111TH CONGRESS
1ST SESSION

S. 1808

To control Federal spending now.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2009

Mr. FEINGOLD introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To control Federal spending now.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Control Spending Now Act''.

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

TITLE I—REFORMING THE BUDGET AND SPENDING PROCESS

Subtitle A—Targeting Congressional Earmarks

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the ''Fiscal Discipline, Earmark Reform, and Accountability Act''.

SEC. 1102. REFORM OF CONSIDERATION OF APPROPRIATIONS BILLS IN THE SENATE.

(a) IN GENERAL.—Rule XVI of the Standing Rules of the Senate is amended by adding at the end the following:

''9.(a) On a point of order made by any Senator:

''(1) No new or general legislation nor any unauthorized appropriation may be included in any general appropriation bill.

''(2) No amendment may be received to any general appropriation bill the effect of which will be to add an unauthorized appropriation to the bill.

''(3) No unauthorized appropriation may be included in any amendment between the Houses, or any amendment thereto, in relation to a general appropriation bill.

''(b)(1) If a point of order under subparagraph (a)(1) against a Senate bill or amendment is sustained—

''(A) the new or general legislation or unauthorized appropriation shall be struck from the bill or amendment; and

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the bill or amendment shall be made.

''(2) If a point of order under subparagraph (a)(1) against an Act of the House of Representatives is sustained when the Senate is not considering an amendment in the nature of a substitute, an amendment to the House bill is deemed to have been adopted that—

''(A) strikes the new or general legislation or unauthorized appropriation from the bill; and

''(B) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the bill.

''(c) If the point of order against an amendment under subparagraph (a)(2) is sustained, the amendment shall be out of order and may not be considered.

''(d)(1) If a point of order under subparagraph (a)(3) against a Senate amendment is sustained—

''(A) the unauthorized appropriation shall be struck from the amendment;

''(B) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the amendment shall be made; and

''(C) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the amendment as so modified.

''(2) If a point of order under subparagraph (a)(3) against a House of Representatives amendment is sustained—

''(A) an amendment to the House amendment is deemed to have been adopted that—

''(i) strikes the new or general legislation or unauthorized appropriation from the House amendment; and

''(ii) modifies, if necessary, the total amounts appropriated by the bill to reflect the deletion of the matter struck from the House amendment; and

''(B) after all other points of order under this paragraph have been disposed of, the Senate shall proceed to consider the question of whether to concur with further amendment.

''(e) The disposition of a point of order made under any other paragraph of this rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

''(f) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Offi-

cer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(g) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a general appropriation bill or an amendment between the Houses on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (f), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it

applies to some or all of the provisions on which the Presiding Officer ruled.

''(h) For purposes of this paragraph:

''(1) The term 'new or general legislation' has the meaning given that term when it is used in paragraph 2 of this rule.

''(2) The term 'new matter' means matter not committed to conference by either House of Congress.

''(3)(A) The term 'unauthorized appropriation' means a 'congressionally directed spending item' as defined in rule XLIV—

''(i) that is not specifically authorized by law or Treaty stipulation (unless the appropriation has been specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursuance of an estimate submitted in accordance with law); or

''(ii) the amount of which exceeds the amount specifically authorized by law or Treaty stipulation (or specifically authorized by an Act or resolution previously passed by the Senate during the same session or proposed in pursu-

ance of an estimate submitted in accordance with law) to be appropriated.

''(B) An appropriation is not specifically authorized if it is restricted or directed to, or authorized to be obligated or expended for the benefit of, an identifiable person, program, project, entity, or jurisdiction by earmarking or other specification, whether by name or description, in a manner that is so restricted, directed, or authorized that it applies only to a single identifiable person, program, project, entity, or jurisdiction, unless the identifiable person, program, project, entity, or jurisdiction to which the restriction, direction, or authorization applies is described or otherwise clearly identified in a law or Treaty stipulation (or an Act or resolution previously passed by the Senate during the same session or in the estimate submitted in accordance with law) that specifically provides for the restriction, direction, or authorization of appropriation for such person, program, project, entity, or jurisdiction.

''10. (a) On a point of order made by any Senator, no new or general legislation, nor any unauthorized appropriation, new matter, or nongermane matter may be included in any conference report on a general appropriation bill.

''(b) If the point of order against a conference report under subparagraph (a) is sustained—

''(1) the new or general legislation, unauthorized appropriation, new matter, or nongermane matter in such conference report shall be deemed to have been struck;

''(2) any modification of total amounts appropriated necessary to reflect the deletion of the matter struck shall be deemed to have been made;

''(3) when all other points of order under this paragraph have been disposed of—

''(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report not deemed to have been struck (together with any modification of total amounts appropriated);

''(B) the question shall be debatable; and

''(C) no further amendment shall be in order; and

''(4) if the Senate agrees to the amendment, then the bill and the Senate amendment thereto

shall be returned to the House for its concurrence in the amendment of the Senate.

''(c) The disposition of a point of order made under any other paragraph of this rule, or under any other Standing Rule of the Senate, that is not sustained, or is waived, does not preclude, or affect, a point of order made under subparagraph (a) with respect to the same matter.

''(d) A point of order under subparagraph (a) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

''(e) Notwithstanding any other rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a conference report on a general appropriation bill violate subparagraph (a). The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some or all of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer

sustains the point of order shall be deemed stricken pursuant to this paragraph. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order, in accordance with subparagraph (d), as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

''(f) For purposes of this paragraph:

''(1) The terms 'new or general legislation', 'new matter', and 'unauthorized appropriation' have the same meaning as in paragraph 9.

''(2) The term 'nongermane matter' has the same meaning as in rule XXII and under the precedents attendant thereto, as of the beginning of the 110th Congress.''.

(b) REQUIRING CONFERENCE REPORTS TO BE SEARCHABLE ONLINE.—Paragraph 3(a)(2) of rule XLIV of the Standing Rules of the Senate is amended by inserting ''in an searchable format'' after ''available''.

Subtitle B—Giving the President the Power to Eliminate Wasteful Spending

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the ''Congressional Accountability and Line-Item Veto Act of 2009''.

SEC. 1202. LEGISLATIVE LINE-ITEM VETO.

Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by striking all of part B (except for sections 1016 and 1013, which are redesignated as sections 1019 and 1020, respectively) and part C and inserting the following:

''PART B—LEGISLATIVE LINE-ITEM VETO

''LINE-ITEM VETO AUTHORITY

''SEC. 1011. (a) PROPOSED CANCELLATIONS.—Within 30 calendar days after the enactment of any bill or joint resolution containing any congressional earmark or providing any limited tariff benefit or targeted tax benefit, the President may propose, in the manner provided in subsection (b), the repeal of the congressional earmark or the cancellation of any limited tariff benefit or targeted tax benefit. If the 30 calendar-day period expires during a period where either House of Congress stands adjourned sine die at the end of Congress or for a period greater than 30 calendar days, the President may propose a cancella-

tion under this section and transmit a special message under subsection (b) on the first calendar day of session following such a period of adjournment.

''(b) TRANSMITTAL OF SPECIAL MESSAGE.—

''(1) SPECIAL MESSAGE.—

''(A) IN GENERAL.—The President may transmit to the Congress a special message proposing to repeal any congressional earmarks or to cancel any limited tariff benefits or targeted tax benefits.

''(B) CONTENTS OF SPECIAL MESSAGE.—Each special message shall specify, with respect to the congressional earmarks, limited tariff benefits, or targeted tax benefits to be repealed or canceled—

''(i) the congressional earmark that the President proposes to repeal or the limited tariff benefit or the targeted tax benefit that the President proposes be canceled;

''(ii) the specific project or governmental functions involved;

''(iii) the reasons why such congressional earmark should be repealed or such

limited tariff benefit or targeted tax benefit should be canceled;

''(iv) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed repeal or cancellation;

''(v) to the maximum extent practicable, all facts, circumstances, and considerations relating to or bearing upon the proposed repeal or cancellation and the decision to propose the repeal or cancellation, and the estimated effect of the proposed repeal or cancellation upon the objects, purposes, or programs for which the congressional earmark, limited tariff benefit, or the targeted tax benefit is provided;

''(vi) a numbered list of repeals and cancellations to be included in an approval bill that, if enacted, would repeal congressional earmarks and cancel limited tariff benefits or targeted tax benefits proposed in that special message; and

''(vii) if the special message is transmitted subsequent to or at the same time

as another special message, a detailed explanation why the proposed repeals or cancellations are not substantially similar to any other proposed repeal or cancellation in such other message.

''(C) DUPLICATIVE PROPOSALS PROHIBITED.—The President may not propose to repeal or cancel the same or substantially similar congressional earmark, limited tariff benefit, or targeted tax benefit more than one time under this Act.

''(D) MAXIMUM NUMBER OF SPECIAL MESSAGES.—The President may not transmit to the Congress more than one special message under this subsection related to any bill or joint resolution described in subsection (a), but may transmit not more than 2 special messages for any omnibus budget reconciliation or appropriation measure.

''(2) ENACTMENT OF APPROVAL BILL.—

''(A) DEFICIT REDUCTION.—Congressional earmarks, limited tariff benefits, or targeted tax benefits which are repealed or canceled pursuant to enactment of a bill as provided under

this section shall be dedicated only to reducing the deficit or increasing the surplus.

''(B) ADJUSTMENT OF LEVELS IN THE CONCURRENT RESOLUTION ON THE BUDGET.—Not later than 5 days after the date of enactment of an approval bill as provided under this section, the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise allocations and aggregates and other appropriate levels under the appropriate concurrent resolution on the budget to reflect the repeal or cancellation, and the applicable committees shall report revised suballocations pursuant to section 302(b), as appropriate.

''(C) ADJUSTMENTS TO STATUTORY LIMITS.—After enactment of an approval bill as provided under this section, the Office of Management and Budget shall revise applicable limits under the Balanced Budget and Emergency Deficit Control Act of 1985, as appropriate.

''(D) TRUST FUNDS AND SPECIAL FUNDS.—Notwithstanding subparagraph (A), nothing in this part shall be construed to require or allow the deposit of amounts derived

from a trust fund or special fund which are canceled pursuant to enactment of a bill as provided under this section to any other fund.

''PROCEDURES FOR EXPEDITED CONSIDERATION

''SEC. 1012. (a) EXPEDITED CONSIDERATION.—

''(1) IN GENERAL.—The majority leader or minority leader of each House or his designee shall (by request) introduce an approval bill as defined in section 1017 not later than the third day of session of that House after the date of receipt of a special message transmitted to the Congress under section 1011(b). If the bill is not introduced as provided in the preceding sentence in either House, then, on the fourth day of session of that House after the date of receipt of the special message, any Member of that House may introduce the bill.

''(2) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—

''(A) REFERRAL AND REPORTING.—Any committee of the House of Representatives to which an approval bill is referred shall report it to the House without amendment not later than the seventh legislative day after the date of its introduction. If a committee fails to report the bill within that period or the House has adopted a concurrent resolution providing for ad-

journment sine die at the end of a Congress, such committee shall be automatically discharged from further consideration of the bill and it shall be placed on the appropriate calendar.

"(B) PROCEEDING TO CONSIDERATION.—After an approval bill is reported by or discharged from committee or the House has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, it shall be in order to move to proceed to consider the approval bill in the House. Such a motion shall be in order only at a time designated by the Speaker in the legislative schedule within two legislative days after the day on which the proponent announces his intention to offer the motion. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to that special message. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

''(C) CONSIDERATION.—The approval bill shall be considered as read. All points of order against an approval bill and against its consideration are waived. The previous question shall be considered as ordered on an approval bill to its passage without intervening motion except five hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the bill. A motion to reconsider the vote on passage of the bill shall not be in order.

''(D) SENATE BILL.—An approval bill received from the Senate shall not be referred to committee.

''(3) CONSIDERATION IN THE SENATE.—

''(A) REFERRAL AND REPORTING.—Any committee of the Senate to which an approval bill is referred shall report it to the Senate without amendment not later than the seventh legislative day after the date of its introduction. If a committee fails to report the bill within that period or the Senate has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, such committee shall be automatically discharged from further

consideration of the bill and it shall be placed on the appropriate calendar.

''(B) MOTION TO PROCEED TO CONSIDERATION.—After an approval bill is reported by or discharged from committee or the Senate has adopted a concurrent resolution providing for adjournment sine die at the end of a Congress, it shall be in order to move to proceed to consider the approval bill in the Senate. A motion to proceed to the consideration of a bill under this subsection in the Senate shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed is agreed to or disagreed to.

''(C) LIMITS ON DEBATE.—Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours, equally divided and controlled in the usual form.

''(D) APPEALS.—Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited

to not more than 1 hour, to be equally divided and controlled in the usual form.

''(E) MOTION TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a bill under this subsection is not debatable.

''(F) MOTION TO RECOMMIT.—A motion to recommit a bill under this subsection is not in order.

''(G) CONSIDERATION OF THE HOUSE BILL.—

''(i) IN GENERAL.—If the Senate has received the House companion bill to the bill introduced in the Senate prior to a vote under subparagraph (C), then the Senate may consider, and the vote under subparagraph (C) may occur on, the House companion bill.

''(ii) PROCEDURE AFTER VOTE ON SENATE BILL.—If the Senate votes, pursuant to subparagraph (C), on the bill introduced in the Senate, then immediately following that vote, or upon receipt of the House companion bill, the House bill shall be deemed to be considered, read the third time, and the vote on passage of the Sen-

ate bill shall be considered to be the vote on the bill received from the House.

''(b) AMENDMENTS PROHIBITED.—No amendment to, or motion to strike a provision from, a bill considered under this section shall be in order in either the Senate or the House of Representatives.

''PRESIDENTIAL DEFERRAL AUTHORITY

''SEC. 1013. (a) TEMPORARY PRESIDENTIAL AUTHORITY TO WITHHOLD CONGRESSIONAL EARMARKS.—

''(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may direct that any congressional earmark to be repealed in that special message shall not be made available for obligation for a period of 45 calendar days of continuous session of the Congress after the date on which the President transmits the special message to the Congress.

''(2) EARLY AVAILABILITY.—The President shall make any congressional earmark deferred pursuant to paragraph (1) available at a time earlier than the time specified by the President if the President determines that continuation of the deferral would not further the purposes of this Act.

''(b) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND A LIMITED TARIFF BENEFIT.—

''(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any limited tariff benefit proposed to be canceled in that special message for a period of 45 calendar days of continuous session of the Congress after the date on which the President transmits the special message to the Congress.

''(2) EARLY AVAILABILITY.—The President shall terminate the suspension of any limited tariff benefit at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.

''(c) TEMPORARY PRESIDENTIAL AUTHORITY TO SUSPEND A TARGETED TAX BENEFIT.—

''(1) IN GENERAL.—At the same time as the President transmits to the Congress a special message pursuant to section 1011(b), the President may suspend the implementation of any targeted tax benefit proposed to be repealed in that special message for a period of 45 calendar days of continuous session of the Congress after the date on which the

President transmits the special message to the Congress.

''(2) EARLY AVAILABILITY.—The President shall terminate the suspension of any targeted tax benefit at a time earlier than the time specified by the President if the President determines that continuation of the suspension would not further the purposes of this Act.

''IDENTIFICATION OF TARGETED TAX BENEFITS

''SEC. 1014. (a) STATEMENT.—The chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate acting jointly (hereafter in this subsection referred to as the 'chairmen') shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any targeted tax benefits. The chairmen shall provide to the committee of conference a statement identifying any such targeted tax benefits or declaring that the bill or joint resolution does not contain any targeted tax benefits. Any such statement shall be made available to any Member of Congress by the chairmen immediately upon request.

''(b) STATEMENT INCLUDED IN LEGISLATION.—

''(1) IN GENERAL.—Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the chairmen, but only in the manner set forth in paragraph (2).

''(2) APPLICABILITY.—The separate section permitted under subparagraph (A) shall read as follows: 'Section 1021 of the Congressional Budget and Impoundment Control Act of 1974 shall _____ apply to _____.', with the blank spaces being filled in with—

''(A) in any case in which the chairmen identify targeted tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution in the second blank space; or

''(B) in any case in which the chairmen declare that there are no targeted tax benefits in the statement required under subsection (a),

the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

''(c) IDENTIFICATION IN REVENUE ESTIMATE.—With respect to any revenue or reconciliation bill or joint resolution with respect to which the chairmen provide a statement under subsection (a), the Joint Committee on Taxation shall—

''(1) in the case of a statement described in subsection (b)(2)(A), list the targeted tax benefits in any revenue estimate prepared by the Joint Committee on Taxation for any conference report which accompanies such bill or joint resolution, or

''(2) in the case of a statement described in 13 subsection (b)(2)(B), indicate in such revenue estimate that no provision in such bill or joint resolution has been identified as a targeted tax benefit.

''(d) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law—

''(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in this section only with respect to any targeted tax benefit in that law, if any, identified in such separate section; or

''(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in this section with respect to any targeted tax benefit in that law.

''TREATMENT OF CANCELLATIONS

''SEC. 1015. The repeal of any congressional earmark or cancellation of any limited tariff benefit or targeted tax benefit shall take effect only upon enactment of the applicable approval bill. If an approval bill is not enacted into law before the end of the applicable period under section 1013, then all proposed repeals and cancellations contained in that bill shall be null and void and any such congressional earmark, limited tariff benefit, or targeted tax benefit shall be effective as of the original date provided in the law to which the proposed repeals or cancellations applied.

''REPORTS BY COMPTROLLER GENERAL

''SEC. 1016. With respect to each special message under this part, the Comptroller General shall issue to the Congress a report determining whether any congressional earmark is not repealed or limited tariff benefit or targeted tax benefit continues to be suspended after the deferral authority set forth in section 1013 of the President has expired.

''DEFINITIONS

''SEC. 1017. As used in this part:

''(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

''(2) APPROVAL BILL.—The term 'approval bill' means a bill or joint resolution which only approves proposed repeals of congressional earmarks or cancellations of limited tariff benefits or targeted tax benefits in a special message transmitted by the President under this part and—

''(A) the title of which is as follows: 'A bill approving the proposed repeals and cancellations transmitted by the President on _____', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

''(B) which does not have a preamble;

''(C) which provides only the following after the enacting clause: 'That the Congress approves of proposed repeals and cancellations

'_____', the blank space being filled in with a list of the repeals and cancellations contained in the President's special message, 'as transmitted by the President in a special message on _____', the blank space being filled in with the appropriate date, 'regarding _____.', the blank space being filled in with the public law number to which the special message relates;

"(D) which only includes proposed repeals and cancellations that are estimated by CBO to meet the definition of congressional earmark or limited tariff benefits, or that are identified as targeted tax benefits pursuant to section 1014; and

"(E) if no CBO estimate is available, then the entire list of legislative provisions proposed by the President is inserted in the second blank space in subparagraph (C).

"(3) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

"(4) CANCEL OR CANCELLATION.—The terms 'cancel' or 'cancellation' means to prevent—

"(A) a limited tariff benefit from having legal force or effect, and to make any necessary,

conforming statutory change to ensure that such limited tariff benefit is not implemented; or

"(B) a targeted tax benefit from having legal force or effect, and to make any necessary, conforming statutory change to ensure that such targeted tax benefit is not implemented and that any budgetary resources are appropriately canceled.

"(5) CBO.—The term 'CBO' means the Director of the Congressional Budget Office.

"(6) CONGRESSIONAL EARMARK.—The term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process.

''(7) ENTITY.—As used in paragraph (6), the term 'entity' includes a private business, State, territory or locality, or Federal entity.

''(8) LIMITED TARIFF BENEFIT.—The term 'limited tariff benefit' means any provision of law that modifies the Harmonized Tariff Schedule of the United States in a manner that benefits 10 or fewer entities (as defined in paragraph (12)(B)).

''(9) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

''(10) OMNIBUS RECONCILIATION OR APPROPRIATION MEASURE.—The term 'omnibus reconciliation or appropriation measure' means—

''(A) in the case of a reconciliation bill, any such bill that is reported to its House by the Committee on the Budget; or

''(B) in the case of an appropriation measure, any such measure that provides appropriations for programs, projects, or activities falling within 2 or more section 302(b) suballocations.

''(11) TARGETED TAX BENEFIT.—The term 'targeted tax benefit' means—

''(A) any revenue provision that—

''(i) provides a Federal tax deduction, credit, exclusion, or preference to a par-

ticular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

''(ii) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(B) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986.

''EXPIRATION

''SEC. 1018. This title shall have no force or effect on or after December 31, 2014''.

SEC. 1203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking ''1017'' and inserting ''1012''; and

(2) in subsection (d), by striking ''section 1017'' and inserting ''section 1012''.

(b) ANALYSIS BY CONGRESSIONAL BUDGET OFFICE.—Section 402 of the Congressional Budget Act of 1974 is amended by inserting ''(a)'' after ''402.'' and by adding at the end the following new subsection:

''(b) Upon the receipt of a special message under section 1011 proposing to repeal any congressional earmark, the Director of the Congressional Budget Office shall prepare an estimate of the savings in budget authority or outlays resulting from such proposed repeal relative to the most recent levels calculated consistent with the methodology used to calculate a baseline under section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 and included with a budget submission under section 1105(a) of title 31, United States Code, and transmit such estimate to the chairmen of the Committees on the Budget of the House of Representatives and Senate.''.

(c) CLERICAL AMENDMENTS.—(1) Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking the last sentence.

(2) Section 1022(c) of such Act (as redesignated) is amended is amended by striking ''rescinded or that is to be reserved'' and insert ''canceled'' and by striking ''1012'' and inserting ''1011''.

(3) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by deleting the contents for parts B and C of title X and inserting the following:

''PART B—LEGISLATIVE LINE-ITEM VETO

''Sec. 1011. Line-item veto authority.

