

Washington Headquarters Services*
Administrative Record for FY 2013 Furlough Appeals

Note: Agency representatives may supplement this record by submitting additional documents within individual appeals.

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***In addition to the Washington Headquarters Services, the following Department of Defense agencies are covered by this administrative record:**

1. The Office of the Secretary of Defense;
2. The Under Secretaries (except for the Military Services: Army, Navy, Marines and Air Force);
3. The Assistant Secretaries (except for the Military Services: Army, Navy, Marines and Air Force);
4. The Pentagon Force Protection Agency;
5. The Chairman of the Joint Chiefs of Staff and the Joint Staff;
6. The Defense Legal Services Agency;

7. The Raven Rock Mountain Complex;
8. The Defense Prisoner of War/Missing Personnel Office;
9. The Defense Technology Security Administration;
10. The Office of Military Commissions;
11. The Department of Defense Consolidated Adjudications Facility; and
12. The Defense Security Cooperation Agency.

**UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD**

DECLARATION OF ROBERT F. HALE

Personal Background

I, Robert F. Hale, having personal knowledge of the facts contained in this declaration and being competent to testify to them, hereby state as follows:

1. I currently serve as the Under Secretary of Defense (Comptroller)/Chief Financial Officer in the United States Department of Defense (“DoD” or “the Department”). I have held this position since February 2009 following my nomination by President Barack Obama, confirmation by the United States Senate, and appointment by President Obama.

2. Prior to my appointment, I served as the Executive Director of the American Society of Military Comptrollers (ASMC), the professional association of Defense financial managers. As Executive Director, I led the ASMC’s certification program (the Certified Defense Financial Manager program), and oversaw other training programs, the society’s professional journal, and the ASMC’s National Professional Development Institute, an annual conference attracting more than 3,500 participants. Prior to my ASMC tenure, from 1994 to 2001, I served in the Pentagon as the Assistant Secretary of the Air Force (Financial Management and Comptroller), where I was responsible for annual budgets in excess of \$70 billion, efforts to streamline Air Force financial management, and compliance with the Chief Financial Officers Act. In addition, from 1982 to 1994, I headed the National Security Division at the Congressional Budget Office, developing quantitative analyses of major defense budget issues and testifying frequently before congressional committees. During my career, I was also a senior fellow and head of the acquisition and grants management group at LMI, a consulting firm

specializing in service to the Federal government. I also spent 3 years as an active duty officer in the U.S. Navy and served as a staff analyst and study director at the Center for Naval Analysis.

3. I graduated with honors from Stanford University with a Bachelor of Science (B.S.) in mathematics and statistics. I also hold a Master's degree in operations research from Stanford and a Master of Business Administration (MBA) degree from the George Washington University. I am a Certified Defense Financial Manager (CDFM). I am a fellow of the National Academy of Public Administration and a past member of the Defense Business Board, a high-level Pentagon advisory panel. In addition, I am the recipient of the Department of Defense Exceptional Public Service Award, the Air Force Distinguished Service Award, and the National Defense Medal.

4. In my current position as Under Secretary of Defense (Comptroller), I am the principal advisor to Secretary of Defense Hagel on all budgetary and fiscal matters, including the development and execution of DoD's annual budget of more than \$500 billion, which pays for day-to-day and wartime requirements. As Chief Financial Officer, I also oversee the Department's financial policy, financial management systems, and business modernization efforts. I served in the same capacity for former Secretaries of Defense Panetta and Gates.

Overview of Sequestration and Its Impact on the Department of Defense

5. As the Department's Comptroller, I have advised both Secretary Hagel and former Secretary Panetta regarding the Department's reduced funding levels and the impact of sequestration on the Department's budget and the various options, including furloughs, for addressing such impact. I advised that an administrative furlough was a management tool that would result in a predictable, recurring amount of money being available for use by the

Department to contribute to addressing the negative fiscal impacts of sequestration, operating for a full-year under a continuing resolution, and increasing war requirements.

6. By way of background, the Budget Control Act (BCA) of 2011, which was enacted in August 2011, provided for a projected \$1.2 trillion in automatic spending cuts, if Congress failed to enact deficit reduction legislation by adopting the recommendations of the Joint Select Committee on Deficit Reduction by January 15, 2012. The cuts were to be evenly divided: (1) over a 9-year period beginning in 2013 and ending in 2021, and (2) between defense spending and discretionary domestic spending. Known as sequestration (or sequester), the above process of automatic spending cuts was intended as a means of encouraging compromise on deficit reduction efforts. When no such compromise was reached, however, the mandatory budget cuts (including \$109 billion in total cuts for fiscal year 2013) were scheduled to go into effect on January 2, 2013. Passage of the American Taxpayer Relief Act on January 2, 2013, delayed the mandatory budget cuts until March 1, 2013.

7. As of February 2013, the Department anticipated, absent another postponement or a compromise, that by the end of the following month, its share of the sequester for fiscal year 2013 would result in an approximate \$42 billion reduction in the Department's total discretionary budgetary topline (later recalculated by the Office of Management and Budget at \$37 billion) with virtually every budget account in the Department's budget – including wartime funding but excluding military personnel accounts – cut by as much as 9 percent.

8. In addition to sequestration, the Department anticipated further budgetary constraints if the funding levels for the remainder of fiscal year 2013 were to stay in effect at the then-current funding levels allowed by the continuing resolution (CR). A CR is an appropriations act that funds specified Federal agencies or the entire Federal government until a

specified date or for the remainder of the fiscal year when agreement cannot be reached on one or more of the regular appropriation acts. Typically it proportionally allocates budget authority into accounts based on amounts appropriated in the prior year appropriations acts. Thus, the lack of a regular DoD appropriations act for fiscal year 2013 created, among other things, the additional constraint of having money in the wrong appropriation accounts. Specifically, under the then-existing CR, the Department had too many dollars in the investment accounts and too few dollars in the operation and maintenance (O&M) accounts.

9. Finally, by February 2013 the Department faced costs of wartime operations in excess of those that were estimated two years earlier when budgets were prepared. At that point we estimated that we could be short as much as \$10 billion in wartime operating costs.

10. These various factors – sequestration, misallocation of funds under the CR, unexpectedly high wartime costs – all affected the DoD budget, especially the Operation and Maintenance (O&M) portion of the budget, which funds the costs for many of our civilian employees. Taken together, these factors left us facing shortfalls of \$40 billion or roughly 20 percent of O&M funding for active forces.

Initial Considerations Regarding the Furlough of Department of Defense Civilian Employees

11. In response to sequestration and other shortfalls, the DoD determined that if it had to operate under reduced funding levels for an extended period of time, it would have to consider furloughs and other actions to ensure it could execute its core mission and to bring its expenditures down to appropriated levels. As an initial overriding objective, the Department had to protect the warfighter. This objective meant, however, that there would be larger and more disproportionate cuts in the Military Departments' O&M accounts supporting the base budget for

the active forces and from which most civilian positions are funded. The need to protect warfighter funds added to the Department's O&M problems.

12. As of late February 2013, the Department had already begun taking many near-term actions in an attempt to slow spending and avoid more draconian cuts at a later time. Such actions included severe cutbacks in travel and training conferences; civilian hiring freezes; layoffs of more than 7,500 temporary and term employees; sharp cutbacks in facilities maintenance (by as much as 90 percent in the remainder of the year); cutbacks in base operations; reduction of the number of aircraft carriers, embarked air wings, and accompanying defensive and support ships deployed to the Persian Gulf; reductions in the scope of and period of performance of contracts; and delay of contracting actions until the next fiscal year. However, the Department recognized at that time that if sequestration and the CR were to last throughout fiscal year 2013, many more far-reaching changes would be required, including cutbacks and delays in virtually every investment program in the Department (some 2,500 of them) and the furlough of civilian personnel.

13. As a result, on February 20, 2013, Secretary of Defense Panetta notified DoD civilian employees and the Congress about the potential for such furloughs for up to 22 days (176 hours). As I noted that same day in a DoD Press Briefing on "Civilian Furlough Planning Efforts," although the Department would strongly prefer not to impose furloughs, the Department believed that it had no choice but to do so absent further action by Congress, given the severe budget constraints outlined above. As I then stated,

We're more than 20 percent short in O&M, with 7 months to go, much higher in some of the services, particularly the Army. Civilian personnel make up a substantial part of DoD O&M funding. We can't do reductions in force, especially at this point in the year. They'd cost us money in this year because of unused leave and severance pay, so furloughs are really the only way we have to quickly cut civilian personnel funding.

14. During the planning for possible furloughs, the Secretary determined that, as a matter of policy, there would be only limited exceptions to any furloughs that were imposed. Exceptions would include civilians directly involved in support of wartime operations, those needed for protection of life and property, and those involved in a few programs of particularly high priority (especially programs directly and significantly affecting military readiness). Remaining furloughs would be implemented in a fair and even manner across the breadth of the Department (including the Military Departments). We estimated that furloughs of 22 days would reduce DoD expenditures by \$4 to \$5 billion.

15. On March 21, 2013, Congress passed H.R. 933, the “Consolidated and Further Continuing Appropriations Act, 2013,” (hereafter referred to as “the Act”) which, in part, provided fiscal year 2013 full-year appropriations through September 30, 2013, for various Federal agencies, including the Department of Defense, and which modified some aspects of sequestration. Although it retained the overall sequestration spending cuts and their across-the-board nature, and did not provide sufficient funding to cover the OCO shortfalls, it aligned funding closer to the fiscal year 2013 budget request for DoD and provided limited transfer authority to the Department, which is an authority to move money from one account (*e.g.*, Procurement) to another (*e.g.*, O&M) in order to provide some flexibility during budget execution. In anticipation of the President’s signing Public Law No. 113-6, on March 21, 2013, the Department delayed issuance of furlough notices to allow the Department to analyze carefully the impact of the Act on the Department’s resources. After March 26, 2013, when President Obama signed H.R. 933 into law as Public Law No. 113-6, the Department no longer operated under the CR terms and conditions. This corrected approximately \$11 billion of the

shortfall in the Military Departments' base O&M accounts that resulted from operating under the CR at the fiscal year 2012 funding levels and authorized a total of \$7.5 billion in general and special transfer authority under sections 8005 and 9002, respectively.

16. However, even after enactment of this appropriations legislation, the Department still faced an O&M shortfall in excess of \$30 billion. In efforts to minimize the adverse effects of the sequester, and of the overall O&M shortfall, the Department pursued various courses of action. In addition to the short-term actions mentioned above, the Department imposed far-reaching cutbacks in training and maintenance. In April the Air Force began shutting down all flying at 12 combat-coded fighter and bomber squadrons and curtailed exercises, acts that seriously reduced military readiness. By April the Army had already cancelled seven combat training center rotations – culminating training events that are necessary to ready units for deployment – and five brigade-level exercises. The Department of the Navy also cut back steaming days and flying hours across the Navy and Marine Corps. The military services also cut back funding for weapons maintenance. In addition, the Department of the Navy delayed deployment of the USS TRUMAN carrier strike group to the Persian Gulf, curtailed the sailing of the USNS COMFORT to the United States Southern command area of responsibility, and cancelled four other ship deployments.

17. By late April these various actions had reduced the estimated O&M shortfall to about \$11 billion, mostly in our wartime budget and mostly in the Army. Faced with a limited number of options to close this gap, and with uncertainty about the Department's ability to identify and gain Congressional acceptance of further budget cuts, on May 14 the Secretary announced his intention to impose furloughs on civilian personnel rather than making even larger cuts in training and maintenance that would have further eroded military readiness. Overall, the

furloughs impacted approximately 650,000 (or about 85%) of the Department's approximately 767,000 civilian employees paid directly by DoD funds. Rather than the 22 days estimated earlier, the Secretary reviewed budget projections and decided that furloughs could be limited to a maximum of 11 days (88 hours). We estimated that furloughs of 11 days would save DoD about \$2 billion, avoiding substantial further cuts in training and maintenance. The Department began the required "impact and implementation" bargaining with unions and began the process of issuing required notifications to employees and furloughs began during the week of July 8.

Inclusion of Working Capital Fund Employees

18. On June 21, 2013, a bipartisan group of 31 Members of Congress sent a letter to the Secretary of Defense expressing "concern about the determination that civilian workers at entities funded through Defense Working Capital funds are subject to furlough." Specifically, the members inquired as to the legality of furloughing civilians in these funds in light of section 129 of title 10 of the United States Code.

19. On July 5, 2013, acting based on the Advice of the DoD Office of General Counsel, I responded on behalf of Secretary Hagel. In my letter, which is attached hereto as Attachment 1, I noted that the short-term furlough directed by the Department of Defense does not contradict any of the various prohibitions which are set forth in section 129. As I further explained, to the contrary,

Section 129 directs the Department to manage our civilian workforce based on workload and on the "funds made available to the department for such fiscal year." The \$37 billion reduction levied on the Department by sequestration is a major cause of these furloughs, and therefore our actions satisfy the requirements of section 129. Indeed, section 129 directs the Department to manage our civilian workforce based on workload and funding.

As for your cost concerns, furloughs of all DoD civilians will save about \$2 billion in fiscal year 2013, including more than \$500 million associated with

reduced personnel costs in working capital fund activities. These working capital fund personnel savings provide us the flexibility to adjust maintenance funding downward to meet higher-priority needs. The Air Force, for example, currently expects to reduce funded orders in their working capital funds by about \$700 million to meet higher-priority needs while the Army expects to reduce orders by \$500 million.

See Attachment 1.

20. Having imposed furloughs, the Department undertook extensive efforts to identify budget changes that would close the remaining gap and, if possible, reduce cutbacks in training and impose fewer furlough days. In mid-May the Department prepared and submitted two Omnibus reprogramming requests that sought permission from the congressional defense committees to move funds totaling about \$9.6 billion from lower priority budget lines to higher priority budget lines. When the congressional committees did not approve all of the Omnibus reprogramming requests, the Department submitted two additional reprogramming actions on July 22, 2013, that included about \$1 billion of replacement sources for those sources that one or more of the committees had denied or deferred. These reprogrammings moved furlough savings and funds for lower-priority activities to areas of highest budgetary need. The law limits the amount of funds that can be transferred annually under reprogrammings, and these two reprogramming actions used almost all of DoD's transfer authority for FY 2013. Second, pursuant to existing authorities, the Department transferred responsibilities for some specific programs and missions from one Department of Defense component to another and used other available means to reallocate the financial burden for supporting the warfighter. For example, on July 15, 2013, pursuant to section 165(c) of title 10 of the United States Code, the Deputy Secretary of Defense assigned to the Secretary of the Navy the responsibility for providing up to \$450 million for support to U.S. Forces in Afghanistan that previously had been the responsibility of the Army under the Logistics Civil Augmentation Program (LOGCAP). The

Navy ultimately provided \$310 million for the support to U.S. Forces in Afghanistan using the Army's LOGCAP contract. On July 15, 2013, pursuant to section 2571(b) of title 10 of the United States Code, the Deputy Secretary also directed the Director for the Defense Logistics Agency to reduce the standard prices for jet and ground fuel procured under the authority of section 2208 of title 10 of the United States Code and provided to DoD customers in connection with military operations conducted in Afghanistan, retroactive to March 1, 2013 (to coincide with the President's sequestration order). This effectively tapped funds available to the Defense Logistics Agency to support the warfighting costs that would otherwise have been borne by the military departments.

The Furlough Outcome

21. Since Congress approved most of the Department's large reprogramming requests that were submitted in mid-May and late-July, giving the Department flexibility to move funds across accounts, together with the facts that the Military Departments were aggressive in identifying ways to hold down costs, and that the Department was able to transfer some responsibilities for funding specific programs and missions using existing authorities, the Department was successful in shifting savings (including furlough savings) to meet its highest priority needs. As a result, the Department was able to close the remaining budgetary gap and abide by legally binding spending caps. DoD was also able to accomplish two high-priority goals: a reduction in furlough days, and modest improvements in training and readiness. Specifically, DoD was able to reduce furloughs from a maximum of 11 days to 6 days (48 hours) for most DoD civilian employees.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: September 16, 2013

A handwritten signature in cursive script that reads "Robert F. Hale". The signature is written in black ink and is positioned above a horizontal line.

Robert F. Hale



COMPTROLLER

UNDER SECRETARY OF DEFENSE
1100 DEFENSE PENTAGON
WASHINGTON, DC 20301-1100

JUL - 5 2013

The Honorable Derek Kilmer
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Kilmer:

Thank you for your letter of June 21, 2013 concerning the furlough of working capital fund civilians of the Department of Defense (DoD). Secretary of Defense Hagel asked me to respond on his behalf. I can say in summary that in FY 2013 DoD faced a budget cut of \$37 billion caused by sequestration, in addition to shortfalls in wartime funding. The Department does not want to furlough any of its valued civilian employees but must do so to help meet these budgetary shortfalls. Furloughs of civilians at working capital fund activities are legal and result in personnel cost savings.

Secretary Hagel regrets having to furlough any DoD civilian employees, whether they serve in the Department's working capital fund activities or elsewhere. Unfortunately, in FY 2013 DoD faces a large shortfall in our operating budgets both because of sequestration and a lack of funds to meet all our wartime operating requirements. The Department has taken many steps to close this shortfall including sharp cuts in facilities maintenance, hiring freezes, and layoffs of temporary and term employees. DoD has asked Congress to let us "reprogram" or move money from our investment accounts into operating accounts to help pay DoD's wartime bills, though our Congressional Committees have not yet approved a significant part of that request. The Department has also cut back sharply on training and maintenance, actions that have led to serious damage to our readiness. Finally, and reluctantly, DoD has imposed furloughs for up to 11 days on most of its civilian employees.

You requested the Department's views on the legality of furloughing civilians in working capital fund activities, in particular with respect to section 129 of title 10, United States Code. The Department believes short-term furloughs of working capital fund civilians -- who are indirectly funded Government employees -- are permissible under that statute. Indirectly funded Government employees may not be subjected to constraints or limitations based on the number of such personnel who may be employed on the last day of a fiscal year, and may not be managed on the basis of man years, end strength, full-time equivalent positions, or maximum number of employees. They also may not be controlled under any policy of a Military Department Secretary with respect to civilian manpower resources. A short-term furlough directed by the Secretary of Defense does not contradict these prohibitions. Further, Section 129 directs the Department to manage our civilian workforce based on workload and on the "funds made available to the department for such fiscal year". The \$37 billion reduction levied on the Department by sequestration is a major cause of these furloughs, and therefore our actions satisfy the requirements of section 129. Indeed, section 129 directs the Department to manage our civilian workforce based on workload and funding.

As for your cost concerns, furloughs for all DoD civilians will save about \$2 billion in FY 2013, including more than \$500 million associated with reduced personnel costs in working capital fund activities. These working capital fund personnel savings provide us the flexibility to adjust maintenance funding downward to meet higher-priority needs. The Air Force, for example, currently expects to reduce funded orders in their working capital funds by about \$700 million to meet higher-priority needs while the Army expects to reduce orders by \$500 million. Because Congress has not yet approved about \$2.5 billion of our reprogramming request as of the date of this letter, it is unfortunately possible that these maintenance cutbacks may have to be increased.

The Secretary and the Department appreciate and share your concerns for the efficiency of our operations, the welfare of our civilian employees, and the impact of furloughs on our defense communities. The Department is also seriously concerned with the adverse effects on readiness caused by cutbacks in training and maintenance. The best way for Congress to address all these concerns is to pass a balanced deficit reduction plan that the President can sign and then repeal sequestration.

An identical letter is being provided to the other signatories to your letter.

Sincerely,

A handwritten signature in cursive script that reads "Robert F. Hale".

Robert F. Hale



U.S. Department of Defense
Office of the Assistant Secretary of Defense (Public Affairs)
Speech

On the Web:

<http://www.defense.gov/Speeches/Speech.aspx?SpeechID=1779>

Media contact: +1 (703) 697-5131/697-5132

Public contact:

<http://www.defense.gov/landing/comment.aspx>

or +1 (703) 571-3343

Message from Secretary Hagel on Furloughs

As Written by Secretary of Defense Chuck Hagel, The Pentagon, Tuesday, May 14, 2013

To all Department of Defense personnel:

As you are fully aware, the Department of Defense is facing a historic shortfall in our budget for the current fiscal year. This is the result of current law that went into effect March 1. It imposes deep across-the-board cuts on DoD and other federal agencies. Combined with higher than expected wartime operating costs, we are now short more than \$30 billion in our operation and maintenance (O&M) accounts – which are the funds that we use to pay most civilian employees, maintain our military readiness, and respond to global contingencies.

The Department has been doing everything possible to reduce this shortfall while ensuring we can defend the nation, sustain wartime operations, and preserve DoD's most critical asset – our world-class civilian and military personnel. To that end, we have cut back sharply on facilities maintenance, worked to shift funds from investment to O&M accounts, and reduced many other important but non-essential programs.

Still, these steps have not been enough to close the shortfall. Each of the military services has begun to significantly reduce training and maintenance of non-deployed operating forces – steps that will adversely impact military readiness. And even these reductions are not enough. Since deeper cuts to training and maintenance could leave our nation and our military exposed in the event of an unforeseen crisis, we have been forced to consider placing the majority of our civilian employees on administrative furlough.

After extensive review of all options with the DoD's senior military and civilian leadership on how we address this budget crisis, today I am announcing that I have decided to direct furloughs of up to 11 days for most of the Department's civilian personnel. I have made this decision very reluctantly, because I know that the furloughs will disrupt lives and impact DoD operations. I recognize the significant hardship this places on you and your families.

After required notifications, we will begin the furlough period on July 8 at the rate of one furlough day per week for most personnel. We plan to continue these furloughs through the end of the current fiscal year. If our budgetary situation permits us to end furloughs early, I would strongly prefer to do so. That is a decision I will make later in the year.

Furloughs for 11 days represent about half of the number we had originally planned, reflecting the Department's vigorous efforts to meet our budgetary shortfalls through actions other than furlough. There will be exceptions driven by law and by the need to minimize harm to the execution of our core missions. For example, all employees deployed or temporarily assigned to a combat zone will be excepted from furloughs.

Your managers have been given authority to develop specific furlough procedures to minimize adverse mission effects and also limit the harm to morale and productivity. They will be in touch with you to provide guidance and answers.

The President and I are deeply appreciative of your patience, your hard work, and your dedication and contributions to the critical mission of helping protect America's national security. I am counting on all of you to stay focused on this vital mission in the days ahead. As I said the day I assumed the responsibilities of Secretary of Defense, I'm proud to be part of your team and I'm proud to serve with you.



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAY 14 2013

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
CHIEFS OF THE MILITARY SERVICES
COMMANDERS OF THE COMBATANT COMMANDS
CHIEF OF THE NATIONAL GUARD BUREAU
DIRECTOR, COST ASSESSMENT AND PROGRAM
EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Furloughs

This memo directs defense managers to prepare to furlough most Department of Defense (DoD) civilians for up to 11 days. The schedule for furloughs, and some specific exceptions, are described later in this memo and in the attachment. I have made this decision very reluctantly, because I know that the furloughs will disrupt lives and impact DoD operations. I, along with the senior civilian and military leadership of the Department, have spent considerable time reviewing information related to the need for furloughs, and I would like to share with you the reasoning that led me to this difficult decision.

Major budgetary shortfalls drove the basic furlough decision. On March 1, sequestration went into effect across the federal government. DoD's budget for FY 2013 was reduced by \$37 billion, including \$20 billion in the operation and maintenance (O&M) accounts that pay many of our civilian workers. In addition, because our wartime budget is also subject to sequestration, we must utilize funds originally budgeted for other purposes in order to provide our troops at war with every resource they need. To compound our problems, when we estimated future wartime operating costs more than a year ago, we planned on fuel costs below what we are currently experiencing. Taken together, all these factors lead to a shortfall in our O&M accounts of more than \$30 billion – a level that exceeds 15 percent of our budget request, with fewer than six months left in the fiscal year in which to accommodate this dramatic reduction in available resources.

We are taking actions to reduce this shortfall. One main priority has governed our decisions: to minimize the adverse effects on our military mission, including military readiness. With this in mind, early this calendar year we cut back sharply on facilities maintenance and worked to hold down base operating costs -- decisions we knew would build a backlog of maintenance and adversely affect our bases. We are also preparing a request to Congress that would permit us to shift some funding from investment and military personnel accounts into the O&M accounts. If approved by Congress, this initiative -- known as a reprogramming -- would help close the gap.

But these actions are not enough. We have begun making sharp cuts in the training and maintenance of our operating forces -- cutbacks that are seriously harming military readiness. The Army, for example, has terminated most remaining FY 2013 training rotations at its combat training centers. The Air Force has or soon will stop all flying at about one-third of its combat-coded squadrons in the active forces. The Navy and Marine Corps are cutting back on training and on deployments -- including a decision not to send a second carrier strike group to the Gulf. These are only a few of the many cutbacks we have made in training and maintenance. These actions reduce our ability to handle future military contingency needs, both this year and in subsequent years.

Even after taking all these actions, we are still short of needed operating funds for FY 2013, and we cannot rule out unexpected increases in costs during the next few months. So we confront a difficult set of trade offs. We can make even larger cutbacks in training and maintenance, further reducing readiness to handle contingency operations and putting into even greater jeopardy our military readiness in future fiscal years. Alternatively, we can furlough civilian personnel to help close the gap and, knowing that morale, productivity and readiness would be affected. This is an unpleasant set of choices, but this is the situation we face.

Before making a decision, I sought advice and inputs from senior leaders in the military departments and agencies as well as advice from my senior civilian and military staff. I asked them to keep in mind our fundamental criterion to minimize adverse mission effects and, subject to that criterion, to ensure reasonable consistency and fairness across the Department for any furloughs that we impose.

Based on all these inputs, I have decided to direct furloughs of up to 11 days for most of the Department's civilian personnel. Furloughs for up to 11 days represent about half of the 22 days that can legally be imposed in a year and also about half the number we had originally planned. This halving of previous furlough plans reflects vigorous efforts to meet our budgetary shortfalls through actions other than furloughs as well as Congressional passage of an appropriations bill in late March that reduced the shortfalls in our operating budget and expectations of Congressional action on our reprogramming request.

Furloughs will be imposed in every military department as well as almost every agency and in our working capital funds. All of our civilian employees are important, and I would prefer not to furlough any of them. However, there will only be limited exceptions driven by law and by the need to minimize harm to mission execution. We will except civilians deployed to combat zones and civilians necessary to protect life and property (but only to the extent needed to provide that protection). A few categories of workers will be excepted for specific mission reasons while some categories of workers will be excepted because furloughing them would not

free up money for critical DoD mission needs. The attachment provides details regarding approved exceptions. Fewer than one fifth of all civilians paid with appropriated funds will be excepted from furloughs.

The planning and implementation of furloughs will be carried out based on the schedule below:

- May 28 - June 5: Furlough proposal notices will be served to individual employees subject to furloughs.
- June 4 - June 12: Individual employee reply periods end 7 calendar days from when the proposal was received, unless Component procedures allow for a different reply period.
- June 5 - July 5: Furlough decision letters will be served to individual employees subject to furloughs, depending on when the proposal was received and prior to the first day of furlough.
- July 8: Furlough period begins no earlier than this date.

We will begin furloughs on July 8 at the rate of 1 furlough day per week for most personnel. For now, we plan to continue furloughs through the end of FY 2013. That schedule would lead to 11 furlough days – one fifth of the week for about one quarter of the year. Moreover, I am directing all components to monitor funding closely for the remainder of FY 2013. If our budgetary situation permits us to end furloughs early, I would strongly prefer to do so. That is a decision I will make later in the year.

Consistent with this memo and with applicable laws and rules, commanders and managers will have the authority to develop the specifics of furlough procedures in order to minimize adverse mission effects and also limit the harm to morale and productivity. Further bargaining with unions may also be required. The Under Secretary for Personnel and Readiness has already issued guidance as appropriate regarding personnel and union issues related to furloughs and will issue additional guidance as needed. Overall coordination of sequester and furlough policies will be the responsibility of the Under Secretary of Defense (Comptroller).

Each of the Department's civilian employees makes an important contribution to the readiness of our Department to meet the nation's national security needs. I understand that the decision to impose furloughs imposes financial burdens on our valued employees, harms overall morale, and corrodes the long-term ability of the Department to carry out the national defense mission. I deeply regret this decision. I will continue to urge that our nation's leaders reach an agreement to reduce the deficit and de-trigger sequestration. If no agreement is reached, I will continue to look for ways to limit the adverse effects of sequestration and associated budgetary shortfalls both on the men and women of the Department of Defense, and on our national defense.

Attachment:
As stated.



Department of Defense Furlough Exceptions

This attachment provides Components with final dispositions on categorical exceptions to the Department of Defense (DoD) plan to furlough civilian employees for a maximum of 88 hours or 11 discontinuous workdays because of the current financial crisis caused by a sequestration for Fiscal Year (FY) 2013, increased costs for ongoing Overseas Contingency Operations, and other emerging requirements. In order to minimize adverse effects on mission, employees in the following categories are excepted from furlough for the reasons noted:

- a) In order to avoid harm to war efforts, all employees deployed (in a Temporary Duty status) or temporarily assigned (to include Temporary Change of Station) to a combat zone (as defined in notes below) are excepted from furlough.
- b) In order to avoid harm to mission, those employees necessary to protect safety of life and property are excepted to the extent necessary to protect life and property. This includes selected medical personnel. Later portions of this attachment provide details.
- c) Employees in Navy shipyards will be excepted from furlough because it would be particularly difficult to make up delays in maintenance work on nuclear vessels and these vessels are critical to mission success. All other depot employees, whether mission-funded or working capital fund employees, will be subject to furlough.
- d) Furloughs for employees funded with National Intelligence Program (NIP) funds will be determined by the Director of National Intelligence. Employees funded with Military Intelligence Program (MIP) funds will be subject to furlough.
- e) Because there would be no savings, Foreign Military Sales (FMS) employees whose positions are exclusively funded from FMS Administrative and FMS case funds (case number may be required to validate funding source) and from Foreign Military Financing accounts are excepted from furlough. Furloughing employees in this category would not reduce the expenditure of DoD budgetary resources and so would not assist in meeting sequestration reductions. The FMS case-funded positions funded in whole or part by DoD appropriations (to include "pseudo-FMS" cases) are subject to furlough.
- f) By law, all individuals appointed by the President, with Senate confirmation, who are not covered by the leave system in title 5, U.S. Code, chapter 63, or an equivalent formal leave system, are excepted from furlough.
- g) All employees funded by non-appropriated funds (NAF)¹ (regardless of source of NAF funding) are excepted from furlough. Furloughing employees in this category would not reduce the DoD budget and so would not assist in meeting sequestration reductions.
- h) All Outside Contiguous United States foreign national employees, many of whom are subject to Status of Forces Agreements, are excepted from furlough because their situation vary greatly by country/region and because, in some cases, they are paid by host governments.

¹ NAF employees are not covered by the requirements and procedures applicable to furloughs of appropriated fund employees under FY13 sequestration. However, NAF employees may be furloughed under DoD NAF and Component policies and procedures for business-based reasons.

- i) Any employees who are not paid directly by accounts included in the Department of Defense-Military (subfunction 051) budget are excepted from furlough. For example, this would include employees funded by the Arlington National Cemetery (705 function) and DoD Civil Works (various non-051 functions) programs. These exceptions have been identified by the Components. Furloughing these employees would not reduce the expenditure of DoD budgetary resources and so would not assist in meeting sequestration reductions.

The following portion of this document provides the definitive list of additional approved exceptions beyond those listed in the preceding paragraph. The exceptions approved for the safety of life and protection of property category are granted with the understanding that these are the minimum exceptions needed to maintain operations and provide security on a 24/7 basis and that furloughing these employees would result in the Department incurring additional costs for premium pay. Similarly, the exceptions for the medical category are approved with the understanding these exceptions preserve the minimum level of personnel needed to maintain quality of care in 24/7 emergency rooms and other critical care areas such as behavioral health, wounded warrior support, and disability evaluation. Furloughing these employees would result in unacceptable care being provided, and the Department would incur increased costs for premium pay or TRICARE. The exception for Child Development Centers is granted with the understanding that this is the minimum level needed to maintain accreditation and maintain quality care for children in military families. Some Department of Defense Education Activity employees, while not excepted from furlough, may only be furloughed when they are in a pay status. Therefore, they will only be subject to furlough for up to five days at the beginning of the 2013 school year.

Recognizing that circumstances can change in this dynamic environment, the Secretaries of the Military Departments, and the Principal Staff Assistants for the Defense Agencies and Field Activities, may approve up to 50 additional individual, mission-based, exceptions as needed to ensure safe and efficient operations of their respective Departments. Any such exception must be reported to the Acting Under Secretary of Defense (USD) for Personnel and Readiness and the USD Comptroller. There are no other approved exceptions provided based on the Components' submissions. Furlough proposal notices should be issued to all impacted employees beginning May 28, 2013.

Relative to the review and decision on individual employee requests for exception, per guidance issued via the Principal Deputy Assistant Secretary of Defense, Readiness and Force Management, memorandum, dated March 13, 2013, activities should designate the Deciding Official. The designated Deciding Official will be no lower than a local Installation Commander, senior civilian or equivalent who would be in the best position to determine the fair and equitable application of the furlough. Deciding Official responsibilities may not be further delegated. Deciding Officials are charged with, and are accountable for, making final decisions on furloughs for individual employees after carefully considering the employee's reply, if any, and the needs of the Department. Deciding Officials must also ensure they make final decisions in cases where an employee does not submit a reply. Deciding Officials will have the authority to execute the full range of options with respect to providing relief in individual employee cases. This authority includes, but is not limited to, reducing the number of days/hours an individual employee is furloughed, or granting the individual employee an exception from the furlough altogether.

Component	Safety of Life & Property	Medical Personnel	Others	Comments
DoN	7,543	1,418	<p>212 CIVPERS at Sea</p> <p>4,712 CIVMARS</p> <p>514 Appropriated Fund (APF) Child Development Centers (CDCs)</p> <p>15</p> <p>28,000</p> <p>1,657</p>	<p>CIVPERS deployed at sea are subject to furlough upon return from deployment</p> <p>CIVMARS are subject to furlough upon return from deployment</p> <p>Maintain safety standards and quality of care</p> <p>Support to classified programs</p> <p>Shipyard Workers, General</p> <p>Shipyard Workers, Nuclear and Naval Reactors Staff</p>
USA	263	Up to 6,600	<p>555 APF CDC Employees</p> <p>75</p> <p>17</p> <p>257</p>	<p>Maintain safety standards and quality of care</p> <p>ARNG Dual Status Technicians for Alerts, Firefighting, Personnel Recovery and other missions</p> <p>Support to classified programs</p> <p>Non-immigrant employees requiring H-1B visas at Defense Language Institute</p>

Component	Safety of Life & Property	Medical Personnel	Others	Comments
USAF	933	410	62 1,123 30 Students 94 Multi-IOC 24/7 Plant Operators 2 3 1,634 APF CDCs	Support to classified programs ANG Dual Status Technicians for Alerts, Firefighting, Personnel Recovery and other missions Intel School & FLETC Heating/Waste Water Plant minimum safe manning Contingency Planners Special Law Enforcement Pay Maintain safety standards and quality of care
DLA	363			
DA&M	623			546 are from the Pentagon Force Protection Agency; the remaining 77 are Washington Headquarters Services for Pentagon safety and emergency communications. Most will be furloughed fewer than 11 days due to the need to maintain operations and security 24/7.
US Court of Appeals for Armed Services			59	The Chief Judge will decide how many days to furlough employees, if at all.
JTFCAPMED		368		165 @ Walter Reed 203 @ Fort Belvoir

Component	Safety of Life & Property	Medical Personnel	Others	Comments
USUHS	22		5	Animal Husbandry Technicians Non-immigrant employees requiring H-1B visas
Office of the Military Commissions – Defense Legal Services Agency			9	Civilian Trial Practitioners
Department of Defense Education Activity (DoDEA)			10,950	9-month DoDEA employees, which includes teachers, educational aids, and support staff may only be furloughed for up to 5 days at the beginning of the 2013 school year.
DCAA			1	Non-immigrant employees requiring H-1B visa

Notes:

1. Safety of life and property exceptions are based on need for 24/7 coverage in most instances. It is expected all Components will furlough for less than 88 hours in these areas where feasible.
2. Individuals for whom law enforcement premium pay would result in no loss of pay if furloughed will be excepted from the furlough.
3. 20 CFR 655.731 requires that the employer of a H-1B non-immigrant who is not performing work and is placed in a nonproductive status due to a decision by the employer (e.g., placed in a non-pay/non-duty status due to administrative furlough) pay the salaried employee the full pro-rata amount due, or to pay the hourly-wage employee for a full-time week (40 hours or such other number of hours as the employer can demonstrate to be full-time employment for hourly employees, or the full amount of the weekly salary for salaried employees) at the required wage for the occupation.

1. References.

- a) Title 26, U.S. Code, Section 112, Certain combat zone compensation of members of the Armed Forces
- b) Executive Order 12744, January 21, 1991
- c) Executive Order 13119, April 13, 1999
- d) Executive Order 13239, December 12, 2001
- e) Public Law 104-117, To provide that members of the Armed Forces performing services for peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone.

2. The following locations are designated as "Combat Zones" by law, Presidential Executive Order or by DoD certification that members of the Armed Forces serving in such locations are serving in direct support of military operations in a combat zone:

Countries:

Afghanistan (EO 13239)	United Arab Emirates (EO 12744)
Albania (EO 13119)	Uzbekistan (DoD certification)
Bahrain (EO 12744)	Yemen (DoD certification)
Bosnia (PL 104-117)	Croatia (PL 104-117)
Djibouti (DoD certification)	Herzegovina (PL 104-117)
Iraq (EO 12744)	Jordan (DoD certification)
Kuwait (EO 12744)	Kyrgyzstan (DoD certification)
Macedonia (PL 104-1170)	Montenegro (EO 13119)
Oman (EO 12744)	Pakistan (DoD certification)
Philippines (Only troops with orders referencing Operation Enduring Freedom) (DoD certification)	Qatar (EO 12744)
Saudi Arabia (EO 12744)	Serbia (includes Kosovo) (EO 13119)
Somalia (DoD certification)	Tajikistan (DoD certification)

Sea Areas:

Adriatic Sea (EO 13119)	That portion of the Arabian Sea that lies north of 10 degrees north latitude, and west of 68 degrees east longitude (EO 12744)
Gulf of Aden (EO 12744)	Gulf of Oman (EO 12744)
Ionian Sea north of the 39 th Parallel (EO 13119)	Persian Gulf (EO 12744)
Red Sea (EO 12744)	

3. Adherence to the following principles ensures consistency in applying the "deployed to combat zone" exemption to civilian employees in the context of the administrative furlough:

- a) "Deployed civilian" is defined as a civilian employee who is deployed (in temporary duty (TDY) status) or temporarily assigned (to include temporary change of station (TCS)) to a "combat zone" as set forth above.
- b) "Combat zone" is defined as those locations listed as combat zones in Executive Orders 12744, 13119 or 13239 and locations where military are eligible for combat zone tax benefits under law or because DoD has certified that they are providing direct support to military operations.
- c) A "deployed civilian's" period of deployment includes time spent in attendance at mandatory pre-deployment training as well as in completing mandatory post-deployment requirements.
- d) A civilian employee who was deployed to a combat zone but redeploys mid-way through the furlough period will receive a notice of proposed furlough upon return to their parent organization and prior to any furlough. Further, the number of hours for which the employee will be furloughed will be pro-rated.



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

APR 26 2013

The Honorable James Lankford
U.S. House of Representatives
Washington, DC 20515

Dear Representative Lankford:

Thank you for your letter of April 23, 2013, concerning the impact that the potential furlough of civilian Department of Defense employees will have on our mission and our people, as well as impacts on temporary and term employees and new hires.

The Department faces many national security challenges around the world and must address those challenges at a time of profound budget uncertainty. As you know, prior to passage of H.R. 933, the Department was considering up to 22 furlough days for this fiscal year. Following the passage of H.R. 933, the Department is now considering furloughs of up to 14 days. We are still working through this issue in the hopes of minimizing the impact of sequester, including furloughs, on our readiness and our people. The Department has been clear for over a year on the damage that sequester would do to our enterprise. We are examining every option for responsible cuts in order to minimize or possibly eliminate the necessity of furloughs. However, furloughs may be necessary during sequester to assure that the funding for our warfighters and readiness meet mission requirements.

While I appreciate your request to allow Services the maximum flexibility to determine civilian furlough numbers, DOD's most important responsibility is national security. In reallocating resources throughout the Department to the highest national security priorities, we will strive for consistency and fairness across the Department. We will have to reduce spending on service contracts as well as functions performed by civilians. And, we will continue to consider policies that minimize adverse effects of sequester on mission readiness. But the fact remains that we are required to cut approximately \$40 billion from our budget over the next six months, and there is no way to do that without damage to our operations, our people, and our institution. In order to minimize the impact of sequester, including furloughs, we need the help of Congress, especially in approving reprogrammings.

I will make a decision on furloughs soon.

Thank you for your continued support.

A handwritten signature in black ink that reads "Chuck Hagel". The signature is written in a cursive, slightly slanted style. Below the signature is a horizontal line.

Congress of the United States
Washington, DC 20515

April 23, 2013

The Honorable Chuck Hagel
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Mr. Secretary:

As you proceed with your strategic review of the Department's priorities, we would request that you also turn your attention to one of the Department's most strategic assets: its civilian personnel. Specifically, we ask that you review sequestration-related actions with respect to civilian personnel, particularly the widespread use of furloughs, the firing of temporary and term employees, and the freeze on new hires.

These actions currently being implemented were announced in the January 10 guidance issued by the Deputy Secretary of Defense, long before the Department knew the specific funding levels that would be available to it for the entirety of fiscal year 2013. H.R. 933, the Consolidated and Continuing Appropriations Act of 2013, increases funding to the Department's Operation and Maintenance accounts from FY12 to FY13 by an amount that exceeds the anticipated savings from the actions imposed in the January 10 guidance.

It is increasingly clear that these actions are threatening to undermine mission performance and, as a result, mission readiness. We understand that your office is currently reviewing installations' and components' petitions for relief, either because implementation will increase costs — e.g., the workforce will have to work overtime to complete work by contractual deadlines — or is not necessary, e.g., because an installation has workload already funded through a Working Capital Fund. However, to date we have been told only that all civilian furloughs are being applied in the same manner across the Department, regardless of whether a service component or defense agency has the resources to buy back the furlough days.

Additionally, the manner in which the Department is imposing furloughs exacts punishing reductions on components and agencies that downsized their civilian staffs in fiscal years 2009 and 2010 in compliance with prior Defense guidance, while appearing to reward departments and agencies that did not shed workforce. In essence, under the current furlough guidance, the more streamlined, efficient organizations are footing the bill for those that are still over strength.

The Honorable Church Hagel

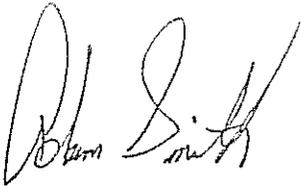
April 23, 2013

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As sequestration continues, the Department inevitably will also have to reduce spending on service contracts. However, even though new civilian hiring is all but stopped, the same constraint might not be imposed on new contracts. Even though temporary and term employees are being systematically fired, not all service contracts will be terminated. Even though the vast majority of civilian employees are being subjected to furloughs which could result in a 20% reduction in income, not all service contracts will be reduced in scope by one-fifth.

We are not taking the position that civilian personnel should not bear sacrifices because of sequestration. Rather, we strongly urge the Department to make merit-based versus indiscriminate decisions on furloughs and firing temporary and term employees and that managers be allowed the discretion to make offsetting cuts to comply with sequestration.

