

**“SEC. 59B. SURCHARGE ON HIGH INCOME INDIVIDUALS.**

“(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, there is hereby imposed (in addition to any other tax imposed by this subtitle) a tax equal to 5.4 percent of so much of the modified adjusted gross income of the taxpayer as exceeds \$1,000,000.

“(b) TAXPAYERS NOT MAKING A JOINT RETURN.—In the case of any taxpayer other than a taxpayer making a joint return under section 6013 or a surviving spouse (as defined in section 2(a)), subsection (a) shall be applied by substituting ‘\$500,000’ for ‘\$1,000,000’.

“(c) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this section, the term ‘modified adjusted gross income’ means adjusted gross income reduced by any deduction (not taken into account in determining adjusted gross income) allowed for investment interest (as defined in section 163(d)). In the case of an estate or trust, adjusted gross income shall be determined as provided in section 67(e).

“(d) SPECIAL RULES.—

“(1) NONRESIDENT ALIEN.—In the case of a nonresident alien individual, only amounts taken into account in connection with the tax imposed under section 871(b) shall be taken into account under this section.

“(2) CITIZENS AND RESIDENTS LIVING ABROAD.—The dollar amount in effect under subsection (a) (after the application of subsection (b)) shall be decreased by the excess of—

“(A) the amounts excluded from the taxpayer’s gross income under section 911, over

“(B) the amounts of any deductions or exclusions disallowed under section 911(d)(6) with respect to the amounts described in subparagraph (A).

“(3) CHARITABLE TRUSTS.—Subsection (a) shall not apply to a trust all the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B).

“(4) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.”

(2) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART VIII. SURCHARGE ON HIGH INCOME INDIVIDUALS.”

(3) SECTION 15 NOT TO APPLY.—The amendment made by paragraph (1) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2010.

**SA 2856.** Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 6 and 7, insert the following:

**SEC. 2709. APPLICATION OF PREMIUM AND COVERAGE RULES TO GRANDFATHERED GROUP PLANS AND OTHER LARGE GROUP PLANS.**

Notwithstanding section 2701 or 2707, or section 1251 of the Patient Protection and Affordable Care Act, in the case of plan years beginning after December 31, 2014, sections 2701 and 2707 shall apply to a group health plan, and a health insurance issuer offering group health insurance coverage, which is—

(1) a grandfathered health plan (as defined in section 1251(e) of such Act); or

(2) health insurance coverage offered in the large group market.

**SA 2857.** Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, after line 25, add the following:

(7) CAP ON PRIVATE INSURANCE COMPANY EXECUTIVE COMPENSATION.—

(A) LIMITS ON COMPENSATION FOR EXECUTIVES OF PRIVATE INSURANCE COMPANIES PARTICIPATING IN AN EXCHANGE.—

(i) IN GENERAL.—Notwithstanding any other provision of law or agreement to the contrary, no employee or executive of a private health insurance issuer that offers coverage through an Exchange may receive aggregate annual compensation, in any form, from the issuer in an amount in excess of \$1,000,000.

(ii) DEFINITION.—For purposes of this paragraph, the term “aggregate annual compensation” includes bonuses, deferred compensation, stock options, securities, or any other form of compensation provided to an employee or executive.

(B) BAR FROM PARTICIPATION IN EXCHANGE.—If a private health insurance issuer offering coverage through an Exchange fails to comply with the requirement of subparagraph (A), such issuer shall be prohibited from offering coverage through the Exchange.

**SA 2858.** Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 1925, between lines 14 and 15, insert the following:

**Subtitle C—Ethical Pathway for Pharmaceutical Products****SEC. 7201. ETHICAL PATHWAY FOR THE APPROVAL AND LICENSURE OF GENERIC PHARMACEUTICAL PRODUCTS.**

(a) DEFINITIONS.—In this section—

(1) the term “abbreviated new drug application” means an abbreviated application for a new drug submitted under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j));

(2) the term “Commissioner” means the Commissioner of Food and Drugs; and

(3) the term “Secretary” means the Secretary of Health and Human Services.

(b) ETHICAL PATHWAY.—As soon as practicable after the date of enactment of this Act, the Secretary, acting through the Commissioner, shall establish a mechanism by which the filer of an abbreviated new drug application for approval of a drug or an application for licensure of a biological product under section 351(k) of the Public Health Service Act may request a cost-sharing arrangement described in subsection (c). Such a filer may request such an arrangement if, but for the arrangement, such filer would be required to conduct clinical investigations involving human subjects that violate Article 20 of the Declaration of Helsinki on Ethical Principles for Medical Research Involving Human Subjects in order to obtain such approval or licensure from the Secretary.

(c) COST-SHARING ARRANGEMENT.—The cost-sharing arrangement described in this subsection is an arrangement in which—

(1) the filer of the abbreviated new drug application or the application under section 351(k) of the Public Health Service Act pays a fee to the Commissioner;

(2) notwithstanding any other provision of law, the Commissioner provides such reports to such filer;

(3) such filer may, notwithstanding any provision of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) or of the Public Health Service Act (42 U.S.C. 301 et seq.), rely in such application on reports of investigations, conducted by a holder of an approved application under section 505(b) of the Federal Food, Drug, and Cosmetic Act or a holder of a license under section 351(a) of the Public Health Service Act, which have been made to show whether or not such drug or biological product is safe for use and whether such drug or biological product is effective in use; and

(4) the Commissioner remits the amount of such fee to the holder of the approved application under such section 505(b) or of the license under such section 351(a), as appropriate.