(d) EFFECTIVE DATE.—The amendments made by this subtitle shall take effect on the date of its enactment and apply only to any congressional earmark, limited tariff benefit, or targeted tax benefit provided in an Act enacted on or after the date of enactment of this Act.

SEC. 1204. SENSE OF CONGRESS ON ABUSE OF PROPOSED REPEALS AND CANCELLATIONS.

It is the sense of Congress no President or any executive branch official should condition the inclusion or exclusion or threaten to condition the inclusion or exclusion of any proposed repeal or cancellation in any special message under this section upon any vote cast or to be cast

Subtitle C—Restoring Strong Pay-As-You-Go Requirements

SEC. 1301. DEFINITIONS.

As used in this subtitle—

(1) The term ''BBEDCA'' means the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) The definitions set forth in section 3 of the Congressional Budget and Impoundment Control Act of 1974 and in section 250 of BBEDCA shall

apply to this subtitle, except to the extent that they are specifically modified as follows:

(A) The term ''outyear'' means a fiscal year that occurs one or more years after the budget year.

(B) In section 250(c)(8)(C), the reference to the food stamp program shall be deemed to be a reference to the Supplemental Nutrition Assistance Program.

(3)(A) The term ''budgetary effects'' means the amounts by which PAYGO legislation changes direct spending or revenues relative to the baseline and shall be determined on the basis of estimates included by reference in the PAYGO Act or prepared under section 4(d)(3), as applicable. Budgetary effects that increase direct spending or decrease revenues are termed ''costs'' and budgetary effects that increase revenues or decrease direct spending are termed ''savings''.

(B) For purposes of these definitions, off-budget effects shall be counted as budgetary effects unless such changes flow directly from amendments to title II of the Social Security Act and related provisions of the Internal Revenue Code of 1986 and debt

service effects shall not be counted as budgetary effects.

(C) Solely for purposes of recording entries on a PAYGO scorecard, provisions in appropriations Acts are also considered to be budgetary effects for purposes of this subtitle if such provisions make outyear modifications to substantive law, except that provisions for which the outlay effects net to zero over a period consisting of the current year, the budget year, and the 4 subsequent years shall not be considered budgetary effects. For purposes of this paragraph, the term, ''modifications to substantive law'' refers to changes to or restrictions on entitlement law or other mandatory spending contained in appropriations Acts, notwithstanding section 250(c)(8) of BBEDCA. Provisions in appropriations Acts that are neither outyear modifications to substantive law nor changes in revenues have no budgetary effects for purposes of this subtitle.

(D) If a provision is designated as an emergency requirement under this subtitle and is also designated as an emergency requirement under the applicable rules of the House of Representatives, CBO shall not include the cost of such a provision

in its estimate of the PAYGO legislation's budgetary effects.

(4) The term ''debit'' refers to the net total amount, when positive, by which costs recorded on the PAYGO scorecards for a fiscal year exceed savings recorded on those scorecards for that year.

(5) The term ''entitlement law'' refers to a section of law which provides entitlement authority.

(6) The term ''PAYGO legislation'' or a ''PAYGO Act'' refers to a bill or joint resolution that affects direct spending or revenue relative to the baseline. The budgetary effects of changes in revenues and outyear modifications to substantive law included in appropriation Acts as defined in paragraph (4) shall be treated as if they were contained in PAYGO legislation.

(7) The term ''timing shift'' refers to a delay of the date on which direct spending would otherwise occur from the ninth outyear to the tenth outyear or an acceleration of the date on which revenues would otherwise occur from the tenth outyear to the ninth outyear.

SEC. 1302. PAYGO ESTIMATES AND PAYGO SCORECARDS.

(a) PAYGO ESTIMATES.—(1) A PAYGO Act shall include by reference an estimate of its budgetary effects

determined under section 308(a)(3) of the Congressional Budget Act of 1974, if timely submitted for printing in the Congressional Record by the chairs of the Committees on the Budget of the House of Representatives and the Senate, as applicable, before the vote on the PAYGO legislation. The Clerk of the House or the Secretary of the Senate, as applicable, shall also incorporate by reference such estimate printed in the relevant portion of the Congressional Record under section 308(a)(3) of the Congressional Budget Act of 1974 into the enrollment of a PAYGO Act. Budgetary effects that are not so included shall be determined under section 1304(d)(3).

(2)(A) Section 308(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following new paragraph:

''(3) CBO PAYGO ESTIMATES.—Before a vote in either House on a PAYGO Act that, if determined in the affirmative, would clear such Act for enrollment, the chairs of the Committees on the Budget of the House and Senate, as applicable, shall request from the Director of the Congressional Budget Office an estimate of the budgetary effects of such Act under the Control Spending Now Act. If such an estimate is timely provided, the chairs of the Committees on the Budget of the House of Representatives

and the Senate shall post such estimate on their respective committee websites and cause it to be printed in the Congressional Record under the heading 'PAYGO ESTIMATE'. For purposes of this section, the Director of the Congressional Budget Office shall not count timing shifts in his estimates of the budgetary effects of PAYGO legislation (as defined in section 1301 of the Control Spending Now Act).''.

(B) The side heading of section 308(a) of the Congressional Budget Act of 1974 is amended by striking ''REPORTS ON''.

(b) Section 308 of the Congressional Budget Act of 1974 is amended by adding at the end the following new subsection:

''(d) SCOREKEEPING GUIDELINES.—The Director of the Congressional Budget Office shall provide estimates under this section in accordance with the scorekeeping guidelines determined under section 252(d)(5) of the Balanced Budget and Emergency Deficit Control Act of 1985. Upon agreement, the chairs of the Committees on the Budget of the House of Representatives and the Senate shall submit updates to such guidelines for printing in the Congressional Record.''.

(c) OMB PAYGO SCORECARDS.—

(1) IN GENERAL.—OMB shall maintain and make publicly available a continuously updated document containing two PAYGO scorecards displaying the budgetary effects of PAYGO legislation as determined under section 308 of the Congressional Budget Act of 1974, applying the look-back requirement in subsection (e) and the averaging requirement in subsection (f), and a separate addendum displaying the estimates of the costs of provisions designated in statute as emergency requirements.

(2) ESTIMATES IN LEGISLATION.—Except as provided in paragraph (3), in making the calculations for the PAYGO scorecards, OMB shall use the budgetary effects included by reference in the applicable legislation.

(3) OMB ESTIMATES.—If legislation does not contain the estimate of budgetary effects under paragraph (2), then OMB shall score the budgetary effects of that legislation upon its enactment, based on the approaches to scorekeeping set forth in this subtitle.

(4) 5-YEAR SCORECARD.—The first scorecard shall display the budgetary effects of PAYGO legislation in each year over the 5-year period beginning in the budget year.

(5) 10-YEAR SCORECARD.—The second scorecard shall display the budgetary effects of PAYGO legislation in each year over the 10-year period beginning in the budget year.

(d) LOOK-BACK TO CAPTURE CURRENT-YEAR EFFECTS.—For purposes of this section, OMB shall treat the budgetary effects of PAYGO legislation enacted during a session of Congress that occur during the current year as though they occurred in the budget year.

(e) AVERAGING USED TO MEASURE COMPLIANCE OVER 5-YEAR AND 10-YEAR PERIODS.—OMB shall cumulate the budgetary effects of a PAYGO Act over the budget year (which includes any look-back effects under subsection (d)) and—

(1) for purposes of the 5-year scorecard referred to in subsection (c)(4), the four subsequent outyears, divide that cumulative total by five, and enter the quotient in the budget-year column and in each subsequent column of the 5-year PAYGO scorecard; and

(2) for purposes of the 10-year scorecard referred to in subsection (c)(5), the nine subsequent outyears, divide that cumulative total by ten, and enter the quotient in the budget-year column and in

each subsequent column of the 10-year PAYGO scorecard.

SEC. 1303. ANNUAL REPORT AND SEQUESTRATION ORDER.

(a) ANNUAL REPORT.—Not later than 14 days (excluding weekends and holidays) after Congress adjourns to end a session, OMB shall make publicly available and cause to be printed in the Federal Register an annual PAYGO report. The report shall include an up-to-date document containing the PAYGO scorecards, information about emergency legislation (if any) designated under this subtitle, information about any sequestration if required by subsection (b), and other data and explanations that enhance public understanding of this subtitle and actions taken under it.

(b) SEQUESTRATION ORDER.—If the annual report issued at the end of a session of Congress under subsection (a) shows a debit on either PAYGO scorecard for the budget year, OMB shall prepare and the President shall issue and include in that report a sequestration order that, upon issuance, shall reduce budgetary resources of direct spending programs by enough to offset that debit as prescribed in section 1306. If there is a debit on both scorecards, the order shall fully offset the larger of the two debits. OMB shall include that order in the annual report and transmit it to the House of Representatives

and the Senate. If the President issues a sequestration order, the annual report shall contain, for each budget account to be sequestered, estimates of the baseline level of budgetary resources subject to sequestration, the amount of budgetary resources to be sequestered, and the outlay reductions that will occur in the budget year and the subsequent fiscal year because of that sequestration.

SEC. 1304. CALCULATING A SEQUESTRATION.

(a) REDUCING NONEXEMPT BUDGETARY RESOURCES BY A UNIFORM PERCENTAGE.—OMB shall calculate the uniform percentage by which the budgetary resources of nonexempt direct spending programs are to be sequestered such that the outlay savings resulting from that sequestration, as calculated under subsection (b), shall offset the budget-year debit, if any on the applicable PAYGO scorecard. If the uniform percentage calculated under the prior sentence exceeds 4 percent, the Medicare programs described in section 256(d) of BBEDCA shall be reduced by 4 percent and the uniform percentage by which the budgetary resources of all other nonexempt direct spending programs are to be sequestered shall be increased, as necessary, so that the sequestration of Medicare and of all other nonexempt direct spending programs together produce the required outlay savings.

(b) OUTLAY SAVINGS.—In determining the amount by which a sequestration offsets a budget-year debit, OMB shall count—

(1) the amount by which the sequestration in a crop year of crop support payments, pursuant to section 256(j) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year;

(2) the amount by which the sequestration of Medicare payments in the 12-month period following the sequestration order, pursuant to section 256(d) of BBEDCA, reduces outlays in the budget year and the subsequent fiscal year; and

(3) the amount by which the sequestration in the budget year of the budgetary resources of other nonexempt mandatory programs reduces outlays in the budget year and in the subsequent fiscal year.

SEC. 1305. APPLICATION OF BBEDCA.

For purposes of this subtitle—

(1) notwithstanding section 275 of BBEDCA, the provisions of sections 255, 256, 257, and 274 of BBEDCA, as amended by this subtitle, shall apply to the provisions of this subtitle;

(2) references in sections 255, 256, 257, and 274 to ''this part'' or ''this title'' shall be interpreted as applying to this subtitle;

(3) references in sections 255, 256, 257, and 274 of BBEDCA to ''section 254'' shall be interpreted as referencing section 1303 of this subtitle;

(4) the reference in section 256(b) of BBEDCA to ''section 252 or 253'' shall be interpreted as referencing section 1303 of this subtitle;

(5) the reference in section 256(d)(1) of BBEDCA to ''section 252 or 253'' shall be interpreted as referencing section 1304 of this subtitle;

(6) the reference in section 256(d)(4) of BBEDCA to ''section 252 or 253'' shall be interpreted as referencing section 1303 of this subtitle;

(7) section 256(k) of BBEDCA shall apply to a sequestration, if any, under this subtitle; and

(8) references in section 257(e) of BBEDCA to ''section 251, 252, or 253'' shall be interpreted as referencing section 1302 of this subtitle.

SEC. 1306. TECHNICAL CORRECTIONS.

(a) Section 250(c)(18) of BBEDCA is amended by striking ''the expenses the Federal deposit insurance agencies'' and inserting ''the expenses of the Federal deposit insurance agencies''.

(b) Section 256(k)(1) of BBEDCA is amended by striking ''in paragraph (5)'' and inserting ''in paragraph (6)''.

SEC. 1307. CONFORMING AMENDMENTS.

(a) Section 256(a) of BBEDCA is repealed.

(b) Section 256(b) of BBEDCA is amended by striking ''origination fees under sections 438(c)(2) and 455(c) of that Act shall each be increased by 0.50 percentage point.'' and inserting in lieu thereof ''origination fees under sections 438(c) (2) and (6) and 455(c) and loan processing and issuance fees under section 428(f)(1)(A)(ii) of that Act shall each be increased by the uniform percentage specified in that sequestration order, and, for student loans originated during the period of the sequestration, special allowance payments under section 438(b) of that Act accruing during the period of the sequestration shall be reduced by the uniform percentage specified in that sequestration order.''.

(c) Section 256(c) of BBEDCA is repealed.

(d) Section 256(d) of BBEDCA is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (5), and (6);

(2) by amending paragraph (1) to read as follows:

''(1) CALCULATION OF REDUCTION IN PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by section 252 or 253, subject to paragraph (2), and notwithstanding section 710 of the Social Security Act, OMB shall

determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply, with respect to the health insurance programs under title XVIII of the Social Security Act—

"(A) in the case of parts A and B of such title, to individual payments for services furnished during the one-year period beginning on the first day of the first month beginning after the date the order is issued (or, if later, the date specified in paragraph (4)); and

"(B) in the case of parts C and D, to monthly payments under contracts under such parts for the same one-year period;

such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that period.";

(3) by inserting after paragraph (1) the following:

"(2) UNIFORM REDUCTION RATE; MAXIMUM PERMISSIBLE REDUCTION.—Reductions in payments for programs and activities under such title XVIII pursuant to a sequestration order under section 254 shall be at a uniform rate, which shall not exceed 4

percent, across all such programs and activities subject to such order.'';

(4) by inserting after paragraph (3), as redesignated, the following:

''(4) TIMING OF SUBSEQUENT SEQUESTRATION ORDER.—A sequestration order required by section 252 or 253 with respect to programs under such title XVIII shall not take effect until the first month beginning after the end of the effective period of any prior sequestration order with respect to such programs, as determined in accordance with paragraph (1).'';

(5) in paragraph (6), as redesignated, to read as follows:

''(6) SEQUESTRATION DISREGARDED IN COMPUTING PAYMENT AMOUNTS.—The Secretary of Health and Human Services shall not take into account any reductions in payment amounts which have been or may be effected under this part, for purposes of computing any adjustments to payment rates under such title XVIII, specifically including—

''(A) the part C growth percentage under section 1853(c)(6);

''(B) the part D annual growth rate under section 1860D–2(b)(6); and

"(C) application of risk corridors to part D payment rates under section 1860D–15(e).";

and

(6) by adding after paragraph (6), as redesignated, the following:

"(7) EXEMPTIONS FROM SEQUESTRATION.—In addition to the programs and activities specified in section 255, the following shall be exempt from sequestration under this part:

"(A) PART D LOW-INCOME SUBSIDIES.—Premium and cost-sharing subsidies under section 1860D–14 of the Social Security Act.

"(B) PART D CATASTROPHIC SUBSIDY.—Payments under section 1860D–15(b) and (e)(2)(B) of the Social Security Act.

"(C) QUALIFIED INDIVIDUAL (QI) PREMIUMS.—Payments to States for coverage of Medicare cost-sharing for certain low-income Medicare beneficiaries under section 1933 of the Social Security Act.".

SEC. 1308. EXEMPT PROGRAMS AND ACTIVITIES.

(a) DESIGNATIONS.—Section 255 of BBEDCA is amended by redesignating subsection (i) as (j) and striking "1998" and inserting in lieu thereof "2010".

(b) SOCIAL SECURITY, VETERANS PROGRAMS, NET INTEREST, AND TAX CREDITS.—Subsections (a) through (d) of section 255 of BBEDCA are amended to read as follows:

''(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.), and benefits payable under section 231b(a), 231b(f)(2), 231c(a), and 231c(f) of title 45 United States Code, shall be exempt from reduction under any order issued under this part.

''(b) VETERANS PROGRAMS.—The following program shall be exempt from reduction under any order issued under this part—

''All programs administered by the Department of Veterans Affairs.

''Special Benefits for Certain World War II Veterans (28–0401–0–1–701).

''(c) NET INTEREST.—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

''(d) REFUNDABLE INCOME TAX CREDITS.—Payments to individuals made pursuant to provisions of the Internal Revenue Code of 1986 establishing refundable

tax credits shall be exempt from reduction under any order issued under this part.''.

(c) OTHER PROGRAMS AND ACTIVITIES, LOW-INCOME PROGRAMS, AND ECONOMIC RECOVERY PROGRAMS.—Subsections (g) and (h) of section 255 of BBEDCA are amended to read as follows:

''(g) OTHER PROGRAMS AND ACTIVITIES.—

''(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

''Activities resulting from private donations, bequests, or voluntary contributions to the Government.

''Activities financed by voluntary payments to the Government for goods or services to be provided for such payments.

''Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–808).

''Advances to the Unemployment Trust Fund and Other Funds (16–0327–0–1–600).

''Black Lung Disability Trust Fund Refinancing (16–0329–0–1–601).

''Bonneville Power Administration Fund and borrowing authority established pursuant

to section 13 of Public Law 93–454 (1974), as amended (89–4045–0–3–271).

''Claims, Judgments, and Relief Acts (20–1895–0–1–808).

''Compact of Free Association (14–0415–0–1–808).

''Compensation of the President (11–0209–01–1–802).

''Comptroller of the Currency, Assessment Funds (20–8413–0–8–373).

''Continuing Fund, Southeastern Power Administration (89–5653–0–2–271).

''Continuing Fund, Southwestern Power Administration (89–5649–0–2–271).

''Dual Benefits Payments Account (60–0111–0–1–601).

''Emergency Fund, Western Area Power Administration (89–5069–0–2–271).

''Exchange Stabilization Fund (20–4444–0–3–155).

''Federal Deposit Insurance Corporation, Deposit Insurance Fund (51–4596–4–4–373).

''Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51–4065–0–3–373).

''Federal Deposit Insurance Corporation, Noninterest Bearing Transaction Account Guarantee (51–4458–0–3–373).

''Federal Deposit Insurance Corporation, Senior Unsecured Debt Guarantee (51–4457–0–3–373).

''Federal Housing Finance Agency, Administrative Expenses (95–5532–0–2–371).

''Federal Payment to the District of Columbia Judicial Retirement and Survivors Annuity Fund (20–1713–0–1–752).

''Federal Payment to the District of Columbia Pension Fund (20–1714–0–1–601).

''Federal Payments to the Railroad Retirement Accounts (60–0113–0–1–601).

''Federal Reserve Bank Reimbursement Fund (20–1884–0–1–803).

''Financial Agent Services (20–1802–0–1–803).

''Foreign Military Sales Trust Fund (11–8242–0–7–155).

''Hazardous Waste Management, Conservation Reserve Program (12–4336–0–3–999).

''Host Nation Support Fund for Relocation (97–8337–0–7–051).

''Internal Revenue Collections for Puerto Rico (20–5737–0–2–806).

''Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect.

''Medical Facilities Guarantee and Loan Fund (75–9931–0–3–551).

''National Credit Union Administration, Central Liquidity Facility (25–4470–0–3–373).

''National Credit Union Administration, Corporate Credit Union Share Guarantee Program (25–4476–0–3–376).

''National Credit Union Administration, Credit Union Homeowners Affordability Relief Program (25–4473–0–3–371).

''National Credit Union Administration, Credit Union Share Insurance Fund (25–4468–0–3–373).

''National Credit Union Administration, Credit Union System Investment Program (25–4474–0–3–376).

''National Credit Union Administration, Operating fund (25–4056–0–3–373).

''National Credit Union Administration, Share Insurance Fund Corporate Debt Guarantee Program (25–4469–0–3–376).

''National Credit Union Administration, U.S. Central Federal Credit Union Capital Program (25–4475–0–3–376).

''Office of Thrift Supervision (20–4108–0–3–373).

''Panama Canal Commission Compensation Fund (16–5155–0–2–602).

''Payment of Vietnam and USS Pueblo prisoner-of-war claims within the Salaries and Expenses, Foreign Claims Settlement account (15–0100–0–1–153).

''Payment to Civil Service Retirement and Disability Fund (24–0200–0–1–805).

''Payment to Department of Defense Medicare-Eligible Retiree Health Care Fund (97–0850–0–1–054).

''Payment to Judiciary Trust Funds (10–0941–0–1–752).

''Payment to Military Retirement Fund (97–0040–0–1–054).

''Payment to the Foreign Service Retirement and Disability Fund (19–0540–0–1–153).

''Payments to Copyright Owners (03–5175–0–2–376).

''Payments to Health Care Trust Funds (75–0580–0–1–571).

''Payment to Radiation Exposure Compensation Trust Fund (15–0333–0–1–054).

''Payments to Social Security Trust Funds (28–0404–0–1–651).

''Payments to the United States Territories, Fiscal Assistance (14–0418–0–1–806).

''Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds.

''Payments to widows and heirs of deceased Members of Congress (00–0215–0–1–801).

''Postal Service Fund (18–4020–0–3–372).

''Radiation Exposure Compensation Trust Fund (15–8116–0–1–054).

''Reimbursement to Federal Reserve Banks (20–0562–0–1–803).

''Salaries of Article III judges.

''Soldiers and Airmen's Home, payment of claims (84–8930–0–7–705).

''Tennessee Valley Authority Fund, except nonpower programs and activities (64–4110–0–3–999).

''Tribal and Indian trust accounts within the Department of the Interior which fund prior legal obligations of the Government or which are established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities, including but not limited to Tribal Special Fund (14–5265–0–2–452), Tribal Trust Fund (14–8030–0–7–452), White Earth Settlement (14–2204–0–1–452), and Indian Water Rights and Habitat Acquisition (14–5505–0–2–303).

''United Mine Workers of America 1992 Benefit Plan (95–8260–0–7–551).

''United Mine Workers of America 1993 Benefit Plan (95–8535–0–7–551).

''United Mine Workers of America Combined Benefit Fund (95–8295–0–7–551).

''United States Enrichment Corporation Fund (95–4054–0–3–271).

''Universal Service Fund (27–5183–0–2–376).

''Vaccine Injury Compensation (75–0320–0–1–551).

''Vaccine Injury Compensation Program Trust Fund (20–8175–0–7–551).

''(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

''Black Lung Disability Trust Fund (20–8144–0–7–601).

''Central Intelligence Agency Retirement and Disability System Fund (56–3400–0–1–054).

''Civil Service Retirement and Disability Fund (24–8135–0–7–602).

''Comptrollers general retirement system (05–0107–0–1–801).

''Contributions to U.S. Park Police annuity benefits, Other Permanent Appropriations (14–9924–0–2–303).

''Court of Appeals for Veterans Claims Retirement Fund (95–8290–0–7–705).

''Department of Defense Medicare-Eligible Retiree Health Care Fund (97–5472–0–2–551).

''District of Columbia Federal Pension Fund (20–5511–0–2–601).

''District of Columbia Judicial Retirement and Survivors Annuity Fund (20–8212–0–7–602).

''Energy Employees Occupational Illness Compensation Fund (16–1523–0–1–053).

''Foreign National Employees Separation Pay (97–8165–0–7–051).

''Foreign Service National Defined Contributions Retirement Fund (19–5497–0–2–602).

''Foreign Service National Separation Liability Trust Fund (19–8340–0–7–602).

''Foreign Service Retirement and Disability Fund (19–8186–0–7–602).

''Government Payment for Annuitants, Employees Health Benefits (24–0206–0–1–551).

''Government Payment for Annuitants, Employee Life Insurance (24–0500–0–1–602).

''Judicial Officers' Retirement Fund (10–8122–0–7–602).

''Judicial Survivors' Annuities Fund (10–8110–0–7–602).

''Military Retirement Fund (97–8097–0–7–602).

''National Railroad Retirement Investment Trust (60–8118–0–7–601).

''National Oceanic and Atmospheric Administration retirement (13–1450–0–1–306).

''Pensions for former Presidents (47–0105–0–1–802).

''Postal Service Retiree Health Benefits Fund (24–5391–0–2–551).

''Public Safety Officer Benefits (15–0403–0–1–754).

''Rail Industry Pension Fund (60–8011–0–7–601).

''Retired Pay, Coast Guard (70–0602–0–1–403).

''Retirement Pay and Medical Benefits for Commissioned Officers, Public Health Service (75–0379–0–1–551).

''Special Benefits for Disabled Coal Miners (16–0169–0–1–601).

''Special Benefits, Federal Employees' Compensation Act (16–1521–0–1–600).

''Special Workers Compensation Expenses (16–9971–0–7–601).

''Tax Court Judges Survivors Annuity Fund (23–8115–0–7–602).

''United States Court of Federal Claims Judges' Retirement Fund (10–8124–0–7–602).

''United States Secret Service, DC Annuity (70–0400–0–1–751).

''Voluntary Separation Incentive Fund (97–8335–0–7–051).

''(2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:

''Biomass Energy Development (20–0114–0–1–271).

''Check Forgery Insurance Fund (20–4109–0–3–803).

''Credit liquidating accounts.

''Credit reestimates.

''Employees Life Insurance Fund (24–8424–0–8–602).

''Federal Aviation Insurance Revolving Fund (69–4120–0–3–402).

''Federal Crop Insurance Corporation Fund (12–4085–0–3–351).

''Federal Emergency Management Agency, National Flood Insurance Fund (58–4236–0–3–453).

''Federal Home Loan Mortgage Corporation (Freddie Mac).

''Federal National Mortgage Corporation (Fannie Mae).

''Geothermal resources development fund (89–0206–0–1–271).

''Low-Rent Public Housing—Loans and Other Expenses (86–4098–0–3–604).

''Maritime Administration, War Risk Insurance Revolving Fund (69–4302–0–3–403).

''Natural Resource Damage Assessment Fund (14–1618–0–1–302).

''Overseas Private Investment Corporation, Noncredit Account (71–4184–0–3–151).

''Pension Benefit Guaranty Corporation Fund (16–4204–0–3–601).

''San Joaquin Restoration Fund (14–5537–0–2–301).

''Servicemembers' Group Life Insurance Fund (36–4009–0–3–701).

''Terrorism Insurance Program (20–0123–0–1–376).

''(h) LOW-INCOME PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

''Academic Competitiveness/Smart Grant Program (91–0205–0–1–502).

''Child Care Entitlement to States (75–1550–0–1–609).

''Child Enrollment Contingency Fund (75–5551–0–2–551).

''Child Nutrition Programs (with the exception of special milk programs) (12–3539–0–1–605).

''Children's Health Insurance Fund (75–0515–0–1–551).

''Commodity Supplemental Food Program (12–3507–0–1–605).

''Contingency Fund (75–1522–0–1–609).

''Family Support Programs (75–1501–0–1–609).

''Federal Pell Grants under section 401 Title IV of the Higher Education Act.

''Grants to States for Medicaid (75–0512–0–1–551).

''Payments for Foster Care and Permanency (75–1545–0–1–609).

''Supplemental Nutrition Assistance Program (12–3505–0–1–605).

''Supplemental Security Income Program (28–0406–0–1–609).

''Temporary Assistance for Needy Families (75–1552–0–1–609).''.

(d) ECONOMIC RECOVERY PROGRAMS.—Section 255 of BBEDCA is amended by adding the following after subsection (h):

''(i) ECONOMIC RECOVERY PROGRAMS.—The following programs shall be exempt from reduction under any order issued under this part:

''All programs enacted in, or increases in programs provided by, the American Recovery and Reinvestment Act of 2009.

''Exchange Stabilization Fund-Money Market Mutual Fund Guaranty Facility (20–4274–0–3–376).

''Financial Stabilization Reserve (20–0131–4–1–376).

''GSE Mortgage-Backed Securities Purchase Program Account (20–0126–0–1–371).

''GSE Preferred Stock Purchase Agreements (20–0125–0–1–371).

''Office of Financial Stability (20–0128–0–1–376).

''Special Inspector General for the Troubled Asset Relief Program (20–0133–0–1–376).

''Troubled Asset Relief Program Account (20–0132–0–1–376).

''Troubled Asset Relief Program Equity Purchase Program (20–0134–0–1–376).

''Troubled Asset Relief Program, Home Affordable Modification Program (20–0136–0–1–604).''.

SEC. 1309. EXPIRATION.

This subtitle and the amendments made by this subtitle shall expire September 30, 2014.

Subtitle D—Reforming the Budget Process

SEC. 1401. SHORT TITLE.

This subtitle may be cited as the ''Biennial Budgeting and Appropriations Act''.

SEC. 1402. REVISION OF TIMETABLE.

Section 300 of the Congressional Budget Act of 1974 (2 U.S.C. 631) is amended to read as follows:

''TIMETABLE

''SEC. 300. (a) IN GENERAL.—Except as provided by subsection (b), the timetable with respect to the congressional budget process for any Congress (beginning with the One Hundred Eleventh Congress) is as follows:

''First Session

On or before:	Action to be completed:
First Monday in February	President submits budget recommendations.
February 15	Congressional Budget Office submits report to Budget Committees.
Not later than 6 weeks after budget submission.	Committees submit views and estimates to Budget Committees.
April 1	Budget Committees report concurrent resolution on the biennial budget.
May 15	Congress completes action on concurrent resolution on the biennial budget.
May 15	Biennial appropriation bills may be considered in the House.
June 10	House Appropriations Committee reports last biennial appropriation bill.
June 30	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.

''Second Session

On or before:	Action to be completed:
February 15	President submits budget review.
Not later than 6 weeks after President submits budget review.	Congressional Budget Office submits report to Budget Committees.
The last day of the session	Congress completes action on bills and resolutions authorizing new budget authority for the succeeding biennium.

''(b) SPECIAL RULE.—In the case of any first session of Congress that begins in any year immediately following a leap year and during which the term of a President (except a President who succeeds himself or herself) begins, the following dates shall supersede those set forth in subsection (a):

''First Session

On or before:	Action to be completed:
First Monday in April	President submits budget recommendations.
April 20	Committees submit views and estimates to Budget Committees.
May 15	Budget Committees report concurrent resolution on the biennial budget.
June 1	Congress completes action on concurrent resolution on the biennial budget.

''First Session—Continued

July 1	Biennial appropriation bills may be considered in the House.
July 20	House completes action on biennial appropriation bills.
August 1	Congress completes action on reconciliation legislation.
October 1	Biennium begins.''.

SEC. 1403. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

(a) DECLARATION OF PURPOSE.—Section 2(2) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621(2)) is amended by striking ''each year'' and inserting ''biennially''.

(b) DEFINITIONS.—

(1) BUDGET RESOLUTION.—Section 3(4) of such Act (2 U.S.C. 622(4)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(2) BIENNIUM.—Section 3 of such Act (2 U.S.C. 622) is further amended by adding at the end the following new paragraph:

''(11) The term 'biennium' means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.''.

(c) BIENNIAL CONCURRENT RESOLUTION ON THE BUDGET.—

(1) SECTION HEADING.—The section heading of section 301 of such Act is amended by striking ''**ANNUAL**'' and inserting ''**BIENNIAL**''.

(2) CONTENTS OF RESOLUTION.—Section 301(a) of such Act (2 U.S.C. 632(a)) is amended—

(A) in the matter preceding paragraph (1) by—

(i) striking ''April 15 of each year'' and inserting ''May 15 of each odd-numbered year'';

(ii) striking ''the fiscal year beginning on October 1 of such year'' the first place it appears and inserting ''the biennium beginning on October 1 of such year''; and

(iii) striking ''the fiscal year beginning on October 1 of such year'' the second place it appears and inserting ''each fiscal year in such period'';

(B) in paragraph (6), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''; and

(C) in paragraph (7), by striking ''for the fiscal year'' and inserting ''for each fiscal year in the biennium''.

(3) ADDITIONAL MATTERS.—Section 301(b)(3) of such Act (2 U.S.C. 632(b)) is amended by striking ''for such fiscal year'' and inserting ''for either fiscal year in such biennium''.

(4) VIEWS OF OTHER COMMITTEES.—Section 301(d) of such Act (2 U.S.C. 632(d)) is amended by inserting ''(or, if applicable, as provided by section 300(b))'' after ''United States Code''.

(5) HEARINGS.—Section 301(e)(1) of such Act (2 U.S.C. 632(e)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) inserting after the second sentence the following: ''On or before April 1 of each odd-numbered year (or, if applicable, as provided by section 300(b)), the Committee on the Budget of each House shall report to its House the concurrent resolution on the budget referred to in subsection (a) for the biennium beginning on October 1 of that year.''.

(6) GOALS FOR REDUCING UNEMPLOYMENT.—Section 301(f) of such Act (2 U.S.C. 632(f)) is amended by striking ''fiscal year'' each place it appears and inserting ''biennium''.

(7) ECONOMIC ASSUMPTIONS.—Section 301(g)(1) of such Act (2 U.S.C. 632(g)(1)) is amended by striking ''for a fiscal year'' and inserting ''for a biennium''.

(8) TABLE OF CONTENTS.—The item relating to section 301 in the table of contents set forth in section 1(b) of such Act is amended by striking ''Annual'' and inserting ''Biennial''.

(d) COMMITTEE ALLOCATIONS.—Section 302 of such Act (2 U.S.C. 633) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by—

(i) striking ''for the first fiscal year of the resolution,'' and inserting ''for each fiscal year in the biennium,'';

(ii) striking ''for that period of fiscal years'' and inserting ''for all fiscal years covered by the resolution''; and

(iii) striking ''for the fiscal year of that resolution'' and inserting ''for each fiscal year in the biennium''; and

(B) in paragraph (5), by striking ''April 15'' and inserting ''May 15 or June 1 (under section 300(b))'';

(2) in subsection (b), by striking ''budget year'' and inserting ''biennium'';

(3) in subsection (c) by striking ''for a fiscal year'' each place it appears and inserting ''for each fiscal year in the biennium'';

(4) in subsection (f)(1), by striking ''for a fiscal year'' and inserting ''for a biennium'';

(5) in subsection (f)(1), by striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium'';

(6) in subsection (f)(2)(A), by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''the total of fiscal years'' and inserting ''the total of all fiscal years covered by the resolution''; and

(7) in subsection (g)(1)(A), by striking ''April'' and inserting ''May''.

(e) SECTION 303 POINT OF ORDER.—

(1) IN GENERAL.—Section 303(a) of such Act (2 U.S.C. 634(a)) is amended by—

(A) striking ''the first fiscal year'' and inserting ''each fiscal year of the biennium''; and

(B) striking ''that fiscal year'' each place it appears and inserting ''that biennium''.

(2) EXCEPTIONS IN THE HOUSE.—Section 303(b)(1) of such Act (2 U.S.C. 634(b)) is amended—

(A) in subparagraph (A), by striking ''the budget year'' and inserting ''the biennium''; and

(B) in subparagraph (B), by striking ''the fiscal year'' and inserting ''the biennium''.

(3) APPLICATION TO THE SENATE.—Section 303(c)(1) of such Act (2 U.S.C. 634(c)) is amended by—

(A) striking ''fiscal year'' and inserting ''biennium''; and

(B) striking ''that year'' and inserting ''each fiscal year of that biennium''.

(f) PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS ON THE BUDGET.—Section 304(a) of such Act (2 U.S.C. 635) is amended—

(1) by striking ''fiscal year'' the first two places it appears and inserting ''biennium''; and

(2) by striking ''for such fiscal year'' and inserting ''for such biennium''.

(g) PROCEDURES FOR CONSIDERATION OF BUDGET RESOLUTIONS.—Section 305 of such Act (2 U.S.C. 636(3)) is amended—

(1) in subsection (a)(3), by striking ''fiscal year'' and inserting ''biennium''; and

(2) in subsection (b)(3), by striking ''fiscal year'' and inserting ''biennium''.

(h) COMPLETION OF HOUSE ACTION ON APPROPRIATION BILLS.—Section 307 of such Act (2 U.S.C. 638) is amended—

(1) by striking ''each year'' and inserting ''each odd-numbered year'';

(2) by striking ''annual'' and inserting ''biennial'';

(3) by striking ''fiscal year'' and inserting ''biennium''; and

(4) by striking ''that year'' and inserting ''each odd-numbered year''.

(i) COMPLETION OF ACTION ON REGULAR APPROPRIATION BILLS.—Section 309 of such Act (2 U.S.C. 640) is amended—

(1) by inserting ''of any odd-numbered calendar year'' after ''July'';

(2) by striking ''annual'' and inserting ''biennial''; and

(3) by striking ''fiscal year'' and inserting ''biennium''.

(j) RECONCILIATION PROCESS.—Section 310(a) of such Act (2 U.S.C. 641(a)) is amended—

(1) in the matter preceding paragraph (1), by striking ''any fiscal year'' and inserting ''any biennium''; and

(2) in paragraph (1) by striking ''such fiscal year'' each place it appears and inserting ''any fiscal year covered by such resolution''.

(k) SECTION 311 POINT OF ORDER.—

(1) IN THE HOUSE.—Section 311(a)(1) of such Act (2 U.S.C. 642(a)) is amended—

(A) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(B) by striking ''the first fiscal year'' each place it appears and inserting ''either fiscal year of the biennium''; and

(C) by striking ''that first fiscal year'' and inserting ''each fiscal year in the biennium''.

(2) IN THE SENATE.—Section 311(a)(2) of such Act is amended—

(A) in subparagraph (A), by striking ''for the first fiscal year'' and inserting ''for either fiscal year of the biennium''; and

(B) in subparagraph (B)—

(i) by striking ''that first fiscal year'' the first place it appears and inserting ''each fiscal year in the biennium''; and

(ii) by striking ''that first fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(3) SOCIAL SECURITY LEVELS.—Section 311(a)(3) of such Act is amended by—

(A) striking ''for the first fiscal year'' and inserting ''each fiscal year in the biennium''; and

(B) striking ''that fiscal year and the ensuing fiscal years'' and inserting ''all fiscal years''.

(l) MDA POINT OF ORDER.—Section 312(c) of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended—

(1) by striking ''for a fiscal year'' and inserting ''for a biennium'';

(2) in paragraph (1), by striking ''the first fiscal year'' and inserting ''either fiscal year in the biennium'';

(3) in paragraph (2), by striking ''that fiscal year'' and inserting ''either fiscal year in the biennium''; and

(4) in the matter following paragraph (2), by striking ''that fiscal year'' and inserting ''the applicable fiscal year''.

SEC. 1404. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) DEFINITION.—Section 1101 of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

''(3) 'biennium' has the meaning given to such term in paragraph (11) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

(b) BUDGET CONTENTS AND SUBMISSION TO THE CONGRESS.—

(1) SCHEDULE.—The matter preceding paragraph (1) in section 1105(a) of title 31, United States Code, is amended to read as follows:

''(a) On or before the first Monday in February of each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974), beginning with the One Hundred Twelfth Congress, the President shall transmit to the Congress, the budget for the biennium beginning on October 1 of such calendar year. The budget of the United States Government transmitted under this subsection shall include a budget mes-

sage and summary and supporting information. The President shall include in each budget the following:''.

(2) EXPENDITURES.—Section 1105(a)(5) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 fiscal years''.

(3) RECEIPTS.—Section 1105(a)(6) of title 31, United States Code, is amended by striking ''the fiscal year for which the budget is submitted and the 4 fiscal years after that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted and in the succeeding 4 years''.

(4) BALANCE STATEMENTS.—Section 1105(a)(9)(C) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(5) FUNCTIONS AND ACTIVITIES.—Section 1105(a)(12) of title 31, United States Code, is amended in subparagraph (A), by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(6) ALLOWANCES.—Section 1105(a)(13) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(7) ALLOWANCES FOR UNCONTROLLED EXPENDITURES.—Section 1105(a)(14) of title 31, United States Code, is amended by striking ''that year'' and inserting ''each fiscal year in the biennium for which the budget is submitted''.

(8) TAX EXPENDITURES.—Section 1105(a)(16) of title 31, United States Code, is amended by striking ''the fiscal year'' and inserting ''each fiscal year in the biennium''.

(9) FUTURE YEARS.—Section 1105(a)(17) of title 31, United States Code, is amended—

(A) by striking ''the fiscal year following the fiscal year'' and inserting ''each fiscal year in the biennium following the biennium'';

(B) by striking ''that following fiscal year'' and inserting ''each such fiscal year''; and

(C) by striking ''fiscal year before the fiscal year'' and inserting ''biennium before the biennium''.

(10) PRIOR YEAR OUTLAYS.—Section 1105(a)(18) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years,'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' and inserting ''in those fiscal years''.

(11) PRIOR YEAR RECEIPTS.—Section 1105(a)(19) of title 31, United States Code, is amended—

(A) by striking ''the prior fiscal year'' and inserting ''each of the 2 most recently completed fiscal years'';

(B) by striking ''for that year'' and inserting ''with respect to those fiscal years''; and

(C) by striking ''in that year'' each place it appears and inserting ''in those fiscal years''.

(c) ESTIMATED EXPENDITURES OF LEGISLATIVE AND JUDICIAL BRANCHES.—Section 1105(b) of title 31, United States Code, is amended by striking ''each year'' and inserting ''each even-numbered year''.

(d) RECOMMENDATIONS TO MEET ESTIMATED DEFICIENCIES.—Section 1105(c) of title 31, United States Code, is amended—

(1) by striking ''the fiscal year for'' the first place it appears and inserting ''each fiscal year in the biennium for'';

(2) by striking ''the fiscal year for'' the second place it appears and inserting ''each fiscal year of the biennium, as the case may be, for''; and

(3) by striking ''for that year'' and inserting ''for each fiscal year of the biennium''.

(e) CAPITAL INVESTMENT ANALYSIS.—Section 1105(e)(1) of title 31, United States Code, is amended by striking ''ensuing fiscal year'' and inserting ''biennium to which such budget relates''.

(f) SUPPLEMENTAL BUDGET ESTIMATES AND CHANGES.—

(1) IN GENERAL.—Section 1106(a) of title 31, United States Code, is amended—

(A) in the matter preceding paragraph (1), by—

(i) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(ii) striking ''fiscal year'' and inserting ''biennium'';

(B) in paragraph (1), by striking ''that fiscal year'' and inserting ''each fiscal year in such biennium'';

(C) in paragraph (2), by striking ''fiscal year'' and inserting ''biennium''; and

(D) in paragraph (3), by striking ''fiscal year'' and inserting ''biennium''.

(2) CHANGES.—Section 1106(b) of title 31, United States Code, is amended by—

(A) striking ''the fiscal year'' and inserting ''each fiscal year in the biennium'';

(B) inserting after ''Before July 16 of each year'' the following: ''and February 15 of each even-numbered year''; and

(C) striking ''submitted before July 16'' and inserting ''required by this subsection''.

(g) CURRENT PROGRAMS AND ACTIVITIES ESTIMATES.—

(1) IN GENERAL.—Section 1109(a) of title 31, United States Code, is amended—

(A) by striking ''On or before the first Monday after January 3 of each year (on or before February 5 in 1986)'' and inserting ''At

the same time the budget required by section 1105 is submitted for a biennium''; and

(B) by striking ''the following fiscal year'' and inserting ''each fiscal year of such period''.

(2) JOINT ECONOMIC COMMITTEE.—Section 1109(b) of title 31, United States Code, is amended by striking ''March 1 of each year'' and inserting ''within 6 weeks of the President's budget submission for each odd-numbered year (or, if applicable, as provided by section 300(b) of the Congressional Budget Act of 1974)''.

(h) YEAR-AHEAD REQUESTS FOR AUTHORIZING LEGISLATION.—Section 1110 of title 31, United States Code, is amended by—

(1) striking ''May 16'' and inserting ''March 31''; and

(2) striking ''year before the year in which the fiscal year begins'' and inserting ''calendar year preceding the calendar year in which the biennium begins''.

SEC. 1405. TWO-YEAR APPROPRIATIONS; TITLE AND STYLE OF APPROPRIATIONS ACTS.

Section 105 of title 1, United States Code, is amended to read as follows:

"§ 105. Title and style of appropriations Acts

''(a) The style and title of all Acts making appropriations for the support of the Government shall be as follows: 'An Act making appropriations (here insert the object) for each fiscal year in the biennium of fiscal years (here insert the fiscal years of the biennium).'.

''(b) All Acts making regular appropriations for the support of the Government shall be enacted for a biennium and shall specify the amount of appropriations provided for each fiscal year in such period.

''(c) For purposes of this section, the term 'biennium' has the same meaning as in section 3(11) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(11)).''.

SEC. 1406. MULTIYEAR AUTHORIZATIONS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

''AUTHORIZATIONS OF APPROPRIATIONS

''SEC. 316. (a) POINT OF ORDER.—It shall not be in order in the House of Representatives or the Senate to consider—

''(1) any bill, joint resolution, amendment, motion, or conference report that authorizes appropriations for a period of less than 2 fiscal years, unless the program, project, or activity for which the ap-

propriations are authorized will require no further appropriations and will be completed or terminated after the appropriations have been expended; and

''(2) in any odd-numbered year, any authorization or revenue bill or joint resolution until Congress completes action on the biennial budget resolution, all regular biennial appropriations bills, and all reconciliation bills.

''(b) APPLICABILITY.—In the Senate, subsection (a) shall not apply to—

''(1) any measure that is privileged for consideration pursuant to a rule or statute;

''(2) any matter considered in Executive Session; or

''(3) an appropriations measure or reconciliation bill.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 315 the following new item:

''Sec. 316. Authorizations of appropriations.''.

SEC. 1407. GOVERNMENT PLANS ON A BIENNIAL BASIS.

(a) STRATEGIC PLANS.—Section 306 of title 5, United States Code, is amended—

(1) in subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2011'';

(2) in subsection (b)—

(A) by striking ''five years forward'' and inserting ''6 years forward'';

(B) by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(C) by striking beginning with '', except that'' through ''four years''; and

(3) in subsection (c), by inserting a comma after ''section'' the second place it appears and adding ''including a strategic plan submitted by September 30, 2011 meeting the requirements of subsection (a)''.

(b) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Paragraph (28) of section 1105(a) of title 31, United States Code, is amended by striking ''beginning with fiscal year 1999, a'' and inserting ''beginning with fiscal year 2010, a biennial''.

(c) PERFORMANCE PLANS.—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter before paragraph (1)—

(i) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)''; and

(ii) by striking ''an annual'' and inserting ''a biennial'';

(B) in paragraph (1) by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(C) in paragraph (5) by striking ''and'' after the semicolon;

(D) in paragraph (6) by striking the period and inserting a semicolon; and inserting ''and'' after the inserted semicolon; and

(E) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.'';

(2) in subsection (d) by striking ''annual'' and inserting ''biennial''; and

(3) in paragraph (6) of subsection (f) by striking ''annual'' and inserting ''biennial''.

(d) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Section 9703 of title 31, United States Code, relating to managerial accountability, is amended—

(1) in subsection (a)—

(A) in the first sentence by striking ''annual''; and

(B) by striking ''section 1105(a)(29)'' and inserting ''section 1105(a)(28)'';

(2) in subsection (e)—

(A) in the first sentence by striking ''one or'' before ''years'';

(B) in the second sentence by striking ''a subsequent year'' and inserting ''a subsequent 2-year period''; and

(C) in the third sentence by striking ''three'' and inserting ''4''.

(e) PILOT PROJECTS FOR PERFORMANCE BUDGETING.—Section 1119 of title 31, United States Code, is amended—

(1) in paragraph (1) of subsection (d), by striking ''annual'' and inserting ''biennial''; and

(2) in subsection (e), by striking ''annual'' and inserting ''biennial''.

(f) STRATEGIC PLANS.—Section 2802 of title 39, United States Code, is amended—

(1) is subsection (a), by striking ''September 30, 1997'' and inserting ''September 30, 2011'';

(2) by striking ''five years forward'' and inserting ''6 years forward'';

(3) in subsection (b), by striking ''at least every three years'' and inserting ''at least every 4 years''; and

(4) in subsection (c), by inserting a comma after ''section'' the second place it appears and inserting ''including a strategic plan submitted by September 30, 2011 meeting the requirements of subsection (a)''.

(g) PERFORMANCE PLANS.—Section 2803(a) of title 39, United States Code, is amended—

(1) in the matter before paragraph (1), by striking ''an annual'' and inserting ''a biennial'';

(2) in paragraph (1), by inserting after ''program activity'' the following: ''for both years 1 and 2 of the biennial plan'';

(3) in paragraph (5), by striking ''and'' after the semicolon;

(4) in paragraph (6), by striking the period and inserting ''; and''; and

(5) by adding after paragraph (6) the following:

''(7) cover a 2-year period beginning with the first fiscal year of the next biennial budget cycle.''.

(h) COMMITTEE VIEWS OF PLANS AND REPORTS.—Section 301(d) of the Congressional Budget Act (2 U.S.C. 632(d)) is amended by adding at the end ''Each committee

of the Senate or the House of Representatives shall review the strategic plans, performance plans, and performance reports, required under section 306 of title 5, United States Code, and sections 1115 and 1116 of title 31, United States Code, of all agencies under the jurisdiction of the committee. Each committee may provide its views on such plans or reports to the Committee on the Budget of the applicable House.''.

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on March 1, 2011.

(2) AGENCY ACTIONS.—Effective on and after the date of enactment of this Act, each agency shall take such actions as necessary to prepare and submit any plan or report in accordance with the amendments made by this Act.

SEC. 1408. BIENNIAL APPROPRIATIONS BILLS.

(a) IN GENERAL.—Title III of the Congressional Budget Act of 1974 (2 U.S.C. 631 et seq.) is amended by adding at the end the following:

''CONSIDERATION OF BIENNIAL APPROPRIATIONS BILLS

''SEC. 317. It shall not be in order in the House of Representatives or the Senate in any odd-numbered year to consider any regular bill providing new budget authority or a limitation on obligations under the jurisdiction of any of the subcommittees of the Committees on Appropria-

tions for only the first fiscal year of a biennium, unless the program, project, or activity for which the new budget authority or obligation limitation is provided will require no additional authority beyond 1 year and will be completed or terminated after the amount provided has been expended.''.

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 316 the following new item:

''Sec. 317. Consideration of biennial appropriations bills.''.

SEC. 1409. REPORT ON TWO-YEAR FISCAL PERIOD.

Not later than 180 days after the date of enactment of this Act, the Director of OMB shall—

(1) determine the impact and feasibility of changing the definition of a fiscal year and the budget process based on that definition to a 2-year fiscal period with a biennial budget process based on the 2-year period; and

(2) report the findings of the study to the Committees on the Budget of the House of Representatives and the Senate.

SEC. 1410. EFFECTIVE DATE.

Except as provided in section 1407, this subtitle and the amendments made by this subtitle shall take effect on

January 1, 2011, and shall apply to budget resolutions and appropriations for the biennium beginning with fiscal year 2012.

TITLE II—MAKING CONGRESS TIGHTEN ITS BELT

SEC. 2001. ENDING AUTOMATIC PAY RAISES FOR MEMBERS OF CONGRESS.

(a) IN GENERAL.—Paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 601(a)(1) of such Act is amended—

(1) by striking ''(a)(1)'' and inserting ''(a)'';

(2) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(3) by striking ''as adjusted by paragraph (2) of this subsection'' and inserting ''adjusted as provided by law''.

SEC. 2002. CUTTING SPENDING ON CONGRESSIONAL OFFICES.

(a) SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT.—Of the amounts appropriated under the heading ''SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT'' under the heading ''CONTIN-

GENT EXPENSES OF THE SENATE'' under title I of the Legislative Branch Appropriations Act, 2010, $21,100,000 are rescinded.

(b) MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL.—Of the amounts appropriated under the heading ''INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL'' under the heading ''MEMBERS' REPRESENTATIONAL ALLOWANCES'' under title I of the Legislative Branch Appropriations Act, 2010, $33,000,000 are rescinded.

SEC. 2003. IMPROVING SENATE EFFICIENCY AND TRANSPARENCY.

Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended to read as follows:

''(g) FILING WITH THE COMMISSION.—All designations, statements, and reports required to be filed under this Act shall be filed with the Commission.''.

TITLE III—ENDING CORPORATE WELFARE

SEC. 3001. ENDING THE WALL STREET BAIL-OUT.

Notwithstanding paragraph (3) of section 115(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)(3)), no amount may be obligated by the

Secretary of the Treasury under that paragraph (3), or any other provision of the Emergency Economic Stabilization Act of 2008, on or after the date of enactment of this Act.

SEC. 3002. ENDING SUBSIDIES FOR PRIVATE STUDENT LOAN COMPANIES.

(a) SHORT TITLE.—This section may be cited as the ''Student Loan Reform Act''.

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this section an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(c) FEDERAL FAMILY EDUCATION LOAN APPROPRIATIONS.—Section 421 (20 U.S.C. 1071) is amended—

(1) in subsection (b), in the matter following paragraph (6), by inserting '', except that no sums may be expended after June 30, 2010, with respect to loans under this part for which the first disbursement would be made after such date'' after ''expended''; and

(2) by adding at the end the following new subsection:

''(d) TERMINATION OF AUTHORITY TO MAKE OR INSURE NEW LOANS.—Notwithstanding paragraphs (1) through (6) of subsection (b) or any other provision of law—

''(1) no new loans (including consolidation loans) may be made or insured under this part after June 30, 2010; and

''(2) no funds are authorized to be appropriated, or may be expended, under this Act or any other Act to make or insure loans under this part (including consolidation loans) for which the first disbursement would be made after June 30, 2010,

except as expressly authorized by an Act of Congress enacted after the date of enactment of the Student Loan Reform Act.''.

(d) SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.—Section 424(a) (20 U.S.C. 1074(a)) is amended by striking ''September 30, 1976,'' and all that follows and inserting ''September 30, 1976, for each of the succeeding fiscal years ending prior to October 1, 2009, and for the period from October 1, 2009, to June 30, 2010, for loans first disbursed on or before June 30, 2010.''.

(e) APPLICABLE INTEREST RATES.—Section 427A(l) (20 U.S.C. 1077a(l)) is amended—

(1) in paragraph (1), by inserting ''and before July 1, 2010,'' after ''July 1, 2006,'';

(2) in paragraph (2), by inserting ''and before July 1, 2010,'' after ''July 1, 2006,'';

(3) in paragraph (3), by inserting ''and that was disbursed before July 1, 2010,'' after ''July 1, 2006,''; and

(4) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking ''July 1, 2012'' and inserting ''July 1, 2010''; and

(B) by repealing subparagraphs (D) and (E).

(f) FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.—

(1) HIGHER EDUCATION ACT OF 1965.—Section 428 (20 U.S.C. 1078) is amended—

(A) in subsection (a)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for which the first disbursement is made before July 1, 2010, and'' after ''eligible institution''; and

(ii) in paragraph (5), by striking ''September 30, 2014,'' and all that follows

through the period and inserting ''June 30, 2010.'';

(B) in subsection (b)(1)—

(i) in subparagraph (G)(ii), by inserting ''and before July 1, 2010,'' after ''July 1, 2006,''; and

(ii) in subparagraph (H)(ii), by inserting ''and that are first disbursed before July 1, 2010,'' after ''July 1, 2006,'';

(C) in subsection (f)(1)(A)(ii)—

(i) by striking ''during fiscal years beginning''; and

(ii) by inserting ''and first disbursed before July 1, 2010,'' after ''October 1, 2003,''; and

(D) in subsection (j)(1), by inserting '', before July 1, 2010,'' after ''section 435(d)(1)(D) of this Act shall''.

(2) COLLEGE COST REDUCTION AND ACCESS ACT.—Section 303 of the College Cost Reduction and Access Act (Public Law 110–84) is repealed.

(g) FEDERAL PLUS LOANS.—Section 428B(a)(1) (20 U.S.C. 1078–2(a)(1)) is amended by striking ''A graduate'' and inserting ''Prior to July 1, 2010, a graduate''.

(h) FEDERAL CONSOLIDATION LOAN.—

(1) AMENDMENTS.—Section 428C (20 U.S.C. 1078–3) is amended—

(A) in subsection (a)(4)(A), by inserting ", and first disbursed before July 1, 2010" after "under this part";

(B) in subsection (b)—

(i) in paragraph (1)(E), by inserting before the semicolon ", and before July 1, 2010"; and

(ii) in paragraph (5), by striking "In the event that" and inserting "If, before July 1, 2010,";

(C) in subsection (c)(1)—

(i) in subparagraph (A)(ii), by inserting "and that is disbursed before July 1, 2010," after "2006,"; and

(ii) in subparagraph (C), by inserting "and first disbursed before July 1, 2010," after "1994,"; and

(D) in subsection (e), by striking "September 30, 2014." and inserting "June 30, 2010. No loan may be made under this section for which the first disbursement would be on or after July 1, 2010.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)(A) shall be effective at the close of June 30, 2010.

(i) UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS.—Section 428H (20 U.S.C. 1078–8) is amended—

(1) in subsection (a), by inserting ''that are first disbursed before July 1, 2010,'' after ''under this part'';

(2) in subsection (b)—

(A) by striking ''Any student'' and inserting ''Prior to July 1, 2010, any student''; and

(B) by inserting ''for which the first disbursement is made before such date'' after ''unsubsidized Federal Stafford Loan''; and

(3) in subsection (h), by inserting ''and that are first disbursed before July 1, 2010,'' after ''July 1, 2006,''.

(j) LOAN REPAYMENT FOR CIVIL LEGAL ASSISTANCE ATTORNEYS.—Section 428L(b)(2)(A) (20 U.S.C. 1078–12(b)(2)(A)) is amended—

(1) by amending clause (i) to read as follows:

''(i) subject to clause (ii)—

''(I) a loan made, insured, or guaranteed under this part, and that

is first disbursed before July 1, 2010; or

''(II) a loan made under part D or part E; and''; and

(2) in clause (ii)—

(A) by striking ''428C or 455(g)'' and inserting ''428C that is disbursed before July 1, 2010, or section 455(g)''; and

(B) in subclause (II), by inserting ''for which the first disbursement is made before July 1, 2010'' after ''or 428H''.

(k) SPECIAL ALLOWANCES.—Section 438 (20 U.S.C. 1087–1) is amended—

(1) in subsection (b)(2)(I)—

(A) in the header, by inserting '', AND BEFORE JULY 1, 2010'' after ''2000'';

(B) in clause (i), by inserting ''and before July 1, 2010,'' after ''2000,'';

(C) in clause (ii)(II), by inserting ''and before July 1, 2010,'' after ''2006,'';

(D) in clause (iii), by inserting ''and before July 1, 2010,'' after ''2000,'';

(E) in clause (iv), by inserting ''and that is disbursed before July 1, 2010,'' after ''2000,'';

(F) in clause (v)(I), by inserting ''and before July 1, 2010,'' after ''2006,''; and

(G) in clause (vi)—

(i) in the header, by inserting '', AND BEFORE JULY 1, 2010'' after ''2007''; and

(ii) in the matter preceding subclause (I), by inserting ''and before July 1, 2010,'' after ''2007,'';

(2) in subsection (c)—

(A) in paragraph (2)(B)—

(i) in clause (iii), by inserting ''and'' after the semicolon;

(ii) in clause (iv), by striking ''; and'' and inserting a period; and

(iii) by striking clause (v); and

(B) in paragraph (6), by inserting ''and first disbursed before July 1, 2010,'' after ''1992,''; and

(3) in subsection (d)(2)(B), by inserting '', and before July 1, 2010'' after ''2007''.

(l) REVISED SPECIAL ALLOWANCE CALCULATION.—

(1) REVISED CALCULATION RULE.—Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(I)) is amended by adding at the end the following new clause:

''(vii) REVISED CALCULATION RULE TO REFLECT FINANCIAL MARKET CONDITIONS.—

''(I) CALCULATION BASED ON LIBOR.—For the calendar quarter beginning on October 1, 2009, and each subsequent calendar quarter, in computing the special allowance paid pursuant to this subsection with respect to loans described in subclause (II), clause (i)(I) of this subparagraph shall be applied by substituting 'of the 1-month London Inter Bank Offered Rate (LIBOR) for United States dollars in effect for each of the days in such quarter as compiled and released by the British Bankers Association' for 'of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period'.

''(II) LOANS ELIGIBLE FOR LIBOR-BASED CALCULATION.—The

special allowance paid pursuant to this subsection shall be calculated as described in subclause (I) with respect to special allowance payments for the 3-month period ending December 31, 2009, and each succeeding 3-month period, on loans for which the first disbursement is made—

"(aa) on or after the date of enactment of the Student Loan Reform Act, and before July 1, 2010; or

"(bb) on or after January 1, 2000, and before the date of enactment of the Student Loan Reform Act, if, not later than the last day of the second full fiscal quarter after the date of enactment of such Act, the holder of the loan (or, if the holder acts as eligible lender trustee for the beneficial owner of the loan, the beneficial owner of the loan), affirmatively and permanently waives all contractual, statutory

or other legal rights to a special allowance paid pursuant to this subsection that is calculated using the formula in effect at the time the loans were first disbursed.

''(III) TERMS OF WAIVER.—

''(aa) IN GENERAL.—A waiver pursuant to subclause (II)(bb) shall be in a form (printed or electronic) prescribed by the Secretary, and shall be applicable to—

''(AA) all loans described in such subclause that the lender holds solely in its own right under any lender identification number associated with the holder (pursuant to section 487B);

''(BB) all loans described in such subclause for which the beneficial owner has the authority to make an election of a waiver under

such subclause, regardless of the lender identification number associated with the loan or the lender that holds the loan as eligible lender trustee on behalf of such beneficial owner; and

''(CC) all future calculations of the special allowance on loans that, on the date of such waiver, are loans described in subitem (AA) or (BB), or that, after such date, become loans described in subitem (AA) or (BB).

''(bb) EXCEPTIONS.—Any waiver pursuant to subclause (II)(bb) that is elected for loans described in subitem (AA) or (BB) of item (aa) shall not apply to any loan described in such subitem for which the lender or beneficial owner of the loan dem-

onstrates to the satisfaction of the Secretary that—

"(AA) in accordance with an agreement entered into before the date of enactment of the Student Loan Reform Act by which such lender or owner is governed and that applies to such loans, such lender or owner is not legally permitted to make an election of such waiver with respect to such loans without the approval of one or more third parties with an interest in the loans, and that the lender or owner followed all available options under such agreement to obtain such approval, and was unable to do so; or

"(BB) such lender or beneficial owner presented the proposal of electing such

a waiver applicable to such loans associated with an obligation rated by a nationally recognized statistical rating organization (as defined in section 3(a)(62) of the Securities Exchange Act of 1934), and such rating organization provided a written opinion that the agency would downgrade the rating applicable to such obligation if the lender or owner elected such a waiver.

''(IV) PARTICIPANT'S YIELD.—For the calendar quarter beginning on October 1, 2009, and each subsequent calendar quarter, the Secretary's participant yield in any loan in which the Secretary has purchased a participation interest and for which the first disbursement is made on or after January 1, 2000, and before October 1, 2009, shall be determined by using the LIBOR-based rate described in

subclause (I) as the substitute rate (for the commercial paper rate) referred to in the participation agreement between the Secretary and such lender.''.

(2) CONFORMING AMENDMENT.—Section 438(b)(2)(I) (20 U.S.C. 1087–1(b)(2)(I)) is further amended—

(A) in clause (i)(II), by striking ''such average bond equivalent rate'' and inserting ''the rate determined under subclause (I)''; and

(B) in clause (v)(III) by striking ''(iv), and (vi)'' and inserting ''(iv), (vi), and (vii)''.

(m) ORIGINATION OF DIRECT LOANS AT INSTITUTIONS LOCATED OUTSIDE THE UNITED STATES.—

(1) LOANS FOR STUDENTS ATTENDING INSTITUTIONS LOCATED OUTSIDE THE UNITED STATES.—Section 452 (20 U.S.C. 1087b) is amended by adding at the end the following:

''(d) INSTITUTIONS LOCATED OUTSIDE THE UNITED STATES.—Loan funds for students (and parents of students) attending institutions located outside the United States shall be disbursed through a financial institution located in the United States and designated by the Secretary to serve as the agent of such institutions with re-

spect to the receipt of the disbursements of such loan funds and the transfer of such funds to such institutions. To be eligible to receive funds under this part, an otherwise eligible institution located outside the United States shall make arrangements, subject to regulations by the Secretary, with the agent designated by the Secretary under this subsection to receive funds under this part.''.

(2) CONFORMING AMENDMENTS.—

(A) AMENDMENTS.—Section 102 (20 U.S.C. 1002), as amended by section 102 of the Higher Education Opportunity Act (Public Law 110–315) and section 101 of Public Law 111–39, is amended—

(i) by striking ''part B'' each place it appears and inserting ''part D'';

(ii) in subsection (a)(1)(C), by inserting '', consistent with the requirements of section 452(d)'' before the period at the end; and

(iii) in subsection (a)(2)(A)—

(I) in the matter preceding clause (i), by striking ''made, insured, or guaranteed'' and inserting ''made''; and

(II) in clause (iii)—

(aa) in subclause (III), by striking ''only Federal Stafford'' and all that follows through ''section 428B'' and inserting ''only Federal Direct Stafford Loans under section 455(a)(2)(A), Federal Direct Unsubsidized Stafford Loans under section 455(a)(2)(D), or Federal Direct PLUS Loans under section 455(a)(2)(B)''; and

(bb) in subclause (V), by striking ''a Federal Stafford'' and all that follows through ''section 428B'' and inserting ''a Federal Direct Stafford Loan under section 455(a)(2)(A), a Federal Direct Unsubsidized Stafford Loan under section 455(a)(2)(D), or a Federal Direct PLUS Loan under section 455(a)(2)(B)''.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A)(iii) shall be effective as if enacted as part of section 102(a)(1) of the

Higher Education Opportunity Act, in accordance with section 102(e) of such Act, as amended by section 101(a)(2) of Public Law 111–39.

(n) AGREEMENTS WITH INSTITUTIONS.—Section 454 (20 U.S.C. 1087d) is amended—

(1) in subsection (a), by striking paragraph (4) and redesignating the succeeding paragraphs accordingly; and

(2) in subsection (b)(2), by striking ''(5), (6), and (7)'' and inserting ''(5), and (6)''.

(o) TERMS AND CONDITIONS OF LOANS.—

(1) AMENDMENTS.—Section 455 (20 U.S.C. 1087e) is amended—

(A) in subsection (a)(1), by inserting '', and first disbursed on June 30, 2010,'' before ''under sections 428''; and

(B) in subsection (g)—

(i) by inserting '', including any loan made under part B and first disbursed before July 1, 2010'' after ''section 428C(a)(4)''; and

(ii) by striking the third sentence.

(2) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall apply with respect to loans first disbursed under part D of title IV of the High-

er Education Act of 1965 (20 U.S.C. 1087a et seq.) on or after July 1, 2010.

(p) TECHNICAL ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.—Section 458(a) (20 U.S.C. 1087h(a)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

''(5) TECHNICAL ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.—

''(A) PROVISION OF ASSISTANCE.—The Secretary shall provide institutions of higher education participating, or seeking to participate, in the loan programs under this part with technical assistance in establishing and administering such programs, including assistance for an institution of higher education during such institution's transition into such programs. Such assistance may include technical support, training for personnel, customized assistance to individual institutions of higher education, development of informational materials, and other services the Secretary determines to be appropriate.

"(B) FUNDS.—There are authorized to be appropriated, and there are appropriated, to carry out this paragraph (in addition to any other amounts appropriated to carry out this subparagraph and out of any money in the Treasury not otherwise appropriated), $50,000,000 for fiscal year 2010.".

(q) OUTREACH EFFORTS.—

(1) OUTREACH ACTIVITIES REQUIRED.—The Secretary of Education shall conduct outreach activities in accordance with this section to inform and educate students and their families about the transition to Federal Direct lending under the amendments made by this section to title IV of the Higher Education Act of 1965.

(2) REQUIRED COMPONENTS OF OUTREACH.—The Secretary shall provide for the broad dissemination of information on such amendments and shall—

(A) operate and maintain an Internet website through which individuals may obtain information on changes made to the Federal Family Education Loan programs and the Federal Direct Loan programs;

(B) develop and disseminate information to high school seniors and their parents concerning student loans and student aid;

(C) provide assistance to institutions of higher education to educate students on the repayment of Federal Direct loans; and

(D) ensure that all outreach efforts are developed using plain language and are culturally- and language-appropriate.

(3) USE OF OTHER ENTITIES.—In carrying out this subsection, the Secretary may work with other appropriate entities to facilitate the dissemination of information under this section and to provide assistance as described in this section.

SEC. 3003. BRINGING DOWN PRICES FOR PRESCRIPTION DRUGS BY PERMITTING DRUG REIMPORTATION.

(a) SHORT TITLE.—This section may be cited as the ''Pharmaceutical Market Access and Drug Safety Act of 2009''.

(b) FINDINGS.—Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American spend more than $200,000,000,000 on prescription drugs every year;

(6) the Congressional Budget Office has found that the cost of prescription drugs are between 35 to 55 percent less in other highly developed countries than in the United States; and

(7) promoting competitive market pricing would both contribute to health care savings and allow greater access to therapy, improving health and saving lives.

(c) REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

(d) IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.—

(1) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 3, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

"(a) IMPORTATION OF PRESCRIPTION DRUGS.—

"(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

"(A) the limitation on importation that is established in section 801(d)(1) is waived; and

"(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

"(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

"(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

''(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

''(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

''(A) by a registered importer; or

''(B) from a registered exporter to an individual.

''(4) DEFINITIONS.—

''(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

''(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

''(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

''(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

''(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

''(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

''(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

''(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

''(iii) is approved under section 505(c); and

''(iv) is not—

''(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

"(aa) a therapeutic DNA plasmid product;

"(bb) a therapeutic synthetic peptide product;

"(cc) a monoclonal antibody product for in vivo use; and

"(dd) a therapeutic recombinant DNA-derived product;

"(III) an infused drug, including a peritoneal dialysis solution;

"(IV) an injected drug;

"(V) a drug that is inhaled during surgery;

"(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

"(VII) a sterile opthlamic drug intended for topical use on or in the eye.

''(D) OTHER DEFINITIONS.—For purposes of this section:

''(i)(I) The term 'exporter' means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

''(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

''(AA) the training of pharmacists;

''(BB) the practice of pharmacy; and

"(CC) the protection of the privacy of personal medical information; and

"(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

"(ii) The term 'importer' means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

"(iii) The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

"(iv) The term 'pharmacy' means a person that—

"(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

"(II) employs 1 or more pharmacists.

"(v) The term 'prescription drug' means a drug that is described in section 503(b)(1).

"(vi) The term 'wholesaler'—

"(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

"(II) does not include a person authorized to import drugs under section 801(d)(1).

"(E) PERMITTED COUNTRY.—The term 'permitted country' means—

"(i) Australia;

"(ii) Canada;

"(iii) a member country of the European Union, but does not include a member country with respect to which—

"(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

''(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

''(iv) Japan;

''(v) New Zealand;

''(vi) Switzerland; and

''(vii) a country in which the Secretary determines the following requirements are met:

''(I) The country has statutory or regulatory requirements—

''(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

''(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific

training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

''(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

''(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

''(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

''(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

''(III) The importation of drugs to the United States from the country will not adversely affect public health.

''(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

''(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a 'registrant') submits to the Secretary a registration containing the following:

''(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

''(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug

after importation (which shall not exceed 3 places of business except by permission of the Secretary).

''(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

''(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

''(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importa-

tion; and maintenance of records and samples).

''(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

''(D) An agreement by the registrant to—

''(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

''(ii) provide for the return to the registrant of such drug; and

''(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

''(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to

promptly report to the Secretary any such non-compliance.

''(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

''(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

''(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

''(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

''(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

''(I) In the case of an exporter:

''(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual

not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

''(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

''(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

''(II) $1,000,000.

''(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

''(iv) An agreement by the exporter to report to the Secretary—

''(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to

the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

"(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

"(J) In the case of an importer, an agreement by the importer to report to the Secretary—

"(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

"(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

"(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

"(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

"(ii) importation by individuals of qualifying drugs under subsection (a).

"(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

"(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiv-

ing a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

''(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

''(4) SUSPENSION AND TERMINATION.—

''(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

''(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant

has failed to maintain substantial compliance with a registration condition.

''(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

''(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

"(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

"(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

''(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

''(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

''(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

''(1) The drug was manufactured in an establishment—

''(A) required to register under subsection (h) or (i) of section 510; and

''(B)(i) inspected by the Secretary; or

''(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regula-

tions (or any corresponding successor rule or regulation).

''(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

''(3) The exporter or importer obtained the drug—

''(A) directly from the establishment; or

''(B) directly from an entity that, by contract with the exporter or importer—

''(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

''(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

''(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this Act that are applicable to facilities of that type in the United States; and

''(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

''(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

''(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

''(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

''(6) The exporter or importer retains a sample of each lot of the drug for testing by the Secretary.

''(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

''(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

''(A) the exporter agrees to permit the Secretary—

''(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

''(ii) to have access, including on a day-to-day basis, to—

''(I) records of the exporter that relate to the export of such drugs, including financial records; and

''(II) samples of such drugs;

''(iii) to carry out the duties described in paragraph (3); and

''(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

''(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

''(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compli-

ance with all registration conditions. Markings under the preceding sentence shall—

"(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

"(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

"(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

"(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

"(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and

technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

''(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

''(D) Monitoring the affixing of markings under paragraph (2).

''(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

''(F) Determining whether the exporter is in compliance with all other registration conditions.

''(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the

importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

''(A) the name and complete contact information of the person submitting the notice;

''(B) the name and complete contact information of the importer involved;

''(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

''(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

''(E) the country from which the drug is shipped;

''(F) the name and complete contact information for the shipper of the drug;

''(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

"(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

"(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

"(J) such other information as the Secretary may require by regulation.

"(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

"(A) be designed to prevent affixation of the markings or other technology to any con-

tainer that is not authorized to bear the markings; and

"(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

"(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

"(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

"(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that rea-

son be excluded from importation by an importer.

"(C) Reviewing notices under paragraph (4).

"(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

"(E) Determining whether the importer is in compliance with all other registration conditions.

"(e) IMPORTER FEES.—

"(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

"(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

"(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

''(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

''(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

"(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

"(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

"(C) TOTAL PRICE OF DRUGS.—

"(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through

June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the sub-

sequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(f) EXPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of $10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

''(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

''(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

''(iii) screening such markings, and inspecting such shipments as necessary,

when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 2.5 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as re-

ported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

"(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

"(4) USE OF FEES.—

"(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

"(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are

only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(g) COMPLIANCE WITH SECTION 801(a).—

''(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

''(2) SECTION 505; APPROVAL STATUS.—

''(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under sec-

tion 505(b) for the U.S. label drug as described under this subsection.

''(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

''(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

''(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling); or

''(II) States that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

"(aa) the variations provided for in the application; and

"(bb) any difference in labeling (except ingredient labeling).

"(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

"(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

"(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Sec-

retary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

''(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation.

''(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

''(I) the information provided in the notice is complete and true; and

''(II) a copy of the notice has been provided to the Federal Trade

Commission and to the State attorneys general.

"(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

"(v) TIMING OF SUBMISSION OF NOTICES.—

"(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is intro-

duced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

''(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

''(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

''(vi) REVIEW BY SECRETARY.—

''(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice

under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

''(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

''(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary shall—

''(aa) include in the labeling provided under paragraph (3) a

prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

''(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

''(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

''(V) ESTABLISHMENT INSPECTION.—If review of such difference

would require an inspection of the establishment in which the qualifying drug is manufactured—

"(aa) such inspection by the Secretary shall be authorized; and

"(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

"(vii) PUBLICATION OF INFORMATION ON NOTICES.—

"(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall

readily make available to the public a list of notices submitted under clause (i).

''(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

''(aa) a notice is under review;

''(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

''(cc) the importation of the drug is permitted under subsection (a).

''(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

''(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could

be made to the U.S. label drug the following shall occur:

"(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

"(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

"(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

"(II) promptly notify registered exporters, registered importers, the

Federal Trade Commission, and the State attorneys general of the order.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

"(I) vacate the order under clause (ii), if any;

"(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

"(III) permit importation of the qualifying drug under subsection (a); and

"(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

"(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

"(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to im-

port the qualifying drug involved continues in effect.

''(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

''(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that States that there is no difference, the Secretary—

''(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

''(ii) may not order that the importation of the qualifying drug involved cease; and

''(iii) shall promptly notify registered exporters and registered importers.

''(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

''(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for

the person that manufactures the drug approved under section 505(b) if—

"(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

"(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

"(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

"(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

"(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

"(III) include a right of reference to the application for the drug approved under section 505(b); and

"(IV) include such additional information as the Secretary may require.

"(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

"(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

"(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

"(I) the same; or

"(II) different salts, esters, or complexes of the same moiety.

"(3) SECTION 502; LABELING.—

"(A) IMPORTATION BY REGISTERED IMPORTER.—

"(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

"(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

"(II) the name of the manufacturer and location of the manufacturer;

"(III) the lot number assigned by the manufacturer;

"(IV) the name, location, and registration number of the importer; and

"(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

"(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

"(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

"(I) include the established name, as defined in section 502(e)(3),

for each active ingredient in the qualifying drug;

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

''(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

''(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

''(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

''(bb) a list of the ingredients of the qualifying drug as

would be required under section 502(e).

''(B) IMPORTATION BY INDIVIDUAL.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

''(I) directions for use by the consumer;

''(II) the lot number assigned by the manufacturer;

''(III) the name and registration number of the exporter;

''(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effec-

tive but not bioequivalent to the U.S. label drug;

''(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(bb) a list of the ingredients of the drug as would be required under section 502(e); and

''(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

''(ii) PACKAGING.—A qualifying drug offered for import to an individual by an

exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

"(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

"(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

"(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

''(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

''(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

''(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

''(A) The drug is not a qualifying drug.

''(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

''(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

''(D) The drug does not comply with paragraph (3) or (4).

''(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

''(F) The Secretary becomes aware that—

''(i) the drug may be counterfeit;

''(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

''(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

''(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

''(H) The Secretary has under section 505(e) withdrawn approval of the drug.

''(I) The manufacturer of the drug has instituted a recall of the drug.

''(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

''(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

''(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

''(ii) The markings on the shipping container appear to be counterfeit.

''(iii) The shipping container or markings appear to have been tampered with.

''(h) EXPORTER LICENSURE IN PERMITTED COUNTRY.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

''(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

''(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the

drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

''(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

''(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

''(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

''(i) is valid under applicable Federal and State laws; and

''(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

''(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

''(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

''(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

''(ii) to prevent a duplicative filling by another pharmacist.

''(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

''(E) The quantity of the drug does not exceed a 90-day supply.

''(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good

cause exists to prohibit the drug from being imported pursuant to this subsection.

''(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

''(j) MAINTENANCE OF RECORDS AND SAMPLES.—

''(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

''(A) maintain records required under this section for not less than 2 years; and

''(B) maintain samples of each lot of a qualifying drug required under this section for not more than 2 years.

''(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

''(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

''(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

''(k) DRUG RECALLS.—

''(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

''(A) if the drug is recalled or withdrawn from the market in a permitted country;

''(B) how the drug may be identified, including lot number; and

''(C) the reason for the recall or withdrawal.

''(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

''(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

''(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

''(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

''(l) DRUG LABELING AND PACKAGING.—

''(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

''(A) The lot number assigned by the manufacturer.

''(B) The name and registration number of the importer.

''(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

''(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(ii) a list of the ingredients of the drug as would be required under section 502(e).

''(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the

drug in packaging that is compliant at no additional cost.

''(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

''(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

''(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

''(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and

that does not export a qualifying drug into the United States under this section;

''(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

''(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distrib-

utes, sells, or uses a qualifying drug imported into the United States under this section;

''(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), and (5) of section 4 of the Pharmaceutical Market Access and Drug Safety Act of 2009, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

''(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

''(G) cause there to be a difference (including a difference in active ingredient, route of

administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

''(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

''(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

''(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

''(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

"(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

"(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

"(2) REFERRAL OF POTENTIAL VIOLATIONS.—The Secretary shall promptly refer to the Federal Trade Commission each potential violation of subparagraph (E), (F), (G), (H), or (I) of paragraph (1) that becomes known to the Secretary.

"(3) AFFIRMATIVE DEFENSE.—

"(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

''(i) the person exporting or importing a qualifying drug into the United States under this section; or

''(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

''(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

''(i) the difference was required by the country in which the drug is distributed;

''(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

''(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the

total population of all permitted countries; or

"(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

"(4) EFFECT OF SUBSECTION.—

"(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

"(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

"(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the

Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

"(ii) require that such discounts be made available to other purchasers of the prescription drug; or

"(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

"(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

"(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

"(ii) apply to such donations or supplying of a prescription drug.

"(5) ENFORCEMENT.—

"(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be

treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

''(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

''(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

''(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

''(6) ACTIONS BY STATES.—

''(A) IN GENERAL.—

''(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the

residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

"(I) enjoin that practice;

"(II) enforce compliance with this subsection;

"(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

"(IV) obtain such other relief as the court may consider to be appropriate.

"(ii) NOTICE.—

"(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

"(aa) written notice of that action; and

"(bb) a copy of the complaint for that action.

"(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

"(B) INTERVENTION.—

"(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

"(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes

in an action under subparagraph (A), it shall have the right—

"(I) to be heard with respect to any matter that arises in that action; and

"(II) to file a petition for appeal.

"(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

"(i) conduct investigations;

"(ii) administer oaths or affirmations; or

"(iii) compel the attendance of witnesses or the production of documentary and other evidence.

"(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same

violation against any defendant named in the complaint in that action.

''(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of

damage to, persons on whose behalf the suit was brought.

"(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

"(7) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

"(8) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly

by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

''(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.''.

(2) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(A) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

''(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

''(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

''(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

''(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

''(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

''(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.''; and

(B) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

''(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i) (2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.''.

(3) AMENDMENT OF CERTAIN PROVISIONS.—

(A) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

''(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

''(1) the drug has been refused admission because the drug was not a lawful import under section 804;

''(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

''(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

''(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.''.

(B) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after ''import into the United States'' the following: '', including a

drug that is, or may be, imported or offered for import into the United States under section 804,''.

(C) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this Act.

(4) EXHAUSTION.—

(A) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(i) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(ii) by inserting after subsection (g) the following:

''(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.''.

(B) RULE OF CONSTRUCTION.—Nothing in the amendment made by subparagraph (A) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(5) EFFECT OF SECTION 804.—

(A) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(i) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this Act; and

(ii) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this Act.

(B) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(i) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the

date of enactment of this Act will have priority during the 90-day period that begins on such date of enactment.

(ii) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(iii) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this Act shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(iv) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this Act, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary

gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(v) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this Act, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(vi) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this Act, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters

with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(C) LIMITS ON NUMBER OF IMPORTERS.—

(i) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(ii) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a signifi-

cant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(iii) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this Act, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(D) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a

qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this Act that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this Act if—

(i) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this Act; or

(ii) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(E) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this Act that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this Act if—

(i) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this Act; or

(ii) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(F) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(i) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this Act and that are not required to be submitted under paragraph (4) or (5).

(ii) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described

under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(iii) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(G) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section

804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this Act shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(H) REPORT.—Beginning with the first full fiscal year after the date of enactment of this Act, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in subparagraph (D), (E), or (F), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in such subparagraphs.

(I) USER FEES.—

(i) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by reg-

istered exporters during the first fiscal year in which this Act takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this Act is effective bears to 365.

(ii) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(I) the first fiscal year in which this Act takes effect to be an amount equal to the amount which bears the same ratio to $1,000,000,000 as the number of days in such fiscal year during which this Act is effective bears to 365; and

(II) the second fiscal year in which this Act is in effect to be $3,000,000,000.

(iii) SECOND YEAR ADJUSTMENT.—

(I) REPORTS.—Not later than February 20 of the second fiscal year in which this Act is in effect, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1 through January 31 of such fiscal year.

(II) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during the second fiscal year in which this Act is in effect. Such reestimate shall be equal to—

(aa) the total price of qualifying drugs imported by each im-

porter as reported under clause (i); multiplied by

(bb) 3.

(III) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1 of the second fiscal year in which this Act is in effect, from each importer so that the aggregate total of fees collected under subsection (e)(2) for such fiscal year does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during such fiscal year as reestimated under clause (ii).

(iv) FAILURE TO PAY FEES.—Notwithstanding any other provision of this subsection, the Secretary may prohibit a registered importer or exporter that is required to pay user fees under subsection (e) or (f) of such section 804 and that fails to pay such fees within 30 days after the date on which it is due, from importing or offering for importation a qualifying drug

under such section 804 until such fee is paid.

(v) ANNUAL REPORT.—

(I) FOOD AND DRUG ADMINISTRATION.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(II) CUSTOMS AND BORDER CONTROL.—Not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of

the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(J) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(i) IN GENERAL.—Notwithstanding any provision of this Act (or an amendment made by this Act), the Secretary shall expedite the designation of any additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(ii) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under clause (i)—

(I) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(II) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(6) IMPLEMENTATION OF SECTION 804.—

(A) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(B) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(C) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under subparagraph (A), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incor-

porate by reference provisions of the interim rule provided for under subparagraph (A), to the extent that such provisions are not modified.

(7) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(A) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this Act;

(B) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective;

(C) with regard to the suspension and termination of any registration of a registered importer or exporter under such section 804; and

(D) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(8) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this Act (and the amendments made by this Act), the practices and policies of the Food and Drug Administration and Bureau of Customs and Border Protection, in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use, shall remain in effect.

(9) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as

added by this Act), including any pending investigations or civil actions under such section.

(e) DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.—

(1) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section 4, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

"(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

"(1) the shipment has a declared value of less than $10,000; and

"(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

"(B) the Secretary has requested delivery of such shipment of drugs.

"(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pur-

suant to the execution of a bond, and such drugs may not be exported.

''(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

''(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

''(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

''(d) CERTAIN PROCEDURES.—

''(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

''(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to

efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

''(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

''(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.''.

(2) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this Act.

(f) WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.—

(1) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(A) in paragraph (1)—

(i) by striking ''and who is not the manufacturer or an authorized distributor of record of such drug'';

(ii) by striking ''to an authorized distributor of record or''; and

(iii) by striking subparagraph (B) and inserting the following:

''(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

''(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who

intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

''(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).'';

(B) in paragraph (2)(A), by adding at the end the following: ''The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.''; and

(C) in paragraph (3), by striking ''and subsection (d)—'' in the matter preceding subparagraph (A) and all that follows through ''the term 'wholesale distribution' means'' in sub-

paragraph (B) and inserting the following: ''and subsection (d), the term 'wholesale distribution' means''.

(2) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

''(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

''(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.''.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by subparagraphs (A) and (C) of paragraph (1) and by paragraph (2) shall take effect on January 1, 2012.

(B) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding subparagraph (A), the amendments made by subparagraphs (A) and (C) of paragraph (1) and by paragraph (2) shall take effect on the date that is 90 days after the date

of enactment of this Act with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (d).

(C) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by paragraph (1)(B) shall take effect on the date that is 90 days after the date of enactment of this Act.

(D) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by paragraph (1)(A), that take effect not later than January 1, 2012.

(E) INTERMEDIATE REQUIREMENTS.—The Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on prescription drugs at the case and pallet level effective not later than 1 year after the date of enactment of this Act.

(F) ADDITIONAL REQUIREMENTS.—

(i) IN GENERAL.—Notwithstanding any other provision of this subsection, the Secretary shall, not later than 18 months after the date of enactment of this Act, re-

quire that the packaging of any prescription drug incorporates—

(I) a standardized numerical identifier unique to each package of such drug, applied at the point of manufacturing and repackaging (in which case the numerical identifier shall be linked to the numerical identifier applied at the point of manufacturing); and

(II)(aa) overt optically variable counterfeit-resistant technologies that—

(AA) are visible to the naked eye, providing for visual identification of product authenticity without the need for readers, microscopes, lighting devices, or scanners;

(BB) are similar to that used by the Bureau of Engraving and Printing to secure United States currency;

(CC) are manufactured and distributed in a highly secure,

tightly controlled environment; and

(DD) incorporate additional layers of nonvisible convert security features up to and including forensic capability, as described in subparagraph (B); or

(bb) technologies that have a function of security comparable to that described in item (aa), as determined by the Secretary.

(ii) STANDARDS FOR PACKAGING.—For the purpose of making it more difficult to counterfeit the packaging of drugs subject to this paragraph, the manufacturers of such drugs shall incorporate the technologies described in clause (i) into at least 1 additional element of the physical packaging of the drugs, including blister packs, shrink wrap, package labels, package seals, bottles, and boxes.

(g) INTERNET SALES OF PRESCRIPTION DRUGS.—

(1) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et

seq.) is amended by inserting after section 503B the following:

"SEC. 503C. INTERNET SALES OF PRESCRIPTION DRUGS.

"(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

"(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

"(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

"(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

"(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

"(i) are not intended to be accessed by purchasers or prospective purchasers; or

"(ii) provide an Internet information location tool within the meaning of section

231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

''(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

''(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

''(i) The name of such person.

''(ii) Each State in which the person is authorized by law to dispense prescription drugs.

''(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

''(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

''(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

''(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

''(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

''(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

''(B) the patient for whom the drug was dispensed or purchased did not, when such

communications began, have a prescription for the drug that is valid in the United States;

"(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

"(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

"(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

"(i) a hospital that has in effect a provider agreement under title XVIII of

the Social Security Act (relating to the Medicare program); or

''(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

''(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

''(3) QUALIFYING MEDICAL RELATIONSHIP.—

''(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

''(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

''(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

''(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this

section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

''(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

''(4) RULES OF CONSTRUCTION.—

''(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

''(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as

prohibiting any conduct that is a standard practice in the practice of pharmacy.

''(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

''(c) ACTIONS BY STATES.—

''(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

''(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

''(A) to intervene in such action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhab-

itant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(5) ACTIONS BY OTHER STATE OFFICIALS.—

''(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

''(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

''(e) GENERAL DEFINITIONS.—For purposes of this section:

''(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

''(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

''(f) INTERNET-RELATED DEFINITIONS.—

''(1) IN GENERAL.—For purposes of this section:

''(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

''(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

"(i) to move from viewing one portion of a page on such site to another portion of the page;

"(ii) to move from viewing one page on such site to another page on such site; or

"(iii) to move from viewing a page on one Internet site to a page on another Internet site.

"(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

"(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

"(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

''(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

''(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

''(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.''.

(2) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

''(l) The dispensing or selling of a prescription drug in violation of section 503C.''.

(3) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND

PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503C of the Federal Food, Drug, and Cosmetic Act (as added by paragraph (1)), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(4) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(A) IN GENERAL.—The Secretary of Health and Human Services (referred to in this paragraph as the ''Secretary'') shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(i) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(ii) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(iii) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in clause (i).

(B) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subparagraph (A), there is authorized to be appropriated $100,000 for each of the first 3 fiscal years in which this section is in effect.

(5) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) take effect 90 days after the date of enactment of this Act, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

(h) PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.—

(1) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(h) RESTRICTED TRANSACTIONS.—

''(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

''(2) PAYMENT SYSTEM.—

''(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

''(i) a credit card system;

''(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

''(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

''(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

''(i) a creditor;

''(ii) a credit card issuer;

''(iii) a financial institution;

''(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

''(v) a money transmitting business; or

''(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

''(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

''(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

''(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

''(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

''(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

''(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation re-

quest' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

''(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

''(6) OTHER DEFINITIONS.—

''(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

''(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

''(ii) the term 'electronic fund transfer' also includes any fund transfer covered

under Article 4A of the Uniform Commercial Code, as in effect in any State.

''(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

''(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

''(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

''(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

''(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

''(A) REGULATIONS.—The Board shall promulgate regulations requiring—

''(i) an operator of a credit card system;

"(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

"(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

"(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

"(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

''(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

''(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

''(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

''(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this

subsection shall not be liable to any party for such action.

''(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

''(D) ENFORCEMENT.—

''(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

''(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators

and the Federal Trade Commission shall consider the following factors:

"(I) The extent to which the payment system or person knowingly permits restricted transactions.

"(II) The history of the payment system or person in connection with permitting restricted transactions.

"(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

"(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

''(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any State with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

''(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day that is 90 days after the date of enactment of this Act.

(3) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by paragraph (1), not later than 90 days after the date of enactment of this Act.

(i) IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking ''not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.'' and inserting ''import into the United States not more than 10 dosage units combined of all such controlled substances.''.

(j) SEVERABILITY.—If any provision of this section, an amendment by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not affected thereby.

SEC. 3004. BRINGING DOWN PRICES FOR PRESCRIPTION DRUGS BY EXTENDING 340B DISCOUNTED DRUG PRICING TO MANAGED CARE ORGANIZATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Drug Rebate Equalization Act of 2009''.

(b) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) in clause (xi), by striking ''and'' at the end;

(B) in clause (xii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(xiii) such contract provides that (I) payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate required by the agreement entered into under section 1927 as the State is subject to, and (II) capitation rates paid to the entity shall be based on actual cost experience related to rebates and subject to the Federal regulations requiring actuarially sound rates.''.

(2) CONFORMING AMENDMENTS.—Section 1927 (42 U.S.C. 1396r–8) is amended—

(A) in subsection (d)—

(i) in paragraph (1), by adding at the end the following:

"(C) Notwithstanding the subparagraphs (A) and (B)—

"(i) a Medicaid managed care organization with a contract under section 1903(m) may exclude or otherwise restrict coverage of a covered outpatient drug on the basis of policies or practices of the organization, such as those affecting utilization management, formulary adherence, and cost sharing or dispute resolution, in lieu of any State policies or practices relating to the exclusion or restriction of coverage of such drugs, provided, however, that any such exclusions and restrictions of coverage shall be subject to any contractual requirements and oversight by the State as contained in the Medicaid managed care organization's contract with the State, and the State shall maintain approval authority over the formulary used by the Medicaid managed care organization; and

"(ii) nothing in this section or paragraph (2)(A)(xiii) of section 1903(m) shall be construed as requiring a Medicaid man-

aged care organization with a contract under such section to maintain the same such policies and practices as those established by the State for purposes of individuals who receive medical assistance for covered outpatient drugs on a fee-for-service basis.''; and

(ii) in paragraph (4), by inserting after subparagraph (E) the following:

''(F) Notwithstanding the preceding subparagraphs of this paragraph, any formulary established by Medicaid managed care organization with a contract under section 1903(m) may be based on positive inclusion of drugs selected by a formulary committee consisting of physicians, pharmacists, and other individuals with appropriate clinical experience as long as drugs excluded from the formulary are available through prior authorization, as described in paragraph (5).''; and

(B) in subsection (j), by striking paragraph (1) and inserting the following:

''(1) Covered outpatients drugs are not subject to the requirements of this section if such drugs are—

"(A) dispensed by health maintenance organizations, including Medicaid managed care organizations that contract under section 1903(m); and

"(B) subject to discounts under section 340B of the Public Health Service Act.".

(3) REPORTS.—Each State with a contract with a Medicaid managed care organization under section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) shall report to the Secretary on a quarterly basis the total amount of rebates in dollars and volume received from manufacturers (as defined in section 1927(k)(5) of such Act (42 U.S.C. 1396r–8(k)(5)) for drugs provided to individuals enrolled with such an organization as a result of the amendments made by this section for both brand-name and generic drugs. The Secretary shall review the reports submitted by States under this subsection and, after such review, make publically available the aggregate data contained in such reports.

(4) EFFECTIVE DATE.—This section and the amendments made by this section take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section

1927 of the Social Security Act (42 U.S.C. 1396r–8) on or after such date.

SEC. 3005. BRINGING DOWN PRICES FOR PRESCRIPTION DRUGS BY INCREASING THE MEDICAID DRUG REBATE.

Section 1927(c)(1)(B)(i) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(B)(i)) is amended—

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

(2) in subclause (V)—

(A) by inserting ''and before January 1, 2010,'' after ''1995,''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(VI) after December 31, 2009, is 20 percent.''.

SEC. 3006. ENDING TAXPAYER SUBSIDIES FOR EXPORTERS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall develop and implement a program to impose fees on businesses that benefit from the trade promotion activities of the International Trade Administration.

(b) BUDGET NEUTRALITY.—The fees shall be imposed in an amount that ensures that any Federal expend-

itures on trade promotion activities of the International Trade Administration are offset by the fees collected under the program in a budget neutral manner.

SEC. 3007. REDUCING TAXPAYER SUBSIDIES FOR EXPORTERS OF AGRICULTURE COMMODITIES.

Section 211(e)(1)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(e)(1)(A)) is amended by striking ''and $200,000,000 for each of fiscal years 2008 through 2012'' and inserting ''$200,000,000 for each of fiscal years 2008 and 2009, and $160,000,000 for each of fiscal years 2010 through 2012''.

SEC. 3008. MAKING COMPANIES PAY WHEN THEY FAIL FDA QUALITY INSPECTIONS.

(a) IN GENERAL.—The Secretary shall assess and collect a user fee from each facility registered under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), establishment registered under section 510 of such Act (21 U.S.C. 360), and facility described in section 351(a)(1)(C) of the Public Health Service Act (42 U.S.C. 262(1)(C)) for which a followup reinspection is required to ensure correction of a violation found by the Secretary during initial inspection of the facility or establishment of a good manufacturing practices requirement under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) PAYMENT OF FEE.—The user fee required under subsection (a) shall be due from a facility or establishment described in such subsection upon the reinspection of such facility or establishment, as described in subsection (a).

(c) AMOUNT OF USER FEE.—The amount of the user fee required under subsection (a) shall be established by the Secretary.

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

(1) the terms ''animal drug'', ''device'', ''drug'', and ''food'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321);

(2) the term ''biological product'' has the meaning given the term in section 351 of the Public Health Service Act (42 U.S.C. 262); and

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

TITLE IV—ENDING TAXPAYER SUBSIDIES FOR BIG AGRIBUSINESSES

SEC. 4001. REFORMING IRRIGATION SUBSIDIES.

(a) DEFINITIONS.—Section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb) is amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (9), (10), (11), (12), and (13), respectively;

(2) in paragraph (6), by striking ''owned or operated under a lease which'' and inserting ''that is owned, leased, or operated by an individual or legal entity and that'';

(3) by inserting after paragraph (6) the following:

''(7) LEGAL ENTITY.—The term 'legal entity' includes a corporation, association, partnership, trust, joint tenancy, or tenancy in common, or any other entity that owns, leases, or operates a farm operation for the benefit of more than 1 individual under any form of agreement or arrangement.

''(8) OPERATOR.—

''(A) IN GENERAL.—The term 'operator'—

''(i) means an individual or legal entity that operates a single farm operation on a parcel (or parcels) of land that is owned or leased by another person (or persons) under any form of agreement or arrangement (or agreements or arrangements); and

''(ii) if the individual or legal entity—

''(I) is an employee of an individual or legal entity, includes the individual or legal entity; or

''(II) is a legal entity that controls, is controlled by, or is under common control with another legal entity, includes each such other legal entity.

''(B) OPERATION OF A FARM OPERATION.—For the purposes of subparagraph (A), an individual or legal entity shall be considered to operate a farm operation if the individual or legal entity is the person that performs the greatest proportion of the decisionmaking for and supervision of the agricultural enterprise on land served with irrigation water.''; and

(4) by adding at the end the following:

''(14) SINGLE FARM OPERATION.—

''(A) IN GENERAL.—The term 'single farm operation' means the total acreage of land served with irrigation water for which an individual or legal entity is the operator.

''(B) RULES FOR DETERMINING WHETHER SEPARATE PARCELS ARE OPERATED AS A SINGLE FARM OPERATION.—

''(i) EQUIPMENT- AND LABOR-SHARING ACTIVITIES.—The conduct of equipment- and labor-sharing activities on separate parcels of land by separate individuals or legal entities shall not by itself serve as a basis for concluding that the farming operations of the individuals or legal entities constitute a single farm operation.

''(ii) PERFORMANCE OF CERTAIN SERVICES.—The performance by an individual or legal entity of an agricultural chemical application, pruning, or harvesting for a farm operation on a parcel of land shall not by itself serve as a basis for concluding that the farm operation on that parcel of land is part of a single farm operation operated by the individual or entity on other parcels of land.''.

(b) IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended by inserting after section 201 the following:

"SEC. 201A. IDENTIFICATION OF OWNERS, LESSEES, AND OPERATORS AND OF SINGLE FARM OPERATIONS.

"(a) IN GENERAL.—Subject to subsection (b), for each parcel of land to which irrigation water is delivered or proposed to be delivered, the Secretary shall identify a single individual or legal entity as the owner, lessee, or operator.

"(b) SHARED DECISIONMAKING AND SUPERVISION.—If the Secretary determines that no single individual or legal entity is the owner, lessee, or other individual that performs the greatest proportion of decisionmaking for and supervision of the agricultural enterprise on a parcel of land—

"(1) all individuals and legal entities that own, lease, or perform a proportion of decisonmaking and supervision that is equal as among themselves but greater than the proportion performed by any other individual or legal entity shall be considered jointly to be the owner, lessee, or operator; and

"(2) all parcels of land of which any such individual or legal entity is the owner, lessee, or operator shall be considered to be part of the single farm operation of the owner, lessee, or operator identified under subsection (1).".

(c) PRICING.—Section 205 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ee) is amended by adding at the end the following:

''(d) SINGLE FARM OPERATIONS GENERATING MORE THAN $500,000 IN GROSS FARM INCOME.—

''(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (c), in the case of—

''(A) a qualified recipient that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year; or

''(B) a limited recipient that received irrigation water on or before October 1, 1981, and that reports gross farm income from a single farm operation in excess of $500,000 for a taxable year;

irrigation water may be delivered to the single farm operation of the qualified recipient or limited recipient at less than full cost to a number of acres that does not exceed the number of acres determined under paragraph (2).

''(2) MAXIMUM NUMBER OF ACRES TO WHICH IRRIGATION WATER MAY BE DELIVERED AT LESS THAN FULL COST.—The number of acres determined under this subparagraph is the number equal to the number of acres of the single farm operation multi-

plied by a fraction, the numerator of which is $500,000 and the denominator of which is the amount of gross farm income reported by the qualified recipient or limited recipient in the most recent taxable year.

''(3) INFLATION ADJUSTMENT.—

''(A) IN GENERAL.—The $500,000 amount under paragraphs (1) and (2) for any taxable year beginning in a calendar year after 2004 shall be equal to the product of—

''(i) $500,000, multiplied by

''(ii) the inflation adjustment factor for the taxable year.

''(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for 2004. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

''(C) GDP IMPLICIT PRICE DEFLATOR.—For purposes of subparagraph (B), the term

'GDP implicit price deflator' means the first revision of the implicit price deflator for the gross domestic product as computed and published by the Secretary of Commerce.

''(D) ROUNDING.—If any increase determined under subparagraph (A) is not a multiple of $100, the increase shall be rounded to the next lowest multiple of $100.''.

(d) CERTIFICATION OF COMPLIANCE.—Section 206 of the Reclamation Reform Act of 1982 (43 U.S.C. 390ff) is amended to read as follows:

''SEC. 206. CERTIFICATION OF COMPLIANCE.

''(a) IN GENERAL.—As a condition to the receipt of irrigation water for land in a district that has a contract described in section 203, each owner, lessee, or operator in the district shall furnish the district, in a form prescribed by the Secretary, a certificate that the owner, lessee, or operator is in compliance with this title, including a statement of the number of acres owned, leased, or operated, the terms of any lease or agreement pertaining to the operation of a farm operation, and, in the case of a lessee or operator, a certification that the rent or other fees paid reflect the reasonable value of the irrigation water to the productivity of the land.

''(b) DOCUMENTATION.—The Secretary may require a lessee or operator to submit for the Secretary's examination—

''(1) a complete copy of any lease or other agreement executed by each of the parties to the lease or other agreement; and

''(2) a copy of the return of income tax imposed by chapter 1 of the Internal Revenue Code of 1986 for any taxable year in which the single farm operation of the lessee or operator received irrigation water at less than full cost.''.

(e) TRUSTS.—Section 214 of the Reclamation Reform Act of 1982 (43 U.S.C. 390nn) is repealed.

(f) ADMINISTRATIVE PROVISIONS.—

(1) PENALTIES.—Section 224(c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(c)) is amended—

(A) by striking ''(c) The Secretary'' and inserting the following:

''(c) REGULATIONS; DATA COLLECTION; PENALTIES.—

''(1) REGULATIONS; DATA COLLECTION.—The Secretary''; and

(B) by adding at the end the following:

''(2) PENALTIES.—Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation issued under this Act.''.

(2) INTEREST.—Section 224(i) of the Reclamation Reform Act of 1982 (43 U.S.C. 390ww(i)) is amended by striking the last sentence and inserting the following: ''The interest rate applicable to underpayments shall be equal to the rate applicable to expenditures under section 202(3)(C).''.

(g) REPORTING.—Section 228 of the Reclamation Reform Act of 1982 (43 U.S.C. 390zz) is amended by inserting ''operator or'' before ''contracting entity'' each place it appears.

(h) MEMORANDUM OF UNDERSTANDING.—The Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) is amended—

(1) by redesignating sections 229 and 230 as sections 230 and 231; and

(2) by inserting after section 228 the following:

''SEC. 229. MEMORANDUM OF UNDERSTANDING.

''The Secretary, the Secretary of the Treasury, and the Secretary of Agriculture shall enter into a memorandum of understanding or other appropriate instrument

to permit the Secretary, notwithstanding section 6103 of the Internal Revenue Code of 1986, to have access to and use of available information collected or maintained by the Department of the Treasury and the Department of Agriculture that would aid enforcement of the ownership and pricing limitations of Federal reclamation law.''.

SEC. 4002. REFORMING CROP INSURANCE SUBSIDIES.

(a) FEDERAL SHARE OF RISK.—Section 508(k)(3) of the Federal Crop Insurance Act (7 U.S.C. 1508(k)(3)) is amended—

(1) by striking ''require the'' and inserting ''require—

''(A) the'';

(2) by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(B) the cumulative underwriting gain or loss, and the associated premium and losses with such amount, calculated under any reinsurance agreement (except livestock) ceded to the Corporation by each approved insurance provider to be not less than 20 percent.''.

(b) REIMBURSEMENT RATE.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) in subsection (b)(11), by striking ''6 percent'' and inserting ''4 percent''; and

(2) in subsection (k)(4)—

(A) in subparagraph (E)—

(i) by striking ''2009'' and inserting ''2011''; and

(ii) by striking ''2.3 percent'' and inserting ''4.3 percent''; and

(B) in subparagraph (F)—

(i) by striking ''2009'' and inserting ''2011''; and

(ii) by striking ''12 percent'' and inserting ''10 percent''.

SEC. 4003. REDUCING DIRECT PAYMENTS TO LARGE LANDOWNERS.

(a) IN GENERAL.—Section 1001(b)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(b)(1)(A)) is amended by striking ''of that Act, $40,0000; or'' and inserting ''of that Act—

''(i) $40,000; or

''(ii) if the national average market price received by producers during the 12-month marketing year for a covered commodity (as determined by the Secretary) is more than 110 percent of the target price

for the covered commodity (as determined under section 1104(c) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8714(c)), $20,000; or''.

(b) PEANUTS.—Section 1001(c)(1)(A) of the Food Security Act of 1985 (7 U.S.C. 1308(c)(1)(A)) is amended by striking ''of that Act, $40,000; or'' and inserting ''of that Act—

''(i) $40,000; or

''(ii) if the national average market price received by producers during the 12-month marketing year for peanuts (as determined by the Secretary) is more than 110 percent of the target price for peanuts (as determined under section 1304(c) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8754(c)), $20,000; or''.

SEC. 4004. CUTTING FARM SUBSIDIES FOR HIGH-INCOME INDIVIDUALS.

Section 1001D(b)(1) of the Food Security Act of 1985 (7 U.S.C. 1308–3a(b)(1)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following:

''(A) NONFARM LIMITATIONS.—

''(i) PROHIBITION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross nonfarm income of the person or legal entity exceeds $250,000.

''(ii) PARTIAL ELIGIBILITY.—Notwithstanding any other provision of law, a person or legal entity the average adjusted gross nonfarm income of which is more than $100,000 but less than $250,000 shall be eligible to receive only 66 percent of any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate.

''(B) FARM LIMITATION.—

''(i) PROHIBITION.—Notwithstanding any other provision of law, a person or legal entity shall not be eligible to receive any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate, if the average adjusted gross

farm income of the person or legal entity exceeds $750,000.

''(ii) PARTIAL ELIGIBILITY.—Notwithstanding any other provision of law, a person or legal entity the average adjusted gross farm income of which is more than $500,000 but less than $750,000 shall be eligible to receive only 66 percent of any benefit described in subparagraph (C) during a crop, fiscal, or program year, as appropriate.''; and

(2) in subparagraph (C), by striking ''Subparagraph (A) applies'' and inserting ''Subparagraphs (A) and (B) apply''.

SEC. 4005. ELIMINATING THE COTTON STORAGE SUBSIDY.

(a) IN GENERAL.—Section 1204 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8734) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(b) APPLICATION.—The amendments made by subsection (a) apply effective beginning with the 2010 crop year.

SEC. 4006. ENDING SUBSIDIZED GRAZING FEES.

Section 6(a) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1905) is amended—

(1) by striking ''For the grazing years 1979 through 1985, the'' and inserting ''The''; and

(2) by striking ''the $1.23 base'' and all that follows through ''previous year's fee'' and inserting ''an amount that is at the same level as the State in which the land is located charges for public grazing on land owned by the State, as determined by the Secretary of Agriculture and the Secretary of the Interior, as appropriate''.

TITLE V—ENDING TAXPAYER SUBSIDIES FOR THE USE OF PUBLIC RESOURCES AND GOVERNMENT SERVICES

SEC. 5001. PREVENTING GIVEAWAYS OF THE PUBLIC SPECTRUM.

Section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)) is amended by striking ''2012'' and inserting ''2019''.

SEC. 5002. ELIMINATING DOUBLE SUBSIDIES FOR HARDROCK MINING BY REPEALING PERCENTAGE DEPLETION ALLOWANCES.

(a) IN GENERAL.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion)

is amended by inserting ''(other than hardrock mines located on lands subject to the general mining laws or on land patented under the general mining laws)'' after ''In the case of the mines''.

(b) GENERAL MINING LAWS DEFINED.—Section 613 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(f) GENERAL MINING LAWS.—For purposes of subsection (a), the term 'general mining laws' means those Acts which generally comprise chapters 2, 12A, and 16, and sections 161 and 162 of title 30 of the United States Code.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 5003. ENDING SUBSIDIES FOR HARDROCK MINING ON PUBLIC LANDS BY IMPOSING MINING ROYALTIES AND CLAIM FEES.

(a) ROYALTY FOR HARDROCK MINING.—The Revised Statutes are amended by inserting after section 2352 (30 U.S.C. 76) the following:

''SEC. 2353. RESERVATION OF ROYALTY.

''(a) DEFINITION OF LOCATABLE MINERAL.—In this section:

''(1) IN GENERAL.—The term 'locatable mineral' means any mineral, the legal and beneficial title to which remains in the United States and that is not subject to disposition under—

''(A) the Mineral Leasing Act (30 U.S.C. 181 et seq.);

''(B) the Act of August 7, 1947 (commonly known as the 'Mineral Leasing Act for Acquired Lands') (30 U.S.C. 351 et seq.);

''(C) the Act of July 31, 1947 (commonly known as the 'Materials Act of 1947') (30 U.S.C. 601 et seq.); or

''(D) the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

''(2) EXCLUSIONS.—The term 'locatable mineral' does not include any mineral that is subject to a restriction against alienation imposed by the United States and is—

''(A) held in trust by the United States for any Indian or Indian tribe (as defined in section 2 of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101)); or

''(B) owned by any Indian or Indian tribe (s defined in section 2 of that Act).

''(b) ROYALTY.—Production of all locatable minerals from any mining claim located under the general mining laws, or mineral concentrates or products derived from locatable minerals from any such mining claim, as the case may be, shall be subject to a royalty of 8 percent of the gross income from mining.

''(c) LIABILITY FOR PAYMENT.—The claim holder or any operator to whom the claim holder has assigned the obligation to make royalty payments under the claim, and any person who controls the claim holder or operator, shall be liable for payment of royalties under this section.

''(d) DEPOSIT.—Amounts received by the United States as royalties under this section shall be deposited into the general fund of the Treasury.''.

(b) HARDROCK MINING CLAIM MAINTENANCE FEE.—Subtitle B of title X of the Omnibus Budget Reconciliation Act of 1993 (30 U.S.C. 28f et seq.) is amended to read as follows:

''Subchapter B—Hardrock Mining Claim Maintenance Fee

''SEC. 10101. HARDROCK MINING CLAIM MAINTENANCE FEE.

''(a) FEE.—

''(1) IN GENERAL.—Except as provided in section 2511(e)(2) of the Energy Policy Act of 1992

(30 U.S.C. 242(e)(2)), for each unpatented mining claim, mill, or tunnel site on federally owned land, whether located before, on, or after enactment of this Act, each claimant shall pay to the Secretary, on or before August 31 of each year, a claim maintenance fee of $150 per claim to hold the unpatented mining claim, mill, or tunnel site for the assessment year beginning at noon on September 1.

''(2) RELATION TO OTHER LAW.—A claim maintenance fee described in paragraph (1) shall be in lieu of—

''(A) the assessment work requirement in section 2324 of the Revised Statutes (30 U.S.C. 28); and

''(B) the related filing requirements in subsections (a) and (c) of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

''(3) WAIVER.—

''(A) IN GENERAL.—The claim maintenance fee required under paragraph (1) shall be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

"(i) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination of mining claims, mill sites, or tunnel sites, on public land; and

"(ii) have performed assessment work required under section 2324 of the Revised Statutes (30 U.S.C. 28) to maintain the mining claims held by the claimant and all related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

"(B) DEFINITION OF ALL RELATED PARTIES.—In subparagraph (A), with the respect to any claimant, the term 'all related parties' means—

"(i) the spouse and dependent children (as defined in section 152 of the Internal Revenue Code of 1986), of the claimant; or

"(ii) a person affiliated with the claimant, including—

"(I) a person controlled by, controlling, or under common control with the claimant; or

"(II) a subsidiary or parent company or corporation of the claimant.

"(4) ADJUSTMENT.—

"(A) IN GENERAL.—Not less than 5 years after the date of enactment of the Control Spending Now Act, and every 5 years thereafter, or more frequently if the Secretary determines an adjustment to be reasonable, the Secretary shall adjust the claim maintenance fee required under paragraph (1) to reflect changes for the 12-month period ending the preceding November 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(B) NOTIFICATION.—Not later than July 1 of any year in which an adjustment is made under subparagraph (A), the Secretary shall provide claimants notice of the adjustment.

"(C) APPLICATION.—A fee adjustment under subparagraph (A) shall be effective beginning January 1 of the calendar year following the calendar year in which the adjustment is made.

"(b) LOCATION FEE.—Notwithstanding any other provision of law, for each unpatented mining claim, mill,

or tunnel site located during the period beginning on the date of enactment of the Control Spending Now Act and ending on September 30, 2008, the locator shall, at the time the location notice is recorded with the Bureau of Land Management, pay to the Secretary a location fee, in addition to the fee required by subsection (a), of $50 per claim.

''(c) DEPOSIT.—Amounts received under subsection (a) or (b) that are not otherwise allocated for the administration of the mining laws by the Department of the Interior shall be deposited into the general fund of the Treasury.

''(d) CO-OWNERSHIP.—The co-ownership provisions of section 2324 of the Revised Statutes (30 U.S.C. 28) shall remain in effect except that the annual claim maintenance fee, if applicable, shall replace applicable assessment requirements and expenditures.

''(e) FAILURE TO PAY.—Failure to pay the claim maintenance fee required by subsection (a) shall conclusively constitute a forfeiture of the unpatented mining claim, mill, or tunnel site by the claimant and the claim shall be considered to be null and void by operation of law.

''(f) RELATION TO OTHER LAW.—Nothing in this section changes or modifies the requirements of sub-

sections (b) or (c) of section 314(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).''.

SEC. 5004. REDUCING STATE SUBSIDIES FOR ONSHORE OIL, GAS, COAL, AND MINERAL LEASES ON PUBLIC LANDS.

Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by striking subsection (b) and inserting the following:

''(b) ADMINISTRATIVE COSTS.—Before making a payment to a State under subsection (a), the Secretary of the Treasury shall deduct 2 percent of the payment amount to reimburse the administrative costs incurred by the United States in managing mineral leasing activities under this Act.''.

SEC. 5005. REDUCING SUBSIDIES FOR OIL, GAS, AND GEOTHERMAL ENERGY PRODUCTION ON PUBLIC LANDS.

(a) REMOVAL OF PROHIBITION ON INCREASING FEES FOR PERMITS.—Section 365 of the Energy Policy Act of 2005 (42 U.S.C. 15924) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsection (j) as subsection (i).

(b) DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.—Section 20 of the Geo-

thermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

''SEC. 20. DISPOSAL OF MONEYS FROM SALES, BONUSES, RENTALS, AND ROYALTIES.

''Subject to section 35 of the Mineral Leasing Act (30 U.S.C. 191), all funds received from the sales, bonuses, royalties, and rentals under this Act (including payments referred to in section 6) shall be disposed of in the same manner as funds received pursuant to section 6 of this Act or section 35 of the Mineral Leasing Act (30 U.S.C. 191), as the case may be.''.

SEC. 5006. REDUCING AVIATION SUBSIDIES.

Section 44940 of title 49, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''in an amount equal to $5.00 per one-way trip'' after ''uniform fee'';

(2) by striking subsection (c); and

(3) in subsection (d)—

(A) in paragraph (2), by striking ''subsection (d)'' each place it appears and inserting ''this subsection''; and

(B) in paragraph (3), by striking ''in accordance with paragraph (1)'' and inserting ''under subsection (a)(2)''.

SEC. 5007. TARGETING MEDICARE PRESCRIPTION DRUG ASSISTANCE TO THOSE WHO NEED IT MOST.

(a) IN GENERAL.—Section 1860D–13(a) of the Social Security Act (42 U.S.C. 1395w–113(a)) is amended by adding at the end the following new paragraph:

''(7) REDUCTION IN PREMIUM SUBSIDY BASED ON INCOME.—The provisions of subsection (i) of section 1839 shall apply to the monthly beneficiary premium under this subsection in the same manner as they apply to the monthly premium under such section except that in so applying—

''(A) paragraph (1) of such subsection (i) to this subsection—

''(i) the reference to December 2006 is deemed a reference to December 2009; and

''(ii) the reference to the monthly premium is deemed a reference to the base beneficiary premium (computed under paragraph (2) of this subsection);

''(B) clause (i) of paragraph (3)(A) of such subsection (i) to this subsection, the reference to 25 percentage points is deemed a reference to the beneficiary premium percentage (as specified in paragraph (3) of this subsection);

"(C) clause (ii) of paragraph (3)(A) of such subsection (i) to this subsection, the national average monthly bid amount (computed under paragraph (4) of this subsection) shall be substituted for the amount specified in such clause (ii) (relating to the unsubsidized part B premium amount); and

"(D) subparagraph (B) of paragraph (3) of such subsection (i) to this subsection, the reference to 2009 shall be a reference to 2010, the reference to 2007 shall be a reference to 2009, and the reference to 2008 shall be a reference to 2010.".

(b) CONFORMING AMENDMENTS.—

(1) MEDICARE.—Section 1860D–13(a)(1) of the Social Security Act (42 U.S.C. 1395w–113(a)(1)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (G);

(B) in subparagraph (G), as redesignated by subparagraph (A), by striking "(D) and (E)" and inserting "(D), (E), and (F)"; and

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

''(F) INCREASE BASED ON INCOME.—The base beneficiary premium shall be increased pursuant to paragraph (7).''.

(2) INTERNAL REVENUE CODE.—Section 6103(l)(20) of the Internal Revenue Code of 1986 (relating to disclosure of return information to carry out Medicare part B premium subsidy adjustment) is amended—

(A) in the heading, by striking ''PART B PREMIUM SUBSIDY ADJUSTMENT'' and inserting ''PARTS B AND D PREMIUM SUBSIDY ADJUSTMENTS'';

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ''or 1860D–13(a)(7)'' after ''1839(i)''; and

(ii) in clause (vii), by inserting after ''the amount of such adjustment'' the following: ''or that the amount of the premium of the taxpayer under such subsection (as applied under section 1860D–13(a)(7)) may be subject to adjustment under such section 1860D–13(a)(7) and the amount of such adjustment''; and

(C) in subparagraph (B), by inserting ''or such section 1860D–13(a)(7)'' before the period at the end.

TITLE VI—TARGETING WASTEFUL OR UNNECESSARY GOVERNMENT SPENDING

SEC. 6001. DELAYING A LUNAR MISSION.

(a) IN GENERAL.—Except as provided in subsection (b)—

(1) no amounts appropriated or otherwise made available for fiscal year 2010 (or for a fiscal year before fiscal year 2010 that remain available for obligation) may be obligated or expended, and no otherwise obligated amounts that remain available for expenditure may be expended, to support a human lunar mission under the National Aeronautics and Space Administration Constellation Program scheduled to occur before the year 2025; and

(2) no additional funds may be appropriated to support such a human lunar mission.

(b) EXCEPTIONS.—An amount otherwise covered by the prohibition under subsection (a) of not more than $600,000,000 may be appropriated, obligated, or expended each fiscal year solely for purposes in connection with research and technology development and mainte-

nance of the manufacturing and technology base with respect to the mission described in subsection (a).

SEC. 6002. ELIMINATING THE V–22 OSPREY.

(a) PROHIBITION.—Except as provided in subsection (b), no amounts appropriated or otherwise made available for fiscal year 2010 (or for a fiscal year before fiscal year 2010 that remain available for obligation) may be obligated or expended, and no otherwise obligated amounts that remain available for expenditure may be expended, for the V–22 or CV–22 Osprey tiltrotor aircraft program.

(b) EXCEPTION FOR WINDUP OF PROGRAM.—Amounts covered by the prohibition in subsection (a) that are available for the program described in that subsection may be utilized solely for purposes in connection with the winding up of the program.

(c) REPEAL OF SUPERSEDED AUTHORITY.—Section 127 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2109) is repealed.

SEC. 6003. CUTTING C–17S.

(a) PROHIBITION.—Except as provided in subsection (b), no amounts appropriated or otherwise made available for fiscal year 2010 (or for a fiscal year after 2006 and before fiscal year 2010 that remain available for obligation) may be obligated or expended, and no otherwise obli-

gated amounts that remain available for expenditure may be expended, for the C–17 Globemaster III aircraft program.

(b) EXCEPTION FOR WINDUP OF PROGRAM.—Amounts covered by the prohibition in subsection (a) that are available for the program described in that subsection may be utilized solely for purposes in connection with the winding up of the program.

SEC. 6004. ENDING SPENDING FOR HIGH-RISK SATELLITES.

(a) PROHIBITION.—Except as provided in subsection (b), no amounts appropriated or otherwise made available for fiscal year 2010 (or for a fiscal year before fiscal year 2010 that remain available for obligation) may be obligated or expended, and no otherwise obligated amounts that remain available for expenditure may be expended, to research, produce, deploy, or maintain a constellation of nondemonstration satellites under the Space Tracking and Surveillance System.

(b) EXCEPTION FOR WINDUP OF SYSTEM.—Amounts covered by the prohibition in subsection (a) that are available for the system described in that subsection may be utilized solely for purposes in connection with the winding up of the system.

SEC. 6005. REDUCING COST OVERRUNS AND DELAYS ON MAJOR WEAPONS SYSTEMS.

(a) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2435 the following new section:

"§ 2435a. High-risk major defense acquisition programs: alternative acquisition strategies to meet essential joint military requirements

''(a) DESIGNATION REQUIRED.—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall designate as high-risk for purposes of this section a major defense acquisition program if—

''(1) the critical technologies of the program have not been demonstrated, or are not planned to be demonstrated, in a realistic environment prior to making a production decision; or

''(2) the program has experienced development cost growth of 25 percent or more, or schedule delays of 12 months or more, since receiving a certification pursuant to section 2366a of this title.

''(b) ALTERNATIVE ACQUISITION STRATEGY.—(1) Not later than 60 days after the date of the designation of a major defense acquisition program as high-risk under subsection (a), the Under Secretary for Acquisition, Technology, and Logistics shall—

''(A) review the joint military requirements intended to be met by the program to determine whether or not all elements of such requirements are essential; and

''(B) develop an alternative acquisition strategy that—

''(i) achieves capabilities in increments to be delivered in less than five years each; and

''(ii) relies on mature technologies to meet all essential elements of the joint military requirement for each increment.

''(2) The Under Secretary shall submit to the Secretary of Defense and Congress each alternative acquisition strategy developed under this subsection. In submitting such strategy to Congress, the Under Secretary shall also submit a report on the results of the review required by paragraph (1)(B) for purposes of such strategy.

''(c) CONTINUATION OF PROGRAM.—(1) Upon receipt of an alternative acquisition strategy to meet joint military requirements under subsection (b)(2), the Secretary of Defense shall determine whether or not to terminate the major defense acquisition program otherwise intended to meet such requirements so as to meet such requirements through the alternative acquisition strategy.

''(2) The Secretary shall submit to Congress a report on each determination made under paragraph (1). The report on a determination shall include a detailed justification of the determination''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2435 the following new item:

''2435a. High-risk major defense acquisition programs: alternative acquisition strategies to meet essential joint military requirements.''.

SEC. 6006. REDUCING SPENDING ON UNNEEDED DEFENSE SPARE PARTS.

Of the amount appropriated for fiscal year 2010 to purchase excess secondary inventory for the Department of the Air Force, the amount available for obligation and expenditure for that purpose in fiscal year 2010 is hereby reduced by $50,000,000.

SEC. 6007. REDUCING OVERPAYMENTS TO DEFENSE CONTRACTORS.

(a) RECOVERY.—Notwithstanding any provision of subchapter VI of chapter 35 of title 31, United States Code, an amount in the aggregate of $50,000,000 shall be derived from amounts recovered by the Department of Defense from erroneous payments to contractors pursuant to recovery audits and activities carried out by the Department under section 3561 of such title.

(b) DEBT REDUCTION.—The amount recovered under subsection (a) may be used only for the reduction of the public debt of the United States.

SEC. 6008. ENDING WASTEFUL INTELLIGENCE SPENDING.

(a) VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 305 of this Act, is further amended by inserting after section 506B, as added by section 305(a), the following new section:

''VULNERABILITY ASSESSMENTS OF MAJOR SYSTEMS

''SEC. 506C. (a) INITIAL VULNERABILITY ASSESSMENTS.—

''(1) REQUIREMENT FOR INITIAL VULNERABILITY ASSESSMENTS.—The Director of National Intelligence shall conduct an initial vulnerability assessment for any major system and its significant items of supply that is proposed for inclusion in the National Intelligence Program prior to completion of Milestone B or an equivalent acquisition decision. The initial vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach to—

''(A) identify vulnerabilities;

''(B) define exploitation potential;

"(C) examine the system's potential effectiveness;

"(D) determine overall vulnerability; and

"(E) make recommendations for risk reduction.

"(2) LIMITATION ON OBLIGATION OF FUNDS.—For any major system for which an initial vulnerability assessment is required under paragraph (1) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such assessment shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such assessment is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of the major system may not be obligated for a major contract related to the major system. Such prohibition on the obligation of funds for the acquisition of the major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the initial vulnerability assessment.

"(b) SUBSEQUENT VULNERABILITY ASSESSMENTS.—(1) The Director of National Intelligence shall,

periodically throughout the life span of a major system or if the Director determines that a change in circumstances warrants the issuance of a subsequent vulnerability assessment, conduct a subsequent vulnerability assessment of each major system and its significant items of supply within the National Intelligence Program.

''(2) Upon the request of a congressional intelligence committee, the Director of National Intelligence may conduct a subsequent vulnerability assessment of a particular major system and its significant items of supply within the National Intelligence Program.

''(3) Any subsequent vulnerability assessment of a major system and its significant items of supply shall include use of an analysis-based approach and, if applicable, a testing-based approach, to monitor the exploitation potential of such system and reexamine the factors described in subparagraphs (A) through (E) of subsection (a)(1).

''(c) MAJOR SYSTEM MANAGEMENT.—The Director of National Intelligence shall give due consideration to the vulnerability assessments prepared for a given major system when developing and determining the National Intelligence Program budget.

''(d) CONGRESSIONAL OVERSIGHT.—(1) The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability

assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.

''(2) The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent vulnerability assessments of a major system under subsection (b) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).

''(e) DEFINITIONS.—In this section:

''(1) The term 'items of supply'—

''(A) means any individual part, component, subassembly, assembly, or subsystem integral to a major system, and other property which may be replaced during the service life of the major system, including spare parts and replenishment parts; and

''(B) does not include packaging or labeling associated with shipment or identification of items.

''(2) The term 'major system' has the meaning given that term in section 506A(e).

''(3) The term 'Milestone B' means a decision to enter into system development and demonstration

pursuant to guidance prescribed by the Director of National Intelligence.

''(4) The term 'vulnerability assessment' means the process of identifying and quantifying vulnerabilities in a major system and its significant items of supply.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of the National Security Act of 1947, as amended by section 305 of this Act, is further amended by inserting after the item relating to section 506B, as added by section 305(b), the following:

''Sec. 506C. Vulnerability assessments of major systems.''.

(3) DEFINITION OF MAJOR SYSTEM.—Paragraph (3) of section 506A(e) of the National Security Act of 1947 (50 U.S.C. 415a–1(e)) is amended to read as follows:

''(3) The term 'major system' has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).''.

