ADDITIONAL COSPONSORS

S. 144

At the request of Mr. KERRY, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 144, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 245

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 245, a bill to expand, train, and support all sectors of the health care workforce to care for the growing population of older individuals in the United States.

S. 435

At the request of Mr. CASEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 435, a bill to provide for evidence-based and promising practices related to juvenile delinquency and criminal street gang activity prevention and intervention to help build individual, family, and community strength and resiliency to ensure that youth lead productive, safe, health, gang-free, and law-abiding lives.

S. 588

At the request of Mr. KERRY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 588, a bill to amend title 46, United States Code, to establish requirements to ensure the security and safety of passengers and crew on cruise vessels, and for other purposes.

S. 628

At the request of Mr. CONRAD, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 628, a bill to provide incentives to physicians to practice in rural and medically underserved communities.

S. 686

At the request of Ms. MIKULSKI, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 686, a bill to establish the Social Work Reinvestment Commission to advise Congress and the Secretary of Health and Human Services on policy issues associated with the profession of social work, to authorize the Secretary to make grants to support recruitment for, and retention, research, and reinvestment in, the profession, and for other purposes.

S. 690

At the request of Mr. CARDIN, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 690, a bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act.

S. 694

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 694, a bill to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes.

S. 818

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 818, a bill to reauthorize the Enhancing Education Through Technology Act of 2001, and for other purposes.

S. 841

At the request of Mr. KERRY, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 883

At the request of Mr. THUNE, his name was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 1002

At the request of Mr. CASEY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1002, a bill to provide for the acquisition, construction, renovation, and improvement of child care facilities, and for other purposes.

S. 1051

At the request of Mr. CASEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1051, a bill to establish the Centennial Historic District in the Commonwealth of Pennsylvania.

S. 1052

At the request of Mr. CONRAD, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1052, a bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965.

S. 1156

At the request of Mr. HARKIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1156, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 1244

At the request of Mr. MERKLEY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1244, a bill to amend the Civil Rights Act of 1964 to protect breastfeeding by new mothers, to provide for a performance standard for breast pumps, and to provide tax incentives to encourage breastfeeding.

S. 1282

At the request of Mr. BROWNBACK, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1282, a bill to establish a Commission on Congressional Budgetary Accountability and Review of Federal Agencies.

S. 1401

At the request of Mr. MARTINEZ, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1401, a bill to provide for the award of a gold medal on behalf of Congress to Arnold Palmer in recognition of his service to the Nation in promoting excellence and good sportsmanship in golf.

S. 1422

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1422, a bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews.

S. 1516

At the request of Mr. FEINGOLD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1516, a bill to secure the Federal voting rights of persons who have been released from incarceration.

S. 1569

At the request of Ms. STABENOW, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1569, a bill to expand our Nation's Advanced Practice Registered Nurse workforce.

S. 1611

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1611, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 1634

At the request of Mr. ROCKEFELLER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1634, a bill to amend titles XVIII and XIX of the Social Security Act to protect and improve the benefits provided to dual eligible individuals under the Medicare and Medicaid programs.

S.J. RES. 16

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S.J. Res. 16, a joint resolution proposing an amendment to the Constitution of the United States relative to parental rights.

S. RES. 247

At the request of Mr. WHITEHOUSE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Res. 247, a resolution designating September 26, 2009, as ''National Estuaries Day''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED:

S. 1646. A bill to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs; to the Committee on Finance.

Mr. REED. Mr. President, today I am introducing the Keep Americans Working Act, legislation to strengthen and expand work share programs to keep Americans working and provide employers with an alternative to layoffs.

This legislation allows employers to reduce the hours of their workers for some period of time and for the workers to receive proportionate unemployment benefits for those reduced hours to lessen the impact on them and their families.

While 17 States, including Rhode Island, are using their resources to provide work share, these programs remain largely underutilized. Indeed, work share is simply not available in ⅔ of States.

In Rhode Island, the number of employees participating in the program has more than tripled this past year to 8,000 workers, in comparison to the year prior. It has also been highly successful. For instance, I recently visited Hope Global in Cumberland, Rhode Island, which has participated in Rhode Island's WorkShare program. At this company, I listened to an employee who worked there with her husband, and they benefitted from this program. She said, point blank: Without it, we would have lost our health care and we would have lost our home.

Other states with work share programs have also experienced an extraordinary increase in participation.

But given Rhode Island's 12.4 percent unemployment rate—the second highest in the country—we can stem even more job loss with this legislation. Specifically, the Keep Americans Working Act provides states with temporary federal financing for 100 percent of work share benefits paid to workers for up to 26 weeks. Employers have to certify that maintenance of health and retirement benefits is not affected by participation in the program. This financing program is available for 2 years.

It also includes important limitations to ensure that taxpayer dollars are provided only when appropriate safeguards are in place. To hold employers accountable, states can assess penalties on employers that break the rules, including those who do not act in good faith to retain participating employees. In addition, to aid States in this effort, the Department of Labor would establish an oversight and monitoring process for state agencies to ensure that participating employers comply with the terms of the written plan approved by the state agency.

Given that State labor agencies are already doing more with less, this legislation also provides for administrative funding, and for those States that are trying to get work share programs off the ground, it provides start-up grants.

It is a win-win for all.

First, work share helps speed economic recovery. Economist Mark Zandi estimates that temporary financing of work share offers a very high ''bang for the buck'' of $1.69. That is, every $1 devoted to finance State work share programs results in $1.69 in real GDP.

Secondly, work share allows businesses to retain skilled workers, temporarily cut costs, and maintain employee morale.

Thirdly, it keeps people working with their health insurance and retirement benefits. This means parents can continue to pay their mortgages and their bills and provide for their families.

This legislation will help stem the tide of joblessness, providing workers, businesses, and communities with the resources to stay afloat while we work our way through these tough economic times.

I urge my colleagues to join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1646

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Keep Americans Working Act''.

SEC. 2. PURPOSE.

The purpose of this Act is to keep Americans working by strengthening and expanding short-time compensation programs that provide employers with an alternative to layoffs.

SEC. 3. TREATMENT OF SHORT-TIME COMPENSATION PROGRAMS.

(a) IN GENERAL.—Section 3306 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(v) SHORT-TIME COMPENSATION PROGRAM.—For purposes of this chapter, the term 'short-time compensation program' means a program under which—

''(1) the participation of an employer is voluntary;

''(2) an employer reduces the number of hours worked by employees through certifying that such reductions are in lieu of temporary layoffs;

''(3) such employees whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

''(4) the amount of unemployment compensation payable to any such employee is a pro rata portion of the unemployment compensation which would be payable to the employee if such employee were totally unemployed;

''(5) such employees are not expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

''(6) eligible employees may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency;

''(7) beginning on the date which is 2 years after the date of enactment of this subsection, the State agency shall require an employer to certify that continuation of health benefits and retirement benefits under a defined benefit pension plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974)) is not affected by participation in the program;

''(8) the State agency shall require an employer (or an employer's association which is party to a collective bargaining agreement) to submit a written plan describing the manner in which the requirements of this subsection will be implemented and containing such other information as the Secretary of Labor determines is appropriate;

''(9) in the case of employees represented by a union, the appropriate official of the union has agreed to the terms of the employer's written plan and implementation is consistent with employer obligations under the National Labor Relations Act; and

''(10) the program meets such other requirements as the Secretary of Labor determines appropriate.''.

(b) ASSISTANCE AND GUIDANCE IN IMPLEMENTING PROGRAMS.—

(1) ASSISTANCE AND GUIDANCE.—

(A) IN GENERAL.—In order to assist States in establishing, qualifying, and implementing short-time compensation programs, as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by subsection (a)), the Secretary of Labor (in this section referred to as the ''Secretary'') shall—

(i) develop model legislative language which may be used by States in developing and enacting short-time compensation programs and shall periodically review and revise such model legislative language;

(ii) provide technical assistance and guidance in developing, enacting, and implementing such programs;

(iii) establish biannual reporting requirements for States, including number of averted layoffs, number of participating companies and workers, and retention of employees following participation; and

(iv) award start-up grants to State agencies under subparagraph (B).

(B) GRANTS.—

(i) IN GENERAL.—The Secretary shall award start-up grants to State agencies that apply not later than September 30, 2010, in States that enact short-time compensation programs after the date of enactment of this Act for the purpose of creating such programs. The amount of such grants shall be awarded depending on the costs of implementing such programs.

(ii) ELIGIBILITY.—In order to receive a grant under clause (i) a State agency shall meet requirements established by the Secretary, including any reporting requirements under clause (iii). Each State agency shall be eligible to receive not more than one such grant.

(iii) REPORTING.—The Secretary may establish reporting requirements for State agencies receiving a grant under clause (i) in order to provide oversight of grant funds used by States for the creation of short-time compensation programs.

(iv) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, such sums as the Secretary certifies as necessary for the period of fiscal years 2010 and 2011 to carry out this subparagraph.

(2) TIMEFRAME.—The initial model legislative language referred to in paragraph (1)(A) shall be developed not later than 60 days after the date of enactment of this Act.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress and to the President a report or reports on the implementation of this section. Such report or reports shall include—

(A) a study of short-time compensation programs;

(B) an analysis of the significant impediments to State enactment and creation of such programs; and

(C) such recommendations as the Secretary determines appropriate.

(2) SUBSEQUENT REPORTS.—After the submission of the report under paragraph (1), the Secretary may submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(3) FUNDING.—There are appropriated, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, $1,500,000 to carry out this subsection, to remain available without fiscal year limitation.

(d) CONFORMING AMENDMENTS.—

(1) INTERNAL REVENUE CODE OF 1986.—

(A) Subparagraph (E) of section 3304(a)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(E) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v));''.

(B) Subsection (f) of section 3306 of the Internal Revenue Code of 1986 is amended—

(i) by striking paragraph (5) (relating to short-term compensation) and inserting the following new paragraph:

''(5) amounts may be withdrawn for the payment of short-time compensation under a short-time compensation program (as defined in subsection (v));'', and

(ii) by redesignating paragraph (5) (relating to self-employment assistance program) as paragraph (6).

