

“(3) FINAL ORDER.—

“(A) IN GENERAL.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary, the complainant, and the person alleged to have committed the violation.

“(B) CONTENT OF ORDER.—If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation—

“(i) to take affirmative action to abate the violation;

“(ii) to reinstate the complainant to his or her former position together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) to provide compensatory damages to the complainant.

“(C) PENALTY.—If such an order is issued under this paragraph, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys’ and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

“(D) BAD FAITH CLAIM.—If the Secretary finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary may award to the prevailing employer a reasonable attorneys’ fee, not exceeding \$1,000, to be paid by the complainant.

“(4) ACTION IN COURT.—

“(A) IN GENERAL.—If the Secretary has not issued a final decision within 210 days after the filing of the complaint, or within 90 days after receiving a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States with jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury. The proceedings shall be governed by the same legal burdens of proof specified in paragraph (2)(C).

“(B) RELIEF.—The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

“(i) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

“(ii) the amount of back pay, with interest; and

“(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorneys’ fees.

“(5) REVIEW.—

“(A) IN GENERAL.—Unless the complainant brings an action under paragraph (4), any person adversely affected or aggrieved by a final order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of the issuance of the final order of the Secretary. Review shall

conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) NO JUDICIAL REVIEW.—An order of the Secretary with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(6) FAILURE TO COMPLY WITH ORDER.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief and compensatory damages.

“(7) CIVIL ACTION TO REQUIRE COMPLIANCE.—

“(A) IN GENERAL.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) AWARD.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorneys’ and expert witness fees) to any party whenever the court determines such award is appropriate.

“(C) EFFECT OF SECTION.—

“(1) OTHER LAWS.—Nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

“(2) RIGHTS OF EMPLOYEES.—Nothing in this section shall be construed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

“(d) ENFORCEMENT.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(e) LIMITATION.—Subsection (a) shall not apply with respect to an employee of an entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food who, acting without direction from such entity (or such entity’s agent), deliberately causes a violation of any requirement relating to any violation or alleged violation of any order, rule, regulation, standard, or ban under this Act.”

#### SEC. 403. JURISDICTION; AUTHORITIES.

Nothing in this Act, or an amendment made by this Act, shall be construed to—

(1) alter the jurisdiction between the Secretary of Agriculture and the Secretary of Health and Human Services, under applicable statutes, regulations, or agreements regarding voluntary inspection of non-amenable species under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.);

(2) alter the jurisdiction between the Alcohol and Tobacco Tax and Trade Bureau and the Secretary of Health and Human Services, under applicable statutes and regulations;

(3) limit the authority of the Secretary of Health and Human Services under—

(A) the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) as in effect on the

day before the date of enactment of this Act; or

(B) the Public Health Service Act (42 U.S.C. 301 et seq.) as in effect on the day before the date of enactment of this Act;

(4) alter or limit the authority of the Secretary of Agriculture under the laws administered by such Secretary, including—

(A) the Federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(B) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.);

(C) the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

(D) the United States Grain Standards Act (7 U.S.C. 71 et seq.);

(E) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.);

(F) the United States Warehouse Act (7 U.S.C. 241 et seq.);

(G) the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); and

(H) the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with the amendments made by the Agricultural Marketing Agreement Act of 1937; or

(5) alter, impede, or affect the authority of the Secretary of Homeland Security under the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) or any other statute, including any authority related to securing the borders of the United States, managing ports of entry, or agricultural import and entry inspection activities.

#### SEC. 404. COMPLIANCE WITH INTERNATIONAL AGREEMENTS.

Nothing in this Act (or an amendment made by this Act) shall be construed in a manner inconsistent with the agreement establishing the World Trade Organization or any other treaty or international agreement to which the United States is a party.

#### SEC. 405. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

#### NOTICES OF INTENT TO SUSPEND THE RULES

Mr. COBURN. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, for the purpose of proposing and considering amendment no. 4696 to S. 501, including germaneness requirements.

Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, for the purpose of proposing and considering amendment no. 4697 to S. 510, including germaneness requirements.

Mr. JOHANNES. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, including any germaneness requirements, for the purpose of proposing and considering amendment no. 4702 to S. 510 or

any related substitute amendment to S. 510.

Mr. BAUCUS. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing and considering the amendment no. 4713 to bill S. 510.

Mr. REID. Mr. President, I submit the following notice in writing: In accordance with rule V of the Standing rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend rule XXII, paragraph 2, for the purpose of proposing and considering the following amendment: Amendment no. 4714 to S. 510.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ARMED SERVICES

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on November 18, 2010, at 9:30 a.m.

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

##### COMMITTEE ON FINANCE

Mr. BURRIS. Mr. President I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on November 18, 2010, at 1 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled "International Trade in the Digital Economy."

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

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

Mr. BURRIS. 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: Securing Our Children's Future" on November 18, 2010. The hearing will commence at 10:30 a.m. in room 430 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on November 18, 2010, at 3 p.m.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on November 18, 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. BURRIS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on November 18, 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 SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on November 18, 2010, at 10 a.m. to conduct a hearing entitled "Assessing the Regulatory and Administrative Burdens on America's Small Businesses."

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

##### COMMITTEE ON VETERANS' AFFAIRS

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on November 18, 2010. The Committee will meet in room 418 of the Russell Senate Office Building beginning at 10 a.m.

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

##### AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT

Mr. BURRIS. 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 November 18, 2010, at 3:30 p.m. to conduct a hearing entitled, "Oversight of Reconstruction Contracts in Afghanistan and the Role of the Special Inspector General."

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

##### NEAR EASTERN AND SOUTH AND CENTRAL ASIAN AFFAIRS SUBCOMMITTEE

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on November 18, 2010, at 4:30 p.m., to hold a Near Eastern and South and Central Asian Affairs Subcommittee hearing entitled, "Jamming the IED Assembly Line: Impeding the flow of Ammonium Nitrate in South and Central Asia."

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

##### SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW

Mr. BURRIS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Human Rights and the Law, be authorized to meet during the session of the Senate, on November 18, 2010, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled "Women's Rights Are Human Rights: U.S. Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)."

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

##### SELECT COMMITTEE ON INTELLIGENCE

Mr. BURRIS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 18, 2010 at 2:30 p.m.

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

#### PRIVILEGES OF THE FLOOR

Mr. BURRIS. Mr. President, I ask unanimous consent that my chief of staff, Brady King, and other members of my staff be granted floor privileges during my remarks.

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

#### FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel: