGINIA
CHRISTOPHER COLLINGTON, OF FLORIDA
JULIE MARIE CONGALTON, OF VIRGINIA
JOHN W. CROCKER, OF VIRGINIA
JENNIFER R. CUNNINGHAM, OF THE DISTRICT OF COLUMBIA
PAUL B. DAVIS, OF CALIFORNIA
FAUSTO P. DE GUZMAN, OF WASHINGTON
NATHAN HIROYUKI DEKIEFFER, OF VIRGINIA
SHAWN J. DILLES, OF VIRGINIA
NANCY MARY DILLMAN, OF VIRGINIA
DAISY A. DIX, OF COLORADO
ANTHONY A. DONADI, OF VIRGINIA
ADAM RICHARD DONAHUE, OF THE DISTRICT OF COLUMBIA
GIDEON T. DONOHO, OF THE DISTRICT OF COLUMBIA
EILEEN DOWE, OF CALIFORNIA
MICHAEL S. DRUMMOND, OF VIRGINIA
TIMOTHY J. DUNAWAY, OF FLORIDA
RICHARD E. DYCKOFF, OF MARYLAND
ALLISON D. DYESS, OF TEXAS
HEIDI ELIZABETH HOLZ EATON, OF VIRGINIA
JESSICA D. EL BECHIR, OF THE DISTRICT OF COLUMBIA
EMILY C. ELLIOTT, OF THE DISTRICT OF COLUMBIA
LISA N. EVANS, OF TEXAS
YAYA J. FANUSIE, OF MARYLAND
DANIEL DELANEY FILLEBROWN, OF VIRGINIA
DANIEL F. FREEMAN, OF THE DISTRICT OF COLUMBIA
CHERYL L. FRIEDLANDER, OF VIRGINIA
SEAN MARIANO GARCA, OF FLORIDA
EMILY H. GRANT, OF MARYLAND
MANISH GUPTA, OF VIRGINIA
RENÉ GUTEL, OF ARIZONA
CRISTINA-ASTRID HANSELL, OF CALIFORNIA
MATTHEW HARDESTY, OF VIRGINIA
JEFFREY MICHAEL HARMON, OF VIRGINIA
EMILY ANNE HARTER, OF THE DISTRICT OF COLUMBIA
JOHN TRYGUE HAS-ELLISON, OF TEXAS
DOUGLAS M. HICKEY, OF VIRGINIA
HENGAMEH V. HODA, OF VIRGINIA
JONATHAN A. HOLLAND, OF GEORGIA
BRAESON HOUSE, OF VIRGINIA
SYLVIA HROCH, OF VIRGINIA
GUY C. HUGHES, OF VIRGINIA
CURTIS M. HYATT, OF VIRGINIA
RACHAEL ANN ISENHART, OF THE DISTRICT OF COLUMBIA
RYAN M. JANDA, OF MASSACHUSETTS
DANA JENSEN, OF NEW YORK
RIAN JENSEN, OF WASHINGTON
JEREMY JEWETT, OF WISCONSIN
ANNE DUDTE JOHNSON, OF THE DISTRICT OF COLUMBIA
COURTNEY L. JONES, OF VIRGINIA
KELLY OWEN JOSEPHSON, OF VIRGINIA
TODD JUNGENBERG, OF ILLINOIS
THEODORE M. KALMBACH, OF VIRGINIA
JAYNA K. KELLNER, OF PENNSYLVANIA
JASON MICHAEL KELLY, OF THE DISTRICT OF COLUMBIA
MAX EDMUND KENDRICK, OF NEW YORK
ANDREW Z. KERNITSKY, OF VIRGINIA
SHANA LEE KIERAN, OF MAINE
JEFFREY E. KING, OF FLORIDA
CHRISTINA R. KINSELL, OF VIRGINIA
JEREMY SHANE KINSELL, OF VIRGINIA
CYNTHIA B. KNUTSEN, OF VIRGINIA
TODD R. KONKEL, OF VIRGINIA
DANIELLE J. KORSHAK, OF NEW YORK
MICHAEL JEROME KRESSE, OF VIRGINIA
ROBERT EDWARD KRIS, OF NEW YORK
KAREN ANN KUZIS, OF IDAHO
JEANNE MAE LAFLEUR, OF VIRGINIA
JOE D. LAIRD, OF WASHINGTON
BRANDON A. LANE, OF VIRGINIA
JASON ERIC LANE, OF VIRGINIA
ANDREW R. LEDERMAN, OF THE DISTRICT OF COLUMBIA
JESSICA RUTH LEVY, OF NEW JERSEY
SONAM LIBERMAN, OF THE DISTRICT OF COLUMBIA
ELIZABETH LORD, OF VIRGINIA
CLINTON G. LYONS, OF MARYLAND
JARRET SCOTT MACDONALD, OF THE DISTRICT OF COLUMBIA
ALEXANDER C. MACFARLANE, OF PENNSYLVANIA
BRADLEY COLE MADORA, OF VIRGINIA
MONA THERESE MARTINEAU, OF THE DISTRICT OF COLUMBIA
RACHEL M. MARTINEZ, OF FLORIDA
EMMA OLWEN PAMELA MARWOOD, OF NEW YORK
KRISTIN MASON, OF MARYLAND
STEVEN DAVID MAYR, OF VIRGINIA
MATTHEW R. MCALLISTER, OF PENNSYLVANIA
WILLIAM APPLETON MCCUE, OF MAINE
MICHAEL MCINERNEY, OF VIRGINIA
KEVIN W. MCINTYRE, OF VIRGINIA
SANDIP G. MEHTA, OF THE DISTRICT OF COLUMBIA
JOHN DAVID MENICHETTI, OF VIRGINIA
ADAM L. MICHELOW, OF ARIZONA
ADAM H. MILLER, OF VIRGINIA
RUSSELL DAVID MILLER, OF THE DISTRICT OF COLUMBIA