Sincerely,



Adam Smith



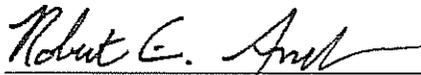
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Robert J. Wittman



Michael R. Turner



Robert E. Andrews



Walter B. Jones



John Garamendi



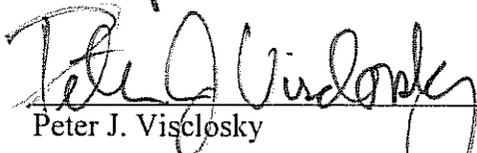
Scott H. Peters



André Carson



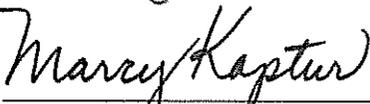
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Peter J. Visclosky



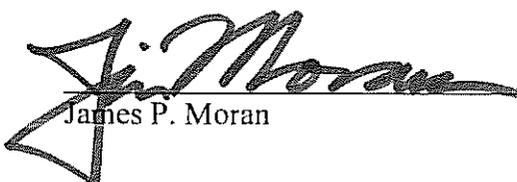
David E. Price



Marcy Kaptur



Jose E. Serrano



James P. Moran



Chaka Fattah

The Honorable Chuck Hagel

April 23, 2013

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Lucille Roybal Allard
Lucille Roybal-Allard

Sanford D. Bishop
Sanford D. Bishop

Tom Cole
Tom Cole

Ed Pastor
Ed Pastor

Eleanor Holmes Norton
Eleanor Holmes Norton

Danny K. Davis
Danny K. Davis

Al Green
Al Green

George Miller
George Miller

John F. Tierney
John F. Tierney

Rubén Hinojosa
Rubén Hinojosa

Bruce B. Braley
Bruce B. Braley

Bobby L. Rush
Bobby L. Rush

Peter Welch
Peter Welch

Nick J. Rahall II
Nick J. Rahall II

Carolyn B. Maloney
Carolyn B. Maloney

Frank D. Lucas
Frank D. Lucas

Albo Sires
Albo Sires

Stephen F. Lynch
Stephen F. Lynch

Alcee L. Hastings
Alcee L. Hastings

Janice D. Schakowsky
Janice D. Schakowsky

Bill Pascrell, Jr.
Bill Pascrell, Jr.

Christopher H. Smith
Christopher H. Smith

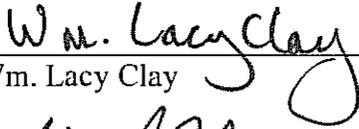
Steve Cohen
Steve Cohen

C.A. Dutch Ruppertsberger
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The Honorable Chuck Hagel

April 23, 2013

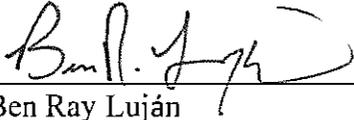
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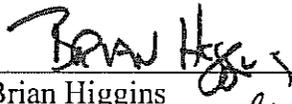
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Keith Ellison



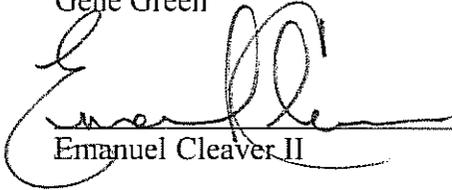
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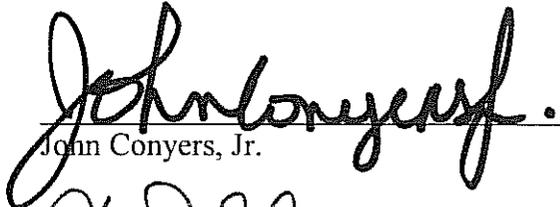
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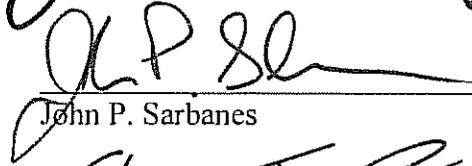
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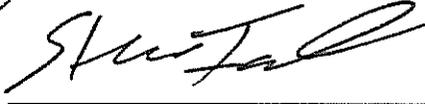
Emanuel Cleaver II



John Conyers, Jr.



John P. Sarbanes



Steve Israel



Paul Tonko

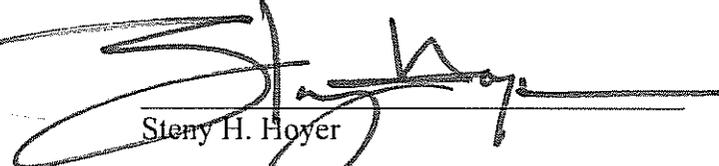


Elijah E. Cummings

The Honorable Chuck Hagel

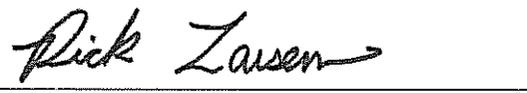
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Steny H. Hoyer


James R. Langevin

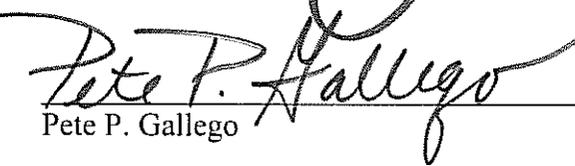

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Rick Larsen


Jackie Speier


Joe Courtney


Marc A. Veasey


Pete P. Gallego


William L. Owens


Lou Barletta


Ann M. Kuster

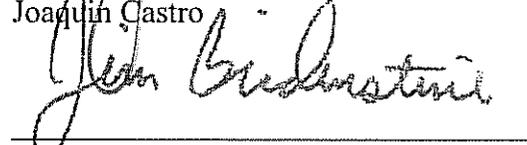

James Lankford


Mike Rogers (Alabama)


Tammy Duckworth


Rob Bishop

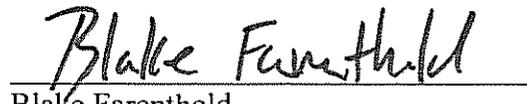

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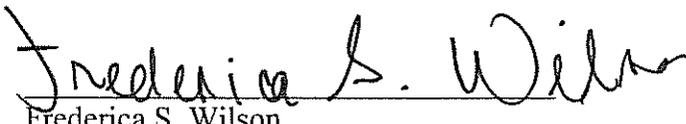

Jim Bridenstine


Daniel B. Maffei


Austin Scott


Frank R. Wolf

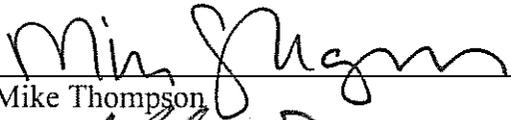

Blake Farenthold

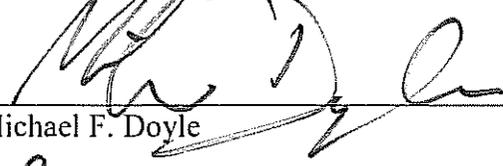

Frederica S. Wilson

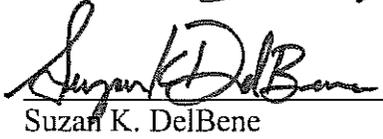
The Honorable Chuck Hagel

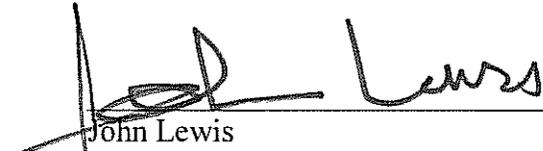
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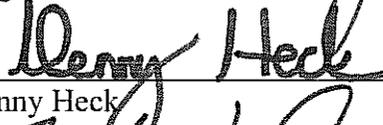

Mike Thompson

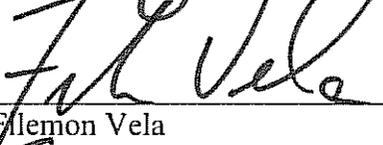

Michael F. Doyle


Suzan K. DelBene

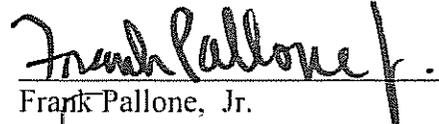

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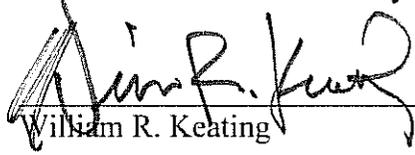

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Denny Heck

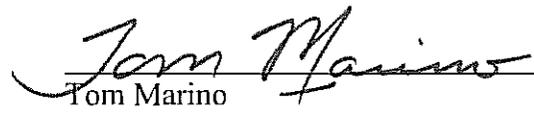

Filimon Vela


Tulsi Gabbard

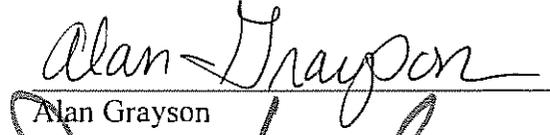

Frank Pallone, Jr.


William R. Keating


Richard L. Hanna


Tom Marino


Gerald E. Connolly


Alan Grayson

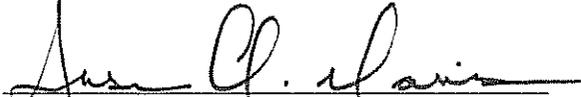

James P. McGovern


Chris Van Hollen

The Honorable Chuck Hagel

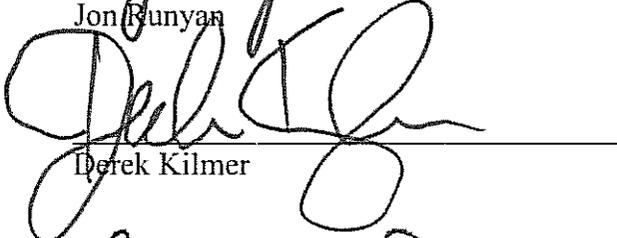
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Susan A. Davis

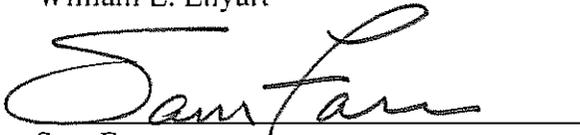

Ron Barber

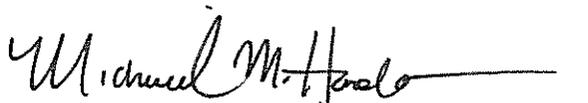

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Derek Kilmer


Carol Shea-Porter


William L. Enyart


Sam Farr


Michael M. Honda

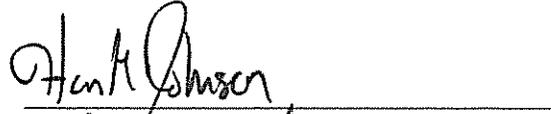

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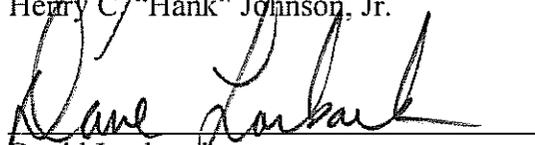

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Niki Tsongas

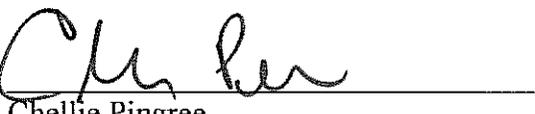

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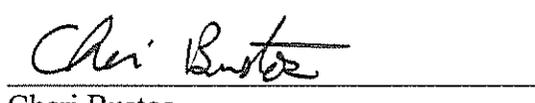

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David Loebsack


Christopher P. Gibson


Tim Ryan


Chellie Pingree


Cheri Bustos


Timothy J. Walsh


Earl Blumenauer


Robert C. "Bobby" Scott

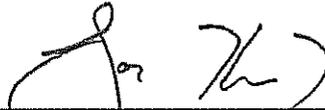
The Honorable Chuck Hagel

April 23, 2013

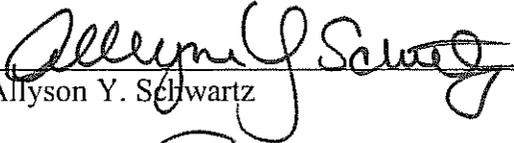
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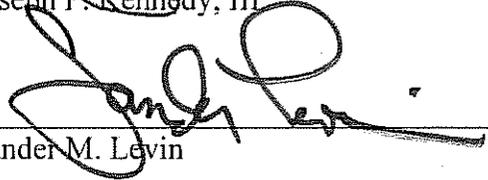
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Joseph P. Kennedy, III



Allyson Y. Schwartz



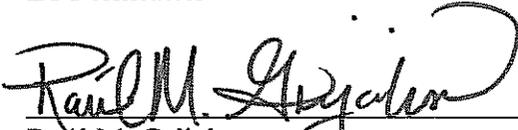
Sander M. Levin



Ed Perlmutter



Ron Kind



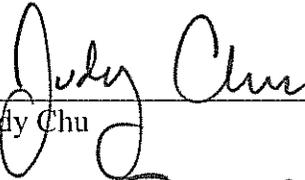
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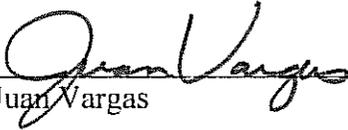
Matthew A. Cartwright



Sean Patrick Maloney



Judy Chu



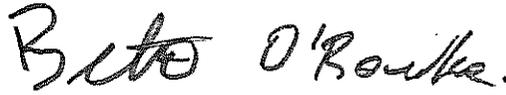
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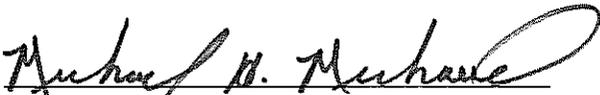
Gary C. Peters



Betty McCollum



Beto O'Rourke



Michael H. Michaud

Cc: The Honorable Robert Hale, Under Secretary of Defense (Comptroller)



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-1950

APR 15 2013

MEMORANDUM FOR UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
ASSISTANT TO THE SECRETARY OF DEFENSE (PUBLIC AFFAIRS)
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANT TO THE SECRETARY OF DEFENSE (INTELLIGENCE
OVERSIGHT)
DIRECTOR, NET ASSESSMENT

SUBJECT: Office of the Secretary of Defense (OSD) Actions for Handling Budget Uncertainty
in Fiscal Year (FY) 2013

Going forward in this period of sequestration and fiscal constraint, all OSD Components must apply especially discriminating judgment regarding expending or committing resources. Recent legislation regarding appropriations for FY13 requires reductions averaging eight percent for OSD Components, from their Operations and Maintenance mission funding balances, though it differs by Component depending on specified reductions. To ensure general consistency in implementation, the measures and procedures outlined below will apply to all OSD Components. The Deputy Secretary will monitor and determine how long these measures remain in effect, and whether changes are necessary.

Exceptions to the measures below, in support of mission critical needs (i.e., functions to preclude mission failure), may be approved by an OSD Component Principal or their Deputy. Under Secretary Components may designate one other senior official to serve as an exception approval authority.

- **Overtime/Compensatory Time** will be discontinued. OSD Components will report any approved exceptions for overtime/compensatory time to the Director of Administration and Management (DA&M) on a bi-weekly basis, for aggregation and reporting to the Deputy Secretary.
- **Travel, TDY, and Training** (to include attendance at conferences and seminars) will be significantly curtailed. Personnel will leverage teleconferences and VTC capabilities to the maximum extent possible. Training requested by statute, executive order, and regulation or to maintain professional licensure is exempt. Other mission critical training requires approval at levels highlighted in the second paragraph, above. All OSD travel, TDY, and training exceptions will be reported by the DA&M to the Deputy Secretary on a monthly basis.

- **Studies (not Congressionally directed) and Contract Actions** will be reviewed for necessity and cost savings opportunities. OSD Component Principals or Deputies will validate the necessity of contracts before processing actions for funds certification. Further, OSD Components will limit supply and equipment purchases to essential consumption requirements. The DA&M will report to the Deputy Secretary on a monthly basis the contract actions approved for processing.
- **Non-permanent/Non-political Civilian Appointments** (temporary or term) will be reviewed and, where applicable, certified by OSD Component Principals or Deputies for their need to continue. Where continued, appointments will be subject to any furlough action applied to permanent government personnel. Within 30 days of the release of this guidance, OSD Components will certify to the DA&M the continuation of non-permanent civilian appointments, and the DA&M will aggregate and report all to the Deputy Secretary.
- **Intergovernmental Personnel Act (IPA)** reimbursable contracts will be modified to correspond with the equivalent percentage of any furlough actions applied to permanent government personnel. The percentage reduction will be determined based on final Department of Defense decisions impacting permanent government personnel and will be applied to each IPA monthly invoice payment (to include salary, benefits and, general and administrative costs.) Should furloughs cease, subsequent payments will revert to the amount set forth in the IPA agreements prior to the start of any furlough actions applied to permanent government personnel. Washington Headquarters Services, Executive and Political Personnel will provide 30-day advanced notification to all non-profit organizations that have entered into IPA agreements with OSD Components. Non-profit organizations have the right to terminate the IPA agreement if they choose to.

Following any announcement of furlough, further guidance will be provided, as available, to all OSD organizations.

Thank you for your leadership, patience, and flexibility during these challenging times of fiscal uncertainty.


Michael L. Rhodes
Director

cc:
IG DoD



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 4, 2013

M-13-11

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Danny Werfel
Controller

SUBJECT: Ongoing Implementation of the Joint Committee Sequestration

Section 251A of the Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended, on March 1, 2013, required the President to issue a sequestration order canceling \$85 billion in budgetary resources across the Federal Government for the remainder of fiscal year (FY) 2013. This action was required due to the failure of the Joint Select Committee on Deficit Reduction to propose, and the Congress to enact, legislation to reduce the deficit by \$1.2 trillion.

The Administration continues to urge Congress to take action to eliminate the Joint Committee sequestration and restore cancelled budgetary resources as part of a balanced agreement on deficit reduction. However, until Congress takes such action, executive departments and agencies (agencies) must continue to implement the reductions required by sequestration.

This memorandum provides further guidance on specific issues regarding the management and implementation of sequestration that the Office of Management and Budget (OMB) preliminarily addressed in prior memoranda. OMB previously issued guidance on the appropriate implementation of sequestration in Memorandum 13-03, *Planning for Uncertainty with Respect to Fiscal Year 2013 Budgetary Resources*; Memorandum 13-05, *Agency Responsibilities for Implementation of Potential Joint Committee Sequestration*; and Memorandum 13-06, *Issuance of the Sequestration Order Pursuant To Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as Amended*.

Appropriate Use of Existing Reprogramming and Transfer Authority

Sequestration provides an agency with little discretion in deciding where and how to reduce spending. All non-exempt budget accounts in a given spending category must be reduced by a uniform percentage, and the same percentage reduction must be applied to all programs, projects, and activities (PPAs) within a budget account. However, depending on an agency's account structure and any existing flexibilities provided by law, some agencies may have a limited ability to realign funds to protect mission priorities. As directed by Memorandum 13-03, in allocating reduced budgetary resources due to sequestration, agencies should generally "use

any available flexibility to reduce operational risks and minimize impacts on the agency's core mission in service of the American people." Agencies should also "take into account funding flexibilities, including the availability of reprogramming and transfer authority."

Consistent with this guidance, agencies with reprogramming or transfer authority should continue to examine whether the use of these authorities would allow the agency to minimize the negative impact of sequestration on core mission priorities. In doing so, agencies must consider the long-term mission, goals, and operations of the agency and not just short-term needs. For example, agencies should avoid taking steps that would unduly compromise the ability to perform needed deferred maintenance on facilities, invest in critical operational functions and support, conduct program integrity and fraud mitigation activities, and pursue information technology or other infrastructure investments that are essential to support the long-term execution of the agency's mission. Similarly, while agencies with carryover balances or reserve funds should consider appropriate use of these funds to maintain core mission functions in the short term, it is important not to use these funds in a manner that would leave the agency vulnerable to future risks due to a potential lack of available funds in future years.

Agencies should consult with their OMB Resource Management Office (RMO) to assess options for utilizing existing authorities and ensure that any proposed actions appropriately balance short-term and long-term mission priorities. Agencies must also consult closely with their OMB RMO on any proposed actions that would reduce carryover balances or reserve funds below historical levels.

Funding for Agency Inspectors General

Funds for agency Inspectors General (IGs) from non-exempt accounts are subject to sequestration under the March 1, 2013 sequestration order. The head of each agency has the final responsibility for implementing the reductions required by sequestration. Upon making such determinations, IGs have the final responsibility for determining how their authorized budgets will be allocated.

To the extent an agency has discretion in implementing reductions to IG funding due to sequestration, agency heads should be mindful of the independence of the Office of Inspector General and should consult with the IG on a pre-decisional basis on matters that may impact IG funding. In particular, agencies must remain cognizant of the provisions in section 6 of the Inspector General Act of 1978, as amended, which outline the need for IGs to maintain the appropriate resources and services necessary to perform their statutory duties and describe the manner in which IG budgets are requested.

In cases where IG funds are not intermingled with other agency funds and exist as their own PPA, the IG should be provided full discretion to determine how to implement the reductions required by sequestration. In cases where IG funds are intermingled with other agency funds within a PPA, while the specific amount of reductions will vary by agency and account, a benchmark that should be considered by the head of the agency—in consultation with the IG—is to apply a percentage reduction to IG funds that is same as the average percentage reduction for all other funds within the PPA. Upon determining the amount of the reduction for

IG funds in such cases, the agency head should then defer as appropriate to the IG in determining how the IG manages the reductions.

Agencies should consult with their OMB RMO throughout this process as well.

Discretionary Monetary Awards

OMB Memorandum 13-05 directs that discretionary monetary awards should not be issued while sequestration is in place, unless issuance of such awards is legally required. Discretionary monetary awards include annual performance awards, group awards, and special act cash awards, which comprise a sizeable majority of awards and incentives provided by the Federal Government to employees. Until further notice, agencies should not issue such monetary awards from sequestered accounts unless agency counsel determines the awards are legally required. Legal requirements include compliance with provisions in collective bargaining agreements governing awards.¹

Consistent with past guidance, certain types of incentives are not considered discretionary monetary awards for the purposes of this policy. These include quality step increases (QSIs); travel incentives recognizing employee savings on official travel; foreign language awards for mission-critical language needs; recruitment, retention, and relocation incentives (3Rs); student loan repayments; and time-off awards. While these items are permitted, in light of current budgetary constraints, they should be used only on a highly limited basis and in circumstances where they are necessary and critical to maintaining the agency's mission. In addition, consistent with the policy set forth in the *Guidance on Awards for Fiscal Years 2011 and 2012*, jointly issued by the Office of Personnel Management (OPM) and OMB on June 10, 2011, spending for QSIs and 3Rs should not exceed the level of spending on such incentives for fiscal year 2010.

With respect to Federal political appointees, agencies should continue to follow the policy set forth in the August 3, 2010 Presidential Memorandum, *Freeze on Discretionary Awards, Bonuses, and Similar Payments for Federal Political Appointees*. OPM previously issued guidance on implementation of this memorandum.

Reducing Burden for State, Local, and Tribal Governments

To the extent agencies provide grants or other forms of financial assistance to States, localities, or tribal governments, agencies should consider if there are ways to help such entities mitigate the effects of funding reductions due to sequestration through reducing administrative burdens or other standard administrative processes, consistent with applicable legal requirements associated with the funds provided. In doing so, agencies should consult closely with their State, local, and tribal partners to determine whether such steps enable public funds to be used in a more cost-effective manner.

¹ Consistent with legal requirements, agencies may consider engaging in discussions with employees' exclusive representatives to explore revisions to such provisions in existing collective bargaining agreements, in recognition of this guidance.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

March 1, 2013

M-13-06

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jeffrey D. Zients 
Deputy Director for Management

SUBJECT: Issuance of the Sequestration Order Pursuant To Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as Amended

This memorandum is to inform executive departments and agencies (agencies) that the President has issued a sequestration order (order) in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (BBEDCA), 2 U.S.C. 901a. The order requires that budgetary resources in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget (OMB) in its report to Congress of March 1, 2013, entitled *OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013* (sequestration report).

Due to the failure of the Joint Select Committee on Deficit Reduction, the President was required by law to issue an order canceling \$85 billion in budgetary resources across the Federal Government for the remainder of Fiscal Year (FY) 2013. OMB has calculated that, over the course of the fiscal year, the order requires a 7.8 percent reduction in non-exempt defense discretionary funding and a 5.0 percent reduction in non-exempt nondefense discretionary funding. The sequestration also requires reductions of 2.0 percent to Medicare, 5.1 percent to other non-exempt nondefense mandatory programs, and 7.9 percent to non-exempt defense mandatory programs. The sequestration report provides calculations of the amounts and percentages by which various budgetary resources are required to be reduced, and a listing of the reductions required for each non-exempt budget account.

Agencies shall apply the same percentage reduction to all programs, projects, and activities within a budget account, as required by section 256(k)(2) of BBEDCA, 2 U.S.C. 906(k)(2). Agencies should operate in a manner that is consistent with guidance provided by OMB in Memorandum 13-03, *Planning for Uncertainty with Respect to Fiscal Year 2013 Budgetary Resources* and Memorandum 13-05, *Agency Responsibilities for Implementation of Potential Joint Committee Sequestration*.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 1, 2013

SEQUESTRATION ORDER FOR FISCAL YEAR 2013 PURSUANT
TO SECTION 251A OF THE BALANCED BUDGET AND
EMERGENCY DEFICIT CONTROL ACT, AS AMENDED

By the authority vested in me as President by the laws of the United States of America, and in accordance with section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (the "Act"), 2 U.S.C. 901a, I hereby order that budgetary resources in each non-exempt budget account be reduced by the amount calculated by the Office of Management and Budget in its report to the Congress of March 1, 2013.

Pursuant to sections 250(c)(6), 251A, and 255(e) of the Act, budgetary resources subject to sequestration shall be new budget authority, unobligated balances of defense function accounts carried over from prior fiscal years, direct spending authority, and obligation limitations.

All sequestrations shall be made in strict accordance with the requirements of section 251A of the Act and the specifications of the Office of Management and Budget's report of March 1, 2013, prepared pursuant to section 251A(11) of the Act.

BARACK OBAMA

THE WHITE HOUSE,
March 1, 2013.

#



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Jerry Brown
Governor
State of California
Sacramento, CA 95814

Dear Governor Brown:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in California.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Navy could be forced to cancel maintenance on 5 ships in San Diego and aircraft maintenance in North Island. The Army would lose \$54 million in base operations funding across California, including cuts at the Presidio of Monterrey and Fort Irwin. Operations at Sierra Army Depot could experience a reduction of as much as \$167 million. The Air Force would suffer a cut of at least \$26 million to their operations in the State, including reductions in facilities projects at Beale, Edwards, Travis, and Vandenberg Air Force Bases. We are still assessing detailed changes and will be able to provide additional information on cutbacks in California as we compile a more complete list.

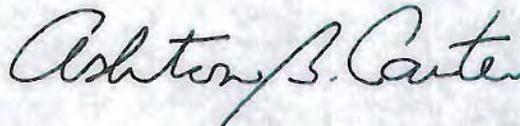


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 64,000 DoD civilian employees who work in California. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$420 million just in California.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink on a light-colored background.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Robert Bentley
Governor
State of Alabama
Montgomery, AL 36130

Dear Governor Bentley:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Alabama.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$91 million in base operations funding across Alabama, including cuts at Fort Rucker and Fort McClellan. Depot operations at Anniston could experience a reduction of as much as \$710 million. The Air Force would suffer a cut of at least \$8 million to their operations in the State, including reductions in facilities projects at Maxwell Air Force Base. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Alabama as we compile a more complete list.

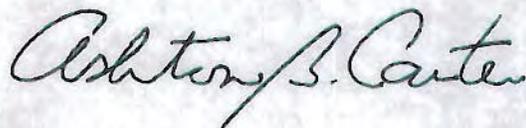


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 27,000 DoD civilian employees who work in Alabama. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$184 million just in Alabama.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in black ink, reading "Ashton B. Carter". The signature is written in a cursive style with a large, stylized initial 'A'.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Jay Inslee
Governor
State of Washington
Olympia, WA 98504

Dear Governor Inslee:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in the State of Washington.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$124 million in base operations funding across Washington, including cuts at Joint Base Lewis-McCord. The Air Force would suffer a cut of at least \$3 million, including reductions in facilities projects at Fairchild Air Force Base. The Navy would face cancellation of aircraft depot maintenance at Whidbey Island and a demolition project in Bremerton. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Washington as we compile a more complete list.

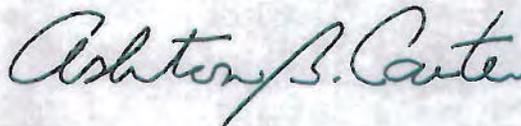


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 29,000 DoD civilian employees who work in Washington. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$175 million just in Washington State.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink on a light-colored background.



**DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010**

MAR 01 2013

The Honorable Rick Perry
Governor
State of Texas
Austin, TX 78701

Dear Governor Perry:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Texas.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$233 million in base operations funding across Texas, including cuts at Fort Bliss, Fort Hood, and Fort Sam Houston. Depot operations at Red River and Corpus Christi could experience a reduction of as much as \$1.4 billion. The Air Force would suffer a cut of at least \$92 million, including reductions in facilities projects at Lackland, Randolph, and Sheppard Air Force Bases. The Navy and Marine Corps would face reduced procurement of the Joint Strike Fighter. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Texas as we compile a more complete list.

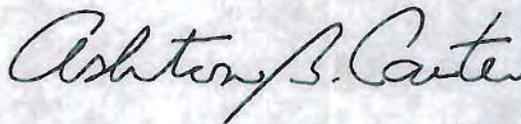


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 52,000 DoD civilian employees who work in Texas. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$291 million just in Texas.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink on a light-colored background.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Martin O'Malley
Governor
State of Maryland
Annapolis, MD 21401

Dear Governor O'Malley:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Maryland.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$95 million in base operations funding across Maryland, including cuts at Fort Meade and Aberdeen Proving Ground. The Air Force would suffer a cut of at least \$10 million to their operations in the State, including reductions in facilities projects at Andrews Air Force Base. The Navy would face the loss of \$9 million in funding for a demolition project at Patuxent River Naval Air Station. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Maryland as we compile a more complete list.

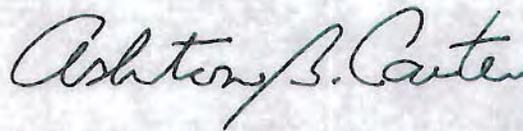


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 46,000 DoD civilian employees who work in Maryland. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$359 million just in Maryland.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink and is centered on the page.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Tom Corbett
Governor
Commonwealth of Pennsylvania
Harrisburg, PA 17120

Dear Governor Corbett:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Pennsylvania.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$7 million in base operations funding across Pennsylvania, including cuts at Carlisle Barracks and Fort Indiantown Gap. In addition, depot operations at Tobyhanna and Letterkenny could experience a reduction of as much as \$751 million. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Pennsylvania as we compile a more complete list.

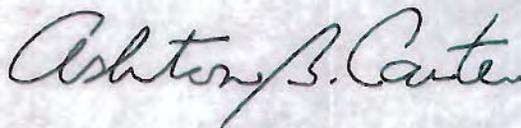


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 26,000 DoD civilian employees who work in Pennsylvania. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$155 million just in Pennsylvania.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in black ink that reads "Ashton B. Carter". The signature is written in a cursive style with a large, sweeping initial 'A'.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Nathan Deal
Governor
State of Georgia
Atlanta, GA 30334

Dear Governor Deal:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Georgia.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$233 million in base operations funding across Georgia, including cuts at Fort Benning, Fort Gordon, and Fort Stewart. The Air Force would suffer a cut of at least \$152 million to their operations in the State, including reductions in facilities projects at Moody and Robbins Air Force Bases. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Georgia as we compile a more complete list.

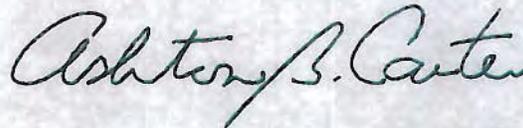


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 37,000 DoD civilian employees who work in Georgia. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$203 million just in Georgia.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink and is centered on the page.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Rick Scott
Governor
State of Florida
Tallahassee, FL 32399

Dear Governor Scott:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Florida.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Navy faces the loss of \$135 million in funding for aircraft depot maintenance in Jacksonville and \$3.2 million for four demolition projects in Pensacola. The Army would lose \$7 million in base operations funding across Florida, including cuts at Camp Blanding. The Air Force would suffer a cut of at least \$37 million to their operations in the State, including reductions in facilities projects at Cape Canaveral and at Eglin, MacDill, Patrick, and Tyndall Air Force Bases. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Florida as we compile a more complete list.

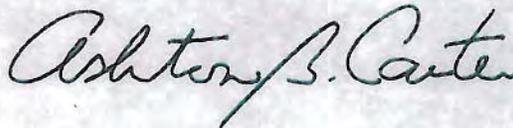


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 31,000 DoD civilian employees who work in Florida. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$185 million just in Florida.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in black ink, reading "Ashton B. Carter". The signature is written in a cursive style with a large, prominent "A" and "C".



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable John Kasich
Governor
State of Ohio
Columbus, OH 43215

Dear Governor Kasich:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Ohio.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Army would lose \$2 million in base operations funding across Ohio, including cuts at Camp Perry. The Air Force would suffer a cut of at least \$3 million to their operations in the State, including reductions in facilities projects at Wright Patterson Air Force Base. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Ohio as we compile a more complete list.

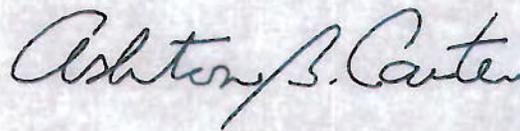
In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 26,000 DoD civilian employees who work in Ohio. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$166 million just in Ohio.



Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink on a light-colored background.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

MAR 01 2013

The Honorable Robert F. McDonnell
Governor
Commonwealth of Virginia
Richmond, VA 23219

Dear Governor McDonnell:

As you are likely aware, due to the inability of Congress to reach a deal on balanced deficit reduction to avoid sequestration, the President will be required by law to issue a sequestration order later today canceling approximately \$85 billion in budgetary resources across the Federal Government, of which nearly \$41 billion would come from the Department of Defense (DoD). Another sequestration order could be issued later this month, which could result in a combined reduction for DoD of as much as \$46 billion – roughly a 9 percent reduction in our entire budget except for military personnel funding, which current law permitted the President to exempt.

These cuts must be fully accommodated during the remaining seven months of Fiscal Year (FY) 2013. In addition, the current DoD appropriation (the so-called Continuing Resolution) does not allocate adequate funding for current operations, which greatly adds to the Department's FY 2013 budgetary problems. Because your State plays an important part in supporting DoD and our national security, we wanted to provide you with the information we currently have available about how these unfortunate budgetary adjustments impact us, and in turn what it means for our installations and contractors in Virginia.

We do not yet have a complete inventory of the required cutbacks, but I can provide some examples: The Navy will have to cancel maintenance on 11 ships in Norfolk and to defer four projects at Dahlgren, Oceana, and Norfolk. The Army would lose \$146 million in base operations funding across Virginia, including cuts at Fort Lee and Fort Belvoir. The Air Force would suffer a cut of about \$8 million to their facilities projects at Langley Air Force Base. We are still assessing detailed changes and will be able to provide additional information on cutbacks in Virginia as we compile a more complete list.

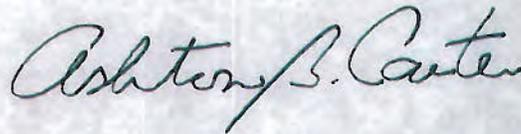


In addition, to accommodate all the cutbacks that would be imposed in the absence of further Congressional action, we will be forced to place most of our DoD civilian employees on unpaid furlough status for up to 22 discontinuous workdays. Almost certainly, this unfortunate action has already had serious adverse effects on the morale and productivity of the approximately 90,000 DoD civilian employees who work in Virginia. If we have to impose these furloughs, it will mean roughly a 20 percent pay cut over a nearly six month period for these dedicated civil servants, who in turn will presumably spend less in your economy. We estimate that a 22-workday furlough could result in a payroll reduction of about \$661 million just in Virginia.

Lastly, it should be noted that sequestration will also affect Defense contractors and, therefore, the industrial base in your State.

While these reductions are unfortunate and will be damaging, the Department is doing everything within our power to minimize adverse effects on our national security mission. In addition, we are prepared to work closely with you to manage these reductions to the extent that we can. Should Congress take subsequent actions that change the level or nature of these reductions, we are committed to working closely with you to manage changes quickly.

Thank you for your continued partnership with the Department of Defense and for your cooperation as we work together to accommodate these unfortunate circumstances.

A handwritten signature in cursive script, reading "Ashton B. Carter". The signature is written in dark ink on a light-colored background.



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

February 27, 2013

M-13-05

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

Danny Werfel
Controller

SUBJECT:

Agency Responsibilities for Implementation of Potential Joint Committee
Sequestration

Unless Congress acts to amend current law, the President is required to issue a sequestration order on March 1, 2013, canceling \$85 billion in budgetary resources across the Federal Government. Because these cuts must be achieved over the remaining seven months of the fiscal year, the Office of Management and Budget (OMB) estimates that the effective percentage reductions are approximately 9 percent for nondefense programs and 13 percent for defense programs. These reductions will result in significant and harmful impacts to national security and domestic priorities.

The President has been clear that sequestration is bad policy that was never intended to be implemented, and the Administration remains hopeful that Congress will act to avoid it through an agreement on balanced deficit reduction. However, because legislation may not be enacted to avoid sequestration before the current deadline of March 1, 2013, executive departments and agencies (agencies) with sequestrable accounts have been engaged in planning activities to operate at the lower, post-sequestration funding levels should it be necessary.

This guidance builds on prior communications with agencies about the implementation of sequestration, and addresses questions that have been raised as to certain categories of planning activities.

Agency Planning Activities

OMB Memorandum 13-03, *Planning for Uncertainty with Respect to Fiscal Year 2013 Budgetary Resources*, directed agencies to begin planning activities to operate with reduced budgetary resources in the event that sequestration occurs. Agencies' planning efforts must be guided by the principle of protecting the agency's mission to serve the public to the greatest extent practicable. Planning efforts should be done with sufficient detail and clarity to determine the specific actions that will be taken to operate under the lower level of budgetary resources

required by sequestration. For example, agencies should identify any major contracts that they plan to cancel, re-scope or delay as well as any grants that they plan to cancel, delay, or for which they plan to change the payment amount. Similarly, agencies should identify the number of employees who will be furloughed, the length of expected furloughs, the timing of when furlough notices will be issued, and the manner in which furloughs will be administered. In some cases, agencies may not be able to ascertain all of this information prior to March 1. However, agencies should continue to engage in intense and thorough planning activities to determine all specific actions that will be taken as soon as practicable.

Communications

To the extent permitted by law, agencies should inform their various partners and stakeholders in a timely and complete manner of the impact of sequestration so that third parties are able to adjust their operations and plans as appropriate. Accordingly, at this time, agencies should be actively and continuously communicating with affected stakeholders—including States, localities, tribal governments, Federal contractors, Federal grant recipients, and Federal employees—regarding elements of the agency's planning that have a direct impact on these groups. These communications will vary greatly by agency and by stakeholder, but agencies should be as specific as possible in order to provide sufficient detail to be helpful to these stakeholders in understanding the implications of the reduced budget authority resulting from sequestration.

With regard to any planned personnel actions to reduce Federal civilian workforce costs, consistent with Section 3(a)(ii) of Executive Order 13522, agencies must allow employees' exclusive representatives to have pre-decisional involvement in these matters to the fullest extent practicable and permitted under the law. In particular, in instances where agencies are considering potential furloughs, agencies have a duty to notify their exclusive representatives and, upon request, bargain over any negotiable impact and implementation proposals the union may submit, unless the matter of furloughs is already covered by a collective bargaining agreement. Agencies should ensure that they are fully aware of and in compliance with any and all collective bargaining requirements, and should consult with their General Counsel or appropriate labor relations office for questions regarding these requirements and appropriate interaction with employees and unions on these matters.

Acquisition

Due to the Government's large acquisition footprint, sequestration will inevitably affect agency contracting activities and require agencies to reduce contracting costs where appropriate. As with all actions taken as a result of sequestration, agencies should ensure that any contract actions are both cost-effective and minimize negative impact on the agency's mission to the extent practicable.

Program, acquisition, financial/budget management, information technology, and legal personnel should work together to make determinations regarding contracts in light of sequestration. As a general matter, agencies should only enter into new contracts or exercise options when they support high-priority initiatives or where failure to do so would expose the

government to significantly greater costs in the future. Agencies may also consider de-scoping or terminating for convenience contracts that are no longer affordable within the funds available for Fiscal Year 2013, should no other options exist to reduce contracting costs in these instances. Should such steps be necessary, agencies must evaluate the associated costs and benefits of such actions, and appropriately inform and negotiate with contractors. Finally, agencies should take all appropriate steps to minimize to the extent practicable the impact on small businesses of reduced contracting activities.

Financial Assistance

Given the widespread use of grants, loans and other Federal financial assistance to non-federal entities (e.g., State, local and tribal governments, non-profit organizations, and companies), sequestration will impact the funding of these activities.

As a general matter, agencies should ensure that any new financial assistance obligations or funding increases under existing agreements are consistent with the need to protect the agency's mission at the post-sequestration level. In light of sequestration, agencies may also consider delaying awarding of new financial assistance obligations, reducing levels of continued funding, and renegotiating or reducing the current scope of assistance. Agencies may be forced to reduce the level of assistance provided through formula funds or block grants. Should any such steps be necessary, agencies should evaluate the associated costs and benefits of such actions and appropriately engage and inform recipient(s) as early as possible.

Increased Scrutiny of Certain Activities

In determining the appropriate manner to achieve funding reductions, agency heads must also ensure that their agencies have risk management strategies and internal controls in place that provide heightened scrutiny of certain types of activities funded from sequestered accounts. To the extent these accounts remain at the post-sequestration funding level, increased scrutiny should apply to:

- hiring new personnel;¹
- issuing discretionary monetary awards to employees, which should occur only if legally required until further notice; and
- incurring obligations for new training, conferences, and travel (including agency-paid travel for non-agency personnel).

In light of the reduced budgetary resources available due to sequestration, expending funds on these activities at this time would in many circumstances not be the most effective way to protect agency mission to the extent practicable. Therefore, agency leadership should review processes and controls around these activities, and ensure that these activities are conducted only

¹ Agencies must also ensure that appropriate controls are in place to prevent the increased use of contractors to perform work due to any restrictions on hiring. Agencies should bear in mind the statutory restrictions contained in 10 U.S.C. 2461 and 41 U.S.C. 1710 on the conversion of functions from performance by Federal employees to performance by contractors.

to the extent they are the most cost-effective way to maintain critical agency mission operations under sequestration.

Please contact your OMB Resource Management Office (RMO) if you have any questions about or need assistance with this guidance.



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Joseph R. Biden, Jr.
President of the Senate
United States Senate
S-212 Capitol Building
Washington, DC 20510

Dear Mr. President:

In accordance with statute, I am providing a report on potential civilian furloughs within the Department of Defense. Specifically, title 10, U.S.C., section 1597(e), provides that the Secretary of Defense "may not implement any involuntary reduction or furlough of civilian positions ... until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reduction or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs." This letter provides the report and information required by this section.

We remain hopeful that the Administration and Congress will reach an agreement to avoid the across-the-board reductions in Federal spending required by the Budget Control Act of 2011, commonly known as "sequestration." The Department must, however, continue to plan for such reductions should Congress not take action prior to sequestration taking effect on March 1, 2013. If sequestration is not avoided, the magnitude of the potential reductions will damage force readiness, slow major acquisition programs, and necessitate civilian furlough actions that will negatively affect our Federal civilian workforce. Overall, sequestration will put us on a path toward a hollow force and inflict serious damage on our national security.

If faced with sequestration, the Defense Department will be forced to forego critical objectives. As we make the difficult decisions about how to maintain our national security to the greatest extent we can in light of these destructive cuts, the Department will have to consider furloughs across the entire defense civilian workforce in order to meet the fiscal target mandated by sequestration. Because there will be no change in the requirements for work to be performed by the Department's workforce to maintain our national security, the workload on each employee and the requirements for each position that will result from such furloughs will be increased beyond what can reasonably be achieved. The furloughs contemplated by this notice will do real harm to our national security. Moreover, we understand that furloughs would have serious adverse effects on the livelihood, morale, and productivity of our workforce, and where possible we will take steps to minimize those effects.



Nevertheless, if required, it is my goal to apply furlough actions in a consistent and equitable manner across the Department, though variations may occur because of the mission and budgetary requirements of each military department and agency. Each military department and agency within the Department will prepare detailed sequestration plans, and the Department will submit an updated plan for operations under a sequestration to Congress, as required by section 116(b) of the Continuing Appropriations Resolution, 2013, Public Law 112-175.

Finally, if furlough actions prove to be necessary, every affected employee would be subject to furlough for up to 22 discontinuous work days (176 total hours), the maximum number of furlough days allowed without triggering additional notification requirements that follow reduction-in-force procedures (though such an extended furlough action would still constitute a temporary placement on non-pay/non-duty status, rather than a permanent separation from service). We will provide affected employees the requisite advance notice before a furlough occurs. The Department is also engaged in the necessary and appropriate discussions with employee unions, and will discharge any applicable collective bargaining obligations that may arise. In the event an agreement is reached that averts sequestration and restores needed funding, we will immediately cancel any furloughs that have resulted and cease furlough planning.

While furloughs would be disruptive and damaging to our ability to carry out the defense mission, there are no viable alternatives for the Department if sequestration actually occurs. We will continue to work with Congress in an effort to avoid sequestration and furloughs. A similar letter is being sent to the Speaker of the House and the defense oversight committees.

Sincerely,

A handwritten signature in black ink, appearing to be the name of the Secretary of Defense, written in a cursive style.



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, DC 20510

Dear Mr. Majority Leader:

In accordance with statute, I am providing a report on potential civilian furloughs within the Department of Defense. Specifically, title 10, U.S.C., section 1597(e), provides that the Secretary of Defense "may not implement any involuntary reduction or furlough of civilian positions ... until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reduction or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs." This letter provides the report and information required by this section.

We remain hopeful that the Administration and Congress will reach an agreement to avoid the across-the-board reductions in Federal spending required by the Budget Control Act of 2011, commonly known as "sequestration." The Department must, however, continue to plan for such reductions should Congress not take action prior to sequestration taking effect on March 1, 2013. If sequestration is not avoided, the magnitude of the potential reductions will damage force readiness, slow major acquisition programs, and necessitate civilian furlough actions that will negatively affect our Federal civilian workforce. Overall, sequestration will put us on a path toward a hollow force and inflict serious damage on our national security.

If faced with sequestration, the Defense Department will be forced to forego critical objectives. As we make the difficult decisions about how to maintain our national security to the greatest extent we can in light of these destructive cuts, the Department will have to consider furloughs across the entire defense civilian workforce in order to meet the fiscal target mandated by sequestration. Because there will be no change in the requirements for work to be performed by the Department's workforce to maintain our national security, the workload on each employee and the requirements for each position that will result from such furloughs will be increased beyond what can reasonably be achieved. The furloughs contemplated by this notice will do real harm to our national security. Moreover, we understand that furloughs would have serious adverse effects on the livelihood, morale, and productivity of our workforce, and where possible we will take steps to minimize those effects.



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While furloughs would be disruptive and damaging to our ability to carry out the defense mission, there are no viable alternatives for the Department if sequestration actually occurs. We will continue to work with Congress in an effort to avoid sequestration and furloughs. A similar letter is being sent to the President of the Senate, the Speaker of the House, and the defense oversight committees.

Sincerely,

A handwritten signature in black ink, appearing to be "James M. ...", with a long horizontal flourish extending to the right.

cc:
The Honorable Mitch McConnell
Minority Leader



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

In accordance with statute, I am providing a report on potential civilian furloughs within the Department of Defense. Specifically, title 10, U.S.C., section 1597(e), provides that the Secretary of Defense "may not implement any involuntary reduction or furlough of civilian positions ... until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reduction or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs." This letter provides the report and information required by this section.

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Sincerely,



cc:
The Honorable Nancy Pelosi
Minority Leader



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Carl Levin
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Sincerely,



cc:
The Honorable James M. Inhofe
Ranking Member



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Barbara A. Mikulski
Chairwoman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairwoman:

In accordance with statute, I am providing a report on potential civilian furloughs within the Department of Defense. Specifically, title 10, U.S.C., section 1597(e), provides that the Secretary of Defense "may not implement any involuntary reduction or furlough of civilian positions ... until the expiration of the 45-day period beginning on the date on which the Secretary submits to Congress a report setting forth the reasons why such reduction or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs." This letter provides the report and information required by this section.

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Sincerely,



cc:

The Honorable Richard C. Shelby
Vice Chairman



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Richard J. Durbin
Chairman
Subcommittee on Defense
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Sincerely,



cc:
The Honorable Thad Cochran
Vice Chairman



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Harold Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely,



cc:
The Honorable Nita M. Lowey
Ranking Member



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely,



cc:
The Honorable Adam Smith
Ranking Member



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

The Honorable C.W. Bill Young
Chairman
Subcommittee on Defense
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Sincerely,



cc:
The Honorable Peter J. Visclosky
Ranking Member



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

FEB 20 2013

MEMORANDUM FOR DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

SUBJECT: Preparations for Potential Sequestration on March 1 and Furlough Notifications

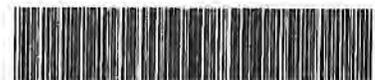
For more than a year and a half, the President, the Joint Chiefs of Staff, and I have repeatedly voiced our deep concerns over the half a trillion dollars in automatic across-the-board cuts that would be imposed under sequestration and the severe damage that it would do to both this Department and our national defense.

The Administration continues to work with Congress to reach agreement on a balanced deficit reduction plan to avoid these cuts. Meanwhile, because another trigger for sequestration is approaching on March 1st, the Department's leadership has begun extensive planning on how to implement the required spending reductions. These cuts will be magnified because the Department has been forced to operate under a six-month continuing resolution that has already compelled us to take steps to reduce spending.

In the event of sequestration, we will do everything we can to continue to perform our core mission of providing for the security of the United States, but there is no mistaking that the rigid nature and scale of the cuts forced upon this Department will result in a serious erosion of readiness across the force.

I have also been deeply concerned about the potential direct impact of sequestration on you and your families. We are doing everything possible to limit the worst effects on DoD personnel – but I regret that our flexibility within the law is extremely limited. The President has used his legal authority to exempt military personnel funding from sequestration, but we have no legal authority to exempt civilian personnel funding from reductions. As a result, should sequestration occur and continue for a substantial period, DoD will be forced to place the vast majority of its civilian workforce on administrative furlough.

Today, I notified Congress that furloughs could occur under sequestration. I can assure you that, if we have to implement furloughs, all affected employees will be provided at least 30 days' notice prior to executing a furlough and your benefits will be protected to the maximum extent possible. We will work to ensure that furloughs are executed in a consistent and appropriate manner, and we will also continue to engage in discussions with employee unions as appropriate. More information and answers to frequently asked questions regarding furloughs can be found at www.opm.gov/furlough, under the "administrative furlough" section.



OSD001644-13

Working with your component heads and supervisors, the Department's leaders will continue to keep you informed. As we deal with these difficult issues, I want to thank you for your patience, hard work, and continued dedication to our mission of protecting the country.

Our most important asset in the Department is our world-class personnel. You are fighting every day to keep our country strong and secure, and rest assured that the leaders of this Department will continue to fight with you and for you.

A handwritten signature in black ink, appearing to be "John...". The signature is written in a cursive style with a long, sweeping tail that extends to the right.



January 14, 2013

M-13-03

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jeffrey D. Zients 
Deputy Director for Management

SUBJECT: Planning for Uncertainty with Respect to Fiscal Year 2013 Budgetary Resources

In the coming months, executive departments and agencies (agencies) will confront significant uncertainty regarding the amount of budgetary resources available for the remainder of the fiscal year. In particular, unless Congress acts to amend current law, the President is required to issue a sequestration order on March 1, 2013, canceling approximately \$85 billion in budgetary resources across the Federal Government. Further uncertainty is created by the expiration of the Continuing Appropriations Resolution, 2013 (CR) on March 27, 2013. This memorandum directs agencies to take certain steps to plan for and manage this budgetary uncertainty.

The Administration continues to urge Congress to take prompt action to address the current budgetary uncertainty, including through the enactment of balanced deficit reduction to avoid sequestration. Should Congress fail to act to avoid sequestration, there will be significant and harmful impacts on a wide variety of Government services and operations. For example, should sequestration remain in place for an extended period of time, hundreds of thousands of families will lose critical education and wellness services through Head Start and nutrition assistance programs. The Department of Defense will face deep cuts that will reduce readiness of non-deployed units, delay needed investments in equipment and facilities, and cut services for military families. And Federal agencies will likely need to furlough hundreds of thousands of employees and reduce essential services such as food inspections, air travel safety, prison security, border patrols, and other mission-critical activities.

At this time, agencies do not have clarity regarding the manner in which Congress will address these issues or the amount of budgetary resources that will be available through the remainder of the fiscal year. Until Congress acts, agencies must continue to prepare for the possibility that they will need to operate with reduced budgetary resources.

Prior to passage of the American Taxpayer Relief Act of 2012 (ATRA), the President was required to issue a sequestration order on January 2, 2013. Although the ATRA postponed this date by two months, agencies had already engaged in extensive planning for operations under post-sequestration funding levels before this postponement was effected. In light of persistent budgetary uncertainty, all agencies should continue these planning activities, in coordination with the Office of Management and Budget (OMB), and should intensify efforts to identify actions that may be required should sequestration occur.

Agencies should generally adhere to the following guiding principles, to the extent practicable and appropriate, in preparing plans to operate with reduced budgetary resources in the event that sequestration occurs:

- use any available flexibility to reduce operational risks and minimize impacts on the agency's core mission in service of the American people;
- identify and address operational challenges that could potentially have a significant deleterious effect on the agency's mission or otherwise raise life, safety, or health concerns;
- identify the most appropriate means to reduce civilian workforce costs where necessary – this may include imposing hiring freezes, releasing temporary employees or not renewing term or contract hires, authorizing voluntary separation incentives and voluntary early retirements, or implementing administrative furloughs (appropriate guidance for administrative furloughs can be found on the OPM website [\[here\]](#)); consistent with Section 3(a)(ii) of Executive Order 13522, allow employees' exclusive representatives to have pre-decisional involvement in these matters to the fullest extent practicable;
- review grants and contracts to determine where cost savings may be achieved in a manner that is consistent with the applicable terms and conditions, remaining mindful of the manner in which individual contracts or grants advance the core mission of the agency;
- take into account funding flexibilities, including the availability of reprogramming and transfer authority; and,
- be cognizant of the requirements of the Worker Adjustment and Retraining Notification (WARN) Act, 29 U.S.C. §§ 2101-2109.

While agency plans should reflect intensified efforts to prepare for operations under a potential sequestration, actions that would implement reductions specifically designed as a response to sequestration should generally not be taken at this time. In some cases, however, the overall budgetary uncertainty and operational constraints may require that certain actions be taken in the immediate- or near-term. Agencies presented with these circumstances should continue to act in a prudent manner to ensure that operational risks are avoided and adequate funding is available for the remainder of the fiscal year to meet the agency's core requirements and mission. Should circumstances require an agency to take actions that would constitute a change from normal practice and result in a reduction of normal spending and operations in the

immediate- or near-term, the agency must coordinate closely with its OMB Resource Management Office (RMO) before taking any such actions.

All agencies should work with their OMB RMO on the appropriate timing to submit draft contingency plans for operating under sequestration for review. Furthermore, should Congress take action that affects the current budgetary uncertainty, OMB will provide agencies with additional guidance as appropriate.



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

JAN 10 2013

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Handling Budgetary Uncertainty in Fiscal Year 2013

Two sources of uncertainty are creating budgetary challenges for the Department of Defense (DoD) in 2013. The first is the fact that the Department is operating under a Continuing Resolution (CR) through at least March 27, 2013. Because most operating funding was planned to increase from Fiscal Year (FY) 2012 to FY 2013, but is instead being held at FY 2012 levels under the CR, funds will run short at current rates of expenditure if the CR continues through the end of the fiscal year in its current form. The Secretary will continue to urge the Congress to enact appropriations bills for FY 2013. But if the CR were to be extended through the end of the fiscal year, it would hinder our ability to maintain a ready force.

The second source of uncertainty is the potential sequestration recently deferred from January 2, 2013 to March 1, 2013 by the American Taxpayer Relief Act of 2012. The possibility of sequestration occurring as late as the beginning of the sixth month of the fiscal year creates significant additional uncertainty for the management of the Department.

Either of these problems, in isolation, would present serious budget execution challenges to the Department, negatively impacting readiness and resulting in other undesirable outcomes. This situation would be made even more challenging by the need to protect funds for wartime operations.

Near-Term Actions

Given the overall budgetary uncertainty faced by the Department, and in particular the immediate operational issues presented by the CR, it is prudent to take certain steps now in order to help avoid serious future problems. I therefore authorize all Defense Components to begin implementing measures that will help mitigate our budget execution risks. For now, and to the extent possible, any actions taken must be reversible at a later date in the event that Congress acts to remove the risks I have described. The actions should be structured to minimize harmful effects on our people and on operations and unit readiness.

Categories of approved actions are identified in Table 1. The authority to implement these actions shall remain in effect until they are revoked in a subsequent memorandum from my office. If Components believe they must take actions that go beyond the categories listed in Table 1, they should present the options for my review and approval prior to their implementation.

Intensified Planning for Longer-Term Budgetary Uncertainty

Given the added challenge of a potential sequestration in March, we must also intensify efforts to plan future actions that might be required should that happen. This planning does not assume these unfortunate events will occur, only that we must be ready.

As they formulate draft plans, Components should follow the guidance that directs the Department to take all possible steps to mitigate harmful effects associated with this budgetary uncertainty and to maintain a strong defense. The details of the guidance are summarized below:

- For the operating portions of the DoD budget:
 - Exempt all military personnel funding from sequestration reductions, in accordance with the decision made by the President in July 2012.
 - Fully protect funding for wartime operations.
 - Fully protect Wounded Warrior programs.
 - To the extent feasible, protect programs most closely associated with the new defense strategy.
 - Reduce civilian workforce costs using the following actions (all subject to mission-critical exemptions, and appropriate consultation with union representatives consistent with Executive Order 13522):
 - Release temporary employees and do not renew term hires.
 - Impose hiring freezes.
 - Authorize voluntary separation incentives and voluntary early retirements to the extent feasible.
 - Consider the possibility of furloughs of up to 30 calendar days or 22 discontinuous workdays.
 - To the extent feasible, protect family programs.

- To the extent feasible, protect funding most directly associated with readiness; focus the necessary cuts on later deploying units.
- For the investment portions of the DoD budget (procurement, RDT&E, construction):
 - Protect investments funded in Overseas Contingency Operations if associated with urgent operational needs.
 - To the extent feasible, protect programs mostly closely associated with the new defense strategy.
 - Take prudent steps to minimize disruption and added costs (e.g., avoid penalties associated with potential contract cancellations where feasible; prudently manage construction projects funded with prior-year monies).

While we are hopeful of avoiding budgetary problems, draft Component plans should reflect the possibility that we may have to operate under a year-long CR and that sequestration takes place. Table 2 shows the types of information that should be included in the plans. Components should submit these draft plans to the Under Secretary of Defense (Comptroller) by February 1, 2013. The Under Secretary of Defense (Comptroller) will work with the Components to adjust this schedule if changes are required due to the deadlines for the preparation of the FY 2014 President's Budget submission.

I appreciate your patience as we work through these difficult budgetary times. The Department will continue to do its best to resolve these budgetary uncertainties in a manner that permits us to support our current defense strategy and maintain a strong defense.

If addressees have questions about this memorandum, they should direct them to the Under Secretary of Defense (Comptroller).

A handwritten signature in cursive script that reads "Ashton Carter". The signature is written in dark ink and is centered on the page.

Attachments:
As stated

Table 1. Categories of Approved Near-Term Actions

- Freeze civilian hiring (with exceptions for mission-critical activities*).
- Provide authority to terminate employment of temporary hires and to notify term employees that their contracts will not be renewed (with exceptions for mission-critical activities and when appropriate in terms of personnel timing*).
- Reduce base operating funding.
- Curtail travel, training, and conferences (all with exceptions for mission-critical activities* including those required to maintain professional licensure or equivalent certifications).
- Curtail facilities maintenance or Facilities Sustainment, Restoration, and Modernization (FSRM) (with exceptions for mission-critical activities*).
 - If necessary, services/agencies are authorized to fund FSRM at levels below current guidance.
- Curtail administrative expenses such as supply purchases, business IT, ceremonies, etc. (with exceptions for mission-critical activities*).
- Review contracts and studies for possible cost-savings.
- Cancel 3rd and 4th quarter ship maintenance availabilities and aviation and ground depot-level maintenance activities. Take this action no earlier than February 15, 2013.
- Clear all R&D and production contracts and contract modifications that obligate more than \$500 million with the USD(AT&L) prior to award.
- For Science and Technology accounts, provide the USD(AT&L) and the Assistant Secretary of Defense (Research & Engineering) with an assessment of the impact that budgetary uncertainty may have on meeting Departmental research priorities.

*Approvals will be granted by Component heads or by senior officials designated by the Component head.

Components with personnel serving Combatant Commanders (COCOMs) must consult with the COCOMs before implementing actions that affect them. Disputes will be brought to the attention of the Chairman of the Joint Chiefs of Staff for further resolution.

Components receiving reimbursements should coordinate with customer before taking actions that would affect the customer's mission.

Table 2. Information to Be Included in Draft Implementation Plans

The following information should be provided at the Component level. Information by commands and bases/installations is not required.

- For operating accounts, identify major actions to include, at a minimum:
 - Extent of civilian hiring freezes; expected number of temps/terms released; expected number, duration, and nature of furloughs.
 - Reductions in flying hours, steaming days, vehicle miles, and other operations/training/support activities that affect force readiness.
 - Areas of budgets experiencing disproportionate cuts.
- For investment accounts:
 - Plans for large programs (ACAT 1D and 1C, and MAIS programs).
 - Include major changes in unit buys, delays, etc.
 - Significant changes in all joint programs.
- Identify and prioritize any essential reprogramming actions with offsets.

Public Law 112–240
112th Congress

An Act

Entitled the “American Taxpayer Relief Act of 2012”.

Jan. 2, 2013

[H.R. 8]

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

SECTION 1. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “American Taxpayer Relief Act of 2012”.

(b) **AMENDMENT OF 1986 CODE.**—Except as otherwise expressly provided, whenever in this Act 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 Internal Revenue Code of 1986.

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

American
Taxpayer Relief
Act of 2012.
26 USC 1 note.

Sec. 1. Short title, etc.

TITLE I—GENERAL EXTENSIONS

- Sec. 101. Permanent extension and modification of 2001 tax relief.
- Sec. 102. Permanent extension and modification of 2003 tax relief.
- Sec. 103. Extension of 2009 tax relief.
- Sec. 104. Permanent alternative minimum tax relief.

TITLE II—INDIVIDUAL TAX EXTENDERS

- Sec. 201. Extension of deduction for certain expenses of elementary and secondary school teachers.
- Sec. 202. Extension of exclusion from gross income of discharge of qualified principal residence indebtedness.
- Sec. 203. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.
- Sec. 204. Extension of mortgage insurance premiums treated as qualified residence interest.
- Sec. 205. Extension of deduction of State and local general sales taxes.
- Sec. 206. Extension of special rule for contributions of capital gain real property made for conservation purposes.
- Sec. 207. Extension of above-the-line deduction for qualified tuition and related expenses.
- Sec. 208. Extension of tax-free distributions from individual retirement plans for charitable purposes.
- Sec. 209. Improve and make permanent the provision authorizing the Internal Revenue Service to disclose certain return and return information to certain prison officials.

TITLE III—BUSINESS TAX EXTENDERS

- Sec. 301. Extension and modification of research credit.
- Sec. 302. Extension of temporary minimum low-income tax credit rate for non-federally subsidized new buildings.
- Sec. 303. Extension of housing allowance exclusion for determining area median gross income for qualified residential rental project exempt facility bonds.
- Sec. 304. Extension of Indian employment tax credit.

- Sec. 305. Extension of new markets tax credit.
- Sec. 306. Extension of railroad track maintenance credit.
- Sec. 307. Extension of mine rescue team training credit.
- Sec. 308. Extension of employer wage credit for employees who are active duty members of the uniformed services.
- Sec. 309. Extension of work opportunity tax credit.
- Sec. 310. Extension of qualified zone academy bonds.
- Sec. 311. Extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
- Sec. 312. Extension of 7-year recovery period for motorsports entertainment complexes.
- Sec. 313. Extension of accelerated depreciation for business property on an Indian reservation.
- Sec. 314. Extension of enhanced charitable deduction for contributions of food inventory.
- Sec. 315. Extension of increased expensing limitations and treatment of certain real property as section 179 property.
- Sec. 316. Extension of election to expense mine safety equipment.
- Sec. 317. Extension of special expensing rules for certain film and television productions.
- Sec. 318. Extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 319. Extension of modification of tax treatment of certain payments to controlling exempt organizations.
- Sec. 320. Extension of treatment of certain dividends of regulated investment companies.
- Sec. 321. Extension of RIC qualified investment entity treatment under FIRPTA.
- Sec. 322. Extension of subpart F exception for active financing income.
- Sec. 323. Extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
- Sec. 324. Extension of temporary exclusion of 100 percent of gain on certain small business stock.
- Sec. 325. Extension of basis adjustment to stock of S corporations making charitable contributions of property.
- Sec. 326. Extension of reduction in S-corporation recognition period for built-in gains tax.
- Sec. 327. Extension of empowerment zone tax incentives.
- Sec. 328. Extension of tax-exempt financing for New York Liberty Zone.
- Sec. 329. Extension of temporary increase in limit on cover over of rum excise taxes to Puerto Rico and the Virgin Islands.
- Sec. 330. Modification and extension of American Samoa economic development credit.
- Sec. 331. Extension and modification of bonus depreciation.

TITLE IV—ENERGY TAX EXTENDERS

- Sec. 401. Extension of credit for energy-efficient existing homes.
- Sec. 402. Extension of credit for alternative fuel vehicle refueling property.
- Sec. 403. Extension of credit for 2- or 3-wheeled plug-in electric vehicles.
- Sec. 404. Extension and modification of cellulosic biofuel producer credit.
- Sec. 405. Extension of incentives for biodiesel and renewable diesel.
- Sec. 406. Extension of production credit for Indian coal facilities placed in service before 2009.
- Sec. 407. Extension and modification of credits with respect to facilities producing energy from certain renewable resources.
- Sec. 408. Extension of credit for energy-efficient new homes.
- Sec. 409. Extension of credit for energy-efficient appliances.
- Sec. 410. Extension and modification of special allowance for cellulosic biofuel plant property.
- Sec. 411. Extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
- Sec. 412. Extension of alternative fuels excise tax credits.