(2) SOCIAL SECURITY ACT.—Section 303(a)(5) of the Social Security Act is amended by striking ''the payment of short-time compensation under a plan approved by the Secretary of Labor'' and inserting ''the payment of short-time compensation under a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986)''.

(3) REPEAL.—Subsections (b) through (d) of section 401 of the Unemployment Compensation Amendments of 1992 (26 U.S.C. 3304 note) are repealed.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 4. TEMPORARY FINANCING OF CERTAIN SHORT-TIME COMPENSATION PROGRAMS.

(a) PAYMENTS TO STATES WITH CERTIFIED PROGRAMS.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall establish a program under which the Secretary shall make payments to any State unemployment trust fund to be used for the payment of unemployment compensation if the Secretary approves an application for certification submitted under paragraph (3) for such State to operate a short-time compensation program (as defined in section 3306(v) of the Internal Revenue Code of 1986 (as added by section 3(a))) which requires the maintenance of health and retirement employee benefits as described in paragraph (7) of such section 3306(v), notwithstanding the otherwise effective date of such requirement.

(2) FULL REIMBURSEMENT.—Subject to subsection (d), the payment to a State under paragraph (1) shall be an amount equal to 100 percent of the total amount of benefits paid to individuals by the State pursuant to the short-time compensation program during the period—

(A) beginning on the date a certification is issued by the Secretary with respect to such program; and

(B) ending on September 30, 2011.

(3) CERTIFICATION REQUIREMENTS.—

(A) IN GENERAL.—Any State seeking full reimbursement under this subsection shall submit an application for certification at such time, in such manner, and complete with such information as the Secretary may require (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (7) of such section 3306(v). The Secretary shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of such paragraph (7).

(B) FINDINGS.—If the Secretary finds that the short-time compensation program operated by the State meets the requirements of such paragraph (7), the Secretary shall certify such State's short-time compensation program thereby making such State eligible for full reimbursement under this subsection.

(b) TIMING OF APPLICATION SUBMITTALS.—No application under subsection (a)(3) may be considered if submitted before the date of enactment of this Act or after the latest date necessary (as specified by the Secretary) to ensure that all payments under this section are made before September 30, 2011.

(c) TERMS OF PAYMENTS.—Payments made to a State under subsection (a)(1) shall be payable by way of reimbursement in such amounts as the Secretary estimates the State will be entitled to receive under this section for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

(d) LIMITATIONS.—

(1) GENERAL PAYMENT LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State pursuant to a short-time compensation program that are in excess of 26 weeks of benefits.

(2) EMPLOYER LIMITATIONS.—No payments shall be made to a State under this section for benefits paid to an individual by the State pursuant to a short-time compensation program if such individual is employed by an employer—

(A) whose workforce during the 3 months preceding the date of the submission of the employer's short-time compensation plan has been reduced by temporary layoffs of more than 20 percent;

(B) on a seasonal, temporary, or intermittent basis; or

(C) engaged in a labor dispute.

(3) PROGRAM PAYMENT LIMITATION.—In making any payments to a State under this section pursuant to a short-time compensation program, the Secretary may limit the frequency of employer participation in such program.

(e) CHARGING RULE.—Under a short-time compensation program reimbursed under this section, a State may require short-time compensation benefits paid to an individual to be charged to a participating employer regardless of the base period charging rule.

(f) RETENTION REQUIREMENT.—

(1) IN GENERAL.—A participating employer under this section is required to comply with the terms of the written plan approved by the State agency and act in good faith to retain participating employees, and the State shall, in the event of any violation, require such employer to repay to the State a sum based on the amount expended by the State under the program as a result of that violation.

(2) OVERSIGHT AND MONITORING.—The Secretary shall establish an oversight and monitoring process by regulation by which State agencies will ensure that participating employers comply with the requirements of paragraph (1).

(3) PENALTY REMITTANCE.—In the case of any State which receives reimbursement under this section, if such State determines that a violation of paragraph (1) has occurred, the State shall transfer an appropriate amount to the United States of the repayment the State required of the employer pursuant to such paragraph.

(g) FUNDING.—There are appropriated, from time to time, out of any moneys in the Treasury not otherwise appropriated, to the Secretary, such sums as the Secretary certifies are necessary to carry out this section (including to reimburse any additional administrative expenses incurred by the States in operating such short-time compensation programs).

(h) DEFINITION OF STATE.—In this section, the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

By Mr. REED (for himself, Mr. DURBIN, Mr. SCHUMER, Mrs. BOXER, Mr. LAUTENBERG, Mr. LEVIN, Ms. STABENOW, Mr. WHITEHOUSE, Mr. KERRY, Mr. MENENDEZ, Mr. CARDIN, Mr. BROWN, Mr. BEGICH, Mr. BURRIS, and Mr. FRANKEN):

S. 1647. A bill to provide for additional emergency unemployment compensation, and for other purposes; to the Committee on Finance.

Mr. REED. Mr. President, today I am introducing the Assistance for Unemployed Workers Extension Act, legislation to extend unemployment insurance benefits so people can pay their bills while they look for work. These benefits are set to expire at the end of this year. I am joined in introducing this critical legislation by Senators DURBIN, SCHUMER, BOXER, LAUTENBERG, LEVIN, STABENOW, WHITEHOUSE, KERRY, MENENDEZ, CARDIN, BROWN, BEGICH, BURRIS, and FRANKEN.

Last fall, I authored the law that provided additional weeks of unemployment insurance for individuals exhausting their benefits. Among other provisions to help stimulate the economy, create jobs, and help the unemployed, the American Recovery and Reinvestment Act extended the termination dates of these unemployment benefits.

Yet, as jobs have become scarcer, we need to do more. My legislation will continue several current-law unemployment compensation programs through 2010.

In addition, it also provides help to those who are getting stuck on unemployment for long periods. Indeed, there is only roughly one job opening for every five job seekers.

The Assistance for Unemployed Workers Extension Act provides 13 additional weeks of unemployment insurance for states like Rhode Island, South Carolina, Oregon, California, Ohio, Michigan, and Georgia as well as

other states which have an unemployment rate at or above 8.5 percent.

Without this legislation, over half a million workers are expected to exhaust their benefits by the end of September, and another 1.5 million are estimated to run out of coverage by the end of the year. This is an extraordinary number of Americans that will face life without a paycheck or an unemployment check during the worst economy since the Great Depression.

While all states are suffering during these very difficult times, my own State of Rhode Island has been hit especially hard, saddled with the second highest unemployment rate and a recession that hit earlier than in any other State.

More than 1,500 Rhode Islanders have exhausted their unemployment insurance benefits this year. By November, another 3,300 unemployed Rhode Islanders will also exhaust their benefits. This is about 150 people each week.

Providing basic support for those who are out-of-work through no fault of their own assures Americans can provide for their families and keep a roof over their heads, stemming the tide of foreclosures and the deterioration of neighborhoods.

As has been the case with past extensions, I look forward to working on a bipartisan basis to pass this legislation. It is critical that we provide help to the growing ranks of the unemployed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1647

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Assistance for Unemployed Workers Extension Act''.

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) IN GENERAL.—Section 4007 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 4 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5015) and section 2001(a) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 123 Stat. 436), is amended—

(1) by striking ''December 31, 2009'' each place it appears and inserting ''December 31, 2010'';

(2) in the heading for subsection (b)(2), by striking ''DECEMBER 31, 2009'' and inserting ''DECEMBER 31, 2010''; and

(3) in subsection (b)(3), by striking ''May 31, 2010'' and inserting ''May 31, 2011''.

(b) FINANCING PROVISIONS.—Section 4004(e)(1) of such Act, as added by section 2001(b) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 26 U.S.C. 3304 note), is amended by inserting ''and section 2(a) of the Assistance for Unemployed Workers Extension Act'' after ''Act''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Supplemental Appropriations Act, 2008.

SEC. 3. EXTENSION OF INCREASE IN UNEMPLOYMENT COMPENSATION BENEFITS.

(a) IN GENERAL.—Section 2002(e) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 123 Stat. 438) is amended—

(1) in paragraph (1)(B), by striking ''January 1, 2010'' and inserting ''January 1, 2011'';

(2) in the heading for paragraph (2), by striking ''JANUARY 1, 2010'' and inserting ''JANUARY 1, 2011''; and

(3) in paragraph (3), by striking ''June 30, 2010'' and inserting ''June 30, 2011''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Assistance for Unemployed Workers and Struggling Families Act.

SEC. 4. THIRD-TIER BENEFITS.

(a) IN GENERAL.—Section 4002 of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note), as amended by section 3 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 122 Stat. 5014), is amended by adding at the end the following new subsection:

''(d) THIRD TIER OF BENEFITS.—

''(1) IN GENERAL.—If, at the time that the amount added to an individual's account under subsection (c)(1) (in this subsection referred to as 'additional emergency unemployment compensation') is exhausted or at any time thereafter, such individual's State is in an extended benefit period (as determined under paragraph (2)), such account shall be further augmented by an amount (in this subsection referred to as 'further additional emergency unemployment compensation') equal to the lesser of—

''(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under the State law; or

''(B) 13 times the individual's average weekly benefit amount (as determined under subsection (b)(2)) for the benefit year.

''(2) EXTENDED BENEFIT PERIOD.—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period, as of any given time, if—

''(A) such a period would then be in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970 if section 203(d) of such Act—

''(i) were applied by substituting '6' for '5' each place it appears; and

''(ii) did not include the requirement under paragraph (1)(A) thereof; or

''(B) such a period would then be in effect for such State under such Act if—

''(i) section 203(f) of such Act were applied to such State (regardless of whether the State by law had provided for such application); and

''(ii) such section 203(f)—

''(I) were applied by substituting '8.5' for '6.5' in paragraph (1)(A)(i) thereof; and

''(II) did not include the requirement under paragraph (1)(A)(ii) thereof.

