

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 601—TO AUTHORIZE TESTIMONY OF SENATE EMPLOYEES IN A GRAND JURY PROCEEDING IN THE DISTRICT OF COLUMBIA

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

## S. RES. 601

Whereas, in a proceeding before a grand jury of the United States District Court for the District of Columbia testimony has been sought from employees of the office of Senator John Ensign;

Whereas, by the privileges of the Senate of the United States and Rule XI of the standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate; Now, therefore be it

*Resolved*, That current or former employees of Senator John Ensign's office are authorized to testify in the grand jury proceeding or any related proceeding, except concerning matters for which a privilege should be asserted.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4562. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4557 submitted by Mr. MENENDEZ and intended to be proposed to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table.

SA 4563. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4564. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4565. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, supra; which was ordered to lie on the table.

SA 4566. Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 4567. Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes.

SA 4568. Mr. REID proposed an amendment to amendment SA 4567 proposed by Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) to the bill H.R. 1586, supra.

SA 4569. Mr. REID proposed an amendment to the bill H.R. 1586, supra.

SA 4570. Mr. REID proposed an amendment to amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, supra.

SA 4571. Mr. REID proposed an amendment to amendment SA 4570 proposed by Mr. REID to the amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, supra.

SA 4572. Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5875, making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

SA 4562. Mr. MENENDEZ submitted an amendment intended to be proposed to amendment SA 4557 submitted by Mr. MENENDEZ and intended to be proposed to the amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 3 and all that follows through page 2, line 2, and insert the following:

(v) Nonowner-occupied commercial real estate loans.

(vi)(I) Loans secured by real estate—

(aa) that are made to finance—

(AA) land development that is preparatory to erecting new structures, including improving land, laying sewers, and laying water pipes; or

(BB) the on-site construction of industrial, commercial, residential, or farm buildings;

(bb) that is vacant land, except land known to be used or usable for agricultural purposes, such as crop and livestock production;

(cc) the proceeds of which are to be used to acquire and improve developed or undeveloped property; or

(dd) that are made under title I of the National Housing Act (12 U.S.C. 1702 et seq.).

(II) Subclause (I) shall only apply to loans that are extended to small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) in the construction industry, as such term is defined by the Secretary in consultation with the Administrator of the Small Business Administration.

(III) For purposes of this clause, the term "construction" includes the construction of new structures, additions or alterations to existing structures, and the demolition of existing structures to make way for new structures.

(B) LIMITATION.—Notwithstanding subparagraph (A), a loan shall constitute small business lending only if it is made to a small business concerns (as defined under section 3 of the Small Business Act (15 U.S.C. 632)).

SA 4563. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B, add the following:  
PART \_\_\_\_\_—TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM  
SEC. 4 \_\_\_\_\_, TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM.

(a) FUNDING.—The matter under the heading "TITLE 17 INNOVATIVE TECHNOLOGY LOAN GUARANTEE PROGRAM" of title III of division C of the Omnibus Appropriations Act, 2009 (Public Law 111-8; 123 Stat. 619) is amended, in the matter preceding the first proviso—

(1) by striking "\$47,000,000,000" and inserting "\$56,000,000,000"; and

(2) by striking "\$18,500,000,000" and inserting "\$27,500,000,000".

(b) USE OF STIMULUS FUNDS TO OFFSET SPENDING.—

(1) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 115) (other than under title X of division A of that Act) is rescinded, on a pro rata basis, by an aggregate amount that equals the amounts necessary to offset any net increase in spending or foregone revenues resulting from this section and the amendments made by this section.

(2) REPORT.—The Director of the Office of Management and Budget shall submit to each congressional committee the amounts rescinded under paragraph (1) that are within the jurisdiction of the committee.

SA 4564. Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which was ordered to lie on the table; as follows:

On page 130 of the amendment, after line 25, insert the following:

## SEC. 1705. COMMUNITY DEVELOPMENT FUNDS.

Chapter 11 of title I of the Supplemental Appropriations Act, 2010, is amended by striking the heading "Community Development Fund" and all the matter that follows through the ninth proviso under such heading and inserting the following:

## "COMMUNITY DEVELOPMENT FUND

"For an additional amount for the 'Community Development Fund', for necessary

expenses related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by flooding for which the President declared a major disaster between March 29, 2010, and May 7, 2010, which included Individual Assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, \$100,000,000, to remain available until expended, for activities authorized under title I of the Housing and Community Development Act of 1974 (Public Law 93-383): *Provided*, That funds shall be awarded directly to the State or unit of general local government at the discretion of the Secretary: *Provided further*, That prior to the obligation of funds a grantee shall submit a plan to the Secretary detailing the proposed use of all funds, including criteria for eligibility and how the use of these funds will address long-term recovery and restoration of infrastructure: *Provided further*, That funds provided under this heading may be used by a State or locality as a matching requirement, share, or contribution for any other Federal program: *Provided further*, That such funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers: *Provided further*, That funds allocated under this heading shall not adversely affect the amount of any formula assistance received by a State or subdivision thereof under the Community Development Fund: *Provided further*, That a State or subdivision thereof may use up to 5 percent of its allocation for administrative costs: *Provided further*, That in administering the funds under this heading, the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a request by a State or subdivision thereof explaining why such waiver is required to facilitate the use of such funds or guarantees, if the Secretary finds that such waiver would not be inconsistent with the overall purpose of title I of the Housing and Community Development Act of 1974: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974 no later than 5 days before the effective date of such waiver: *Provided further*, That the Secretary shall obligate to a State or subdivision thereof not less than 50 percent of the funding provided under this heading within 90 days after the enactment of this Act: *Provided further*, That not more than 50 percent of the funding provided under this heading shall be allocated to any State (including units of general local government)."

**SA 4565.** Mr. REED submitted an amendment intended to be proposed to amendment SA 4519 proposed by Mr. REID (for himself, Mr. BAUCUS, and Ms. LANDRIEU) to the bill H.R. 5297, to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes; which

was ordered to lie on the table; as follows:

At the end of subtitle A of title IV, add the following:

**SEC. 41. ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.**

In chapter 2 of title I of the Act entitled "An Act making supplemental appropriations for the fiscal year ending September 30, 2010, and for other purposes", strike the matter under the heading "ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS" under the heading "ECONOMIC DEVELOPMENT ADMINISTRATION" under the heading "DEPARTMENT OF COMMERCE" and insert the following: "Pursuant to section 703 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3233), for an additional amount for "Economic Development Assistance Programs", for necessary expenses relating to disaster relief, long-term recovery, and restoration of infrastructure in areas affected by flooding for which the President declared a major disaster during the period beginning on March 29, 2010, and ending on May 7, 2010, which included individual assistance for an entire State or not fewer than 45 counties within a State under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), \$49,000,000, to remain available until expended: *Provided*, That not more than 50 percent of the amount provided under this heading shall be allocated to any State."

**SA 4566.** Mr. WEBB submitted an amendment intended to be proposed by him to the bill S. 3454, to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI, add the following:

**SEC. 633. SURVIVOR BENEFIT PLAN ANNUITIES FOR SPECIAL NEEDS TRUSTS ESTABLISHED FOR THE BENEFIT OF DEPENDENT CHILDREN INCAPABLE OF SELF-SUPPORT.**

(a) SPECIAL NEEDS TRUST AS ELIGIBLE BENEFICIARY.—

(1) IN GENERAL.—Subsection (a) of section 1450 of title 10, United States Code, is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) SPECIAL NEEDS TRUSTS FOR SOLE BENEFIT OF CERTAIN DEPENDENT CHILDREN.—Notwithstanding subsection (i), a supplemental or special needs trust established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)) for the sole benefit of a dependent child considered disabled under section 1614(a)(3) of that Act (42 U.S.C. 1382c(a)(3)) who is incapable of self-support because of mental or physical incapacity."