TITLE V—UNEMPLOYMENT

- Sec. 501. Extension of emergency unemployment compensation program.
- Sec. 502. Temporary extension of extended benefit provisions.
- Sec. 503. Extension of funding for reemployment services and reemployment and eligibility assessment activities.
- Sec. 504. Additional extended unemployment benefits under the Railroad Unemployment Insurance Act.

TITLE VI—MEDICARE AND OTHER HEALTH EXTENSIONS

Subtitle A—Medicare Extensions

- Sec. 601. Medicare physician payment update.

- Sec. 602. Work geographic adjustment.
- Sec. 603. Payment for outpatient therapy services.
- Sec. 604. Ambulance add-on payments.
- Sec. 605. Extension of Medicare inpatient hospital payment adjustment for low-volume hospitals.
- Sec. 606. Extension of the Medicare-dependent hospital (MDH) program.
- Sec. 607. Extension for specialized Medicare Advantage plans for special needs individuals.
- Sec. 608. Extension of Medicare reasonable cost contracts.
- Sec. 609. Performance improvement.
- Sec. 610. Extension of funding outreach and assistance for low-income programs.

Subtitle B—Other Health Extensions

- Sec. 621. Extension of the qualifying individual (QI) program.
- Sec. 622. Extension of Transitional Medical Assistance (TMA).
- Sec. 623. Extension of Medicaid and CHIP Express Lane option.
- Sec. 624. Extension of family-to-family health information centers.
- Sec. 625. Extension of Special Diabetes Program for Type I diabetes and for Indians.

Subtitle C—Other Health Provisions

- Sec. 631. IPPS documentation and coding adjustment for implementation of MS-DRGs.
- Sec. 632. Revisions to the Medicare ESRD bundled payment system to reflect findings in the GAO report.
- Sec. 633. Treatment of multiple service payment policies for therapy services.
- Sec. 634. Payment for certain radiology services furnished under the Medicare hospital outpatient department prospective payment system.
- Sec. 635. Adjustment of equipment utilization rate for advanced imaging services.
- Sec. 636. Medicare payment of competitive prices for diabetic supplies and elimination of overpayment for diabetic supplies.
- Sec. 637. Medicare payment adjustment for non-emergency ambulance transports for ESRD beneficiaries.
- Sec. 638. Removing obstacles to collection of overpayments.
- Sec. 639. Medicare advantage coding intensity adjustment.
- Sec. 640. Elimination of all funding for the Medicare Improvement Fund.
- Sec. 641. Rebased of State DSH allotments.
- Sec. 642. Repeal of CLASS program.
- Sec. 643. Commission on Long-Term Care.
- Sec. 644. Consumer Operated and Oriented Plan program contingency fund.

TITLE VII—EXTENSION OF AGRICULTURAL PROGRAMS

- Sec. 701. 1-year extension of agricultural programs.
- Sec. 702. Supplemental agricultural disaster assistance.

TITLE VIII—MISCELLANEOUS PROVISIONS

- Sec. 801. Strategic delivery systems.
- Sec. 802. No cost of living adjustment in pay of members of congress.

TITLE IX—BUDGET PROVISIONS

Subtitle A—Modifications of Sequestration

- Sec. 901. Treatment of sequester.
- Sec. 902. Amounts in applicable retirement plans may be transferred to designated Roth accounts without distribution.

Subtitle B—Budgetary Effects

- Sec. 911. Budgetary effects.

TITLE I—GENERAL EXTENSIONS

SEC. 101. PERMANENT EXTENSION AND MODIFICATION OF 2001 TAX RELIEF.

(a) PERMANENT EXTENSION.—

(1) IN GENERAL.—The Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking title IX. 26 USC 1 note.

(2) CONFORMING AMENDMENT.—The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 is amended by striking section 304. 26 USC 121 note.

Applicability.
26 USC 1 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable, plan, or limitation years beginning after December 31, 2012, and estates of decedents dying, gifts made, or generation skipping transfers after December 31, 2012.

(b) APPLICATION OF INCOME TAX TO CERTAIN HIGH-INCOME TAXPAYERS.—

(1) INCOME TAX RATES.—

26 USC 1.

(A) TREATMENT OF 25-, 28-, AND 33-PERCENT RATE BRACKETS.—Paragraph (2) of section 1(i) is amended to read as follows:

“(2) 25-, 28-, AND 33-PERCENT RATE BRACKETS.—The tables under subsections (a), (b), (c), (d), and (e) shall be applied—

“(A) by substituting ‘25%’ for ‘28%’ each place it appears (before the application of subparagraph (B)),

“(B) by substituting ‘28%’ for ‘31%’ each place it appears, and

“(C) by substituting ‘33%’ for ‘36%’ each place it appears.”.

(B) 35-PERCENT RATE BRACKET.—Subsection (i) of section 1 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) MODIFICATIONS TO INCOME TAX BRACKETS FOR HIGH-INCOME TAXPAYERS.—

“(A) 35-PERCENT RATE BRACKET.—In the case of taxable years beginning after December 31, 2012—

“(i) the rate of tax under subsections (a), (b), (c), and (d) on a taxpayer’s taxable income in the highest rate bracket shall be 35 percent to the extent such income does not exceed an amount equal to the excess of—

“(I) the applicable threshold, over

“(II) the dollar amount at which such bracket begins, and

“(ii) the 39.6 percent rate of tax under such subsections shall apply only to the taxpayer’s taxable income in such bracket in excess of the amount to which clause (i) applies.

Definition.

“(B) APPLICABLE THRESHOLD.—For purposes of this paragraph, the term ‘applicable threshold’ means—

“(i) \$450,000 in the case of subsection (a),

“(ii) \$425,000 in the case of subsection (b),

“(iii) \$400,000 in the case of subsection (c), and

“(iv) 1/2 the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsection (d).

“(C) INFLATION ADJUSTMENT.—For purposes of this paragraph, with respect to taxable years beginning in calendar years after 2013, each of the dollar amounts under clauses (i), (ii), and (iii) of subparagraph (B) shall be adjusted in the same manner as under paragraph (1)(C)(i), except that subsection (f)(3)(B) shall be applied by substituting ‘2012’ for ‘1992’.”.

(2) PHASEOUT OF PERSONAL EXEMPTIONS AND ITEMIZED DEDUCTIONS.—

(A) OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.—
Section 68 is amended—

26 USC 68.

(i) by striking subsection (b) and inserting the following:

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the term ‘applicable amount’ means—

Definition.

“(A) \$300,000 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

“(B) \$275,000 in the case of a head of household (as defined in section 2(b)),

“(C) \$250,000 in the case of an individual who is not married and who is not a surviving spouse or head of household, and

“(D) 1/2 the amount applicable under subparagraph (A) (after adjustment, if any, under paragraph (2)) in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

“(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in calendar years after 2013, each of the dollar amounts under subparagraphs (A), (B), and (C) of paragraph (1) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that section 1(f)(3)(B) shall be applied by substituting ‘2012’ for ‘1992’.

If any amount after adjustment under the preceding sentence is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”, and

(ii) by striking subsections (f) and (g).

(B) PHASEOUT OF DEDUCTIONS FOR PERSONAL EXEMPTIONS.—

(i) IN GENERAL.—Paragraph (3) of section 151(d) is amended—

(I) by striking “the threshold amount” in subparagraphs (A) and (B) and inserting “the applicable amount in effect under section 68(b)”,

(II) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C), and

(III) by striking subparagraphs (E) and (F).

(ii) CONFORMING AMENDMENTS.—Paragraph (4) of section 151(d) is amended—

(I) by striking subparagraph (B),

(II) by redesignating clauses (i) and (ii) of subparagraph (A) as subparagraphs (A) and (B), respectively, and by indenting such subparagraphs (as so redesignated) accordingly, and

(III) by striking all that precedes “in a calendar year after 1989,” and inserting the following:

“(4) INFLATION ADJUSTMENT.—In the case of any taxable year beginning”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2012.

26 USC 1 note.

(c) MODIFICATIONS OF ESTATE TAX.—

26 USC 2001.

(1) MAXIMUM ESTATE TAX RATE EQUAL TO 40 PERCENT.—The table contained in subsection (c) of section 2001, as amended by section 302(a)(2) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, is amended by striking “Over \$500,000” and all that follows and inserting the following:

“Over \$500,000 but not over \$750,000.	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000	\$345,800, plus 40 percent of the excess of such amount over \$1,000,000.”.

26 USC 2001 note. Applicability.

(2) TECHNICAL CORRECTION.—Clause (i) of section 2010(c)(4)(B) is amended by striking “basic exclusion amount” and inserting “applicable exclusion amount”.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided by in this paragraph, the amendments made by this subsection shall apply to estates of decedents dying, generation-skipping transfers, and gifts made, after December 31, 2012.

(B) TECHNICAL CORRECTION.—The amendment made by paragraph (2) shall take effect as if included in the amendments made by section 303 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

SEC. 102. PERMANENT EXTENSION AND MODIFICATION OF 2003 TAX RELIEF.

26 USC 1 note.

(a) PERMANENT EXTENSION.—The Jobs and Growth Tax Relief Reconciliation Act of 2003 is amended by striking section 303.

(b) 20-PERCENT CAPITAL GAINS RATE FOR CERTAIN HIGH INCOME INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 1(h) is amended by striking subparagraph (C), by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F) and by inserting after subparagraph (B) the following new subparagraphs:

“(C) 15 percent of the lesser of—

“(i) so much of the adjusted net capital gain (or, if less, taxable income) as exceeds the amount on which a tax is determined under subparagraph (B), or

“(ii) the excess of—

“(I) the amount of taxable income which would (without regard to this paragraph) be taxed at a rate below 39.6 percent, over

“(II) the sum of the amounts on which a tax is determined under subparagraphs (A) and (B),

“(D) 20 percent of the adjusted net capital gain (or, if less, taxable income) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C).”.

(2) **MINIMUM TAX.**—Paragraph (3) of section 55(b) is amended by striking subparagraph (C), by redesignating subparagraph (D) as subparagraph (E), and by inserting after subparagraph (B) the following new subparagraphs:

- “(C) 15 percent of the lesser of—
 “(i) so much of the adjusted net capital gain (or, if less, taxable excess) as exceeds the amount on which tax is determined under subparagraph (B), or
 “(ii) the excess described in section 1(h)(1)(C)(ii),
 plus
 “(D) 20 percent of the adjusted net capital gain (or, if less, taxable excess) in excess of the sum of the amounts on which tax is determined under subparagraphs (B) and (C), plus”.

(c) **CONFORMING AMENDMENTS.**—

(1) The following provisions are each amended by striking “15 percent” and inserting “20 percent”:

- (A) Section 531.
 (B) Section 541.
 (C) Section 1445(e)(1).
 (D) The second sentence of section 7518(g)(6)(A).
 (E) Section 53511(f)(2) of title 46, United States Code.

(2) Sections 1(h)(1)(B) and 55(b)(3)(B) are each amended by striking “5 percent (0 percent in the case of taxable years beginning after 2007)” and inserting “0 percent”.

(3) Section 1445(e)(6) is amended by striking “15 percent (20 percent in the case of taxable years beginning after December 31, 2010)” and inserting “20 percent”.

(d) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as otherwise provided, the amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2012.

(2) **WITHHOLDING.**—The amendments made by paragraphs (1)(C) and (3) of subsection (c) shall apply to amounts paid on or after January 1, 2013.

Applicability.
 26 USC 1 note.

SEC. 103. EXTENSION OF 2009 TAX RELIEF.

(a) **5-YEAR EXTENSION OF AMERICAN OPPORTUNITY TAX CREDIT.**—

(1) **IN GENERAL.**—Section 25A(i) is amended by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

(2) **TREATMENT OF POSSESSIONS.**—Section 1004(c)(1) of division B of the American Recovery and Reinvestment Tax Act of 2009 is amended by striking “in 2009, 2010, 2011, and 2012” each place it appears and inserting “after 2008 and before 2018”.

26 USC 25A note.

(b) **5-YEAR EXTENSION OF CHILD TAX CREDIT.**—Section 24(d)(4) is amended—

(1) by striking “2009, 2010, 2011, AND 2012” in the heading and inserting “FOR CERTAIN YEARS”, and

(2) by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

(c) **5-YEAR EXTENSION OF EARNED INCOME TAX CREDIT.**—Section 32(b)(3) is amended—

(1) by striking “2009, 2010, 2011, AND 2012” in the heading and inserting “FOR CERTAIN YEARS”, and

(2) by striking “in 2009, 2010, 2011, or 2012” and inserting “after 2008 and before 2018”.

26 USC 6409. (d) PERMANENT EXTENSION OF RULE DISREGARDING REFUNDS IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.—Section 6409 is amended to read as follows:

“SEC. 6409. REFUNDS DISREGARDED IN THE ADMINISTRATION OF FEDERAL PROGRAMS AND FEDERALLY ASSISTED PROGRAMS.

Time period. “Notwithstanding any other provision of law, any refund (or advance payment with respect to a refundable credit) made to any individual under this title shall not be taken into account as income, and shall not be taken into account as resources for a period of 12 months from receipt, for purposes of determining the eligibility of such individual (or any other individual) for benefits or assistance (or the amount or extent of benefits or assistance) under any Federal program or under any State or local program financed in whole or in part with Federal funds.”.

Applicability.
26 USC 24 note.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2012.

(2) RULE REGARDING DISREGARD OF REFUNDS.—The amendment made by subsection (d) shall apply to amounts received after December 31, 2012.

SEC. 104. PERMANENT ALTERNATIVE MINIMUM TAX RELIEF.

(a) 2012 EXEMPTION AMOUNTS MADE PERMANENT.—

(1) IN GENERAL.—Paragraph (1) of section 55(d) is amended—

(A) by striking “\$45,000” and all that follows through “2011” in subparagraph (A) and inserting “\$78,750”;

(B) by striking “\$33,750” and all that follows through “2011” in subparagraph (B) and inserting “\$50,600”, and

(C) by striking “paragraph (1)(A)” in subparagraph (C) and inserting “subparagraph (A)”.

(b) EXEMPTION AMOUNTS INDEXED FOR INFLATION.—

(1) IN GENERAL.—Subsection (d) of section 55 is amended by adding at the end the following new paragraph:

“(4) INFLATION ADJUSTMENT.—

“(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 2012, the amounts described in subparagraph (B) shall each be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(B) AMOUNTS DESCRIBED.—The amounts described in this subparagraph are—

“(i) each of the dollar amounts contained in subsection (b)(1)(A)(i),

“(ii) each of the dollar amounts contained in paragraph (1), and

“(iii) each of the dollar amounts in subparagraphs (A) and (B) of paragraph (3).

“(C) ROUNDING.—Any increase determined under subparagraph (A) shall be rounded to the nearest multiple of \$100.”.

(2) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 55(b)(1)(A) is amended by striking “by substituting” and all that follows through “appears.” and inserting “by substituting 50 percent of the dollar amount otherwise applicable under subclause (I) and subclause (II) thereof.”. 26 USC 55.

(B) Paragraph (3) of section 55(d) is amended—

(i) by striking “or (2)” in subparagraph (A),

(ii) by striking “and” at the end of subparagraph

(B), and

(iii) by striking subparagraph (C) and inserting the following new subparagraphs:

“(C) 50 percent of the dollar amount applicable under subparagraph (A) in the case of a taxpayer described in subparagraph (C) or (D) of paragraph (1), and

“(D) \$150,000 in the case of a taxpayer described in paragraph (2).”.

(c) ALTERNATIVE MINIMUM TAX RELIEF FOR NONREFUNDABLE CREDITS.—

(1) IN GENERAL.—Subsection (a) of section 26 is amended to read as follows:

“(a) LIMITATION BASED ON AMOUNT OF TAX.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

“(1) the taxpayer’s regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

“(2) the tax imposed by section 55(a) for the taxable year.”.

(2) CONFORMING AMENDMENTS.—

(A) ADOPTION CREDIT.—

(i) Section 23(b) is amended by striking paragraph (4).

(ii) Section 23(c) is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 25D and 1400C), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(iii) Section 23(c) is amended by redesignating paragraph (3) as paragraph (2).

(B) CHILD TAX CREDIT.—

(i) Section 24(b) is amended by striking paragraph (3).

(ii) Section 24(d)(1) is amended—

(I) by striking “section 26(a)(2) or subsection (b)(3), as the case may be,” each place it appears in subparagraphs (A) and (B) and inserting “section 26(a)”, and

(II) by striking “section 26(a)(2) or subsection (b)(3), as the case may be” in the second last sentence and inserting “section 26(a)”.

26 USC 25.

(C) CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.—Section 25(e)(1)(C) is amended to read as follows:

“(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term ‘applicable tax limit’ means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23, 25D, and 1400C).”.

(D) HOPE AND LIFETIME LEARNING CREDITS.—Section 25A(i) is amended—

(i) by striking paragraph (5) and by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively, and

(ii) by striking “section 26(a)(2) or paragraph (5), as the case may be” in paragraph (5), as redesignated by clause (i), and inserting “section 26(a)”.

(E) SAVERS’ CREDIT.—Section 25B is amended by striking subsection (g).

(F) RESIDENTIAL ENERGY EFFICIENT PROPERTY.—Section 25D(c) is amended to read as follows:

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(G) CERTAIN PLUG-IN ELECTRIC VEHICLES.—Section 30(c)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(H) ALTERNATIVE MOTOR VEHICLE CREDIT.—Section 30B(g)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(I) NEW QUALIFIED PLUG-IN ELECTRIC VEHICLE CREDIT.—Section 30D(c)(2) is amended to read as follows:

“(2) PERSONAL CREDIT.—For purposes of this title, the credit allowed under subsection (a) for any taxable year (determined after application of paragraph (1)) shall be treated as a credit allowable under subpart A for such taxable year.”.

(J) CROSS REFERENCES.—Section 55(c)(3) is amended by striking “26(a), 30C(d)(2),” and inserting “30C(d)(2)”.

(K) FOREIGN TAX CREDIT.—Section 904 is amended by striking subsection (i) and by redesignating subsections (j), (k), and (l) as subsections (i), (j), and (k), respectively.

(L) FIRST-TIME HOME BUYER CREDIT FOR THE DISTRICT OF COLUMBIA.—Section 1400C(d) is amended to read as follows:

“(d) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under subpart A of part IV of subchapter A (other than this section and section 25D), such excess shall be carried to the

succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 23 note.

TITLE II—INDIVIDUAL TAX EXTENDERS

SEC. 201. EXTENSION OF DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2011” and inserting “2011, 2012, or 2013”. 26 USC 62.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 62 note.

SEC. 202. EXTENSION OF EXCLUSION FROM GROSS INCOME OF DISCHARGE OF QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.

(a) IN GENERAL.—Subparagraph (E) of section 108(a)(1) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to indebtedness discharged after December 31, 2012. Applicability. 26 USC 108 note.

SEC. 203. EXTENSION OF PARITY FOR EXCLUSION FROM INCOME FOR EMPLOYER-PROVIDED MASS TRANSIT AND PARKING BENEFITS.

(a) IN GENERAL.—Paragraph (2) of section 132(f) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to months after December 31, 2011. 26 USC 132 note.

SEC. 204. EXTENSION OF MORTGAGE INSURANCE PREMIUMS TREATED AS QUALIFIED RESIDENCE INTEREST.

(a) IN GENERAL.—Subclause (I) of section 163(h)(3)(E)(iv) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) TECHNICAL AMENDMENTS.—Clause (i) of section 163(h)(4)(E) is amended—

(1) by striking “Veterans Administration” and inserting “Department of Veterans Affairs”, and

(2) by striking “Rural Housing Administration” and inserting “Rural Housing Service”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2011. Applicability. 26 USC 163 note.

SEC. 205. EXTENSION OF DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Subparagraph (I) of section 164(b)(5) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 164 note.

SEC. 206. EXTENSION OF SPECIAL RULE FOR CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

- 26 USC 170. (a) IN GENERAL.—Clause (vi) of section 170(b)(1)(E) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.
- (b) CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—Clause (iii) of section 170(b)(2)(B) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.
- Applicability.
26 USC 170 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2011.

SEC. 207. EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

- 26 USC 222 note. (a) IN GENERAL.—Subsection (e) of section 222 is amended by striking “December 31, 2011” and inserting “December 31, 2013”.
- (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 208. EXTENSION OF TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

- 26 USC 408 note.
Applicability. (a) IN GENERAL.—Subparagraph (F) of section 408(d)(8) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.
- (b) EFFECTIVE DATE; SPECIAL RULE.—
- (1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made in taxable years beginning after December 31, 2011.
- (2) SPECIAL RULES.—For purposes of subsections (a)(6), (b)(3), and (d)(8) of section 408 of the Internal Revenue Code of 1986, at the election of the taxpayer (at such time and in such manner as prescribed by the Secretary of the Treasury)—
- (A) any qualified charitable distribution made after December 31, 2012, and before February 1, 2013, shall be deemed to have been made on December 31, 2012, and
- (B) any portion of a distribution from an individual retirement account to the taxpayer after November 30, 2012, and before January 1, 2013, may be treated as a qualified charitable distribution to the extent that—
- (i) such portion is transferred in cash after the distribution to an organization described in section 408(d)(8)(B)(i) before February 1, 2013, and
- (ii) such portion is part of a distribution that would meet the requirements of section 408(d)(8) but for the fact that the distribution was not transferred directly to an organization described in section 408(d)(8)(B)(i).

SEC. 209. IMPROVE AND MAKE PERMANENT THE PROVISION AUTHORIZING THE INTERNAL REVENUE SERVICE TO DISCLOSE CERTAIN RETURN AND RETURN INFORMATION TO CERTAIN PRISON OFFICIALS.

- (a) IN GENERAL.—Paragraph (10) of section 6103(k) is amended to read as follows:
- “(10) DISCLOSURE OF CERTAIN RETURNS AND RETURN INFORMATION TO CERTAIN PRISON OFFICIALS.—

“(A) IN GENERAL.—Under such procedures as the Secretary may prescribe, the Secretary may disclose to officers and employees of the Federal Bureau of Prisons and of any State agency charged with the responsibility for administration of prisons any returns or return information with respect to individuals incarcerated in Federal or State prison systems whom the Secretary has determined may have filed or facilitated the filing of a false or fraudulent return to the extent that the Secretary determines that such disclosure is necessary to permit effective Federal tax administration.

“(B) DISCLOSURE TO CONTRACTOR-RUN PRISONS.—Under such procedures as the Secretary may prescribe, the disclosures authorized by subparagraph (A) may be made to contractors responsible for the operation of a Federal or State prison on behalf of such Bureau or agency.

“(C) RESTRICTIONS ON USE OF DISCLOSED INFORMATION.—Any return or return information received under this paragraph shall be used only for the purposes of and to the extent necessary in taking administrative action to prevent the filing of false and fraudulent returns, including administrative actions to address possible violations of administrative rules and regulations of the prison facility and in administrative and judicial proceedings arising from such administrative actions.

“(D) RESTRICTIONS ON REDISCLOSURE AND DISCLOSURE TO LEGAL REPRESENTATIVES.—Notwithstanding subsection (h)—

“(i) RESTRICTIONS ON REDISCLOSURE.—Except as provided in clause (ii), any officer, employee, or contractor of the Federal Bureau of Prisons or of any State agency charged with the responsibility for administration of prisons shall not disclose any information obtained under this paragraph to any person other than an officer or employee or contractor of such Bureau or agency personally and directly engaged in the administration of prison facilities on behalf of such Bureau or agency.

“(ii) DISCLOSURE TO LEGAL REPRESENTATIVES.—The returns and return information disclosed under this paragraph may be disclosed to the duly authorized legal representative of the Federal Bureau of Prisons, State agency, or contractor charged with the responsibility for administration of prisons, or of the incarcerated individual accused of filing the false or fraudulent return who is a party to an action or proceeding described in subparagraph (C), solely in preparation for, or for use in, such action or proceeding.”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6103(a) is amended by inserting “subsection (k)(10),” after “subsection (e)(1)(D)(iii),”.

(2) Paragraph (4) of section 6103(p) is amended—

(A) by inserting “subsection (k)(10),” before “subsection (l)(10),” in the matter preceding subparagraph (A),

(B) in subparagraph (F)(i)—

(i) by inserting “(k)(10),” before “or (l)(6),” and

26 USC 7213.

26 USC 6103
note.

(ii) by inserting “subsection (k)(10) or” before “subsection (l)(10),” and

(C) by inserting “subsection (k)(10) or” before “subsection (l)(10),” both places it appears in the matter following subparagraph (F)(iii).

(3) Paragraph (2) of section 7213(a) is amended by inserting “(k)(10),” before “(l)(6),”.

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

TITLE III—BUSINESS TAX EXTENDERS

SEC. 301. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (B) of section 41(h)(1) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 45C(b)(1) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) INCLUSION OF QUALIFIED RESEARCH EXPENSES AND GROSS RECEIPTS OF AN ACQUIRED PERSON.—

(1) PARTIAL INCLUSION OF PRE-ACQUISITION QUALIFIED RESEARCH EXPENSES AND GROSS RECEIPTS.—Subparagraph (A) of section 41(f)(3) is amended to read as follows:

“(A) ACQUISITIONS.—

“(i) IN GENERAL.—If a person acquires the major portion of either a trade or business or a separate unit of a trade or business (hereinafter in this paragraph referred to as the ‘acquired business’) of another person (hereinafter in this paragraph referred to as the ‘predecessor’), then the amount of qualified research expenses paid or incurred by the acquiring person during the measurement period shall be increased by the amount determined under clause (ii), and the gross receipts of the acquiring person for such period shall be increased by the amount determined under clause (iii).

“(ii) AMOUNT DETERMINED WITH RESPECT TO QUALIFIED RESEARCH EXPENSES.—The amount determined under this clause is—

“(I) for purposes of applying this section for the taxable year in which such acquisition is made, the acquisition year amount, and

“(II) for purposes of applying this section for any taxable year after the taxable year in which such acquisition is made, the qualified research expenses paid or incurred by the predecessor with respect to the acquired business during the measurement period.

“(iii) AMOUNT DETERMINED WITH RESPECT TO GROSS RECEIPTS.—The amount determined under this clause is the amount which would be determined under clause (ii) if ‘the gross receipts of’ were substituted for ‘the qualified research expenses paid or incurred by’ each place it appears in clauses (ii) and (iv).

“(iv) ACQUISITION YEAR AMOUNT.—For purposes of clause (ii), the acquisition year amount is the amount equal to the product of—

“(I) the qualified research expenses paid or incurred by the predecessor with respect to the acquired business during the measurement period, and

“(II) the number of days in the period beginning on the date of the acquisition and ending on the last day of the taxable year in which the acquisition is made,

divided by the number of days in the acquiring person’s taxable year.

“(v) SPECIAL RULES FOR COORDINATING TAXABLE YEARS.—In the case of an acquiring person and a predecessor whose taxable years do not begin on the same date—

“(I) each reference to a taxable year in clauses (ii) and (iv) shall refer to the appropriate taxable year of the acquiring person,

“(II) the qualified research expenses paid or incurred by the predecessor, and the gross receipts of the predecessor, during each taxable year of the predecessor any portion of which is part of the measurement period shall be allocated equally among the days of such taxable year,

“(III) the amount of such qualified research expenses taken into account under clauses (ii) and (iv) with respect to a taxable year of the acquiring person shall be equal to the total of the expenses attributable under subclause (II) to the days occurring during such taxable year, and

“(IV) the amount of such gross receipts taken into account under clause (iii) with respect to a taxable year of the acquiring person shall be equal to the total of the gross receipts attributable under subclause (II) to the days occurring during such taxable year.

“(vi) MEASUREMENT PERIOD.—For purposes of this subparagraph, the term ‘measurement period’ means, with respect to the taxable year of the acquiring person for which the credit is determined, any period of the acquiring person preceding such taxable year which is taken into account for purposes of determining the credit for such year.” Definition.

(2) EXPENSES AND GROSS RECEIPTS OF A PREDECESSOR.— Subparagraph (B) of section 41(f)(3) is amended to read as follows: 26 USC 41.

“(B) DISPOSITIONS.—If the predecessor furnished to the acquiring person such information as is necessary for the application of subparagraph (A), then, for purposes of applying this section for any taxable year ending after such disposition, the amount of qualified research expenses paid or incurred by, and the gross receipts of, the predecessor during the measurement period (as defined in

subparagraph (A)(vi), determined by substituting ‘predecessor’ for ‘acquiring person’ each place it appears) shall be reduced by—

“(i) in the case of the taxable year in which such disposition is made, an amount equal to the product of—

“(I) the qualified research expenses paid or incurred by, or gross receipts of, the predecessor with respect to the acquired business during the measurement period (as so defined and so determined), and

“(II) the number of days in the period beginning on the date of acquisition (as determined for purposes of subparagraph (A)(iv)(II)) and ending on the last day of the taxable year of the predecessor in which the disposition is made, divided by the number of days in the taxable year of the predecessor, and

“(ii) in the case of any taxable year ending after the taxable year in which such disposition is made, the amount described in clause (i)(I).”.

26 USC 41. (c) AGGREGATION OF EXPENDITURES.—Paragraph (1) of section 41(f) is amended—

(1) by striking “shall be its proportionate shares of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, giving rise to the credit” in subparagraph (A)(ii) and inserting “shall be determined on a proportionate basis to its share of the aggregate of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, taken into account by such controlled group for purposes of this section”, and

(2) by striking “shall be its proportionate shares of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, giving rise to the credit” in subparagraph (B)(ii) and inserting “shall be determined on a proportionate basis to its share of the aggregate of the qualified research expenses, basic research payments, and amounts paid or incurred to energy research consortiums, taken into account by all such persons under common control for purposes of this section”.

Applicability.
26 USC 41 note.

(d) EFFECTIVE DATE.—
(1) EXTENSION.—The amendments made by subsection (a) shall apply to amounts paid or incurred after December 31, 2011.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 2011.

SEC. 302. EXTENSION OF TEMPORARY MINIMUM LOW-INCOME TAX CREDIT RATE FOR NON-FEDERALLY SUBSIDIZED NEW BUILDINGS.

(a) IN GENERAL.—Subparagraph (A) of section 42(b)(2) is amended by striking “and before December 31, 2013” and inserting “with respect to housing credit dollar amount allocations made before January 1, 2014”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 42 note.

SEC. 303. EXTENSION OF HOUSING ALLOWANCE EXCLUSION FOR DETERMINING AREA MEDIAN GROSS INCOME FOR QUALIFIED RESIDENTIAL RENTAL PROJECT EXEMPT FACILITY BONDS.

(a) **IN GENERAL.**—Subsection (b) of section 3005 of the Housing Assistance Tax Act of 2008 is amended by striking “January 1, 2012” each place it appears and inserting “January 1, 2014”. 26 USC 142 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall take effect as if included in the enactment of section 3005 of the Housing Assistance Tax Act of 2008. 26 USC 142 note.

SEC. 304. EXTENSION OF INDIAN EMPLOYMENT TAX CREDIT.

(a) **IN GENERAL.**—Subsection (f) of section 45A is amended by striking “December 31, 2011” and inserting “December 31, 2013”. 26 USC 45A.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 45A note.

SEC. 305. EXTENSION OF NEW MARKETS TAX CREDIT.

(a) **IN GENERAL.**—Subparagraph (G) of section 45D(f)(1) is amended by striking “2010 and 2011” and inserting “2010, 2011, 2012, and 2013”.

(b) **CARRYOVER OF UNUSED LIMITATION.**—Paragraph (3) of section 45D(f) is amended by striking “2016” and inserting “2018”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar years beginning after December 31, 2011. 26 USC 45D note.

SEC. 306. EXTENSION OF RAILROAD TRACK MAINTENANCE CREDIT.

(a) **IN GENERAL.**—Subsection (f) of section 45G is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 2011. Applicability. 26 USC 45G note.

SEC. 307. EXTENSION OF MINE RESCUE TEAM TRAINING CREDIT.

(a) **IN GENERAL.**—Subsection (e) of section 45N is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 45N note.

SEC. 308. EXTENSION OF EMPLOYER WAGE CREDIT FOR EMPLOYEES WHO ARE ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

(a) **IN GENERAL.**—Subsection (f) of section 45P is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to payments made after December 31, 2011. Applicability. 26 USC 45P note.

SEC. 309. EXTENSION OF WORK OPPORTUNITY TAX CREDIT.

(a) **IN GENERAL.**—Subparagraph (B) of section 51(c)(4) is amended by striking “after” and all that follows and inserting “after December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to individuals who begin work for the employer after December 31, 2011. Applicability. 26 USC 51 note.

SEC. 310. EXTENSION OF QUALIFIED ZONE ACADEMY BONDS.

26 USC 54E.

(a) IN GENERAL.—Paragraph (1) of section 54E(c) is amended by inserting “, 2012, and 2013” after “for 2011”.

Applicability.
26 USC 54E note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2011.

SEC. 311. EXTENSION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS, QUALIFIED RESTAURANT BUILDINGS AND IMPROVEMENTS, AND QUALIFIED RETAIL IMPROVEMENTS.

(a) IN GENERAL.—Clauses (iv), (v), and (ix) of section 168(e)(3)(E) are each amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability.
26 USC 168 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2011.

SEC. 312. EXTENSION OF 7-YEAR RECOVERY PERIOD FOR MOTOR-SPORTS ENTERTAINMENT COMPLEXES.

(a) IN GENERAL.—Subparagraph (D) of section 168(i)(15) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.
26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. 313. EXTENSION OF ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON AN INDIAN RESERVATION.

(a) IN GENERAL.—Paragraph (8) of section 168(j) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.
26 USC 168 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. 314. EXTENSION OF ENHANCED CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Clause (iv) of section 170(e)(3)(C) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.
26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2011.

SEC. 315. EXTENSION OF INCREASED EXPENSING LIMITATIONS AND TREATMENT OF CERTAIN REAL PROPERTY AS SECTION 179 PROPERTY.

(a) IN GENERAL.—

(1) DOLLAR LIMITATION.—Section 179(b)(1) is amended—

(A) by striking “2010 or 2011,” in subparagraph (B) and inserting “2010, 2011, 2012, or 2013, and”,

(B) by striking subparagraph (C),

(C) by redesignating subparagraph (D) as subparagraph (C), and

(D) in subparagraph (C), as so redesignated, by striking “2012” and inserting “2013”.

(2) REDUCTION IN LIMITATION.—Section 179(b)(2) is amended—

(A) by striking “2010 or 2011,” in subparagraph (B) and inserting “2010, 2011, 2012, or 2013, and”,

(B) by striking subparagraph (C),

(C) by redesignating subparagraph (D) as subparagraph (C), and

(D) in subparagraph (C), as so redesignated, by striking “2012” and inserting “2013”.

(3) CONFORMING AMENDMENT.—Subsection (b) of section 179 is amended by striking paragraph (6).

(b) COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) is amended by striking “2013” and inserting “2014”. 26 USC 179.

(c) ELECTION.—Section 179(c)(2) is amended by striking “2013” and inserting “2014”.

(d) SPECIAL RULES FOR TREATMENT OF QUALIFIED REAL PROPERTY.—

(1) IN GENERAL.—Section 179(f)(1) is amended by striking “2010 or 2011” and inserting “2010, 2011, 2012, or 2013”.

(2) CARRYOVER LIMITATION.—

(A) IN GENERAL.—Section 179(f)(4) is amended by striking “2011” each place it appears and inserting “2013”.

(B) CONFORMING AMENDMENT.—Subparagraph (C) of section 179(f)(4) is amended—

(i) in the heading, by striking “2010” and inserting “2010, 2011 AND 2012”, and

(ii) by adding at the end the following: “For the last taxable year beginning in 2013, the amount determined under subsection (b)(3)(A) for such taxable year shall be determined without regard to this paragraph.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 179 note.

SEC. 316. EXTENSION OF ELECTION TO EXPENSE MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Subsection (g) of section 179E is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011. Applicability. 26 USC 179E note.

SEC. 317. EXTENSION OF SPECIAL EXPENSING RULES FOR CERTAIN FILM AND TELEVISION PRODUCTIONS.

(a) IN GENERAL.—Subsection (f) of section 181 is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to productions commencing after December 31, 2011. Applicability. 26 USC 181 note.

SEC. 318. EXTENSION OF DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) IN GENERAL.—Subparagraph (C) of section 199(d)(8) is amended—

(1) by striking “first 6 taxable years” and inserting “first 8 taxable years”, and

(2) by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 199 note.

SEC. 319. EXTENSION OF MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Clause (iv) of section 512(b)(13)(E) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.
26 USC 512 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to payments received or accrued after December 31, 2011.

SEC. 320. EXTENSION OF TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

26 USC 871. (a) IN GENERAL.—Paragraphs (1)(C)(v) and (2)(C)(v) of section 871(k) are each amended by striking “December 31, 2011” and inserting “December 31, 2013”.

26 USC 871 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 321. EXTENSION OF RIC QUALIFIED INVESTMENT ENTITY TREATMENT UNDER FIRPTA.

26 USC 897 note. (a) IN GENERAL.—Clause (ii) of section 897(h)(4)(A) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on January 1, 2012. Notwithstanding the preceding sentence, such amendment shall not apply with respect to the withholding requirement under section 1445 of the Internal Revenue Code of 1986 for any payment made before the date of the enactment of this Act.

(2) AMOUNTS WITHHELD ON OR BEFORE DATE OF ENACTMENT.—In the case of a regulated investment company—

(A) which makes a distribution after December 31, 2011, and before the date of the enactment of this Act; and

(B) which would (but for the second sentence of paragraph (1)) have been required to withhold with respect to such distribution under section 1445 of such Code, such investment company shall not be liable to any person to whom such distribution was made for any amount so withheld and paid over to the Secretary of the Treasury.

SEC. 322. EXTENSION OF SUBPART F EXCEPTION FOR ACTIVE FINANCING INCOME.

(a) EXEMPT INSURANCE INCOME.—Paragraph (10) of section 953(e) is amended—

(1) by striking “January 1, 2012” and inserting “January 1, 2014”, and

(2) by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) SPECIAL RULE FOR INCOME DERIVED IN THE ACTIVE CONDUCT OF BANKING, FINANCING, OR SIMILAR BUSINESSES.—Paragraph (9) of section 954(h) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability.
26 USC 953 note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2011, and to taxable years of United States shareholders with or within which any such taxable year of such foreign corporation ends.

SEC. 323. EXTENSION OF LOOK-THRU TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER FOREIGN PERSONAL HOLDING COMPANY RULES.

(a) **IN GENERAL.**—Subparagraph (C) of section 954(c)(6) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

26 USC 954.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years of foreign corporations beginning after December 31, 2011, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

Applicability.
26 USC 954 note.

SEC. 324. EXTENSION OF TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) **IN GENERAL.**—Paragraph (4) of section 1202(a) is amended—
(1) by striking “January 1, 2012” and inserting “January 1, 2014”, and

(2) by striking “AND 2011” and inserting “, 2011, 2012, AND 2013” in the heading thereof.

(b) **TECHNICAL AMENDMENTS.**—

(1) **SPECIAL RULE FOR 2009 AND CERTAIN PERIOD IN 2010.**—Paragraph (3) of section 1202(a) is amended by adding at the end the following new flush sentence:

“In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.”.

(2) **100 PERCENT EXCLUSION.**—Paragraph (4) of section 1202(a) is amended by adding at the end the following new flush sentence:

“In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.”.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—The amendments made by subsection (a) shall apply to stock acquired after December 31, 2011.

(2) **SUBSECTION (b)(1).**—The amendment made by subsection (b)(1) shall take effect as if included in section 1241(a) of division B of the American Recovery and Reinvestment Act of 2009.

(3) **SUBSECTION (b)(2).**—The amendment made by subsection (b)(2) shall take effect as if included in section 2011(a) of the Creating Small Business Jobs Act of 2010.

26 USC 1202
note.
Applicability.

SEC. 325. EXTENSION OF BASIS ADJUSTMENT TO STOCK OF S CORPORATIONS MAKING CHARITABLE CONTRIBUTIONS OF PROPERTY.

(a) **IN GENERAL.**—Paragraph (2) of section 1367(a) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2011.

Applicability.
26 USC 1367
note.

SEC. 326. EXTENSION OF REDUCTION IN S-CORPORATION RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

26 USC 1374.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) is amended—
(1) by redesignating subparagraph (C) as subparagraph (D), and
(2) by inserting after subparagraph (B) the following new subparagraph:

Applicability.

“(C) SPECIAL RULE FOR 2012 AND 2013.—For purposes of determining the net recognized built-in gain for taxable years beginning in 2012 or 2013, subparagraphs (A) and (D) shall be applied by substituting ‘5-year’ for ‘10-year’.”, and

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

“(E) INSTALLMENT SALES.—If an S corporation sells an asset and reports the income from the sale using the installment method under section 453, the treatment of all payments received shall be governed by the provisions of this paragraph applicable to the taxable year in which such sale was made.”.

(b) TECHNICAL AMENDMENT.—Subparagraph (B) of section 1374(d)(2) is amended by inserting “described in subparagraph (A)” after “, for any taxable year”.

26 USC 1374 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. 327. EXTENSION OF EMPOWERMENT ZONE TAX INCENTIVES.

(a) IN GENERAL.—Clause (i) of section 1391(d)(1)(A) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) INCREASED EXCLUSION OF GAIN ON STOCK OF EMPOWERMENT ZONE BUSINESSES.—Subparagraph (C) of section 1202(a)(2) is amended—

(1) by striking “December 31, 2016” and inserting “December 31, 2018”; and

(2) by striking “2016” in the heading and inserting “2018”.

26 USC 1391 note.

(c) TREATMENT OF CERTAIN TERMINATION DATES SPECIFIED IN NOMINATIONS.—In the case of a designation of an empowerment zone the nomination for which included a termination date which is contemporaneous with the date specified in subparagraph (A)(i) of section 1391(d)(1) of the Internal Revenue Code of 1986 (as in effect before the enactment of this Act), subparagraph (B) of such section shall not apply with respect to such designation if, after the date of the enactment of this section, the entity which made such nomination amends the nomination to provide for a new termination date in such manner as the Secretary of the Treasury (or the Secretary’s designee) may provide.

Applicability.
26 USC 1202 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after December 31, 2011.

SEC. 328. EXTENSION OF TAX-EXEMPT FINANCING FOR NEW YORK LIBERTY ZONE.

(a) IN GENERAL.—Subparagraph (D) of section 1400L(d)(2) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

Applicability.
26 USC 1400L note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after December 31, 2011.

**SEC. 329. EXTENSION OF TEMPORARY INCREASE IN LIMIT ON COVER
OVER OF RUM EXCISE TAXES TO PUERTO RICO AND THE
VIRGINISLANDS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2012” and inserting “January 1, 2014”. 26 USC 7652.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distilled spirits brought into the United States after December 31, 2011. Applicability. 26 USC 7652 note.

SEC. 330. MODIFICATION AND EXTENSION OF AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) MODIFICATION.—

(1) IN GENERAL.—Subsection (a) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking “if such corporation” and all that follows and inserting “if— 26 USC 30A note.

“(1) in the case of a taxable year beginning before January 1, 2012, such corporation—

“(A) is an existing credit claimant with respect to American Samoa, and

“(B) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006, and

“(2) in the case of a taxable year beginning after December 31, 2011, such corporation meets the requirements of subsection (e).”

(2) REQUIREMENTS.—Section 119 of division A of such Act is amended by adding at the end the following new subsection:

“(e) QUALIFIED PRODUCTION ACTIVITIES INCOME REQUIREMENT.—A corporation meets the requirement of this subsection if such corporation has qualified production activities income, as defined in subsection (c) of section 199 of the Internal Revenue Code of 1986, determined by substituting ‘American Samoa’ for ‘the United States’ each place it appears in paragraphs (3), (4), and (6) of such subsection (c), for the taxable year.”