**SA 2859.** Ms. SNOWE (for herself, Ms. LANDRIEU, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2786 proposed by Mr. REID (for himself, Mr. BAUCUS, Mr. DODD, and Mr. HARKIN) to the bill H.R. 3590, to amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes; which was ordered to lie on the table; as follows:

On page 223, strike lines 6 through 10.

On page 224, line 2, insert after “Act” the following: “, including the rating requirements of such part A (except that the State may subsequent to the date of enactment of this Act enact more restrictive rating requirements).”

**NOTICE OF HEARING****COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests.

The hearing will be held on Thursday, December 17, 2009, 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. 1470, to sustain the economic development and recreational use of National Forest System land and other public land in the State of Montana, to add certain land to the National Wilderness Preservation System, to release certain wilderness study areas, to designate new areas for recreation, and for other purposes;

S. 1719, to provide for the conveyance of certain parcels of land to the town of Alta, Utah;

S. 1787, to reauthorize the Federal Land Transaction Facilitation Act, and for other purposes;

H.R. 762, to validate final patent number 27-2005-0081, and for other purposes; and

H.R. 934, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands.

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](mailto:allison_seyferth@energy.senate.gov).

For further information, please contact Scott Miller or Allison Seyferth.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on December 2, 2009, at 9:30 a.m. in room 216 of the Hart Senate Office Building.

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

##### COMMITTEE ON ARMED SERVICES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, December 2, 2009, at 9 a.m.

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

##### COMMITTEE ON COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DURBIN. 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 December 2, 2009, at 10 a.m. in room 253 of the Russell Senate Office Building.

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

##### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Com-

mittee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a hearing on December 2, 2009, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE SUBCOMMITTEE ON SUPERFUND, TOXICS, AND ENVIRONMENTAL HEALTH

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works and the Subcommittee on Superfund, Toxics, and Environmental Health be authorized to meet during the session of the Senate on December 2, 2009, at 2:30 p.m. in Room 406 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON THE JUDICIARY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on December 2, 2009, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Has the Supreme Court Limited Americans' Access to Courts?"

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

##### AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

Mr. DURBIN. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Disaster Recovery of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on December 2, 2009, at 2:30 p.m. to conduct a hearing entitled, "Disaster Case Management: Developing a Comprehensive National Program Focused on Outcomes."

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

#### EXTENDING CONDOLENCES TO SLAIN WASHINGTON OFFICERS' FAMILIES

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 366, submitted earlier today.

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

The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 366) extending condolences to the families of Sergeant Mark Renninger, Officer Tina Griswold, Officer Ronald Owens, and Officer Greg Richards.

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 that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 366) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 366

Whereas on the morning of November 29, 2009, 4 members of the Lakewood Police Department were slain by gunfire in a senseless act of violence while preparing for their shift in Lakewood, Washington;

Whereas the 4 officers have been members of the Lakewood Police Department since its founding 5 years ago, were valuable members of the community, and were deeply respected for their service;

Whereas Sergeant Mark Renninger, who served 13 years in law enforcement, first with the Tukwila Police Department and most recently with the Lakewood Police Department, is survived by his wife and 3 children;

Whereas Officer Tina Griswold, who served 14 years in law enforcement, first with the Lacey Police Department and most recently with the Lakewood Police Department, is survived by her husband and 2 children;

Whereas Officer Ronald Owens, who served 12 years in law enforcement, first with the Washington State Patrol and most recently with the Lakewood Police Department, is survived by his daughter;

Whereas Officer Greg Richards, who served 8 years in law enforcement, first with the Kent Police Department and most recently with the Lakewood Police Department, is survived by his wife and 3 children;

Whereas the senseless violence against and murder of law enforcement officers, who are sworn to serve, protect, and preserve the peace of the communities, is a particularly heinous crime; and

Whereas in the face of this senseless tragedy, the people of the City of Lakewood, the surrounding communities, and the State of Washington have come together in support of the law enforcement community and the families of the victims: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its condolences to the families of Sergeant Mark Renninger, Officer Tina Griswold, Officer Ronald Owens, and Officer Greg Richards; and

(2) stands with the people of Lakewood, Washington, the men and women of the Lakewood Police Department, and members of the law enforcement community as they celebrate the lives and mourn the loss of these 4 dedicated public servants and law enforcement heroes.

#### UNANIMOUS CONSENT AGREEMENT—H.R. 3590

Mr. DURBIN. Mr. President, I ask unanimous consent that the previous order with respect to H.R. 3590 be modified to provide that the time until 11:45 a.m. be equally divided between Senator MIKULSKI and the minority leader or their designees.

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

#### ORDERS FOR THURSDAY, DECEMBER 3, 2009

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, December 3; that following the prayer and the pledge, the Journal of