''(3) COORDINATION RULE.—Notwithstanding an election under section 4001(e) by a State to provide for the payment of emergency unemployment compensation prior to extended compensation, such State may pay extended compensation to an otherwise eligible individual prior to any further additional emergency unemployment compensation, if such individual claimed extended compensation for at least 1 week of unemployment after the exhaustion of additional emergency unemployment compensation.

''(4) LIMITATION.—The account of an individual may be augmented not more than once under this subsection.''.

(b) CONFORMING AMENDMENTS.—Section 4007(b)(2) of such Act, as amended by section 3, is amended—

(1) by striking ''then section 4002(c)'' and inserting ''then subsections (c) and (d) of section 4002''; and

(2) by striking ''paragraph (2) of such section)'' and inserting ''paragraph (2) of such subsection (c) or (d) (as the case may be))''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this section shall take effect as if included in the enactment of the Supplemental Appropriations Act, 2008.

(2) ADDITIONAL BENEFITS.—In applying the amendments made by this section, any additional emergency unemployment compensation made payable by such amendment (which would not otherwise have been payable if such amendment had not been enacted) shall be payable only with respect to any week of unemployment beginning on or after the date of the enactment of this Act.

SEC. 5. EXTENSION OF FULL FEDERAL FUNDING OF EXTENDED UNEMPLOYMENT COMPENSATION FOR A LIMITED PERIOD.

(a) IN GENERAL.—Section 2005 of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 26 U.S.C. 3304 note) is amended—

(1) by striking ''January 1, 2010'' each place it appears and inserting ''January 1, 2011''; and

(2) in subsection (c), by striking ''June 1, 2010'' and inserting ''June 1, 2011''.

(b) EXTENSION OF TEMPORARY FEDERAL MATCHING FOR THE FIRST WEEK OF EXTENDED BENEFITS FOR STATES WITH NO WAITING WEEK.—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note), as amended by section 2005(d) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 26 U.S.C. 3304 note), is amended by striking ''May 30, 2010'' and inserting ''May 30, 2011''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Assistance for Unemployed Workers and Struggling Families Act.

(2) FIRST WEEK.—The amendment made by subsection (b) shall take effect as if included in the enactment of the Unemployment Compensation Extension Act of 2008.

SEC. 6. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) BENEFITS.—Section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, as added by section 2006 of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 123 Stat. 445), is amended—

(1) in clause (iii)—

(A) by striking ''June 30, 2009'' and inserting ''June 30, 2010'';

(B) by striking ''December 31, 2009'' and inserting ''December 31, 2010''; and

(2) by adding at the end of clause (iv) the following: ''In addition to the amount appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated $175,000,000 to cover the cost of additional extended unemployment benefits provided under this subparagraph, to remain available until expended.''.

(b) ADMINISTRATIVE EXPENSES.—Section 2006(b) of the Assistance for Unemployed Workers and Struggling Families Act (Public Law 111–5; 123 Stat. 445) is amended by adding at the end the following: ''In addition to funds appropriated by the preceding sentence, out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board $807,000 to cover the administrative expenses associated with the payment of additional

extended unemployment benefits under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act, to remain available until expended.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Assistance for Unemployed Workers and Struggling Families Act.

By Mr. FEINGOLD (for himself and Mr. MCCAIN):

S. 1648. A bill to amend the Federal Election Campaign Act of 1971 to replace the Federal Election Commission with the Federal Election Administration, and for other purposes; to the Committee on Rules and Administration.

Mr. FEINGOLD. Mr. President, I am pleased to join with my partner in reform, the senior Senator from Arizona, to introduce the Federal Election Administration Act of 2009. Americans naturally expect that elections in this country will be honest, fair, and above all, lawful. That is the purpose of the Federal Election Commission, yet the FEC's willingness to enforce the law has gone from bad to worse. Now more than ever, the health of our democracy depends on whether Congress will take decisive action to fix this unpardonably broken agency.

Senator MCCAIN and I originally introduced this bill in 2003, after giving the FEC a fair chance to implement the Bipartisan Campaign Reform Act, or BCRA. Despite our very best efforts and those of our House sponsors, Representatives SHAYS and MEEHAN, the FEC opened new loopholes rather than trying to faithfully discern the intent of the law. It acted as an unelected legislature, substituting its policy judgments for those of Congress.

This is not my personal judgment. This is the judgment of the United States Court of Appeals for the D.C. Circuit, which has struck down over twenty of the FEC's implementing regulations as arbitrary and capricious or directly contrary to the will of Congress. In its most recent opinion in 2008, the court was merciless in its criticism of the FEC. It said some of the FEC's arguments were ''absurd'', or ''fl[y] in the face of common sense''; or ''disregard[] everything Congress, the Supreme Court, and this court have said about campaign finance regulation''; or ''ignore[] both history and human nature.'' It said that one regulation ''provides a clear roadmap'' for using soft money in connection with federal elections, ''directly frustrating BCRA's purpose.'' It said that the rule ''would lead to the exact perception and possibility of corruption Congress sought to stamp out in BCRA.'' This is not language that the American people should ever hear from a court about a law enforcement agency.

The situation has only gotten worse. Earlier this year, the FEC blew a hole through the Honest Leadership and Open Government Act of 2007, issuing a regulation that allows lobbyists to hide the bundling of campaign contributions that the law was designed to make public. The FEC disregarded clear and deliberate statements of congressional intent, not only from me but from then-Senator Barack Obama.

Those laws that the FEC cannot regulate out of existence, it smothers with inaction. During the first six months of 2008, the FEC was effectively closed for business because President Bush insisted on standing behind a nominee, Hans Von Spakovsky, whom the Senate would not confirm. We were in the middle of a presidential election year, with no enforcement of federal election law. That deadlock was broken when Mr. Von Spakovsky's nomination was finally withdrawn and four new Commissioners and one holdover Commissioner were confirmed in July 2008.

But the cure turned out to be worse than the disease. In the words of The Washington Post: ''What's worse than a federal agency that lacks the quorum of commissioners necessary to act on a matter? Answer: An agency that has a quorum in place but is paralyzed from acting anyway because it is deadlocked along party lines.''

The whole point of having six commissioners, three Democrats and three Republicans, was to protect against partisan enforcement of the election laws. But over the past year we've seen election laws enforced against neither party. In well over a dozen cases, whether the likely lawbreaker was linked to George Soros or Mitt Romney, a 3-to-3 deadlock has prevented the FEC professional staff from doing their job. Even admitted offenders have been let off the hook: On at least two occasions, the FEC declined to collect fines that election law violators had already agreed to pay. That's like a district attorney tearing up a criminal's plea bargain.

It gives me no pleasure to say this, but enough is enough. The current structure of the FEC cannot meet the challenges of enforcing our election laws in the 21st century. In this bill, we replace the FEC with a new agency, the Federal Election Administration. The FEA will be helmed by three members instead of six, so that there is always a tiebreaker and we stop seeing perpetual deadlock. The Chair will have a ten-year term to encourage independence. The other two members will have staggered six-year terms. Our hope is that this new agency will not be the captive of the political parties, but instead, led by a strong and independent Chair, will be the trustworthy law enforcement agency that the American people want to see.

To that end, we have followed the model of more effective regulatory agencies such as the EPA, the NLRB, and the SEC. The FEA will have a corps of Administrative Law Judges to adjudicate complaints that the Administration's professional staff will bring. The new agency will have the power to determine violations of our election laws and to assess penalties subject, of course, to judicial review.

Americans want our democratically enacted laws to be enforced, as a matter of public good and public trust. If the EPA doesn't enforce pollution laws, our drinking water gets poisoned. If the SEC doesn't enforce the securities laws, our economy gets poisoned. If the FEC does not enforce election laws, our democracy gets poisoned.

The new Federal Election Administration will ensure that our democracy remains healthy, strong, and fair. I want to thank my friend Senator MCCAIN for all of his work on campaign finance and other reform issues for well over a decade, and I look forward to working closely with him again to pass this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1648

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Election Administration Act of 2009''.

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

TITLE I—FEDERAL ELECTION ADMINISTRATION

SEC. 101. ESTABLISHMENT OF THE FEDERAL ELECTION ADMINISTRATION.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new subtitle:

''Subtitle B—Administrative Provisions

''CHAPTER 1—ESTABLISHMENT OF THE FEDERAL ELECTION ADMINISTRATION

''SEC. 351. ESTABLISHMENT OF THE FEDERAL ELECTION ADMINISTRATION.

''(a) IN GENERAL.—There is established the Federal Election Administration (in this Act referred to as the 'Administration').

''(b) INDEPENDENT ESTABLISHMENT.—The Administration shall be an independent establishment (as defined in section 104 of title 5, United States Code).

''(c) PURPOSE.—The Administration shall administer, seek to obtain compliance with, enforce, and formulate policy in a manner that is consistent with the language and intent of Congress with respect to the following statutes:

''(1) This Act.

''(2) The Presidential Election Campaign Fund Act under chapter 95 of the Internal Revenue Code of 1986.

''(3) The Presidential Primary Matching Payment Account Act under chapter 96 of the Internal Revenue Code of 1986.

''(d) EXCLUSIVE CIVIL JURISDICTION.—The Administration shall have exclusive jurisdiction with respect to the civil enforcement of the statutes identified in subsection (c).

''(e) VOTING REQUIREMENT.—All decisions of the Administration with respect to the exercise of its duties and powers under this Act, except those expressly reserved for decision by the Chair, shall be made by a majority vote of its members.

''(f) MEETINGS AND QUORUM.—

''(1) MEETINGS.—The Administration shall meet—

''(A) at least once each month; and

''(B) at the call of the Chair.

''(2) QUORUM.—A majority of the members of the Administration shall constitute a quorum.

''(g) SEAL.—The Administration shall procure a proper seal, with such suitable inscriptions and devices as the President shall approve. This seal, to be known as the official seal of the Federal Election Administration, shall be kept and used to verify official documents, under such rules and regulations as the Administration may prescribe. Judicial notice shall be taken of the seal.

''(h) PRINCIPAL OFFICE.—The principal office of the Administration shall be in or near the District of Columbia, but the Administration may meet or exercise any of its powers anywhere in the United States.

''SEC. 352. COMPOSITION OF THE FEDERAL ELECTION ADMINISTRATION.

''(a) IN GENERAL.—The Administration shall be composed of 3 members, 1 of whom shall serve as the Chair of the Administration. No member of the Administration shall—

''(1) be affiliated with the same political party as any other member of the Administration while serving as a member of the Administration; or

''(2) have been affiliated with the same political party as any other member of the Administration at any time during the 5-year period ending on the date on which such individual is nominated to be a member of the Administration.

''(b) APPOINTMENT.—

''(1) IN GENERAL.—Each member of the Administration shall be appointed by the President, by and with the advice and consent of the Senate.

''(2) CHAIR.—The President shall, at the time of nomination of the first 3 members of the Administration, designate 1 of the 3 to serve as the Chair. Any individual appointed to succeed, or to fill the unexpired term of, that member (or any member succeeding that member) shall serve as the Chair.

''(3) QUALIFICATIONS.—

''(A) An individual who is appointed under paragraph (1) shall—

''(i) possess demonstrated integrity, independence, and public credibility; and

''(ii) shall have not less than 5 years professional experience in law enforcement, including such experience gained—

''(I) in service as a member of the judiciary;

''(II) as a member or an employee of a Federal, State, or local campaign finance or ethics enforcement agency; or

''(III) as a law enforcement official in a Federal or State enforcement agency or office.

''(B) An individual may not be appointed under paragraph (1) if—

''(i) such individual is serving or has served as a member of the Federal Election Commission subject to a term limit; or

''(ii) at any time during the 4-year period ending on the date of the nomination of such individual, the individual was—

''(I) a candidate, an employee of a candidate, or an attorney for a candidate;

''(II) an elected officeholder, an employee of an elected officeholder, or an attorney for an elected officeholder;

''(III) an officer or employee of a political party or an attorney for a political party; or

''(IV) employed in a position in the executive branch of the Government of a confidential or policy-determining character under Schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

''(c) TERM OF OFFICE.—

''(1) IN GENERAL.—

''(A) CHAIR.—The Chair of the Administration shall be appointed for a term of 10 years.

''(B) OTHER MEMBERS.—Subject to subparagraph (C), the 2 members of the Administration other than the Chair shall be appointed for a term of 6 years.

''(C) INITIAL APPOINTMENTS.—Of the members initially appointed under subparagraph (B), 1 member shall be appointed for a term of 3 years.

''(2) LIMITATION TO ONE TERM.—A member of the Administration may only serve 1 term, except that—

''(A) the individual appointed under subparagraph (B) of paragraph (1) who is appointed for the term described in subparagraph (C) of such paragraph may be appointed to a 6-year term in addition to the term described in such subparagraph; and

''(B) an individual appointed under paragraph (4) to fill the remainder of an unexpired term that has less than ½ of the term remaining may be appointed to serve another term.

''(3) EXPIRED TERMS.—An individual may continue to serve as a member of the Administration after the expiration of such individual's term until the earlier of—

''(A) the date on which such individual's successor has taken office; or

''(B) 1 year following the date on which the term of such member expired.

''(4) VACANCIES.—An individual appointed upon a vacancy occurring before the expiration of the term for which the individual's predecessor was appointed shall be appointed only for the unexpired term of the predecessor. Such vacancy shall be filled in the same manner as the original appointment.

''(5) OTHER ACTIVITIES.—An individual may not engage in any other business, vocation, or employment while serving as a member of the Administration.

''(d) REMOVAL.—A member of the Administration may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

''SEC. 353. STAFF DIRECTOR.

''(a) IN GENERAL.—There shall be in the Administration a staff director.

''(b) RESPONSIBILITIES.—The staff director—

''(1) shall assist the Administration in its administration and operations;

''(2) shall perform such responsibilities as the Administration shall prescribe; and

''(3) may, with the approval of the Chair—

''(A) appoint and fix the pay of such additional personnel as the staff director considers appropriate without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

''(B) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332).

''(c) APPOINTMENT.—The staff director shall be appointed by the Chair, after consultation with the other members of the Administration.

''(d) OTHER ACTIVITIES.—An individual may not engage in any other business, vocation, or employment while serving as the staff director.

''SEC. 354. GENERAL COUNSEL.

''(a) IN GENERAL.—There shall be in the Administration a general counsel.

''(b) RESPONSIBILITIES.—The general counsel shall—

''(1) serve as the chief legal officer of the Administration;

''(2) provide legal assistance to the Administration concerning its programs and policies;

''(3) advise and assist the Administration in carrying out its responsibilities under section 361; and

''(4) represent the Administration in any proceeding in court or before an administrative law judge.

''(c) APPOINTMENT.—The general counsel shall be appointed by the Chair, subject to approval by majority vote of the members of the Administration.

''SEC. 355. INSPECTOR GENERAL.

''There shall be in the Administration an inspector general. The inspector general and the office of inspector general shall be subject to the Inspector General Act of 1978 (5 U.S.C. App.).

''CHAPTER 2—OPERATION OF THE FEDERAL ELECTION ADMINISTRATION

''SEC. 361. POWERS OF THE CHAIR AND ADMINISTRATION.

''(a) CHAIR.—

''(1) IN GENERAL.—The Chair shall be the chief administrative officer of the Administration with the authority to administer the Administration and shall, after consultation with the other 2 members of the Administration, have the power to appoint or remove the staff director and to establish the budget of the Administration.

''(2) OTHER POWERS.—The Chair has the power—

''(A) to the fullest extent practicable, to request the assistance of other agencies and departments of the United States, including the personnel and facilities of such agencies and departments and the heads of such agencies and departments may make available to the Chair such personnel, facilities, and other assistance, with or without reimbursement;

''(B) to appoint, assign, remove, and compensate administrative law judges in accordance with title 5, United States Code;

''(C) to require, by special or general orders, any person to submit, under oath, such written reports and answers to questions as the Chair may prescribe;

''(D) to administer oaths or affirmations;

''(E) to issue and enforce subpoenas in accordance with section 364;

''(F) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Chair and has the power to administer oaths and, in such instances, to compel testimony and the production of evidence in the same manner as authorized under subparagraph (E);

''(G) to pay witnesses fees and mileage in accordance with section 364(d); and

''(H) to make independent budget requests to Congress in accordance with section 362.

''(b) ADMINISTRATION.—The Administration shall have the power—

''(1) to initiate, defend, or appeal, through the general counsel, any civil action in the name of the Administration to enforce the provisions of this Act and chapters 95 and 96 of the Internal Revenue Code of 1986;

''(2) to assess civil penalties for violations of this Act and chapters 95 and 96 of the Internal Revenue Code of 1986;

''(3) to issue cease-and-desist orders to prevent violations of this Act and chapters 95 and 96 of the Internal Revenue Code of 1986;

''(4) to establish procedures and schedules for agency adjudication that ensure timely enforcement of this Act and chapters 95 and 96 of the Internal Revenue Code of 1986;

''(5) to render advisory opinions under section 363;

''(6) to develop prescribed forms, and to make, amend, and repeal rules, pursuant to section 365;

''(7) to establish procedures for alternative dispute resolution of violations of this Act or of chapters 95 or 96 of the Internal Revenue Code of 1986;

''(8) to conduct investigations and hearings expeditiously, to encourage voluntary compliance, and to report apparent violations to the appropriate law enforcement authorities; and

''(9) to transmit to the President and to Congress not later than June 1 of each year, a report which states in detail the activities of the Administration in carrying out its duties under this Act, and which includes any recommendations for any legislative or other action the Administration considers appropriate.

''SEC. 362. INDEPENDENT BUDGET REQUESTS AND LEGISLATIVE PROPOSALS.

''(a) EXEMPTION FROM OMB OVERSIGHT.—Whenever the Chair submits any budget estimate or request to the President or the Office of Management and Budget, the Chair shall concurrently transmit a copy of such estimate or request to Congress.

''(b) AUTHORITY TO MAKE INDEPENDENT LEGISLATIVE RECOMMENDATIONS.—Whenever the Administration submits any legislative recommendation, testimony, or comments on legislation requested by Congress or by any Member of Congress, to the President or the Office of Management and Budget, the Administration shall concurrently transmit a copy thereof to Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Administration to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to Congress.

''SEC. 363. ADVISORY OPINIONS.

''(a) REQUESTS FOR ADVISORY OPINIONS.—

''(1) IN GENERAL.—Not later than 60 days after the Administration receives from a person a complete written request concerning the application of this Act, chapter 95 or 96 of the Internal Revenue Code of 1986, or a rule or regulation prescribed by the Administration, with respect to a specific transaction or activity by the person, the Administration shall render a written advisory opinion relating to such transaction or activity to the person.

''(2) REQUESTS BY CANDIDATES.—If an advisory opinion is requested by a candidate, or any authorized committee of such candidate, during the 60-day period before any election for Federal office involving the requesting party, the Administration shall render a written advisory opinion relating to such request not later than 20 days after the Administration receives a complete written request.

''(b) RULEMAKING REQUIRED.—Any rule of law which is not stated in this Act or in chapter 95 or 96 of the Internal Revenue Code of 1986 may be initially proposed by the Administration only as a rule or regulation pursuant to procedures established in section 365. No opinion of an advisory nature may be issued by the Administration or any other officer or employee of the Administration except in accordance with the provisions of this section.

''(c) RELIANCE ON ADVISORY OPINIONS.—

''(1) IN GENERAL.—Any advisory opinion rendered by the Administration under subsection (a) may be relied upon by—

''(A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered; and

''(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

''(2) PROTECTION FROM LIABILITY.—Notwithstanding any other provisions of law, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraph (1) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction provided by this Act or by chapter 95 or 96 of the Internal Revenue Code of 1986.