(2) CONFORMING AMENDMENT.—Subsection (i) of such section is amended by inserting "(a)(4) or" after "subsection".

(b) REGULATIONS.—Section 1455(d) of such title is amended—

(1) in the subsection caption, by striking "AND FIDUCIARIES" and inserting "FIDUCIARIES, AND SPECIAL NEEDS TRUSTS";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "and"; and

(C) by adding at the end the following new subparagraph:

"(C) a dependent child incapable of self-support because of mental or physical incapacity for whom a supplemental or special needs trust has been established under subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act (42 U.S.C. 1396p(d)(4)).";

(3) in paragraph (2)—

(A) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;

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

"(C) In the case of an annuitant referred to in paragraph (1)(C), payment of the annuity to the supplemental or special needs trust established for the annuitant.;"

(C) in subparagraph (D), as redesignated by subparagraph (A) of this paragraph, by striking "subparagraphs (D) and (E)" and inserting "subparagraphs (E) and (F)"; and

(D) in subparagraph (H), as so redesignated—

(i) by inserting "or (1)(C)" after "paragraph (1)(B)" in the matter preceding clause (i);

(ii) in clause (i), by striking "and" at the end;

(iii) in clause (ii), by striking the period at the end and inserting "and"; and

(iv) by adding at the end the following new clause:

"(iii) procedures for determining when annuity payments to a supplemental or special needs trust shall end based on the death or marriage of the dependent child for which the trust was established.;" and

(4) in paragraph (3), by striking "OR FIDUCIARY" in the paragraph caption and inserting "FIDUCIARY, OR TRUST".

**SA 4567.** Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "\_\_\_\_\_ Act of \_\_\_\_\_".

TITLE I

EDUCATION JOBS FUND

EDUCATION JOBS FUNDS

SEC. 101. There are authorized to be appropriated and there are appropriated out of any money in the Treasury not otherwise obligated for necessary expenses for an Education Jobs Fund, \$10,000,000,000: *Provided*, That the amount under this heading shall be administered under the terms and conditions of sections 14001 through 14013 and title XV of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) except as follows:

(1) ALLOCATION OF FUNDS.—

(A) Funds appropriated under this heading shall be available only for allocation by the Secretary of Education (in this heading referred to as the Secretary) in accordance with subsections (a), (b), (d), (e), and (f) of section 14001 of division A of Public Law 111-5 and subparagraph (B) of this paragraph, except that the amount reserved under such subsection (b) shall not exceed \$1,000,000 and such subsection (f) shall be applied by substituting one year for two years.

(B) Prior to allocating funds to States under section 14001(d) of division A of Public Law 111-5, the Secretary shall allocate 0.5 percent to the Secretary of the Interior for schools operated or funded by the Bureau of Indian Affairs on the basis of the schools' respective needs for activities consistent with this heading under such terms and conditions as the Secretary of the Interior may determine.

(2) RESERVATION.—A State that receives an allocation of funds appropriated under this heading may reserve not more than 2 percent for the administrative costs of carrying out its responsibilities with respect to those funds.

(3) AWARDS TO LOCAL EDUCATIONAL AGENCIES.—

(A) Except as specified in paragraph (2), an allocation of funds to a State shall be used only for awards to local educational agencies for the support of elementary and secondary education in accordance with paragraph (5) for the 2010-2011 school year (or, in the case of reallocations made under section 14001(f) of division A of Public Law 111-5, for the 2010-2011 or the 2011-2012 school year).

(B) Funds used to support elementary and secondary education shall be distributed through a State's primary elementary and secondary funding formulae or based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year for which data are available.

(C) Subsections (a) and (b) of section 14002 of division A of Public Law 111-5 shall not apply to funds appropriated under this heading.

(4) COMPLIANCE WITH EDUCATION REFORM ASSURANCES.—For purposes of awarding funds appropriated under this heading, any State that has an approved application for Phase II of the State Fiscal Stabilization Fund that was submitted in accordance with the application notice published in the Federal Register on November 17, 2009 (74 Fed. Reg. 59142) shall be deemed to be in compliance with subsection (b) and paragraphs (2) through (5) of subsection (d) of section 14005 of division A of Public Law 111-5.

(5) REQUIREMENT TO USE FUNDS TO RETAIN OR CREATE EDUCATION JOBS.—Notwithstanding section 14003(a) of division A of Public Law 111-5, funds awarded to local educational agencies under paragraph (3)—

(A) may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary educational and related services; and

(B) may not be used for general administrative expenses or for other support services expenditures as those terms were defined by the National Center for Education Statistics in its Common Core of Data as of the date of enactment of this Act.

(6) PROHIBITION ON USE OF FUNDS FOR RAINY-DAY FUNDS OR DEBT RETIREMENT.—A State that receives an allocation may not use such funds, directly or indirectly, to—

(A) establish, restore, or supplement a rainy-day fund;

(B) supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund;

(C) reduce or retire debt obligations incurred by the State; or

(D) supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.

(7) DEADLINE FOR AWARD.—The Secretary shall award funds appropriated under this heading not later than 45 days after the date of the enactment of this Act to States that

have submitted applications meeting the requirements applicable to funds under this heading. The Secretary shall not require information in applications beyond what is necessary to determine compliance with applicable provisions of law.

(8) ALTERNATE DISTRIBUTION OF FUNDS.—If, within 30 days after the date of the enactment of this Act, a Governor has not submitted an approvable application, the Secretary shall provide for funds allocated to that State to be distributed to another entity or other entities in the State (notwithstanding section 14001(e) of division A of Public Law 111-5) for support of elementary and secondary education, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to funds appropriated under this heading shall apply to such funds distributed to such entity or entities. No distribution shall be made to a State under this paragraph, however, unless the Secretary has determined (on the basis of such information as may be available) that the requirements of clauses (i), (ii), or (iii) of paragraph 10(A) are likely to be met, notwithstanding the lack of an application from the Governor of that State.

(9) LOCAL EDUCATIONAL AGENCY APPLICATION.—Section 442 of the General Education Provisions Act shall not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of Public Law 111-5. The assurances provided under that application shall continue to apply to funds awarded under this heading.

(10) MAINTENANCE OF EFFORT.—

(A) Except as provided in paragraph (8), the Secretary shall not allocate funds to a State under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that—

(i) for State fiscal year 2011, the State will maintain State support for elementary and secondary education (in the aggregate or on the basis of expenditures per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2009;

(ii) for State fiscal year 2011, the State will maintain State support for elementary and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2010; or

(iii) in the case of a State in which State tax collections for calendar year 2009 were less than State tax collections for calendar year 2006, for State fiscal year 2011 the State will maintain State support for elementary and secondary education (in the aggregate) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students)—

(I) at not less than the level of such support for each of the two categories, respectively, for State fiscal year 2006; or

(II) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2006.

(B) Section 14005(d)(1) and subsections (a) through (c) of section 14012 of division A of Public Law 111-5 shall not apply to funds appropriated under this heading.

(11) ADDITIONAL REQUIREMENTS FOR THE STATE OF TEXAS.—The following requirements shall apply to the State of Texas:

(A) Notwithstanding paragraph (3)(B), funds used to support elementary and secondary education shall be distributed based on local educational agencies' relative shares of funds under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) for the most recent fiscal year which data are available. Funds distributed pursuant to this paragraph shall be used to supplement and not supplant State formula funding that is distributed on a similar basis to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.).