(b) REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS.—

(1) REPORTS.—

(A) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, and 322 of

this Act, is further amended by inserting after section 506D, as added by section 322(a)(1), the following new section:

''REPORTS ON THE ACQUISITION OF MAJOR SYSTEMS

''SEC. 506E. (a) ANNUAL REPORTS REQUIRED.—(1) The Director of National Intelligence shall submit to the congressional intelligence committees each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105 of title 31, United States Code, a separate report on each acquisition of a major system by an element of the intelligence community.

''(2) Each report under this section shall be known as a 'Report on the Acquisition of Major Systems'.

''(b) ELEMENTS.—Each report under this section shall include, for the acquisition of a major system, information on the following:

''(1) The current total acquisition cost for such system, and the history of such cost from the date the system was first included in a report under this section to the end of the fiscal year immediately preceding the submission of the report under this section.

''(2) The current development schedule for the system, including an estimate of annual development costs until development is completed.

''(3) The planned procurement schedule for the system, including the best estimate of the Director of National Intelligence of the annual costs and units to be procured until procurement is completed.

''(4) A full life-cycle cost analysis for such system.

''(5) The result of any significant test and evaluation of such major system as of the date of the submission of such report, or, if a significant test and evaluation has not been conducted, a statement of the reasons therefor and the results of any other test and evaluation that has been conducted of such system.

''(6) The reasons for any change in acquisition cost, or schedule, for such system from the previous report under this section, if applicable.

''(7) The major contracts or subcontracts related to the major system.

''(8) If there is any cost or schedule variance under a contract referred to in paragraph (7) since the previous report under this section, the reasons for such cost or schedule variance.

''(c) DETERMINATION OF INCREASE IN COSTS.—Any determination of a percentage increase in the acquisition costs of a major system for which a report is filed under

this section shall be stated in terms of constant dollars from the first fiscal year in which funds are appropriated for such contract.

''(d) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that the report required by subsection (a) addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the report, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

''(e) DEFINITIONS.—In this section:

''(1) The term 'acquisition cost', with respect to a major system, means the amount equal to the total cost for development and procurement of, and system-specific construction for, such system.

''(2) The term 'full life-cycle cost', with respect to the acquisition of a major system, means all costs of development, procurement, construction, deployment, and operation and support for such program, without regard to funding source or management control, including costs of development and procurement required to support or utilize such system.

''(3) The term 'major contract', with respect to a major system acquisition, means each of the 6 largest prime, associate, or government-furnished equipment contracts under the program that is in excess of $40,000,000 and that is not a firm, fixed price contract.

''(4) The term 'major system' has the meaning given that term in section 506A(e).

''(5) The term 'significant test and evaluation' means the functional or environmental testing of a major system or of the subsystems that combine to create a major system.''.

(B) APPLICABILITY DATE.—The first report required to be submitted under section 506E(a) of the National Security Act of 1947, as added by subparagraph (A), shall be submitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(C) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act is amended by inserting after the item relating to section 506D, as added by section 322(a)(2), the following new item:

''Sec. 506E. Reports on the acquisition of major systems.''.

(2) MAJOR DEFENSE ACQUISITION PROGRAMS.—Nothing in this subsection, subsection (c), or an amendment made by such subsections, shall be construed to exempt an acquisition program of the Department of Defense from the requirements of chapter 144 of title 10, United States Code or Department of Defense Directive 5000, to the extent that such requirements are otherwise applicable.

(c) EXCESSIVE COST GROWTH OF MAJOR SYSTEMS.—

(1) NOTIFICATION.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after section 506E, as added by section 323(a), the following new section:

''EXCESSIVE COST GROWTH OF MAJOR SYSTEMS

''SEC. 506F. (a) COST INCREASES OF AT LEAST 25 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 25 percent as compared to the baseline cost of such major system.

''(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

''(2)(A) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 25 percent, the Director shall submit to the congressional intelligence committees a written notification of such determination as described in subparagraph (B), a description of the amount of the increase in the acquisition cost of such major system, and a certification as described in subparagraph (C).

''(B) The notification required by subparagraph (A) shall include—

''(i) an updated cost estimate;

''(ii) the date on which the determination covered by such notification was made;

''(iii) contract performance assessment information with respect to each significant contract or subcontract related to such major system, including the name of the contractor, the phase of the contract at the time of the report, the percentage of work under the contract that has been completed, any change in

contract cost, the percentage by which the contract is currently ahead or behind schedule, and a summary explanation of significant occurrences, such as cost and schedule variances, and the effect of such occurrences on future costs and schedules;

''(iv) the prior estimate of the full life-cycle cost for such major system, expressed in constant dollars and in current year dollars;

''(v) the current estimated full life-cycle cost of such major system, expressed in constant dollars and current year dollars;

''(vi) a statement of the reasons for any increases in the full life-cycle cost of such major system;

''(vii) the current change and the total change, in dollars and expressed as a percentage, in the full life-cycle cost applicable to such major system, stated both in constant dollars and current year dollars;

''(viii) the completion status of such major system expressed as the percentage—

''(I) of the total number of years for which funds have been appropriated for such major system compared to the number of years for which it is planned that such funds will be appropriated; and

''(II) of the amount of funds that have been appropriated for such major system compared to the total amount of such funds which it is planned will be appropriated;

''(ix) the action taken and proposed to be taken to control future cost growth of such major system; and

''(x) any changes made in the performance or schedule of such major system and the extent to which such changes have contributed to the increase in full life-cycle costs of such major system.

''(C) The certification described in this subparagraph is a written certification made by the Director and submitted to the congressional intelligence committees that—

''(i) the acquisition of such major system is essential to the national security;

''(ii) there are no alternatives to such major system that will provide equal or greater intelligence capability at equal or lesser cost to completion;

''(iii) the new estimates of the full life-cycle cost for such major system are reasonable; and

''(iv) the management structure for the acquisition of such major system is adequate to manage and control full life-cycle cost of such major system.

''(b) COST INCREASES OF AT LEAST 50 PERCENT.—(1)(A) On a continuing basis, and separate from the submission of any report on a major system required by section 506E of this Act, the program manager shall determine if the acquisition cost of such major system has increased by at least 50 percent as compared to the baseline cost of such major system.

''(B) Not later than 10 days after the date that a program manager determines that an increase described in subparagraph (A) has occurred, the program manager shall submit to the Director of National Intelligence notification of such increase.

''(2) If, after receiving a notification described in paragraph (1)(B), the Director of National Intelligence determines that the acquisition cost of a major system has increased by at least 50 percent as compared to the baseline cost of such major system, the Director shall submit to the congressional intelligence committees a written certification stating that—

''(A) the acquisition of such major system is essential to the national security;

''(B) there are no alternatives to such major system that will provide equal or greater intelligence capability at equal or lesser cost to completion;

''(C) the new estimates of the full life-cycle cost for such major system are reasonable; and

''(D) the management structure for the acquisition of such major system is adequate to manage and control the full life-cycle cost of such major system.

''(3) In addition to the certification required by paragraph (2), the Director of National Intelligence shall submit to the congressional intelligence committees an updated notification, with current accompanying information, as required by subsection (a)(2).

''(c) PROHIBITION ON OBLIGATION OF FUNDS.—(1) If a written certification required under subsection (a)(2)(A) is not submitted to the congressional intelligence committees within 90 days of the notification made under subsection (a)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2).

''(2) If a written certification required under subsection (b)(2) is not submitted to the congressional intelligence committees within 90 days of the notification made

under subsection (b)(1)(B), funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (b)(3).

''(d) INITIAL CERTIFICATIONS.—Notwithstanding subsection (c), for any major system for which a written certification is required under either subsection (a)(2) or (b)(2) on the date of the enactment of the Intelligence Authorization Act for Fiscal Year 2010, such written certification shall be submitted to the congressional intelligence committees within 180 days of such date of enactment. If such written certification is not submitted to the congressional intelligence committees within 180 days of such date of enactment, funds appropriated for the acquisition of a major system may not be obligated for a major contract under the program. Such prohibition on the obligation of funds for the acquisition of a major system shall cease to apply at the end of the 30-day period of a continuous session of Congress that begins on the date on which Congress receives the notification required under subsection (a)(2) or (b)(3).

''(e) SUBMISSION TO THE CONGRESSIONAL ARMED SERVICES COMMITTEES.—To the extent that a submission required to be made to the congressional intelligence committees under this section addresses an element of the intelligence community within the Department of Defense, the Director of National Intelligence shall submit that portion of the submission, and any associated material that is necessary to make that portion understandable, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

''(f) DEFINITIONS.—In this section:

''(1) The term 'acquisition cost' has the meaning given that term in section 506E(d).

''(2) The term 'baseline cost', with respect to a major system, means the projected acquisition cost of such system that is approved by the Director of National Intelligence at Milestone B or an equivalent acquisition decision for the development, procurement, and construction of such system. The baseline cost may be in the form of an independent cost estimate.

''(3) The term 'cost estimate'—

''(A) means an assessment and quantification of all costs and risks associated with the acquisition of a major system based upon rea-

sonably available information at the time a written certification is required under either subsection (a)(2) or (b)(2); and

"(B) does not mean an 'independent cost estimate'.

"(4) The term 'full life-cycle cost' has the meaning given that term in section 506E(d).

"(5) The term 'independent cost estimate' has the meaning given that term in section 506A(e).

"(6) The term 'major system' has the meaning given that term in section 506A(e).

"(7) The term 'Milestone B' means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Director of National Intelligence.

"(8) The term 'program manager', with respect to a major system, means—

"(A) the head of the element of the intelligence community which is responsible for the budget, cost, schedule, and performance of the major system; or

"(B) in the case of a major system within the Office of the Director of National Intelligence, the deputy who is responsible for the

budget, cost, schedule, and performance of the major system.''.

(2) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, and 323 of this Act, is further amended by inserting after the items relating to section 506E, as added by section 323(a)(3), the following new item:

''Sec. 506F. Excessive cost growth of major systems.''.

(d) FUTURE BUDGET PROJECTIONS.—

(1) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after section 506F, as added by section 324(a), the following new section:

''FUTURE BUDGET PROJECTIONS

''SEC. 506G. (a) FUTURE YEAR INTELLIGENCE PLANS.—(1) The Director of National Intelligence, with the concurrence of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2), for—

''(A) each expenditure center in the National Intelligence Program; and

''(B) each major system in the National Intelligence Program.

''(2)(A) A Future Year Intelligence Plan submitted under this subsection shall include the year-by-year proposed funding for each center or system referred to in subparagraph (A) or (B) of paragraph (1), for the budget year for which the Plan is submitted and not less than the 4 subsequent budget years.

''(B) A Future Year Intelligence Plan submitted under subparagraph (B) of paragraph (1) for a major system shall include—

''(i) the estimated total life-cycle cost of such major system; and

''(ii) any major acquisition or programmatic milestones for such major system.

''(b) LONG-TERM BUDGET PROJECTIONS.—(1) The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period following the last budget year for which proposed funding was submitted under subsection (a)(2)(A).

''(2) A Long-term Budget Projection submitted under paragraph (1) shall include projections for the appropriate element of the intelligence community for—

''(A) pay and benefits of officers and employees of such element;

''(B) other operating and support costs and minor acquisitions of such element;

''(C) research and technology required by such element;

''(D) current and planned major system acquisitions for such element; and

''(E) any unplanned but necessary next-generation major system acquisitions for such element.

''(c) SUBMISSION TO CONGRESS.—Each Future Year Intelligence Plan or Long-term Budget Projection required under subsection (a) or (b) shall be submitted to Congress along with the budget for a fiscal year submitted to Congress by the President pursuant to section 1105 of title 31, United States Code.

''(d) CONTENT OF LONG-TERM BUDGET PROJECTIONS.—(1) Each Long-term Budget Projection submitted under subsection (b) shall include—

''(A) a budget projection based on constrained budgets, effective cost and schedule execution of current or planned major system acquisitions, and mod-

est or no cost-growth for undefined, next-generation systems; and

''(B) a budget projection based on constrained budgets, modest cost increases in executing current and planned programs, and more costly next-generation systems.

''(2) Each budget projection required by paragraph (1) shall include a description of whether, and to what extent, the total projection for each year exceeds the level that would result from applying the most recent Office of Management and Budget inflation estimate to the budget of that element of the intelligence community.

''(e) NEW MAJOR SYSTEM AFFORDABILITY REPORT.—(1) Beginning on February 1, 2010, not later than 30 days prior to the date that an element of the intelligence community may proceed to Milestone A, Milestone B, or an analogous stage of system development, in the acquisition of a major system in the National Intelligence Program, the Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide a report on such major system to the congressional intelligence committees.

''(2)(A) A report submitted under paragraph (1) shall include an assessment of whether, and to what extent, such acquisition, if developed, procured, and oper-

ated, is projected to cause an increase in the most recent Future Year Intelligence Plan and Long-term Budget Projection for that element of the intelligence community.

''(B) If an increase is projected under subparagraph (A), the report required by this subsection shall include a specific finding, and the reasons therefor, by the Director of National Intelligence and the Director of the Office of Management and Budget that such increase is necessary for national security.

''(f) DEFINITIONS.—In this section:

''(1) The term 'major system' has the meaning given that term in section 506A(e).

''(2) The term 'Milestone A' means a decision to enter into concept refinement and technology maturity demonstration pursuant to guidance issued by the Director of National Intelligence.

''(3) The term 'Milestone B' means a decision to enter into system development, integration, and demonstration pursuant to guidance prescribed by the Director of National Intelligence.''.

(2) APPLICABILITY DATE.—The first Future Year Intelligence Plan or Long-term Budget Projection required to be submitted under subsection (a) or (b) of section 506G of the National Security Act of 1947, as added by paragraph (1), shall be sub-

mitted with the budget for fiscal year 2011 submitted by the President under section 1105 of title 31, United States Code.

(3) TABLE OF CONTENTS AMENDMENT.—The table of contents in the first section of that Act, as amended by sections 305, 321, 322, 323, and 324 of this Act, is further amended by inserting after the items relating to section 506F, as added by section 324(b), the following new item:

''Sec. 506G. Future budget projections.''.

(e) CORRECTING LONG-STANDING MATERIAL WEAKNESSES.—

(1) DEFINITIONS.—In this subsection:

(A) COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term ''covered element of the intelligence community'' means—

(i) the Central Intelligence Agency;

(ii) the Defense Intelligence Agency;

(iii) the National Geospatial-Intelligence Agency;

(iv) the National Reconnaissance Office; or

(v) the National Security Agency.

(B) INDEPENDENT AUDITOR.—The term ''independent auditor'' means an individual who—

(i)(I) is a Federal, State, or local government auditor who meets the independence standards included in generally accepted government auditing standards; or

(II) is a public accountant who meets such independence standards; and

(ii) is designated as an auditor by the Director of National Intelligence or the head of a covered element of the intelligence community, as appropriate.

(C) LONG-STANDING, CORRECTABLE MATERIAL WEAKNESS.—The term ''long-standing, correctable material weakness'' means a material weakness—

(i) that was first reported in the annual financial report of a covered element of the intelligence community for a fiscal year prior to fiscal year 2007; and

(ii) the correction of which is not substantially dependent on a business system that will not be implemented prior to the end of fiscal year 2010.

(D) MATERIAL WEAKNESS.—The term ''material weakness'' has the meaning given that term under the Office of Management and

Budget Circular A–123, entitled ''Management's Responsibility for Internal Control,'' revised December 21, 2004.

(E) COVERED PROGRAM.—The term ''covered program'' means—

(i) the Central Intelligence Agency Program;

(ii) the Consolidated Cryptologic Program;

(iii) the General Defense Intelligence Program;

(iv) the National Geospatial-Intelligence Program; or

(v) the National Reconnaissance Program.

(F) SENIOR INTELLIGENCE MANAGEMENT OFFICIAL.—The term ''senior intelligence management official'' means an official within a covered element of the intelligence community who holds a position—

(i)(I) for which the level of the duties and responsibilities and the rate of pay are comparable to that of a position—

(aa) above grade 15 of the General Schedule (as described in section

5332 of title 5, United States Code); or

(bb) at or above level IV of the Executive Level (as described in section 5315 of title 5, United States Code); or

(II) as the head of a covered element of the intelligence community; and

(ii) which is compensated for employment with funds appropriated pursuant to an authorization of appropriations in this Act.

(2) IDENTIFICATION OF SENIOR INTELLIGENCE MANAGEMENT OFFICIALS.—

(A) REQUIREMENT TO IDENTIFY.—Not later than 30 days after the date of the enactment of this Act, the head of a covered element of the intelligence community shall identify each senior intelligence management official of such element who is responsible for correcting a long-standing, correctable material weakness.

(B) HEAD OF A COVERED ELEMENT OF THE INTELLIGENCE COMMUNITY.—The head of a covered element of the intelligence community may designate himself or herself as the senior

intelligence management official responsible for correcting a long-standing, correctable material weakness.

(C) REQUIREMENT TO UPDATE DESIGNATION.—In the event a senior intelligence management official identified under subparagraph (A) is determined by the head of the appropriate covered element of the intelligence community to no longer be responsible for correcting a long-standing, correctable material weakness, the head of such element shall identify the successor to such official not later than 10 days after the date of such determination.

(3) NOTIFICATION.—Not later than 10 days after the date that the head of a covered element of the intelligence community has identified a senior intelligence management official pursuant to subsection (b)(1), the head of such element shall provide written notification of such identification to the Director of National Intelligence and to such senior intelligence management official.

(4) INDEPENDENT REVIEW.—

(A) NOTIFICATION OF CORRECTION OF DEFICIENCY.—A senior intelligence management official who has received a notification under

paragraph (3) regarding a long-standing, correctable material weakness shall notify the head of the appropriate covered element of the intelligence community, not later than 5 days after the date that such official determines that the specified material weakness is corrected.

(B) REQUIREMENT FOR INDEPENDENT REVIEW.—

(i) IN GENERAL.—Not later than 10 days after the date a notification is provided under subparagraph (A), the head of the appropriate covered element of the intelligence community shall appoint an independent auditor to conduct an independent review to determine whether the specified long-standing, correctable material weakness has been corrected.

(ii) REVIEW ALREADY IN PROCESS.—If an independent review is already being conducted by an independent auditor, the head of the covered element of the intelligence community may approve the continuation of such review to comply with clause (i).

(iii) CONDUCT OF REVIEW.—A review conducted under clause (i) or (ii) shall be conducted as expeditiously as possible and in accordance with generally accepted accounting principles.

(C) NOTIFICATION OF RESULTS OF REVIEW.—Not later than 5 days after the date that a review required by subparagraph (B) is completed, the independent auditor shall submit to the head of the covered element of the intelligence community, the Director of National Intelligence, and the senior intelligence management official involved a notification of the results of such review.

(5) CONGRESSIONAL OVERSIGHT.—The head of a covered element of the intelligence community shall notify the congressional intelligence committees not later than 30 days after the date of—

(A) that a senior intelligence management official is identified under paragraph (2)(A) and notified under paragraph (3); or

(B) the correction of a long-standing, correctable material weakness, as verified by an independent review under paragraph (4)(B).

SEC. 6009. ENDING THE IRS SLUSH FUND.

The Internal Revenue Service shall deposit in the Treasury as miscellaneous receipts all of the fees it receives for services.

SEC. 6010. RESCINDING UNSPENT EARMARKS.

(a) DEFINITION.—In this section, the term ''earmark'' means the following:

(1) A congressionally directed spending item, as defined in Rule XLIV of the Standing Rules of the Senate.

(2) A congressional earmark for purposes of Rule XXI of the House of Representatives.

(b) RESCISSION.—Any appropriated earmark with more than 90 percent of the appropriated amount remaining available for obligation at the end of the 9th fiscal year following the fiscal year in which the earmark was made available is rescinded effective at the end of that 9th fiscal year.

(c) AGENCY IDENTIFICATION AND REPORTS.—

(1) AGENCY IDENTIFICATION.—Each Federal agency shall identify and report every project that is an earmark with an unobligated balance at the end of each fiscal year to the Director of OMB.

(2) ANNUAL REPORT.—The Director of OMB shall submit to Congress and publically post on the website of OMB an annual report that includes—

(A) a listing and accounting for earmarks with unobligated balances summarized by agency including the amount of the original earmark, amount of the unobligated balance and year when the funding expires, if applicable;

(B) the number of rescissions resulting from this section and the annual savings resulting from this section for the previous fiscal year; and

(C) a listing a accounting for earmarks scheduled to be rescinded at the end of the current fiscal year.

SEC. 6011. REPEALING THE RAIL-LINE RELOCATION PROGRAM.

Section 20154 of title 49, United States Code, is repealed.

SEC. 6012. ELIMINATING RADIO/TV MARTI AT THE OFFICE OF CUBA BROADCASTING.

(a) RADIO BROADCASTING TO CUBA ACT.—The Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.) is repealed.

(b) TELEVISION BROADCASTING TO CUBA ACT.—The Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) is repealed.

(c) REPORT ON PUBLIC COMMUNICATION WITH CUBAN PEOPLE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Broadcasting Board of Governors, the International Broadcasting Bureau, and other relevant agencies and organizations, shall submit a report to the Committee on Appropriations of the Senate, the Committee on Foreign Relations of the Senate, the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Affairs of the House of Representatives that describes—

(1) alternatives to television and radio broadcasts for disseminating news and information to, and otherwise communicating with, the Cuban people, including DVDs, the Internet, cell phones, and other handheld electronic devices; and

(2) the relative effectiveness of each of the communication alternatives identified under paragraph (1).

SEC. 6013. ENDING SUPPORT FOR THE COLOMBIAN MILITARY.

None of the funds appropriated or otherwise made available by any Act under the headings ''INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT'' or ''FOREIGN MILITARY FINANCING PROGRAM'' may be used for

direct support to the military forces of the Government of Colombia.

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