''(d) PUBLICATION OF REQUESTS.—The Administration shall make public any request made under subsection (a) for an advisory opinion. Before rendering an advisory opinion, the Administration shall accept written comments submitted by any interested party within the 10-day period following the date on which the request is made public.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—Any person adversely affected by an advisory opinion rendered by the Administration may obtain judicial review of such advisory opinion by filing a petition in the United States Court of Appeals for the District of Columbia Circuit.

''(2) SCOPE OF REVIEW.—For purposes of conducting the judicial review described in paragraph (1), the provisions of section 706 of title 5, United States Code, shall apply.

''SEC. 364. ISSUANCE AND ENFORCEMENT OF SUBPOENAS.

''(a) ISSUANCE BY THE CHAIR.—If the Administration is conducting an investigation pursuant to section 371 or 372, the Chair shall, on behalf of the Administration, have the power to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of the Administration's duties.

''(b) ISSUANCE BY AN ADMINISTRATIVE LAW JUDGE.—Any administrative law judge presiding over an enforcement action pursuant to section 373 shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to the administrative law judge's duties.

''(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

''(1) ISSUANCE.—Subpoenas issued under subsection (a) or (b) shall bear the signature of the Chair or an administrative law judge, respectively, and shall be served by any person or class of persons designated by the Chair or administrative law judge for that purpose.

''(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a) or (b), the Federal district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

''(d) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Administration. The per diem and mileage allowances for witnesses shall be paid from funds available to pay the expenses of the Administration.

''(e) JURISDICTION.—Subpoenas for witnesses who are required to attend a Federal district court may run into any other district.

''SEC. 365. RULEMAKING AUTHORITY.

''(a) IN GENERAL.—The Administration may, pursuant to the provisions of chapter 5 of title 5, United States Code, prescribe such rules and regulations as the Administration deems necessary to carry out the provisions of this Act and chapters 95 and 96 of the Internal Revenue Code of 1986, including the authority to promulgate rules of practice and procedure for agency adjudications.

''(b) AUTHORITY TO PROMULGATE INDEPENDENT REGULATIONS.—Whenever the Administration promulgates any regulation, it shall not be required to submit such regulation for review or approval to the President or the Office of Management and Budget.

''(c) CONDUCT OF ACTIVITIES.—The Administration shall prepare written rules for the conduct of its activities, including procedures for the conduct of enforcement actions under sections 371, 372, and 373.

''(d) FORMS.—

''(1) IN GENERAL.—The Administration shall prescribe forms necessary to implement this Act and chapters 95 and 96 of the Internal Revenue Code of 1986.

''(2) PUBLIC PROTECTION.—Any forms prescribed by the Administration under paragraph (1), and any information-gathering activities of the Administration under this Act, shall not be subject to the provisions of section 3512 of title 44, United States Code.

''(e) RELIANCE UPON RULES AND REGULATIONS.—Notwithstanding any other provision of law, any person who relies upon any rule or regulation prescribed by the Administration in accordance with the provisions of this section and who acts in good faith in accordance with such rule or regulation shall not, as a result of such act, be subject to any sanction provided by this Act or by chapter 95 or 96 of the Internal Revenue Code of 1986.

''(f) CONSULTATION WITH IRS.—In prescribing rules, regulations, and forms under this section, the Administration and the Secretary of the Treasury shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Administration shall report to Congress annually on the steps it has taken to comply with this subsection.

''(g) JUDICIAL REVIEW.—

''(1) IN GENERAL.—Any person adversely affected by a rule, regulation, or form promulgated by the Administration may obtain judicial review of such rule, regulation, or form by filing a petition in the United States Court of Appeals for the District of Columbia Circuit.

''(2) SCOPE OF REVIEW.—For purposes of conducting the judicial review described in paragraph (1), the provisions of section 706 of title 5, United States Code, shall apply.

''(h) RULE AND REGULATION DEFINED.—In this Act, the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

''SEC. 366. LITIGATION AUTHORITY.

''(a) IN GENERAL.—Notwithstanding sections 516 and 518 of title 28, United States Code, and section 3106 of title 5, United States Code, the Administration is authorized to bring, appear in, defend against, and appeal any action instituted under this Act or chapter 95 or 96 of the Internal Revenue Code of 1986, in any court either—

''(1) by attorneys employed by the Administration; or

''(2) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

''(b) COMPENSATION OF APPOINTED COUNSEL.—The compensation of counsel appointed on a temporary basis under subsection (a)(2) shall be paid out of any funds otherwise available to pay the compensation of employees of the Administration.

''(c) INDEPENDENCE FROM ATTORNEY GENERAL.—In pursuing an action under this section, the Administration may act independently of the Attorney General.

''SEC. 367. AVAILABILITY OF REPORTS.

''(a) IN GENERAL.—The Administration shall—

''(1) prepare, publish, and furnish to all persons required to file reports and statements under this Act a manual recommending uniform methods of bookkeeping and reporting;

''(2) develop a filing, coding, and cross-indexing system consistent with the purposes of this Act;

''(3) within 48 hours after the time of the receipt by the Administration of reports and statements filed with the Administration, make them available for public inspection, and copying, at the expense of the person requesting such copying, except that any information copied from such reports or statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee;

''(4) keep such designations, reports, and statements for a period of 10 years from the date of receipt and maintain computerized records of such designations, reports, and statements thereafter;

''(5)(A) compile and maintain a cumulative index of designations, reports, and statements filed under this Act, publish the index at regular intervals, and make the index available for purchase directly or by mail;

''(B) compile, maintain, and revise a separate cumulative index of reports and statements filed by multicandidate committees, including in such index a list of multicandidate committees; and

''(C) compile and maintain a list of multicandidate committees, which shall be revised and made available monthly;

''(6) prepare and publish periodically lists of authorized committees which fail to file reports as required by this Act; and

''(7) serve as a national clearinghouse for the compilation of information and review of procedures with respect to the administration of Federal elections.

''(b) PSEUDONYMS.—For purposes of subsection (a)(3), a political committee may submit 10 pseudonyms on each report filed in order to protect against the illegal use of names and addresses of contributors, but only if such committee attaches a list of such pseudonyms to the appropriate report. The Administration shall exclude these lists from the public record.

''(c) CONTRACTS.—The Administration may enter into contracts for the purpose of performing the duties described in subsection (a).

''(d) AVAILABILITY OF REPORTS.—Reports or other information described in subsection (a) shall be available to the public, except that—

''(1) copies shall be made available without cost, upon request, to agencies and branches of the Federal Government; and

''(2) information made available as a result of the application of paragraph (7) of such subsection shall be made available to the public only upon the payment of the cost thereof.

''SEC. 368. AUDITS AND FIELD EXAMINATIONS.

''(a) IN GENERAL.—The Administration may, in accordance with the provisions of this section, conduct audits and field investigations of any political committee required to file a report under section 304.

''(b) PRIORITY.—All audits and field investigations concerning the verification for, and receipt and use of, any payments received by a candidate or committee under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be given priority.

''(c) AUDITS AND FIELD EXAMINATIONS WHERE THRESHOLDS NOT MET.—

''(1) INTERNAL REVIEW.—The Administration shall conduct an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. Such thresholds for compliance shall be established by the Administration.

''(2) AUDITS AND FIELD EXAMINATIONS.—The Administration may vote to conduct an audit and field investigation of any committee which it determines under paragraph (1) does not meet the threshold requirements established by the Administration. Such audits shall be commenced within 30 days of such vote, except that any audit under the provisions of this subsection of an authorized committee of a candidate shall be commenced within 6 months of the election for which such committee is authorized.

''(d) RANDOM AUDITS.—

''(1) IN GENERAL.—In addition to any audits conducted under subsection (c), the Administration may, subject to paragraph (2), conduct audits of any committee selected at random to ensure compliance with this Act. The selection of any committee under this paragraph shall be based on standards and procedures adopted by the Administration, except that in any calendar year such audits may be initiated against no more than 3 percent of all authorized candidate campaign committees.

''(2) APPLICABLE RULES.—

''(A) IN GENERAL.—If the Administration selects a committee for audit under paragraph (1), the Administration shall promptly notify the committee of the selection and commence the audit within 30 days of the selection.

''(B) SPECIAL RULES FOR AUTHORIZED COMMITTEES.—If the committee selected under paragraph (1) is an authorized committee of a candidate, the audit—

''(i) shall be commenced and actively undertaken within 6 months of the election for which the committee is authorized; and

''(ii) may examine compliance with this Act only with respect to that election.

''(3) EXCEPTION.—This subsection shall not apply to an authorized committee of a candidate for President or Vice President subject to audit under section 9007 or 9038 of the Internal Revenue Code of 1986.

''SEC. 369. CONGRESSIONAL OVERSIGHT.

''Nothing in this Act shall be construed to limit, restrict, or diminish any investigatory, informational, oversight, supervisory, or disciplinary authority or function of Congress or any committee of Congress with respect to elections for Federal office.

''CHAPTER 3—ENFORCEMENT

''SEC. 371. INITIATION OF ENFORCEMENT ACTIONS BY ADMINISTRATION.

''(a) IN GENERAL.—The Administration may initiate a civil enforcement action under section 373 if, after conducting an investigation, the Administration finds reasonable grounds to believe that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 has occurred or is about to occur.

''(b) BASIS FOR FINDINGS.—The Administration may make a finding under subsection (a) based on any information available to the Administration, including the filing of a complaint under section 372.

''(c) NOTICE AND OPPORTUNITY TO DEMONSTRATE NO VIOLATION.—Prior to initiating an enforcement action under subsection (a), the Administration shall give any person under investigation notice and the opportunity to demonstrate that there are no reasonable grounds to believe a violation has occurred or is about to occur, but the Administration's decision on such matter shall not be subject to judicial review.

''SEC. 372. COMPLAINT TO INITIATE ENFORCEMENT ACTION.

''(a) FILING OF COMPLAINT.—

''(1) IN GENERAL.—Any person may file a complaint with the Administration alleging a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986.