(B) The Secretary shall not allocate funds to the State of Texas under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2011, 2012, and 2013 maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for such purpose for fiscal year 2011 prior to the enactment of this Act.

(C) Notwithstanding paragraph (8), no distribution shall be made to the State of Texas or local education agencies therein unless the Governor of Texas makes an assurance to the Secretary that the requirements in paragraphs (11)(A) and (11)(B) will be met, notwithstanding the lack of an application from the Governor of Texas.

TITLE II—STATE FISCAL RELIEF AND OTHER PROVISIONS; REVENUE OFFSETS

Subtitle A—State Fiscal Relief and Other Provisions

EXTENSION OF ARRA INCREASE IN FMAP

SEC. 201.

Section 5001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) is amended—

(1) in subsection (a)(3), by striking "first calendar quarter" and inserting "first 3 calendar quarters";

(2) in subsection (b)—

(A) in paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)"; and

(B) by adding at the end the following:

“(3) PHASE-DOWN OF GENERAL INCREASE.—

“(A) SECOND QUARTER OF FISCAL YEAR 2011.—For each State, for the second quarter of fiscal year 2011, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 3.2 percentage points.

“(B) THIRD QUARTER OF FISCAL YEAR 2011.—For each State, for the third quarter of fiscal year 2011, the FMAP percentage increase for the State under paragraph (1) or (2) (as applicable) shall be 1.2 percentage points.”;

(3) in subsection (c)—

(A) in paragraph (2)(B), by striking "July 1, 2010" and inserting "January 1, 2011";

(B) in paragraph (3)(B)(i), by striking "July 1, 2010" and inserting "January 1, 2011" each place it appears; and

(C) in paragraph (4)(C)(ii), by striking "the 3-consecutive-month period beginning with January 2010" and inserting "any 3-consecutive-month period that begins after December 2009 and ends before January 2011";

(4) in subsection (e), by adding at the end the following:

“Notwithstanding paragraph (5), effective for payments made on or after January 1, 2010, the increases in the FMAP for a State under this section shall apply to payments under title XIX of such Act that are attributable to expenditures for medical assistance provided to nonpregnant childless adults made eligible under a State plan under such title (including under any waiver under such title or

under section 1115 of such Act (42 U.S.C. 1315) who would have been eligible for child health assistance or other health benefits under eligibility standards in effect as of December 31, 2009, of a waiver of the State child health plan under the title XXI of such Act.”;

(5) in subsection (g)—

(A) in paragraph (1), by striking “September 30, 2011” and inserting “March 31, 2012”;

(B) in paragraph (2), by inserting “of such Act” after “1923”; and

(C) by adding at the end the following:

“(3) CERTIFICATION BY CHIEF EXECUTIVE OFFICER.—No additional Federal funds shall be paid to a State as a result of this section with respect to a calendar quarter occurring during the period beginning on January 1, 2011, and ending on June 30, 2011, unless, not later than 45 days after the date of enactment of this paragraph, the chief executive officer of the State certifies that the State will request and use such additional Federal funds.”; and

(6) in subsection (h)(3), by striking “December 31, 2010” and inserting “June 30, 2011”.

TREATMENT OF CERTAIN DRUGS FOR  
COMPUTATION OF MEDICAID AMP

SEC. 202.

Effective as if included in the enactment of Public Law 111-148, section 1927(k)(1)(B)(i)(IV) of the Social Security Act (42 U.S.C. 1396r-8(k)(1)(B)(i)(IV)), as amended by section 2503(a)(2)(B) of Public Law 111-148 and section 1101(c)(2) of Public Law 111-152, is amended by adding at the end the following: “, unless the drug is an inhalation, infusion, instilled, implanted, or injectable drug that is not generally dispensed through a retail community pharmacy; and”.

SUNSET OF TEMPORARY INCREASE IN BENEFITS  
UNDER THE SUPPLEMENTAL NUTRITION AS-  
SISTANCE PROGRAM

SEC. 203.

Section 101(a) of title I of division A of Public Law 111-5 (123 Stat. 120), as amended by section 4262 of this Act, is amended by striking paragraph (2) and inserting the following:

“(2) TERMINATION.—The authority provided by this subsection shall terminate after March 31, 2015.”.

Subtitle B—Revenue Offsets

RULES TO PREVENT SPLITTING FOREIGN TAX  
CREDITS FROM THE INCOME TO WHICH THEY  
RELATE

SEC. 211.

(a) IN GENERAL.—Subpart A of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 909. SUSPENSION OF TAXES AND CREDITS  
UNTIL RELATED INCOME TAKEN  
INTO ACCOUNT.

“(a) IN GENERAL.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by the taxpayer, such tax shall not be taken into account for purposes of this title before the taxable year in which the related income is taken into account under this chapter by the taxpayer.

“(b) SPECIAL RULES WITH RESPECT TO SECTION 902 CORPORATIONS.—If there is a foreign tax credit splitting event with respect to a foreign income tax paid or accrued by a section 902 corporation, such tax shall not be taken into account—

“(1) for purposes of section 902 or 960, or

“(2) for purposes of determining earnings and profits under section 964(a), before the taxable year in which the related income is taken into account under this chapter by such section 902 corporation or a

domestic corporation which meets the ownership requirements of subsection (a) or (b) of section 902 with respect to such section 902 corporation.

“(c) SPECIAL RULES.—For purposes of this section—

“(1) APPLICATION TO PARTNERSHIPS, ETC.—In the case of a partnership, subsections (a) and (b) shall be applied at the partner level. Except as otherwise provided by the Secretary, a rule similar to the rule of the preceding sentence shall apply in the case of any S corporation or trust.

“(2) TREATMENT OF FOREIGN TAXES AFTER SUSPENSION.—In the case of any foreign income tax not taken into account by reason of subsection (a) or (b), except as otherwise provided by the Secretary, such tax shall be so taken into account in the taxable year referred to in such subsection (other than for purposes of section 986(a)) as a foreign income tax paid or accrued in such taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) FOREIGN TAX CREDIT SPLITTING EVENT.—There is a foreign tax credit splitting event with respect to a foreign income tax if the related income is (or will be) taken into account under this chapter by a covered person.

“(2) FOREIGN INCOME TAX.—The term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

“(3) RELATED INCOME.—The term ‘related income’ means, with respect to any portion of any foreign income tax, the income (or, as appropriate, earnings and profits) to which such portion of foreign income tax relates.

“(4) COVERED PERSON.—The term ‘covered person’ means, with respect to any person who pays or accrues a foreign income tax (hereafter in this paragraph referred to as the ‘payor’)—

“(A) any entity in which the payor holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value),

“(B) any person which holds, directly or indirectly, at least a 10 percent ownership interest (determined by vote or value) in the payor,

“(C) any person which bears a relationship to the payor described in section 267(b) or 707(b), and

“(D) any other person specified by the Secretary for purposes of this paragraph.

“(5) SECTION 902 CORPORATION.—The term ‘section 902 corporation’ means any foreign corporation with respect to which one or more domestic corporations meets the ownership requirements of subsection (a) or (b) of section 902.

“(e) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provides—

“(1) appropriate exceptions from the provisions of this section, and

“(2) for the proper application of this section with respect to hybrid instruments.”.

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 909. Suspension of taxes and credits until related income taken into account.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) foreign income taxes (as defined in section 909(d) of the Internal Revenue Code of 1986, as added by this section) paid or ac-

crued in taxable years beginning after December 31, 2010; and

(2) foreign income taxes (as so defined) paid or accrued by a section 902 corporation (as so defined) in taxable years beginning on or before such date (and not deemed paid under section 902(a) or 960 of such Code on or before such date), but only for purposes of applying sections 902 and 960 with respect to periods after such date.

Section 909(b)(2) of the Internal Revenue Code of 1986, as added by this section, shall not apply to foreign income taxes described in paragraph (2).

DENIAL OF FOREIGN TAX CREDIT WITH RESPECT  
TO FOREIGN INCOME NOT SUBJECT TO UNITED  
STATES TAXATION BY REASON OF COVERED  
ASSET ACQUISITIONS

SEC. 212.

(a) IN GENERAL.—Section 901 of the Internal Revenue Code of 1986 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) DENIAL OF FOREIGN TAX CREDIT WITH RESPECT TO FOREIGN INCOME NOT SUBJECT TO UNITED STATES TAXATION BY REASON OF COVERED ASSET ACQUISITIONS.—

“(1) IN GENERAL.—In the case of a covered asset acquisition, the disqualified portion of any foreign income tax determined with respect to the income or gain attributable to the relevant foreign assets—

“(A) shall not be taken into account in determining the credit allowed under subsection (a), and

“(B) in the case of a foreign income tax paid by a section 902 corporation (as defined in section 909(d)(5)), shall not be taken into account for purposes of section 902 or 960.

“(2) COVERED ASSET ACQUISITION.—For purposes of this section, the term ‘covered asset acquisition’ means—

“(A) a qualified stock purchase (as defined in section 338(d)(3)) to which section 338(a) applies,

“(B) any transaction which—

“(i) is treated as an acquisition of assets for purposes of this chapter, and

“(ii) is treated as the acquisition of stock of a corporation (or is disregarded) for purposes of the foreign income taxes of the relevant jurisdiction,

“(C) any acquisition of an interest in a partnership which has an election in effect under section 754, and

“(D) to the extent provided by the Secretary, any other similar transaction.

“(3) DISQUALIFIED PORTION.—For purposes of this section—

“(A) IN GENERAL.—The term ‘disqualified portion’ means, with respect to any covered asset acquisition, for any taxable year, the ratio (expressed as a percentage) of—

“(i) the aggregate basis differences (but not below zero) allocable to such taxable year under subparagraph (B) with respect to all relevant foreign assets, divided by

“(ii) the income on which the foreign income tax referred to in paragraph (1) is determined (or, if the taxpayer fails to substantiate such income to the satisfaction of the Secretary, such income shall be determined by dividing the amount of such foreign income tax by the highest marginal tax rate applicable to such income in the relevant jurisdiction).

“(B) ALLOCATION OF BASIS DIFFERENCE.—For purposes of subparagraph (A)(i)—

“(i) IN GENERAL.—The basis difference with respect to any relevant foreign asset shall be allocated to taxable years using the applicable cost recovery method under this chapter.

“(ii) SPECIAL RULE FOR DISPOSITION OF ASSETS.—Except as otherwise provided by the Secretary, in the case of the disposition of any relevant foreign asset—

“(I) the basis difference allocated to the taxable year which includes the date of such disposition shall be the excess of the basis difference with respect to such asset over the aggregate basis difference with respect to such asset which has been allocated under clause (i) to all prior taxable years, and

“(II) no basis difference with respect to such asset shall be allocated under clause (i) to any taxable year thereafter.

“(C) BASIS DIFFERENCE.—

“(i) IN GENERAL.—The term ‘basis difference’ means, with respect to any relevant foreign asset, the excess of—

“(I) the adjusted basis of such asset immediately after the covered asset acquisition, over

“(ii) the adjusted basis of such asset immediately before the covered asset acquisition.

“(ii) BUILT-IN LOSS ASSETS.—In the case of a relevant foreign asset with respect to which the amount described in clause (i)(II) exceeds the amount described in clause (i)(I), such excess shall be taken into account under this subsection as a basis difference of a negative amount.

“(iii) SPECIAL RULE FOR SECTION 338 ELECTIONS.—In the case of a covered asset acquisition described in paragraph (2)(A), the covered asset acquisition shall be treated for purposes of this subparagraph as occurring at the close of the acquisition date (as defined in section 338(h)(2)).

“(4) RELEVANT FOREIGN ASSETS.—For purposes of this section, the term ‘relevant foreign asset’ means, with respect to any covered asset acquisition, any asset (including any goodwill, going concern value, or other intangible) with respect to such acquisition if income, deduction, gain, or loss attributable to such asset is taken into account in determining the foreign income tax referred to in paragraph (1).

“(5) FOREIGN INCOME TAX.—For purposes of this section, the term ‘foreign income tax’ means any income, war profits, or excess profits tax paid or accrued to any foreign country or to any possession of the United States.

“(6) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

“(7) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including to exempt from the application of this subsection certain covered asset acquisitions, and relevant foreign assets with respect to which the basis difference is de minimis.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to covered asset acquisitions (as defined in section 901(m)(2) of the Internal Revenue Code of 1986, as added by this section) after December 31, 2010.

(2) TRANSITION RULE.—The amendments made by this section shall not apply to any covered asset acquisition (as so defined) with respect to which the transferor and the transferee are not related if such acquisition is—

(A) made pursuant to a written agreement which was binding on January 1, 2011, and at all times thereafter,

(B) described in a ruling request submitted to the Internal Revenue Service on or before May 20, 2010, or

(C) described on or before January 1, 2011, in a public announcement or in a filing with the Securities and Exchange Commission.

(3) RELATED PERSONS.—For purposes of this subsection, a person shall be treated as related to another person if the relationship between such persons is described in section

267 or 707(b) of the Internal Revenue Code of 1986.

SEPARATE APPLICATION OF FOREIGN TAX CREDIT LIMITATION, ETC., TO ITEMS RESOURCED UNDER TREATIES

SEC. 213.

(a) IN GENERAL.—Subsection (d) of section 904 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

“(6) SEPARATE APPLICATION TO ITEMS RESOURCED UNDER TREATIES.—

“(A) IN GENERAL.—If—

“(i) without regard to any treaty obligation of the United States, any item of income would be treated as derived from sources within the United States,

“(ii) under a treaty obligation of the United States, such item would be treated as arising from sources outside the United States, and

“(iii) the taxpayer chooses the benefits of such treaty obligation,

subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to each such item.

“(B) COORDINATION WITH OTHER PROVISIONS.—This paragraph shall not apply to any item of income to which subsection (h)(10) or section 865(h) applies.

“(C) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this paragraph, including regulations or other guidance which provides that related items of income may be aggregated for purposes of this paragraph.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

LIMITATION ON THE AMOUNT OF FOREIGN TAXES DEEMED PAID WITH RESPECT TO SECTION 956 INCLUSIONS

SEC. 214.

(a) IN GENERAL.—Section 960 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(c) LIMITATION WITH RESPECT TO SECTION 956 INCLUSIONS.—

“(1) IN GENERAL.—If there is included under section 951(a)(1)(B) in the gross income of a domestic corporation any amount attributable to the earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, the amount of any foreign income taxes deemed to have been paid during the taxable year by such domestic corporation under section 902 by reason of subsection (a) with respect to such inclusion in gross income shall not exceed the amount of the foreign income taxes which would have been deemed to have been paid during the taxable year by such domestic corporation if cash in an amount equal to the amount of such inclusion in gross income were distributed as a series of distributions (determined without regard to any foreign taxes which would be imposed on an actual distribution) through the chain of ownership which begins with such foreign corporation and ends with such domestic corporation.