SCOTT M. MILLER, OF TEXAS
LEONEL GREENE MIRANDA, OF THE DISTRICT OF COLUMBIA
MICHAEL JOSEPH MOODY, OF KANSAS
KRISTINE O. MORRISSEY, OF MARYLAND
KAITLIN D. MUENCH, OF CONNECTICUT
THOMAS A. MULLIGAN, OF THE DISTRICT OF COLUMBIA
ORLANDO JUAN NESBIT, OF MARYLAND
MICHAEL JAMES NEUMANN, OF MARYLAND
NUALA C. O'DONOHOE, OF VIRGINIA
PATRICK F. O'NEILL, OF VIRGINIA
JULIE S. OTTE, OF SOUTH CAROLINA
MARK L. PADGETT, OF VIRGINIA
REENA PATEL, OF TEXAS
STEPHEN P. PAZAN, OF NEW JERSEY
CRISTINA T. PETRISOR, OF VIRGINIA
MARCUS TAYLOR PEVERILL, OF THE DISTRICT OF COLUMBIA
DARIN A. PHAOVISAID, OF ILLINOIS
GRANT G. PHILLIPP, OF ILLINOIS
TONE P. PHOSAI, OF VIRGINIA
BEVERLY R. PICACHE, OF VIRGINIA
MICHAEL A. POINTER, OF LOUISIANA
CHRISTOPHER THOMAS POLILLO, OF GEORGIA
JOSHUA G. PRESSLEY, OF VIRGINIA
ERIN FRANCINE PRICE, OF VIRGINIA
AARON DAVID RADER, OF MARYLAND
LUKE REYNOLDS, OF SOUTH CAROLINA
RODNEY R. RIEBSAM, OF MARYLAND
GLORIA P. RIGOR, OF VIRGINIA
BENJAMIN PATRICK RINAKER, OF NEBRASKA
KIMBERLY D. ROGERS, OF VIRGINIA
MACKENZIE LAEL ROWE, OF WASHINGTON
NOAH D. ROZMAN, OF VIRGINIA
GIUSEPPE RUGGERI, JR., OF VIRGINIA
JOSHUA ROBERT RUSHMAN, OF VIRGINIA
AARON T. RUSSELL, OF VIRGINIA
SUSAN A. RUSSELL, OF MASSACHUSETTS
STEVEN CARL SCHARRE, OF THE DISTRICT OF COLUMBIA
CASEY JAMES SCHMIDT, OF THE DISTRICT OF COLUMBIA
MAURA L. NELSON SCHRAMEK, OF VIRGINIA
MELVYN L. SCHRAMEK, OF VIRGINIA
JEROME L. SHERMAN, OF NEW YORK
MEGAN C. SHORTRIDGE, OF VIRGINIA
OSAMA EDWARD SHWAYHAT, OF THE DISTRICT OF COLUMBIA
KRISTIN E. SIMERSON, OF VIRGINIA
GREGORY D. SIMKISS, OF GEORGIA
DENISE LEE SLIWINSKI, OF FLORIDA
NATALIE SLOVIKOSKI, OF VIRGINIA
ANNE THERESE SMEDINGHOFF, OF ILLINOIS
BENJAMIN J. SMITH, OF ARIZONA
GERALD M. SMITH, OF VIRGINIA
LEVI RADMAN SMYLIE, OF NEW YORK
SARA ELISABETH SNOW, OF MASSACHUSETTS
NIMET SOYSALAN, OF VIRGINIA
LANTA V. SPENCER, OF MASSACHUSETTS
MARISA A. STARK, OF VIRGINIA
TERIC WILLIAM STATON, OF VIRGINIA
MATTHEW RYAN STEELE, OF KANSAS
THEODORE R. STEHNEY, OF VIRGINIA
MATTHEW B. STEPHENSON, OF VIRGINIA
BRYAN GREGORY STEVINSON, OF VIRGINIA
BRIAN J. STREET, OF FLORIDA
ROBERT GREGORY SUTTON, OF VIRGINIA
STACEY SUTTON, OF SOUTH CAROLINA
CLAYTON R. SWOPE, OF VIRGINIA
HUMZA TARAR, OF VIRGINIA
DENISE M. TAYLOR, OF PENNSYLVANIA
MORGAN C. TAYLOR, OF THE DISTRICT OF COLUMBIA
RONALD M. TAYLOR, OF VIRGINIA
KRISTIAN A. TEMPLETON, OF NORTH CAROLINA
DARREN THIES, OF WISCONSIN
CHAD TIMOTHY THOMPSON, OF VIRGINIA
JUSTIN S. THOMS, OF VIRGINIA
DINA MARIE TOLENTINO, OF WASHINGTON
SERGEY S. TROITSKY, OF FLORIDA
JAMES AUSTIN TURNER, OF VIRGINIA
ADAM C. UTESCH, OF THE DISTRICT OF COLUMBIA
DANIEL A. VOGEL, OF VIRGINIA
ANNA WATSON VOTE, OF VIRGINIA
MARY MARGARET WADSWORTH-SMITH, OF UTAH
JOSHUA D. WAGGENER, OF TEXAS
JASON M. WELLS, OF VIRGINIA
DANIEL WHITEHALL, OF VIRGINIA
GEORGE A. WHITNEY, OF VIRGINIA
JOSEPH D. WILLIAMS, OF GEORGIA
MCQUINZA U. WILLIAMS, OF VIRGINIA
ROBERT WALTON WILLIAMS, OF VIRGINIA
BRIAN K. WINGATE, OF WASHINGTON
BENJAMIN ASHER WITORSCH, OF VIRGINIA
SUZANNE Y. WONG, OF NEW JERSEY
THOMAS T. WONG, OF NEW JERSEY
GENEVIEVE ZAPIEN, OF VIRGINIA
BENJAMIN ZEMEK, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR, EFFECTIVE JANUARY 17, 2010:

GREGORY S. STANFORD, OF FLORIDA

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADE INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant

REBECCA J. ALMEIDA
PAUL S. HEMMICK
LAUREL K. JENNINGS
ALLISON R. MAHANEY
MADELEINE M. ADLER
JAMES L. BRINKLEY
SEAN M. FINNEY
KYLE W. RYAN
DAVID M. GOTHAN
WILLIAM G. WINNER
MARY A. GILL
VICTORIA E. ZALEWSKI
MATTHEW C. DAVIS
MATTHEW N. GLAZEWSKI
CHRISTOPHER W. DANIELS
SARAH A. T. HARRIS
MEGHAN E. MCGOVERN
FRANCISCO J. FUENMAYOR
LECIA M. SALERNO
OLIVER E. BROWN

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN JOHN C. AQUILINO
CAPTAIN SEAN S. BUCK
CAPTAIN DAVID M. DURYEA
CAPTAIN PETER J. FANTA
CAPTAIN DAVID J. GALE
CAPTAIN CHARLES M. GAOUETTE
CAPTAIN MICHAEL M. GILDAY
CAPTAIN PATRICK D. HALL
CAPTAIN JEFFREY A. HARLEY
CAPTAIN RONALD HORTON
CAPTAIN PHILIP G. HOWE
CAPTAIN KEVIN J. KOVACICH
CAPTAIN DIETRICH H. KUHLMANN III
CAPTAIN MARK C. MONTGOMERY
CAPTAIN SCOTT P. MOORE
CAPTAIN KENNETH J. NORTON
CAPTAIN TILGHMAN D. PAYNE
CAPTAIN JEFFREY R. PENFIELD
CAPTAIN FREDERICK J. ROEGGE
CAPTAIN PHILLIP G. SAWYER
CAPTAIN JOHN W. SMITH, JR.
CAPTAIN DAVID F. STEINDL
CAPTAIN KEVIN M. SWEENEY
CAPTAIN JOSEPH E. TOFALO
CAPTAIN MICHAEL A. WALLEY
CAPTAIN MICHAEL S. WHITE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. BRETT C. HEIMBIGNER
CAPT. MATTHEW J. KOHLER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. WILLIE L. METTS
CAPT. JAN E. TIGHE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. JAMES D. SYRING
CAPT. GREGORY R. THOMAS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. THOMAS H. BOND, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. MATHIAS W. WINTER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

JOHN T. FOJUT
JESUS JIMENEZ
ANNE D. RESTREPO

WITHDRAWAL

Executive Message transmitted by the President to the Senate on April 14, 2010 withdrawing from further Senate consideration the following nomination:

STEPHANIE VILLAFUERTE, OF COLORADO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF COLORADO FOR THE TERM OF FOUR YEARS, VICE TROY A. EID, RESIGNED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 30, 2009.