''(2) TECHNICAL REQUIREMENTS.—A complaint filed under paragraph (1) shall be—

''(A) in writing, signed, and sworn to by the person filing such complaint;

''(B) notarized; and

''(C) made under penalty of perjury and subject to the provisions of section 1001 of title 18, United States Code.

''(3) ACTION BY THE ADMINISTRATION.—Subject to paragraph (4), based on the allegations in a complaint filed under paragraph (1), and such investigations the Administration deems necessary and appropriate, the Administration may—

''(A) initiate a civil enforcement action under section 373 if the Administration finds reasonable grounds to believe a violation has occurred or is about to occur; or

''(B) dismiss the complaint.

''(4) PROHIBITION OF ANONYMOUS COMPLAINTS.—The Commission may not conduct any investigation or take any other action under this section solely on the basis of a complaint of a person whose identity is not disclosed to the Administration.

''(5) RECOVERY OF COSTS.—Any person who has filed a complaint under paragraph (1) shall be entitled to recover from the Administration up to $1,000 of the costs incurred in preparing and filing the complaint if, based on the complaint, the Administration—

''(A) makes a finding under section 373(a) that a person has violated (or is about to violate) the Act; or

''(B) enters into a conciliation agreement with a person under section 373(c).

''(b) NOTICE AND OPPORTUNITY TO DEMONSTRATE NO VIOLATION.—Prior to initiating an enforcement action under subsection (a)(3)(A), the Administration shall give any person named in a complaint notice and an opportunity to demonstrate that there are no reasonable grounds to believe a violation described in such subsection has occurred or is about to occur, but the Administration's determination under subsection (a)(3) shall not be subject to judicial review in an action brought by such person.

''(c) FAILURE BY THE ADMINISTRATION TO TAKE TIMELY ACTION.—

''(1) IN GENERAL.—If the Administration—

''(A) dismisses a complaint filed under subsection (a); or

''(B) fails to initiate a civil enforcement action under section 373 within 180 days of the filing of such a complaint, the person filing the complaint under subsection (a) may seek judicial review of the Administration's dismissal, or failure to act, in Federal district court in the District of Columbia or in the district in which such person resides.

''(2) SCOPE OF REVIEW.—The court shall review the Administration's dismissal of the

complaint or failure to act in accordance with the provisions of section 706 of title 5, United States Code.

''(3) COURT ORDERS.—The court may order the Administration to initiate an enforcement action or to conduct a further investigation of the complaint within a time set by the court.

''SEC. 373. CIVIL ENFORCEMENT ACTIONS.

''(a) IN GENERAL.—The Administration shall have the authority to impose a civil monetary penalty under section 375, issue a cease-and-desist order under section 376, or do both, if the Administration finds, by an order made on the record after notice and an opportunity for hearing before an administrative law judge pursuant to subchapter II of chapter 5 of title 5, United States Code, that a person has violated (or, in the case of a cease-and-desist order, has violated or is about to violate) this Act or chapter 95 or 96 of the Internal Revenue Code of 1986. The general counsel shall represent the Administration in any proceeding before an administrative law judge.

''(b) NOTICE AND REQUEST FOR HEARING.—

''(1) NOTICE.—If the Administration finds under section 371 or 372 that there are reasonable grounds to believe a violation has occurred or is about to occur, the Administration shall serve written notice of the charges on each respondent, and shall conduct such further investigation as the Administration deems necessary and appropriate.

''(2) REQUEST FOR HEARING.—Each respondent shall have an opportunity to request, prior to the date that is 30 days after the date on which the notice is received, a hearing on the charges before an administrative law judge.

''(3) EFFECT OF FAILURE TO REQUEST A HEARING.—If no hearing is requested, the Administration shall make a finding on the charges, and shall issue whatever relief the Administration deems appropriate under sections 375 and 376.

''(c) CONCILIATION.—

''(1) PROCEDURES FOR ENTERING INTO CONCILIATION AGREEMENTS.—

''(A) IN GENERAL.—If the respondent requests a hearing under subsection (b)(2), the Administration shall attempt, for a period that does not exceed 60 days (or 15 days if the hearing is requested within 60 days of an election), to correct or prevent such violation by informal methods of conference, conciliation, and persuasion, and to enter into a conciliation agreement with the respondent. In the case of a hearing that is requested at a time other than within 60 days of an election, the period for conciliation shall not be less than 30 days unless an agreement is reached before then.

''(B) INCLUSION OF CIVIL MONETARY PENALTIES.—A conciliation agreement may include a requirement that the person involved in such conciliation shall pay a civil monetary penalty that does not exceed the amounts set forth in subsection (a) of section 375 or, in the case of a knowing and willful violation, the amounts set forth in subsection (b) of such section. The conciliation agreement may also include the requirement that the person involved consent to the terms of a cease-and-desist order, as provided in section 376.

''(C) REPRESENTATION BY GENERAL COUNSEL.—The general counsel shall represent the Administration in any negotiations for a conciliation agreement and any such conciliation agreement shall be subject to the approval of the Administration.

''(D) BAR TO FURTHER ACTION.—A conciliation agreement, unless violated, is a complete bar to any further action by the Administration.

''(2) CONFIDENTIALITY.—No action by the Administration or any other person, and no information derived in connection with any conciliation attempt by the Administration may be made public by the Administration, without the written consent of the respondent, except that if a conciliation agreement is agreed upon and signed by the Administration and the respondent, the Administration shall make such agreement public.

''(3) VIOLATION OF CONCILIATION AGREEMENT.—In any case in which a person has entered into a conciliation agreement with the Administration under paragraph (1), the Administration may institute a civil action for relief if the Administration believes the person has violated any provision of such conciliation agreement. Such civil action shall be brought in the Federal district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia. Such court shall have jurisdiction to issue any relief appropriate under sections 375 and 376. For the Administration to obtain relief in any such action, the Administration need only establish that the person has violated, in whole or in part, any requirement of such conciliation agreement.

''(d) HEARING.—At the request of any respondent, a hearing on the charges served under subsection (b)(1) shall be conducted before an administrative law judge, who shall make such findings of fact and conclusions of law as the administrative law judge deems appropriate. The administrative law judge shall also have the authority to impose a civil monetary penalty on the respondent, issue a cease-and-desist order, or both. The decision of the administrative law judge shall constitute final agency action unless an appeal is taken under subsection (e).

''(e) APPEAL TO ADMINISTRATION.—

''(1) RIGHT TO APPEAL.—The general counsel and each respondent shall each have a right to appeal to the Administration from any final determination made by an administrative law judge.

''(2) REVIEW OF ALJ DETERMINATIONS.—In the event of an appeal under paragraph (1), the Administration shall review the determination of the administrative law judge to determine whether—

''(A) a finding of material fact is not supported by substantial evidence;

''(B) a conclusion of law is erroneous;

''(C) the determination of the administrative law judge is contrary to law or to the duly promulgated rules or decisions of the Administration;

''(D) a prejudicial error of procedure was committed; or

''(E) the decision or the relief ordered is otherwise arbitrary, capricious, or an abuse of discretion.

''(3) FINAL AGENCY ACTION.—The decision of the Administration shall constitute final agency action.

''(f) JUDICIAL REVIEW.—

''(1) IN GENERAL.—Any party aggrieved by a final agency action and who has exhausted all administrative remedies, including requesting a hearing before an administrative law judge and appealing an adverse decision of an administrative law judge to the Administration, may obtain judicial review of such action in the United States Court of Appeals for any circuit wherein such person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit.

''(2) SCOPE OF REVIEW.—For purposes of conducting the judicial review described in paragraph (1), the provisions of section 706 of title 5, United States Code, shall apply.

''(3) PETITION FOR JUDICIAL REVIEW.—To obtain judicial review under paragraph (1), an aggrieved party described in such paragraph shall file a petition with the court during the 30-day period beginning on the date on which the order was issued. A copy of such petition shall be transmitted forthwith by the clerk of the court to the Administration, and thereupon the Administration shall file in the court the record upon which the order complained of was entered, as provided in section 2112 of title 28, United States Code.

''SEC. 374. NOTIFICATION OF NONFILERS.

''(a) NOTIFICATION.—Before taking any action under section 373 against any person who has failed to file a report required under section 304(a)(2)(A)(iii) for the calendar quarter immediately preceding the election involved, or in accordance with section 304(a)(2)(A)(i), the Administration shall notify the person of such failure to file the required reports.

''(b) OPPORTUNITY FOR RESPONSE.—If a satisfactory response is not received within 4 business days after the date of notification, the Administration shall, pursuant to section 367(a)(6), publish before the election the name of the person and the report or reports such person has failed to file.

''SEC. 375. CIVIL MONETARY PENALTIES.

''(a) IN GENERAL.—Any person who violates this Act, or chapter 95 or 96 of the Internal Revenue Code of 1986, shall be liable to the United States for a civil monetary penalty for each violation which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation. Such penalty shall be imposed by the Administration pursuant to section 373.

''(b) KNOWING AND WILLFUL VIOLATIONS.—Any person who commits a knowing and willful violation of this Act, or of chapter 95 or 96 of the Internal Revenue Code of 1986, shall be liable to the United States for a civil monetary penalty for each violation which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation (or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation). Such penalty shall be imposed by the Administration pursuant to section 373.

''(c) DETERMINATION OF CIVIL MONETARY PENALTY.—In determining the amount of a civil monetary penalty under this section with respect to a violation described in this section, the Administration or an administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, any prior violation, the degree of culpability, and such other matters as justice may require.

''(d) REFERRAL TO ATTORNEY GENERAL.—

''(1) IN GENERAL.—If the Administration determines that a knowing and willful violation of this Act which is subject to section 379, or a knowing and willful violation of chapter 95 or 96 of the Internal Revenue Code of 1986, has occurred or is about to occur, the Administration may refer such apparent violation to the Attorney General without regard to any limitations set forth under section 373.

''(2) REPORTING BY THE ATTORNEY GENERAL.—Whenever the Administration refers an apparent violation to the Attorney General, the Attorney General shall report to the Administration any action taken by the Attorney General regarding the apparent violation. Each report shall be transmitted within 60 days after the date the Administration refers an apparent violation, and every 30 days thereafter until the final disposition of the apparent violation.