“(2) AUTHORITY TO PREVENT ABUSE.—The Secretary shall issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this subsection, including regulations or other guidance which prevent the inappropriate use of the foreign corporation’s foreign income taxes not deemed paid by reason of paragraph (1).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to acquisitions of United States property (as defined in

section 956(c) of the Internal Revenue Code of 1986) after December 31, 2010.

SPECIAL RULE WITH RESPECT TO CERTAIN REDEMPTIONS BY FOREIGN SUBSIDIARIES

SEC. 215.

(a) IN GENERAL.—Paragraph (5) of section 304(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

“(B) SPECIAL RULE IN CASE OF FOREIGN ACQUIRING CORPORATION.—In the case of any acquisition to which subsection (a) applies in which the acquiring corporation is a foreign corporation, no earnings and profits shall be taken into account under paragraph (2)(A) (and subparagraph (A) shall not apply) if more than 50 percent of the dividends arising from such acquisition (determined without regard to this subparagraph) would neither—

“(i) be subject to tax under this chapter for the taxable year in which the dividends arise, nor

“(ii) be includible in the earnings and profits of a controlled foreign corporation (as defined in section 957 and without regard to section 953(c)).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions after the date of the enactment of this Act.

MODIFICATION OF AFFILIATION RULES FOR PURPOSES OF RULES ALLOCATING INTEREST EXPENSE

SEC. 216.

(a) IN GENERAL.—Subparagraph (A) of section 864(e)(5) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Notwithstanding the preceding sentence, a foreign corporation shall be treated as a member of the affiliated group if—

“(i) more than 50 percent of the gross income of such foreign corporation for the taxable year is effectively connected with the conduct of a trade or business within the United States, and

“(ii) at least 80 percent of either the vote or value of all outstanding stock of such foreign corporation is owned directly or indirectly by members of the affiliated group (determined with regard to this sentence).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TERMINATION OF SPECIAL RULES FOR INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS

SEC. 217.

(a) IN GENERAL.—Paragraph (1) of section 861(a) of the Internal Revenue Code of 1986 is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) GRANDFATHER RULE WITH RESPECT TO WITHHOLDING ON INTEREST AND DIVIDENDS RECEIVED FROM PERSONS MEETING THE 80-PERCENT FOREIGN BUSINESS REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (B) of section 871(i)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) The active foreign business percentage of—

“(i) any dividend paid by an existing 80/20 company, and

“(ii) any interest paid by an existing 80/20 company.”.

(2) DEFINITIONS AND SPECIAL RULES.—Section 871 of such Code is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

“(l) RULES RELATING TO EXISTING 80/20 COMPANIES.—For purposes of this subsection and subsection (i)(2)(B)—

“(1) EXISTING 80/20 COMPANY.—

“(A) IN GENERAL.—The term ‘existing 80/20 company’ means any corporation if—

“(i) such corporation met the 80-percent foreign business requirements of section 861(c)(1) (as in effect before the date of the enactment of this subsection) for such corporation’s last taxable year beginning before January 1, 2011,

“(ii) such corporation meets the 80-percent foreign business requirements of subparagraph (B) with respect to each taxable year after the taxable year referred to in clause (i), and

“(iii) there has not been an addition of a substantial line of business with respect to such corporation after the date of the enactment of this subsection.

“(B) FOREIGN BUSINESS REQUIREMENTS.—

“(i) IN GENERAL.—Except as provided in clause (iv), a corporation meets the 80-percent foreign business requirements of this subparagraph if it is shown to the satisfaction of the Secretary that at least 80 percent of the gross income from all sources of such corporation for the testing period is active foreign business income.

“(ii) ACTIVE FOREIGN BUSINESS INCOME.—For purposes of clause (i), the term ‘active foreign business income’ means gross income which—

“(I) is derived from sources outside the United States (as determined under this subchapter), and

“(II) is attributable to the active conduct of a trade or business in a foreign country or possession of the United States.

“(iii) TESTING PERIOD.—For purposes of this subsection, the term ‘testing period’ means the 3-year period ending with the close of the taxable year of the corporation preceding the payment (or such part of such period as may be applicable). If the corporation has no gross income for such 3-year period (or part thereof), the testing period shall be the taxable year in which the payment is made.

“(iv) TRANSITION RULE.—In the case of a taxable year for which the testing period includes 1 or more taxable years beginning before January 1, 2011—

“(I) a corporation meets the 80-percent foreign business requirements of this subparagraph if and only if the weighted average of—

“(aa) the percentage of the corporation’s gross income from all sources that is active foreign business income (as defined in subparagraph (B) of section 861(c)(1) (as in effect before the date of the enactment of this subsection)) for the portion of the testing period that includes taxable years beginning before January 1, 2011, and

“(bb) the percentage of the corporation’s gross income from all sources that is active foreign business income (as defined in clause (ii) of this subparagraph) for the portion of the testing period, if any, that includes taxable years beginning on or after January 1, 2011,

is at least 80 percent, and

“(II) the active foreign business percentage for such taxable year shall equal the weighted average percentage determined under subclause (I).

“(2) ACTIVE FOREIGN BUSINESS PERCENTAGE.—Except as provided in paragraph (1)(B)(iv), the term ‘active foreign business percentage’ means, with respect to any existing 80/20 company, the percentage which—

“(A) the active foreign business income of such company for the testing period, is of

“(B) the gross income of such company for the testing period from all sources.

“(3) AGGREGATION RULES.—For purposes of applying paragraph (1) (other than subparagraphs (A)(i) and (B)(iv) thereof) and paragraph (2)—

“(A) IN GENERAL.—The corporation referred to in paragraph (1)(A) and all of such corporation’s subsidiaries shall be treated as one corporation.

“(B) SUBSIDIARIES.—For purposes of subparagraph (A), the term ‘subsidiary’ means any corporation in which the corporation referred to in subparagraph (A) owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting ‘50 percent’ for ‘80 percent’ each place it appears and without regard to section 1504(b)(3)).

“(4) REGULATIONS.—The Secretary may issue such regulations or other guidance as is necessary or appropriate to carry out the purposes of this section, including regulations or other guidance which provide for the proper application of the aggregation rules described in paragraph (3).”

(c) CONFORMING AMENDMENTS.—

(1) Section 861 of the Internal Revenue Code of 1986 is amended by striking subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(2) Paragraph (9) of section 904(h) of such Code is amended to read as follows:

“(9) TREATMENT OF CERTAIN DOMESTIC CORPORATIONS.—In the case of any dividend treated as not from sources within the United States under section 861(a)(2)(A), the corporation paying such dividend shall be treated for purposes of this subsection as a United States-owned foreign corporation.”

(3) Subsection (c) of section 2104 of such Code is amended in the last sentence by striking “or to a debt obligation of a domestic corporation” and all that follows and inserting a period.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(2) GRANDFATHER RULE FOR OUTSTANDING DEBT OBLIGATIONS.—

(A) IN GENERAL.—The amendments made by this section shall not apply to payments of interest on obligations issued before the date of the enactment of this Act.

(B) EXCEPTION FOR RELATED PARTY DEBT.—Subparagraph (A) shall not apply to any interest which is payable to a related person (determined under rules similar to the rules of section 954(d)(3)).

(C) SIGNIFICANT MODIFICATIONS TREATED AS NEW ISSUES.—For purposes of subparagraph (A), a significant modification of the terms of any obligation (including any extension of the term of such obligation) shall be treated as a new issue.

LIMITATION ON EXTENSION OF STATUTE OF LIMITATIONS FOR FAILURE TO NOTIFY SECRETARY OF CERTAIN FOREIGN TRANSFERS

SEC. 218.

(a) IN GENERAL.—Paragraph (8) of section 6501(c) of the Internal Revenue Code of 1986 is amended—

(1) by striking “In the case of any information” and inserting the following:

“(A) IN GENERAL.—In the case of any information”; and

(2) by adding at the end the following:

“(B) APPLICATION TO FAILURES DUE TO REASONABLE CAUSE.—If the failure to furnish the information referred to in subparagraph (A) is due to reasonable cause and not willful neglect, subparagraph (A) shall apply only to the item or items related to such failure.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 513 of the Hiring Incentives to Restore Employment Act.

## TITLE III RESCISSIONS

SEC. 301. There is rescinded from accounts under the heading “Department of Agriculture—Rural Development”, \$122,000,000, to be derived from the unobligated balances of funds that were provided for such accounts in prior appropriation Acts (other than Public Law 111-5) and that were designated by the Congress in such Acts as an emergency requirement pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 302. Of the funds made available for “Department of Agriculture—Rural Utilities Service—Distance Learning, Telemedicine, and Broadband Program” in title I of division A of Public Law 111-5 (123 Stat. 118), \$300,000,000 are rescinded.

SEC. 303. There is rescinded from accounts under the heading “Department of Agriculture—Food and Nutrition Service—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)”, \$361,825,000, to be derived from unobligated balances available from amounts placed in reserve in title I of division A of Public Law 111-5 (123 Stat. 115).

SEC. 304. Of the funds made available for “Department of Commerce—National Telecommunications and Information Administration—Broadband Technology Opportunities Program” in title II of division A of Public Law 111-5, \$302,000,000 are rescinded.

SEC. 305. (a) Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are rescinded from the following accounts in the specified amounts:

“Shipbuilding and Conversion, Navy, 2006/2010”, \$107,000,000;

“Aircraft Procurement, Army, 2008/2010”, \$21,000,000;

“Procurement of Weapons and Tracked Combat Vehicles, Army, 2008/2010”, \$21,000,000;

“Procurement of Ammunition, Army, 2008/2010”, \$17,000,000;

“Other Procurement, Army, 2008/2010”, \$75,000,000;

“Weapons Procurement, Navy, 2008/2010”, \$26,000,000;

“Other Procurement, Navy, 2008/2010”, \$42,000,000;

“Procurement, Marine Corps, 2008/2010”, \$13,000,000;

“Aircraft Procurement, Air Force, 2008/2010”, \$102,000,000;

“Missile Procurement, Air Force, 2008/2010”, \$28,000,000;

“Procurement of Ammunition, Air Force, 2008/2010”, \$7,000,000;

“Other Procurement, Air Force, 2008/2010”, \$130,000,000;

“Procurement, Defense-Wide, 2008/2010”, \$33,000,000;

“Research, Development, Test and Evaluation, Army, 2009/2010”, \$76,000,000;

“Research, Development, Test and Evaluation, Navy, 2009/2010”, \$131,000,000;

“Research, Development, Test and Evaluation, Air Force, 2009/2010”, \$164,000,000;

“Research, Development, Test and Evaluation, Defense-Wide, 2009/2010”, \$137,000,000;

“Operation, Test and Evaluation, Defense, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Army, 2010”, \$154,000,000;

“Operation and Maintenance, Navy, 2010”, \$155,000,000;

“Operation and Maintenance, Marine Corps, 2010”, \$25,000,000;

“Operation and Maintenance, Air Force, 2010”, \$155,000,000;

“Operation and Maintenance, Defense-Wide, 2010”, \$126,000,000;

“Operation and Maintenance, Army Reserve, 2010”, \$12,000,000;

“Operation and Maintenance, Navy Reserve, 2010”, \$6,000,000;

“Operation and Maintenance, Marine Corps Reserve, 2010”, \$1,000,000;

“Operation and Maintenance, Air Force Reserve, 2010”, \$14,000,000;

“Operation and Maintenance, Army National Guard, 2010”, \$28,000,000; and

“Operation and Maintenance, Air National Guard, 2010”, \$27,000,000.

(b) Section 3002 shall not apply to amounts in this section.

SEC. 306. (a) Of the funds appropriated in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), the following funds are rescinded from the following accounts in the specified amounts:

“Operation and Maintenance, Army, 2009/2010”, \$113,500,000;

“Operation and Maintenance, Navy, 2009/2010”, \$34,000,000;

“Operation and Maintenance, Marine Corps, 2009/2010”, \$7,000,000;

“Operation and Maintenance, Air Force, 2009/2010”, \$61,000,000;

“Operation and Maintenance, Army Reserve, 2009/2010”, \$3,500,000;

“Operation and Maintenance, Navy Reserve, 2009/2010”, \$8,000,000;

“Operation and Maintenance, Marine Corps Reserve, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Air Force Reserve, 2009/2010”, \$2,000,000;

“Operation and Maintenance, Army National Guard, 2009/2010”, \$1,000,000;

“Operation and Maintenance, Air National Guard, 2009/2010”, \$2,500,000; and

“Defense Health Program, 2009/2010”, \$27,000,000.

(b) Of the funds appropriated in the Supplemental Appropriations Act, 2008 (Public Law 110-252), the following funds are rescinded from the following account in the specified amount:

“Procurement, Marine Corps, 2009/2011”, \$122,000,000.

SEC. 307. (a) Of the funds appropriated for “Procurement of Weapons and Tracked Combat Vehicles, Army” in title III of division A of public Law 111-118, \$116,000,000 are rescinded.

(b) Of the funds appropriated for “Other Procurement, Army” in title III of division C of Public Law 110-329, \$87,000,000 are rescinded.

(c) Section 3002 shall not apply to amounts in this section.

SEC. 308. (a) There are rescinded the following amounts from the specified accounts:

(1) \$20,000,000, to be derived from unobligated balances of funds made available in prior appropriations Acts under the heading “Department of Energy—Nuclear Energy”.

(b) Section 3002 shall not apply to amounts in this section.

SEC. 309. Of the unobligated balances of funds provided under the heading “Nuclear Regulatory Commission” in prior appropriations Acts, \$18,000,000 is permanently rescinded: *Provided*, That section 3002 shall not apply to the amount in this section.

SEC. 310. Of the funds made available for “Department of Energy—Title 17—Innovative Technology Loan Guarantee Program” in title III of division A of Public Law 111-5, \$1,500,000,000 are rescinded.

SEC. 311. There are permanently rescinded from “General Services Administration—Real Property Activities—Federal Building Fund”, \$75,000,000 from Rental of Space and \$25,000,000 from Building Operations, to be derived from unobligated balances that were provided in previous appropriations Acts: *Provided*, That section 3002 shall not apply to the amount in this section.

SEC. 312. Of the funds made available for “Bureau of Indian Affairs—Indian Guaranteed Loan Program Account” in title VII of

division A of Public Law 111-5, \$6,820,000 are rescinded.

SEC. 313. Of the funds made available for “Environmental Protection Agency—Hazardous Substance Superfund” in title VII of division A of Public Law 111-5, \$2,600,000 are rescinded.

SEC. 314. Of the funds made available for “Environmental Protection Agency—Leaking Underground Storage Tank Trust Fund Program” in title VII of division A of Public Law 111-5, \$9,200,000 are rescinded.