"SEC. 376. CEASE-AND-DESIST ORDERS.

''(a) IN GENERAL.—If the Administration finds, after notice and opportunity for hearing under section 373, that any person is violating, has violated, or is about to violate any provision of this Act, or chapter 95 or 96 of the Internal Revenue Code of 1986, or any rule or regulation thereunder, the Administration may publish any findings and enter an order requiring such person, or any other person that is, was, or would be a cause of the violation due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply (or to take steps to effect compliance) with such provision, rule, or regulation, upon such terms and conditions and within such time as the Administration may specify in such order.

''(b) TEMPORARY ORDER.—Whenever the Administration determines that an alleged violation or threatened violation specified in the notice initiating a civil enforcement action under section 373, or the continuation thereof, is likely to result in violation of this Act, or of chapter 95 or 96 of the Internal Revenue Code of 1986, and substantial harm to the public interest, the Administration may apply to the Federal district court for the district in which the respondent resides or has its principal place of business, in which the alleged or threatened violation occurred or is about to occur, or for the District of Columbia, for a temporary restraining order or a preliminary injunction requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation. The Administration may apply for such order without regard to any limitation under section 373.

"SEC. 377. COLLECTION.

''If any person fails to pay an assessment of a civil penalty—

''(1) after the order making the assessment has become a final order and such person has not timely filed a petition for judicial review of the order in accordance with section 373(f)(3) or if the order of the Administration is upheld after judicial review; or

''(2) after a court in an action brought under section 373(c)(3) has entered a final judgment no longer subject to appeal in favor of the Administration, the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in section 373(f)(3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"SEC. 378. CONFIDENTIALITY.

''(a) PRIOR TO A FINDING OF REASONABLE GROUNDS.—Any proceedings conducted by the Administration prior to a finding that there are reasonable grounds to believe a violation of the law has occurred or is about to occur, including any investigation pursuant to section 371 or pursuant to a complaint filed under section 372, shall be confidential and none of the Administration's records concerning the complaint shall be made public, except that the person filing a complaint pursuant to section 372 is permitted to make such complaint public.

''(b) AFTER A FINDING OF REASONABLE GROUNDS.—Except as provided in subsection (d), if the Administration makes a finding pursuant to section 371 or 372 that there are reasonable grounds to believe that a violation of law has occurred or is about to occur—

''(1) the finding of the Administration as well as any complaint filed under section 372, any notice of charges, and any answer or similar documents filed with the Administration shall be made public; and

''(2) all proceedings conducted before an administrative law judge under section 373, and all documents used during such proceedings, shall be made public.

''(c) AFTER DISMISSAL OF A COMPLAINT OR CONCLUSION OF PROCEEDINGS FOLLOWING A FINDING OF REASONABLE GROUNDS.—Subject to subsection (d), following the Administration's dismissal of a complaint filed under section 372 or the termination of proceedings following a finding of reasonable grounds under section 371 or 372, the Administration shall, not later than the date that is 30 days after such dismissal or termination, make public—

''(1) the complaint, any notice of charges, and any answer or similar documents filed with the Administration (unless such information has already been made public under subsection (b)(1));

''(2) any order setting forth the Administration's final action on the complaint;

''(3) any findings made by the Administration in relation to the action; and

''(4) all documentary materials and testimony constituting the record on which the Administration relied in taking its actions.

Subject to subsection (d), the affirmative disclosure requirement of this subsection is without prejudice to the right of any person to request and obtain records relating to an investigation under section 552 of title 5, United States Code.

''(d) CONFIDENTIALITY OF RECORDS AND PROCEEDINGS OTHERWISE SUBJECT TO DISCLOSURE.—

''(1) IN GENERAL.—The Administration shall issue regulations providing for the protection of information the disclosure of which under subsection (b) or (c) would impair any person's constitutionally protected right of privacy, freedom of speech, or freedom of association. The Administration shall also issue regulations addressing the application of exemptions from disclosure contained in section 552 of title 5, United States Code, to records comprising the Administration's investigative files. Such regulations shall consider the need to protect any person's constitutionally protected rights to privacy, freedom of speech, and freedom of association, as well as the need to make information about the Administration's activities and decisions widely accessible to the public.

''(2) PETITION TO MAINTAIN CONFIDENTIALITY.—

''(A) IN GENERAL.—Any person who would be adversely affected by any disclosure of information about the person made pursuant to subsection (b) or (c), or by the conduct in public of a hearing or other proceeding conducted pursuant to section 373, shall have the right to petition the Administration to maintain the confidentiality of such information or such proceeding on the ground that such information falls within the scope of any exemption from disclosure contained in section 552 of title 5, United States Code, or is prohibited from disclosure under the Administration's regulations, the Constitution, or any other provision of law. Upon the receipt of such petition, the Administration shall make a prompt determination whether the information should be kept confidential, and shall withhold such information from disclosure pending this determination. The Administration shall notify the petitioner in writing of the determination.

''(B) REGULATIONS.—The Administration shall prescribe regulations governing the consideration of petitions under this paragraph. Such regulations shall provide for public notice of the pendancy of any petition filed under subparagraph (A) and the right of any interested party to respond to or comment on such petition.

''(e) PENALTIES.—Any member or employee of the Administration, or any other person, who violates the provisions of this section shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of this section shall be fined not more than $5,000.

"SEC. 379. CRIMINAL PENALTIES.

''(a) KNOWING AND WILLFUL VIOLATIONS.—Any person who knowingly and willfully commits a violation of any provision of this Act that involves the making, receiving, or reporting of any contribution, donation, or expenditure—

''(1) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

''(2) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.

''(b) CONTRIBUTIONS OR EXPENDITURES BY NATIONAL BANKS, CORPORATIONS, OR LABOR ORGANIZATIONS.—In the case of a knowing and willful violation of section 316(b)(3), the penalties set forth in subsection (a) shall apply to each violation involving an amount aggregating $250 or more during a calendar year. Such a violation of section 316(b)(3) may incorporate a violation of section 317(a), 320, or 321.

''(c) FRAUDULENT MISREPRESENTATION OF CAMPAIGN AUTHORITY.—In the case of a knowing and willful violation of section 322, the penalties set forth in subsection (a) shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.

''(d) PROHIBITION OF CONTRIBUTIONS IN NAME OF ANOTHER.—Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be—

''(1) imprisoned for not more than 2 years if the amount is less than $25,000 and subject to imprisonment under subsection (a) if the amount is $25,000 or more;

''(2) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

''(A) $50,000; or

''(B) 1,000 percent of the amount involved in the violation; or

''(3) both imprisoned as provided under paragraph (1) and fined as provided under paragraph (2).

''(e) EFFECT OF CONCILIATION AGREEMENTS.—

''(1) EVIDENCE OF LACK OF KNOWLEDGE AND INTENT.—In any criminal action brought for a violation of any provision of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986, any defendant may evidence their lack of knowledge or intent to commit the alleged violation by introducing as evidence a conciliation agreement entered into between the defendant and the Administration under section 373(c)(1) which specifically deals with the act or failure to act constituting such violation and which is still in effect.

''(2) CONSIDERATION BY COURTS.—In any criminal action brought for a violation of any provision of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986, the court before which such action is brought

shall take into account, in weighing the seriousness of the violation and in considering the appropriateness of the penalty to be imposed if the defendant is found guilty, whether—

''(A) the specific act or failure to act which constitutes the violation for which the action was brought is the subject of a conciliation agreement entered into between the defendant and the Administration under section 373(c)(1);

''(B) the conciliation agreement is in effect; and

''(C) the defendant is, with respect to the violation involved, in compliance with the conciliation agreement.

''SEC. 380. PERIOD OF LIMITATIONS.

''No person shall be prosecuted, tried, or punished for any violation of this Act, unless the indictment is found or the information is instituted within 5 years after the date of the violation.

''SEC. 381. AUTHORIZATION OF APPROPRIATIONS.

''For each fiscal year, there are authorized to be appropriated to the Administration such sums as may be necessary for the purpose of carrying out its functions under this Act and under chapters 95 and 96 of the Internal Revenue Code of 1986.''.

SEC. 102. EXECUTIVE SCHEDULE POSITIONS.

(a) EXECUTIVE SCHEDULE LEVEL III POSITION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Chair, Federal Election Administration.''.

(b) EXECUTIVE SCHEDULE LEVEL IV POSITIONS.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Members (other than the Chair), Federal Election Administration.

''Staff Director, Federal Election Administration.

''Inspector General, Federal Election Administration.''.

(c) EXECUTIVE SCHEDULE LEVEL V POSITION.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

''General Counsel, Federal Election Administration.''.

SEC. 103. GAO EXAMINATION OF ENFORCEMENT OF CAMPAIGN FINANCE LAWS BY THE DEPARTMENT OF JUSTICE.

(a) EXAMINATION.—The Comptroller General of the United States shall conduct a thorough examination of the enforcement of the criminal provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) and chapters 95 and 96 of the Internal Revenue Code of 1986 by the Attorney General.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Attorney General and Congress a report on the examination conducted under subsection (a) together with recommendations on how the Attorney General may improve the enforcement of the criminal provisions of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) and chapters 95 and 96 of the Internal Revenue Code of 1986, including recommendations on the resources that the Attorney General would require to effectively enforce such criminal provisions.

SEC. 104. GAO STUDY AND REPORT ON APPROPRIATE FUNDING LEVELS.

(a) STUDY.—The Comptroller General of the United States shall conduct an ongoing study on the level of funding that constitutes an adequate level of resources for the Federal Election Administration to competently execute the responsibilities imposed on the Administration by this Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter, the Comptroller General shall submit to the Director of the Office of Management and Budget and Congress a report on the study conducted under subsection (a) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

SEC. 105. CONFORMING AMENDMENTS.

(a) INDEPENDENT AGENCY.—Section 104 of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''and'' after the semicolon;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

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

''(3) the Federal Election Administration.''.

(b) COVERAGE UNDER INSPECTOR GENERAL ACT.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''.

(c) COVERAGE OF PERSONNEL UNDER HATCH ACT.—Section 7323(b) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''; and

(2) in paragraph (2)(B)(i)(I), by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''.

(d) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(C) of title 5, United States Code, is amended by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''.

(e) SUBTITLE A.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting before section 301 the following:

''Subtitle A—General Provisions''.

TITLE II—TRANSITION PROVISIONS

SEC. 201. TRANSFER OF FUNCTIONS OF FEDERAL ELECTION COMMISSION.

There are transferred to the Federal Election Administration established under section 351 of the Federal Election Campaign Act of 1971 (as added by section 101) all functions that the Federal Election Commission exercised before the date described in section 205(a).

SEC. 202. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this title are transferred to the Federal Election Administration.

(b) PERSONNEL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this title are transferred to the Federal Election Administration.

SEC. 203. REPEALS.

The following provisions of the Federal Election Campaign Act of 1971 are repealed:

(1) Section 306 (2 U.S.C. 437c).
(2) Section 307 (2 U.S.C. 437d).
(3) Section 308 (2 U.S.C. 437f).
(4) Section 309 (2 U.S.C. 437g).
(5) Section 310 (2 U.S.C. 437h).
(6) Section 311 (2 U.S.C. 438).
(7) Section 314 (2 U.S.C. 439c).
(8) Section 406 (2 U.S.C. 455).

SEC. 204. CONFORMING AMENDMENTS.

(a) Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended—

(1) in section 301, by striking paragraph (10) and inserting the following:

''(10) The term 'Administration' means the Federal Election Administration.'';

(2) by striking ''Federal Election Commission'' and inserting ''Administration'' each place it appears; and

(3) by striking ''Commission'' and inserting ''Administration'' each place it appears.

(b) Section 3502(1)(B) of title 44, United States Code, is amended by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''.

(c) Section 207(j)(7)(B)(i) of title 18, United States Code, is amended by striking ''the Federal Election Commission by a former officer or employee of the Federal Election Commission'' and inserting ''the Federal Election Administration by a former officer or employee of the Federal Election Commission or the Federal Election Administration''.

(d) Section 103 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (e), by striking ''the Federal Election Commission'' and inserting ''the Federal Election Administration''; and

(2) in subsection (k), by striking ''the Federal Election Commission'' and inserting ''the Federal Election Administration''.

(e)(1) Section 9002(3) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) The term 'Administration' means the Federal Election Administration established under section 351 of the Federal Election Campaign Act of 1971.''.

(2) Chapter 95 of the Internal Revenue Code of 1986 is amended by striking ''Commission'' and inserting ''Administration'' each place it appears.

(f)(1) Section 9032(3) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) The term 'Administration' means the Federal Election Administration established under section 351 of the Federal Election Campaign Act of 1971.''.

(2) Chapter 96 of the Internal Revenue Code of 1986 is amended by striking ''Commission'' and inserting ''Administration'' each place it appears.

(g) Section 3(c) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee–1(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''; and

(B) by striking ''Commission'' and inserting ''Administration''; and

(2) in paragraph (2), by striking ''Federal Election Commission'' and inserting ''Federal Election Administration''.

(h) Section 6(9) of the Lobbying Disclosure Act 1995 (2 U.S.C. 1605(9)) is amended by striking ''the Federal Election Commission'' and inserting ''the Federal Election Administration''.

SEC. 205. EFFECTIVE DATE.

(a) IN GENERAL.—This title and the amendments made by this title shall take effect on the date that is 6 months after the date of enactment of this Act.

(b) TERMINATION OF THE FEDERAL ELECTION COMMISSION.—Notwithstanding any other provision of, or amendment made by, this Act, the members of the Federal Election Commission shall be removed from office on the date described in subsection (a).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 251—EXPRESSING THE SENSE OF THE SENATE THAT THE GOVERNMENT OF AFGHANISTAN, WITH THE SUPPORT OF THE INTERNATIONAL COMMUNITY, SHOULD FULFILL ITS OBLIGATIONS TO ENSURE THAT WOMEN FULLY PARTICIPATE AS CANDIDATES AND VOTERS IN THE AUGUST 20, 2009, PRESIDENTIAL AND PROVINCIAL COUNCIL ELECTIONS IN AFGHANISTAN

Mrs. GILLIBRAND (for herself, Mr. CARDIN, Ms. COLLINS, Mr. KERRY, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. SHAHEEN, Mr. LUGAR, Ms. LANDRIEU, Mr. LAUTENBERG, and Mr. BEGICH) submitted the following resolution; which was considered and agreed to:

S. RES. 251

Whereas women in Afghanistan play a critical role in establishing accountable governance, fostering economic development, and securing peace in Afghanistan;

Whereas many women in Afghanistan face rising insecurity and consequent physical and verbal violence in seeking political office and exercising their constitutional right to vote;

Whereas the Afghan Independent Electoral Commission has made efforts to consult with domestic and international organizations advocating for full inclusion of all people in Afghanistan in the elections, and has called on the donor community to assist its efforts to open and staff all appropriate polling places throughout Afghanistan; and

Whereas women's rights activists and civil society representatives from throughout Afghanistan gathered on June 25, 2009, and decided to launch the Five Million Afghan Women Campaign, a campaign of 5,000,000 women of Afghanistan to support eligible women's political participation in order to ensure the rule of law and gender equality: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the brave women and women-led organizations of Afghanistan on the launch of the Five Million Afghan Women Campaign;

(2) urges the Government of Afghanistan to ensure that sufficient staffing is in place in women's polling stations, including security staff and equipment and appropriate polling place personnel;

(3) urges the Government of Afghanistan and the religious, community, and cultural leaders of Afghanistan to make every effort to encourage eligible women to participate in the August 20, 2009, elections;

(4) urges the Government of Afghanistan to fully include women in formal committees and bodies charged with election security and related processes;

(5) urges the Government of Afghanistan and the Independent Electoral Commission to continue to consult with the Afghan Ministry of Women's Affairs, the Afghan Independent Human Rights Commission, and women-led nongovernmental organizations regarding women's participation in the elections, in order to guarantee a free and fair election process, including providing equal access for women candidates to media outlets as well as ensuring adequate security and transportation for women voters on election day;

(6) encourages the Secretary of State, including through the United States Agency for International Development, to continue to mobilize funding and resources of the United States for programs throughout Afghanistan to raise the awareness of women in Afghanistan regarding governance, increase women's political participation in the August 20, 2009, and future elections, and support such women's ability to exercise their rights as citizens; and

(7) urges the new Government of Afghanistan elected on August 20, 2009, to employ and engage women in meaningful roles and positions in such new government.

SENATE RESOLUTION 252—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER IN THE UNITED STATES SENATE

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 252

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting the Senate Photographic Studio to photograph the United States Senate in actual session on Tuesday, September 22, 2009, at the hour of 2:15 p.m.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

NATIONAL POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK

Mr. REID. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 241.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 241) designating the period beginning on September 13, 2009, and ending on September 19, 2009, as ''National Polycystic Kidney Disease Awareness Week,'' and supporting the goals and ideals of a National Polycystic Kidney Disease Awareness Week to raise public awareness and understanding of polycystic kidney disease and the impact polycystic kidney disease has on patients and future generations of their families.

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

Mr. REID. 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. 241) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 241

Whereas polycystic kidney disease, known as ''PKD'', is 1 of the most prevalent life-threatening genetic diseases in the United States;

Whereas polycystic kidney disease is a severe, dominantly inherited disease that has a devastating impact, in both human and economic terms, affecting equally people of all ages, races, sexes, nationalities, geographic locations, and income levels;

Whereas there are 2 hereditary forms of polycystic kidney disease, with autosomal dominant polycystic kidney disease (ADPKD) affecting 1 in 500 people worldwide, including 600,000 patients with polycystic kidney disease in the United States, according to prevalence estimates by the National Institutes of Health;

Whereas in families in which 1 or both parents have ADPKD there is a 50-percent chance that the parents will pass the disease to their children;

Whereas autosomal recessive polycystic kidney disease (ARPKD), a rarer form of PKD, affects 1 in 20,000 live births and frequently leads to early death;

Whereas in families in which both parents carry ARPKD there is a 25-percent chance that the parents will pass the disease to their children;

Whereas, in addition to patients directly affected by polycystic kidney disease, countless additional friends, loved ones, family members, colleagues, and caregivers must shoulder the physical, emotional, and financial burdens of polycystic kidney disease;

Whereas polycystic kidney disease, for which there is no treatment or cure, is the leading cause of kidney failure resulting from a genetic disease, and 1 of the 4 leading causes of kidney failure in the United States;

Whereas the vast majority of patients with polycystic kidney disease have kidney failure at the age of 53, on average, causing a severe strain on dialysis and kidney transplantation resources and on the delivery of health care in the United States, as the largest segment of the population of the United States, the baby boomers, continues to age;

Whereas end-stage renal disease is one of the fastest growing components of the Medicare budget, and polycystic kidney disease contributes to the cost with an estimated $2,000,000,000 budgeted annually for dialysis, kidney transplantation, and related therapies;

Whereas polycystic kidney disease is a systemic disease that causes damage to the kidneys and the cardiovascular, endocrine, hepatic, and gastrointestinal systems;

Whereas polycystic kidney disease instills in patients a fear of an unknown future with a life-threatening genetic disease, and apprehension over possible genetic discrimination;

Whereas the severity of the symptoms of polycystic kidney disease and the limited public awareness of the disease cause many patients to fail to recognize the presence of the disease, to forego regular visits to physicians, and not to receive good health or therapeutic management that would help avoid more severe complications when kidney failure occurs;

Whereas people suffering from chronic, life-threatening diseases, such as polycystic kidney disease, are more frequently predisposed to depression and the resulting consequences of depression because of anxiety over the possible pain, suffering, and premature death that people with polycystic kidney disease 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 polycystic kidney disease is an example of how collaboration, technological