SEC. 315. Of the funds made available for transfer in title VII of division A of Public Law 111-5, “Environmental Protection Agency—Environmental Programs and Management”, \$10,000,000 are rescinded.

SEC. 316. Of the funds made available for “National Park Service—Construction” in chapter 7 of division B of Public Law 108-324, \$4,800,000 are rescinded.

SEC. 317. Of the funds made available for “National Park Service—Construction” in chapter 5 of title II of Public Law 109-234, \$6,400,000 are rescinded.

SEC. 318. Of the funds made available for “Fish and Wildlife Service—Construction” in chapter 6 of title I of division B of Public Law 110-329, \$3,000,000 are rescinded.

SEC. 319. The unobligated balance of funds appropriated in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1995 (Public Law 103-333; 108 Stat. 2574) under the heading “Public Health and Social Services Emergency Fund” is rescinded.

SEC. 320. Of the funds appropriated for the Commissioner of Social Security under section 2201(e)(2)(B) in title II of division B of Public Law 111-5, \$47,000,000 are rescinded.

SEC. 321. Of the funds appropriated in part VI of subtitle I of title II of division B of Public Law 111-5, \$110,000,000 are rescinded, to be derived only from the amount provided under section 1899K(b) of such title.

SEC. 322. Of the funds appropriated for “Department of Education—Education for the Disadvantaged” in division D of Public Law 111-117, \$50,000,000 are rescinded, to be derived only from the amount provided for a comprehensive literacy development and education program under section 1502 of the Elementary and Secondary Education Act of 1965: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 323. Of the funds appropriated for “Department of Education—Student Aid Administration” in division D of Public Law 111-117, \$82,000,000 are rescinded: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 324. Of the funds appropriated for “Department of Education—Innovation and Improvement” in division D of Public Law 111-117, \$10,700,000 are rescinded, to be derived only from the amount provided to carry out subpart 8 of part D of title V of the Elementary and Secondary Education Act of 1965: *Provided*, That section 3002 of this Act shall not apply to this amount.

SEC. 325. Of the unobligated balances available under “Department of Defense, Military Construction, Army” from prior appropriations Acts, \$340,000,000 is rescinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 326. Of the unobligated balances available under “Department of Defense, Military Construction, Navy and Marine Corps” from prior appropriations Acts, \$110,000,000 is re-

scinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 327. Of the unobligated balances available under “Department of Defense, Military Construction, Air Force” from prior appropriations Acts, \$50,000,000 is rescinded: *Provided*, That no funds may be rescinded from amounts that were designated by the Congress as an emergency requirement or as appropriations for overseas deployments and other activities pursuant to a concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That section 3002 shall not apply to the amount in this section.

SEC. 328. Of the funds made available for the General Operating Expenses account of the Department of Veterans Affairs in section 2201(e)(4)(A)(ii) of division B of Public Law 111-5 (123 Stat. 454; 26 U.S.C. 6428 note), \$6,100,000 are rescinded.

SEC. 329. Of the amount appropriated or otherwise made available by title X of division A of Public Law 111-5, the American Recovery and Reinvestment Act of 2009, under the heading “Departmental Administration, Information Technology Systems” \$5,000,000 is hereby rescinded.

SEC. 330. (a) MILLENNIUM CHALLENGE CORPORATION.—Of the unobligated balances available under the heading “Millennium Challenge Corporation” in title III of division H of Public Law 111-8 and under such heading in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$50,000,000 are rescinded.

(b) CIVILIAN STABILIZATION INITIATIVE.—(1) DEPARTMENT OF STATE.—Of the unobligated balances available under the heading “Department of State—Administration of Foreign Affairs—Civilian Stabilization Initiative” in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$40,000,000 are rescinded.

(2) UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.—Of the unobligated balances available under the heading “United States Agency for International Development—Funds Appropriated to the President—Civilian Stabilization Initiative” in prior Acts making appropriations for the Department of State, foreign operations, and related programs, \$30,000,000 are rescinded.

(c) Section 3002 shall not apply to the amounts in this section.

SEC. 331. There are rescinded the following amounts from the specified accounts:

(1) “Department of Transportation—Federal Aviation Administration—Facilities and Equipment”, \$2,182,544, to be derived from unobligated balances made available under this heading in Public Law 108-324.

(2) “Department of Transportation—Federal Aviation Administration—Facilities and Equipment”, \$5,705,750, to be derived from unobligated balances made available under this heading in Public Law 109-148.

SEC. 332. Of the unobligated balances of funds apportioned to each State under chapter 1 of title 23, United States Code, \$2,200,000,000 are permanently rescinded: *Provided*, That such rescission shall be distributed among the States in the same proportion as the funds subject to such rescission were apportioned to the States for fiscal year 2009: *Provided further*, That such rescission shall not apply to the funds distributed

in accordance with sections 130(f) and 104(b)(5) of title 23, United States Code; sections 133(d)(1) and 163 of such title, as in effect on the day before the date of enactment of Public Law 109-59; and the first sentence of section 133(d)(3)(A) of such title: *Provided further*, That notwithstanding section 1132 of Public Law 110-140, in administering the rescission required under this heading, the Secretary of Transportation shall allow each State to determine the amount of the required rescission to be drawn from the programs to which the rescission applies.

#### TITLE IV

#### BUDGETARY PROVISIONS

##### BUDGETARY PROVISIONS

SEC. 401. (a) STATUTORY PAYGO.—The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled Budgetary Effects of PAYGO Legislation for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendment between the Houses.

##### (b) EXCLUSION FROM PAYGO.—

(1) Savings in this Act that would be subject to inclusion in the Statutory Pay-As-You-Go scorecards are providing an offset to increased discretionary spending. As such, they should not be available on the scorecards maintained by the Office of Management and Budget to provide offsets for future legislation.

(2) The Director of the Office of Management and Budget shall not include any net savings resulting from the changes in direct spending or revenues contained in this Act on the scorecards required to be maintained by OMB under the Statutory Pay-As-You-Go Act of 2010.

**SA 4568.** Mr. REID proposed an amendment to amendment SA 4567 proposed by Mr. REID (for Mrs. MURRAY (for herself, Mr. HARKIN, Mr. REID, and Mr. SCHUMER)) to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end of the amendment, insert the following:

The provisions of this Act shall become effective 5 days after enactment.

**SA 4569.** Mr. REID proposed an amendment to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end insert the following:

The Appropriations Committee is requested to study the impact of any delay in providing funding to educators across the country.

**SA 4570.** Mr. REID proposed an amendment to amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586,

to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end, insert the following: “and include any data on the impact on local school districts”.

**SA 4571.** Mr. REID proposed an amendment to amendment SA 4570 proposed by Mr. REID to the amendment SA 4569 proposed by Mr. REID to the bill H.R. 1586, to modernize the air traffic control system, improve the safety, reliability, and availability of transportation by air in the United States, provide for modernization of the air traffic control system, reauthorize the Federal Aviation Administration, and for other purposes; as follows:

At the end, insert the following: “and the impact on local community”.

**SA 4572.** Mr. MCCAIN (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill H.R. 5875, making emergency supplemental appropriations for border security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

#### DEPARTMENT OF HOMELAND SECURITY

##### U.S. CUSTOMS AND BORDER PROTECTION

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$356,900,000, to remain available until September 30, 2012, of which \$78,000,000 shall be for costs to maintain U.S. Customs and Border Protection Officer staffing on the Southwest Border of the United States, \$58,000,000 shall be for hiring additional U.S. Customs and Border Protection Officers for deployment at ports of entry on the Southwest Border of the United States, \$208,400,000 shall be for hiring additional Border Patrol agents for deployment to the Southwest Border of the United States, \$2,500,000 shall be for forward operating bases on the Southwest Border of the United States, and \$10,000,000 shall be to support integrity and background investigation programs.

##### BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For an additional amount for “Border Security Fencing, Infrastructure, and Technology”, \$14,000,000, to remain available until September 30, 2012, for costs of designing, building, and deploying tactical communications for support of enforcement activities on the Southwest Border of the United States.

##### AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For an additional amount for “Air and Marine Interdiction, Operations, Maintenance, and Procurement”, \$32,000,000, to remain available until September 30, 2012, for costs of acquisition and deployment of unmanned aircraft systems.

#### CONSTRUCTION AND FACILITIES MANAGEMENT

For an additional amount for “Construction and Facilities Management”, \$9,000,000, to remain available until September 30, 2012, for costs to construct up to three forward operating bases for use by the Border Patrol to carry out enforcement activities on the Southwest Border of the United States.

##### U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$30,000,000 to remain available until September 30, 2012, for law enforcement activities targeted at reducing the threat of violence along the Southwest Border of the United States.

##### FEDERAL EMERGENCY MANAGEMENT AGENCY STATE AND LOCAL PROGRAMS

For an additional amount for “State and Local Programs”, \$50,000,000, to remain available until September 30, 2011, for Operation Stonegarden.

##### FEDERAL LAW ENFORCEMENT TRAINING CENTER

##### SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$8,100,000, to remain available until September 30, 2011, for costs to provide basic training for new U.S. Customs and Border Protection Officers and Border Patrol agents.

##### GENERAL PROVISIONS

##### (INCLUDING RESCISSIONS)

#### SEC. 101.

For an additional amount for the Department of Justice for necessary expenses for increased law enforcement activities related to Southwest border enforcement, \$201,000,000, to remain available until September 30, 2012: *Provided*, That funds shall be distributed to the following accounts and in the following specified amounts—

- (1) “Administrative Review and Appeals”, \$2,118,000;
- (2) “Detention Trustee”, \$7,000,000;
- (3) “Legal Activities, Salaries and Expenses, General Legal Activities”, \$3,862,000;
- (4) “Legal Activities, Salaries and Expenses, United States Attorneys”, \$9,198,000;
- (5) “United States Marshals Service, Salaries and Expenses”, \$29,651,000;
- (6) “United States Marshals Service, Construction”, \$8,000,000;
- (7) “Interagency Law Enforcement, Interagency Crime and Drug Enforcement”, \$21,000,000;
- (8) “Federal Bureau of Investigation, Salaries and Expenses”, \$25,262,000;
- (9) “Drug Enforcement Administration, Salaries and Expenses”, \$35,805,000;
- (10) “Bureau of Alcohol, Tobacco, Firearms and Explosives, Salaries and Expenses”, \$39,104,000; and
- (11) “Federal Prison System, Salaries and Expenses”, \$20,000,000.

#### SEC. 102.

From unobligated balances made available to U.S. Customs and Border Protection “Border Security Fencing, Infrastructure, and Technology”, \$100,000,000 are rescinded.

#### SEC. 103.

Notwithstanding any other provision of law, from available funds, the Department of Defense shall pay, in fiscal years 2010 and 2011, the full costs associated with the deployment of the National Guard along the Southwest Border of the United States.

#### SEC. 104. USE OF STIMULUS FUNDS TO OFFSET COSTS OF BORDER SECURITY.

(a) IN GENERAL.—The unobligated balance of each amount appropriated or made available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5)

(other than under title X of division A of such Act) is rescinded on a pro rata basis so that the aggregate amount of such rescissions is equal to the net reduction in revenues to the Treasury resulting from amounts appropriated under this Act, after factoring in the rescission under section 102.

(b) REPORT.—The Director of the Office of Management and Budget shall report to each congressional committee the amounts so rescinded within the jurisdiction of such committee.

This Act may be cited as the “Emergency Border Security Supplemental Appropriations Act, 2010”.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 29, 2010, at 9:30 a.m.

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

##### COMMITTEE ON ARMED SERVICES

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 29, 2010, at 3 p.m.

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

##### COMMITTEE ON FINANCE

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 29, 2010, at 10 a.m., in room 215 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on July 29, 2010 in the President's Room.

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

##### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “The State of the American Child: The Impact of Federal Policies on Children” on July 29, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet, during the session of the Senate, on July 29, 2010, at 9:30 a.m. in room 628 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet, during the session of the Senate, on July 29, 2010, at 10 a.m. in SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

##### COMMITTEE ON THE JUDICIARY

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Terrorism and Homeland Security, be authorized to meet, during the session of the Senate, on July 29, 2010, at 2:30 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “The Passport Issuance Process: Closing the Door to Fraud, Part II.”

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

##### AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. REID. Mr. President, I ask unanimous consent that the Ad Hoc Subcommittee on Contracting Oversight of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on July 29, 2010, at 10 a.m. to conduct a hearing entitled, “Mismanagement of Contracts at Arlington National Cemetery.”

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 29, 2010, at 2 p.m.

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

##### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on July 29, 2010, at 2:30 p.m. to conduct a hearing entitled “Closing the Language Gap: Improving the Federal Government's Foreign Language Capabilities.”

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

#### SAVING KIDS FROM DANGEROUS DRUGS ACT OF 2010

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 477, S. 258.

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

The clerk will state the bill by title. The assistant legislative clerk read as follows:

A bill (S. 258) to amend the Controlled Substances Act to provide enhanced penalties

for marketing controlled substances to minors.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

*This Act may be cited as the “Saving Kids From Dangerous Drugs Act of 2010”.*

##### SEC. 2. OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.

*Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following:*

*“(h) OFFENSES INVOLVING CONTROLLED SUBSTANCES MARKETED TO MINORS.—*

*“(1) UNLAWFUL ACTS.—Except as authorized under this title, including paragraph (3), it shall be unlawful for any person at least 18 years of age to knowingly or intentionally manufacture or create, with intent to manufacture, create, distribute, or dispense, a controlled substance listed in schedule I or II that is—*

*“(A) combined with a candy product;*

*“(B) marketed or packaged to appear similar to a candy product; and*

*“(C) modified by flavoring or coloring the controlled substance with the intent to distribute, dispense, or sell the controlled substance to a person under 18 years of age.*

*“(2) PENALTIES.—Except as provided in section 418, 419, or 420, any person who violates paragraph (1) of this subsection shall be subject to—*

*“(A) 2 times the maximum punishment and at least 2 times any term of supervised release authorized by subsection (b) of this section for a first offense involving the same controlled substance and schedule; and*

*“(B) 3 times the maximum punishment and at least 3 times any term of supervised release authorized by subsection (b) of this section for a second or subsequent offense involving the same controlled substance and schedule.*

*“(3) EXCEPTIONS.—Paragraph (1) shall not apply to any controlled substance that—*

*“(A) has been approved by the Secretary under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), if the contents, marketing, and packaging of the controlled substance have not been altered from the form approved by the Secretary; or*

*“(B) has been altered at the direction of a practitioner who is acting for a legitimate medical purpose in the usual course of professional practice.”.*

##### SEC. 3. SENTENCING GUIDELINES.

*Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and policy statements to ensure that the guidelines provide an appropriate additional penalty increase of up to 3 offense levels above the sentence otherwise applicable in Part D of the Guidelines Manual if the defendant was convicted of a violation of section 401(h) of the Controlled Substances Act, as added by section 2 of this Act.*

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read the third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statement related to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.