(b) EXTENSION.—Subsection (d) of section 119 of division A of the Tax Relief and Health Care Act of 2006 is amended by striking “shall apply” and all that follows and inserting “shall apply—

“(1) in the case of a corporation that meets the requirements of subparagraphs (A) and (B) of subsection (a)(1), to the first 8 taxable years of such corporation which begin after December 31, 2006, and before January 1, 2014, and

“(2) in the case of a corporation that does not meet the requirements of subparagraphs (A) and (B) of subsection (a)(1), to the first 2 taxable years of such corporation which begin after December 31, 2011, and before January 1, 2014.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2011. 26 USC 30A note.

SEC. 331. EXTENSION AND MODIFICATION OF BONUS DEPRECIATION.

(a) IN GENERAL.—Paragraph (2) of section 168(k) is amended—

(1) by striking “January 1, 2014” in subparagraph (A)(iv) and inserting “January 1, 2015”, and

(2) by striking “January 1, 2013” each place it appears and inserting “January 1, 2014”.

26 USC 460. (b) SPECIAL RULE FOR FEDERAL LONG-TERM CONTRACTS.— Clause (ii) of section 460(c)(6)(B) is amended by inserting “, or after December 31, 2012, and before January 1, 2014 (January 1, 2015, in the case of property described in section 168(k)(2)(B))” before the period.

(c) EXTENSION OF ELECTION TO ACCELERATE THE AMT CREDIT IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Subclause (II) of section 168(k)(4)(D)(iii) is amended by striking “2013” and inserting “2014”.

(2) ROUND 3 EXTENSION PROPERTY.—Paragraph (4) of section 168(k) is amended by adding at the end the following new subparagraph:

“(J) SPECIAL RULES FOR ROUND 3 EXTENSION PROPERTY.—

Applicability.

“(i) IN GENERAL.—In the case of round 3 extension property, this paragraph shall be applied without regard to—

“(I) the limitation described in subparagraph (B)(i) thereof, and

“(II) the business credit increase amount under subparagraph (E)(iii) thereof.

“(ii) TAXPAYERS PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, a taxpayer who made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, or a taxpayer who made the election under subparagraph (I)(iii) for its first taxable year ending after December 31, 2010—

“(I) the taxpayer may elect not to have this paragraph apply to round 3 extension property, but

“(II) if the taxpayer does not make the election under subclause (I), in applying this paragraph to the taxpayer the bonus depreciation amount, maximum amount, and maximum increase amount shall be computed and applied to eligible qualified property which is round 3 extension property.

The amounts described in subclause (II) shall be computed separately from any amounts computed with respect to eligible qualified property which is not round 3 extension property.

“(iii) TAXPAYERS NOT PREVIOUSLY ELECTING ACCELERATION.—In the case of a taxpayer who neither made the election under subparagraph (A) for its first taxable year ending after March 31, 2008, nor made the election under subparagraph (H)(ii) for its first taxable year ending after December 31, 2008, nor made the election under subparagraph (I)(iii) for any taxable year ending after December 31, 2010—

“(I) the taxpayer may elect to have this paragraph apply to its first taxable year ending after December 31, 2012, and each subsequent taxable year, and

Applicability.

“(II) if the taxpayer makes the election under subclause (I), this paragraph shall only apply to

eligible qualified property which is round 3 extension property.

“(iv) ROUND 3 EXTENSION PROPERTY.—For purposes of this subparagraph, the term ‘round 3 extension property’ means property which is eligible qualified property solely by reason of the extension of the application of the special allowance under paragraph (1) pursuant to the amendments made by section 331(a) of the American Taxpayer Relief Act of 2012 (and the application of such extension to this paragraph pursuant to the amendment made by section 331(c)(1) of such Act).”

(d) NORMALIZATION RULES AMENDMENT.—Clause (ii) of section 168(i)(9)(A) is amended by inserting “(respecting all elections made by the taxpayer under this section)” after “such property”.

(e) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 is amended by striking “JANUARY 1, 2013” and inserting “JANUARY 1, 2014”.

(2) The heading for clause (ii) of section 168(k)(2)(B) is amended by striking “PRE-JANUARY 1, 2013” and inserting “PRE-JANUARY 1, 2014”.

(3) Subparagraph (C) of section 168(n)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(4) Subparagraph (D) of section 1400L(b)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(5) Subparagraph (B) of section 1400N(d)(3) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2012, in taxable years ending after such date.

TITLE IV—ENERGY TAX EXTENDERS

SEC. 401. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT EXISTING HOMES.

(a) IN GENERAL.—Paragraph (2) of section 25C(g) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. 402. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 30C(g) is amended by striking “December 31, 2011.” and inserting “December 31, 2013”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. 403. EXTENSION OF CREDIT FOR 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Section 30D is amended by adding at the end the following new subsection:

“(g) CREDIT ALLOWED FOR 2- AND 3-WHEELED PLUG-IN ELECTRIC VEHICLES.—

“(1) IN GENERAL.—In the case of a qualified 2- or 3-wheeled plug-in electric vehicle—

“(A) there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the applicable amount with respect

to each such qualified 2- or 3-wheeled plug-in electric vehicle placed in service by the taxpayer during the taxable year, and

“(B) the amount of the credit allowed under subparagraph (A) shall be treated as a credit allowed under subsection (a).

“(2) APPLICABLE AMOUNT.—For purposes of paragraph (1), the applicable amount is an amount equal to the lesser of—

“(A) 10 percent of the cost of the qualified 2- or 3-wheeled plug-in electric vehicle, or

“(B) \$2,500.

“(3) QUALIFIED 2- OR 3-WHEELED PLUG-IN ELECTRIC VEHICLE.—The term ‘qualified 2- or 3-wheeled plug-in electric vehicle’ means any vehicle which—

“(A) has 2 or 3 wheels,

“(B) meets the requirements of subparagraphs (A), (B), (C), (E), and (F) of subsection (d)(1) (determined by substituting ‘2.5 kilowatt hours’ for ‘4 kilowatt hours’ in subparagraph (F)(i)),

“(C) is manufactured primarily for use on public streets, roads, and highways,

“(D) is capable of achieving a speed of 45 miles per hour or greater, and

“(E) is acquired after December 31, 2011, and before January 1, 2014.”.

(b) CONFORMING AMENDMENTS.—

(1) NO DOUBLE BENEFIT.—Paragraph (2) of section 30D(f) is amended—

(A) by striking “new qualified plug-in electric drive motor vehicle” and inserting “vehicle for which a credit is allowable under subsection (a)”, and

(B) by striking “allowed under subsection (a)” and inserting “allowed under such subsection”.

(2) AIR QUALITY AND SAFETY STANDARDS.—Section 30D(f)(7) is amended by striking “motor vehicle” and inserting “vehicle”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to vehicles acquired after December 31, 2011.

26 USC 30D.

Applicability.
26 USC 30D
note.

SEC. 404. EXTENSION AND MODIFICATION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (H) of section 40(b)(6) is amended to read as follows:

“(H) APPLICATION OF PARAGRAPH.—

“(i) IN GENERAL.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2014.

“(ii) NO CARRYOVER TO CERTAIN YEARS AFTER EXPIRATION.—If this paragraph ceases to apply for any period by reason of clause (i), rules similar to the rules of subsection (e)(2) shall apply.”.

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 40(e) is amended by striking “or subsection (b)(6)(H)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 15321(b) of the Heartland, Habitat, and Horticulture Act of 2008.

(b) ALGAE TREATED AS A QUALIFIED FEEDSTOCK.—

26 USC 40 note.

(1) IN GENERAL.—Subclause (I) of section 40(b)(6)(E)(i) is amended to read as follows:

“(I) is derived by, or from, qualified feedstocks, and”.

(2) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR ALGAE.—Paragraph (6) of section 40(b) is amended by redesignating subparagraphs (F), (G), and (H), as amended by this Act, as subparagraphs (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraphs:

“(F) QUALIFIED FEEDSTOCK.—For purposes of this paragraph, the term ‘qualified feedstock’ means—

“(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

“(ii) any cultivated algae, cyanobacteria, or lemna.

“(G) SPECIAL RULES FOR ALGAE.—In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

“(i) such sale shall be treated as described in subparagraph (C)(i),

“(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

“(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.”.

(3) CONFORMING AMENDMENTS.—

(A) Section 40, as amended by paragraph (2), is amended—

(i) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”,

(ii) by striking “CELLULOSIC” in the headings of subsections (b)(6), (b)(6)(E), and (d)(3)(D) and inserting “SECOND GENERATION”, and

(iii) by striking “CELLULOSIC” in the headings of subsections (b)(6)(C), (b)(6)(D), (b)(6)(H), (d)(6), and (e)(3) and inserting “SECOND GENERATION”.

(B) Clause (ii) of section 40(b)(6)(E) is amended by striking “Such term shall not” and inserting “The term ‘second generation biofuel’ shall not”.

(C) Paragraph (1) of section 4101(a) is amended by striking “cellulosic biofuel” and inserting “second generation biofuel”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuels sold or used after the date of the enactment of this Act.

Applicability.
26 USC 40 note.

SEC. 405. EXTENSION OF INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

26 USC 40A. (a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(2) Subparagraph (B) of section 6427(e)(6) is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

Applicability.
26 USC 40A note. (c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SEC. 406. EXTENSION OF PRODUCTION CREDIT FOR INDIAN COAL FACILITIES PLACED IN SERVICE BEFORE 2009.

(a) IN GENERAL.—Subparagraph (A) of section 45(e)(10) is amended by striking “7-year period” each place it appears and inserting “8-year period”.

Applicability.
26 USC 45 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to coal produced after December 31, 2012.

SEC. 407. EXTENSION AND MODIFICATION OF CREDITS WITH RESPECT TO FACILITIES PRODUCING ENERGY FROM CERTAIN RENEWABLE RESOURCES.

(a) PRODUCTION TAX CREDIT.—

(1) EXTENSION FOR WIND FACILITIES.—Paragraph (1) of section 45(d) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

(2) EXCLUSION OF PAPER WHICH IS COMMONLY RECYCLED FROM DEFINITION OF MUNICIPAL SOLID WASTE.—Section 45(c)(6) is amended by inserting “, except that such term does not include paper which is commonly recycled and which has been segregated from other solid waste (as so defined)” after “(42 U.S.C. 6903)”.

(3) MODIFICATION TO DEFINITION OF QUALIFIED FACILITY.—

(A) IN GENERAL.—The following provisions of section 45(d), as amended by paragraph (1), are each amended by striking “before January 1, 2014” and inserting “the construction of which begins before January 1, 2014”:

- (i) Paragraph (1).
- (ii) Paragraph (2)(A)(i).
- (iii) Paragraph (3)(A)(i)(I).
- (iv) Paragraph (6).
- (v) Paragraph (7).
- (vi) Paragraph (9)(B).
- (vii) Paragraph (11)(B).

(B) CERTAIN CLOSED-LOOP BIOMASS FACILITIES.—Subparagraph (A) of section 45(d)(2) is amended by adding at the end the following new flush sentence:

“For purposes of clause (ii), a facility shall be treated as modified before January 1, 2014, if the construction of such modification begins before such date.”.

(ii) of section 45(d)(3)(A) is amended by striking “is originally placed in service” and inserting “the construction of which begins”.

26 USC 45.

(D) GEOTHERMAL FACILITIES.—

(i) IN GENERAL.—Paragraph (4) of section 45(d) is amended by striking “and before January 1, 2014” and all that follows and inserting “and which—

“(A) in the case of a facility using solar energy, is placed in service before January 1, 2006, or

“(B) in the case of a facility using geothermal energy, the construction of which begins before January 1, 2014. Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.”.

(E) INCREMENTAL HYDROPOWER PRODUCTION.—Paragraph (9) of section 45(d) is amended—

(i) by redesignating subparagraphs (A) and (B), as amended by subparagraph (A), as clauses (i) and (ii), respectively, and by moving such clauses (as so redesignated) 2 ems to the right,

(ii) by striking “In the case of a facility” and inserting the following:

“(A) IN GENERAL.—In the case of a facility”,

(iii) by redesignating subparagraph (C) as subparagraph (B), and

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

“(C) SPECIAL RULE.—For purposes of subparagraph (A)(i), an efficiency improvement or addition to capacity shall be treated as placed in service before January 1, 2014, if the construction of such improvement or addition begins before such date.”.

(b) EXTENSION OF ELECTION TO TREAT QUALIFIED FACILITIES AS ENERGY PROPERTY.—Subparagraph (C) of section 48(a)(5) is amended to read as follows:

“(C) QUALIFIED INVESTMENT CREDIT FACILITY.—For purposes of this paragraph, the term ‘qualified investment credit facility’ means any facility—

“(i) which is a qualified facility (within the meaning of section 45) described in paragraph (1), (2), (3), (4), (6), (7), (9), or (11) of section 45(d),

“(ii) which is placed in service after 2008 and the construction of which begins before January 1, 2014, and

“(iii) with respect to which—

“(I) no credit has been allowed under section 45, and

“(II) the taxpayer makes an irrevocable election to have this paragraph apply.”.

(c) TECHNICAL CORRECTIONS.—

(1) Subparagraph (D) of section 48(a)(5) is amended—

(A) by striking “and” at the end of clause (i)(II),

(B) by striking the period at the end of clause (ii) and inserting a comma, and

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

“(iii) which is constructed, reconstructed, erected, or acquired by the taxpayer, and

“(iv) the original use of which commences with the taxpayer.”.

26 USC 48 note.

(2) Paragraphs (1) and (2) of subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 are each amended by striking “placed in service” and inserting “originally placed in service by such person”.

Applicability.
26 USC 45 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) MODIFICATION TO DEFINITION OF MUNICIPAL SOLID WASTE.—The amendments made by subsection (a)(2) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TECHNICAL CORRECTIONS.—The amendments made by subsection (c) shall apply as if included in the enactment of the provisions of the American Recovery and Reinvestment Act of 2009 to which they relate.

SEC. 408. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT NEW HOMES.

26 USC 45L.

(a) IN GENERAL.—Subsection (g) of section 45L is amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) ENERGY SAVINGS REQUIREMENTS.—Clause (i) of section 45L(c)(1)(A) is amended by striking “2003 International Energy Conservation Code, as such Code (including supplements) is in effect on the date of the enactment of this section” and inserting “2006 International Energy Conservation Code, as such Code (including supplements) is in effect on January 1, 2006”.

Applicability.
26 USC 45L note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to homes acquired after December 31, 2011.

SEC. 409. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT APPLIANCES.

(a) IN GENERAL.—Section 45M(b) is amended by striking “2011” each place it appears other than in the provisions specified in subsection (b) and inserting “2011, 2012, or 2013”.

(b) PROVISIONS SPECIFIED.—The provisions of section 45M(b) specified in this subsection are subparagraph (C) of paragraph (1) and subparagraph (E) of paragraph (2).

Applicability.
26 USC 45M
note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2011.

SEC. 410. EXTENSION AND MODIFICATION OF SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.

(a) EXTENSION.—

(1) IN GENERAL.—Subparagraph (D) of section 168(l)(2) is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

Applicability.
26 USC 168 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2012.

(b) ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL PLANT PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(l)(2) is amended by striking “solely to produce cellulosic biofuel” and

defined in section 40(b)(6)(E))”.

(2) CONFORMING AMENDMENTS.—Subsection (l) of section 168, as amended by subsection (a), is amended— 26 USC 168.

(A) by striking “cellulosic biofuel” each place it appears in the text thereof and inserting “second generation biofuel”;

(B) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively,

(C) by striking “CELLULOSIC” in the heading of such subsection and inserting “SECOND GENERATION”, and

(D) by striking “CELLULOSIC” in the heading of paragraph (2) and inserting “SECOND GENERATION”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act. Applicability. 26 USC 168 note.

SEC. 411. EXTENSION OF SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FERC OR STATE ELECTRIC RESTRUCTURING POLICY FOR QUALIFIED ELECTRIC UTILITIES.

(a) IN GENERAL.—Paragraph (3) of section 451(i) is amended by striking “January 1, 2012” and inserting “January 1, 2014”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dispositions after December 31, 2011. Applicability. 26 USC 451 note.

SEC. 412. EXTENSION OF ALTERNATIVE FUELS EXCISE TAX CREDITS.

(a) IN GENERAL.—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2011” and inserting “December 31, 2013”.

(b) OUTLAY PAYMENTS FOR ALTERNATIVE FUELS.—Paragraph (6) of section 6427(e) is amended—

(1) in subparagraph (C)—

(A) by striking “or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426)” and inserting “(as defined in section 6426(d)(2))”, and

(B) by striking “December 31, 2011, and” and inserting “December 31, 2013,”;

(2) in subparagraph (D)—

(A) by striking “or alternative fuel mixture”, and

(B) by striking the period at the end and inserting “, and”, and

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

“(E) any alternative fuel mixture (as defined in section 6426(e)(2)) sold or used after December 31, 2011.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011. Applicability. 26 USC 6426 note.

TITLE V—UNEMPLOYMENT

SEC. 501. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) EXTENSION.—Section 4007(a)(2) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “January 2, 2013” and inserting “January 1, 2014”.

(b) **FUNDING.**—Section 4004(e)(1) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended—

(1) in subparagraph (H), by striking “and” at the end; and

(2) by inserting after subparagraph (I) the following:

“(J) the amendments made by section 501(a) of the American Taxpayer Relief Act of 2012;”.

26 USC 3304
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96)

SEC. 502. TEMPORARY EXTENSION OF EXTENDED BENEFIT PROVISIONS.

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

(1) by striking “December 31, 2012” each place it appears and inserting “December 31, 2013”; and

(2) in subsection (c), by striking “June 30, 2013” and inserting “June 30, 2014”.

(b) **EXTENSION OF MATCHING FOR STATES WITH NO WAITING WEEK.**—Section 5 of the Unemployment Compensation Extension Act of 2008 (Public Law 110–449; 26 U.S.C. 3304 note) is amended by striking “June 30, 2013” and inserting “June 30, 2014”.

(c) **EXTENSION OF MODIFICATION OF INDICATORS UNDER THE EXTENDED BENEFIT PROGRAM.**—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) is amended—

(1) in subsection (d), by striking “December 31, 2012” and inserting “December 31, 2013”; and

(2) in subsection (f)(2), by striking “December 31, 2012” and inserting “December 31, 2013”.

26 USC 3304
note.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96).

SEC. 503. EXTENSION OF FUNDING FOR REEMPLOYMENT SERVICES AND REEMPLOYMENT AND ELIGIBILITY ASSESSMENT ACTIVITIES.

(a) **IN GENERAL.**—Section 4004(c)(2)(A) of the Supplemental Appropriations Act, 2008 (Public Law 110–252; 26 U.S.C. 3304 note) is amended by striking “through fiscal year 2013” and inserting “through fiscal year 2014”.

26 USC 3304
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Unemployment Benefits Extension Act of 2012 (Public Law 112–96).

SEC. 504. ADDITIONAL EXTENDED UNEMPLOYMENT BENEFITS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT.

(a) **EXTENSION.**—Section 2(c)(2)(D)(iii) of the Railroad Unemployment Insurance Act, as added by section 2006 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) and as amended by section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), section 505 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111–312), section 202 of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public

Extension Act of 2012 (Public Law 112–96), is amended— 45 USC 352.

(1) by striking “June 30, 2012” and inserting “June 30, 2013”; and

(2) by striking “December 31, 2012” and inserting “December 31, 2013”.

(b) CLARIFICATION ON AUTHORITY TO USE FUNDS.—Funds 45 USC 352 note.
 appropriated under either the first or second sentence of clause (iv) of section 2(c)(2)(D) of the Railroad Unemployment Insurance Act shall be available to cover the cost of additional extended unemployment benefits provided under such section 2(c)(2)(D) by reason of the amendments made by subsection (a) as well as to cover the cost of such benefits provided under such section 2(c)(2)(D), as in effect on the day before the date of enactment of this Act.

(c) FUNDING FOR ADMINISTRATION.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Railroad Retirement Board \$250,000 for administrative expenses associated with the payment of additional extended unemployment benefits provided under section 2(c)(2)(D) of the Railroad Unemployment Insurance Act by reason of the amendments made by subsection (a), to remain available until expended.

TITLE VI—MEDICARE AND OTHER HEALTH EXTENSIONS

Subtitle A—Medicare Extensions

SEC. 601. MEDICARE PHYSICIAN PAYMENT UPDATE.

(a) IN GENERAL.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w–4(d)) is amended by adding at the end the following new paragraph:

“(14) UPDATE FOR 2013.—

“(A) IN GENERAL.—Subject to paragraphs (7)(B), (8)(B), (9)(B), (10)(B), (11)(B), (12)(B), and (13)(B), in lieu of the update to the single conversion factor established in paragraph (1)(C) that would otherwise apply for 2013, the update to the single conversion factor for such year shall be zero percent.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2014 AND SUBSEQUENT YEARS.—The conversion factor under this subsection shall be computed under paragraph (1)(A) for 2014 and subsequent years as if subparagraph (A) had never applied.”.

(b) ADVANCEMENT OF CLINICAL DATA REGISTRIES TO IMPROVE THE QUALITY OF HEALTH CARE.—

(1) IN GENERAL.—Section 1848(m)(3) of the Social Security Act (42 U.S.C. 1395w–4(m)(3)) is amended—

(A) by redesignating subparagraph (D) as subparagraph (F); and

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

“(D) SATISFACTORY REPORTING MEASURES THROUGH PARTICIPATION IN A QUALIFIED CLINICAL DATA REGISTRY.—For 2014 and subsequent years, the Secretary shall treat

an eligible professional as satisfactorily submitting data on quality measures under subparagraph (A) if, in lieu of reporting measures under subsection (k)(2)(C), the eligible professional is satisfactorily participating, as determined by the Secretary, in a qualified clinical data registry (as described in subparagraph (E)) for the year.

“(E) QUALIFIED CLINICAL DATA REGISTRY.—

“(i) IN GENERAL.—The Secretary shall establish requirements for an entity to be considered a qualified clinical data registry. Such requirements shall include a requirement that the entity provide the Secretary with such information, at such times, and in such manner, as the Secretary determines necessary to carry out this subsection.

“(ii) CONSIDERATIONS.—In establishing the requirements under clause (i), the Secretary shall consider whether an entity—

“(I) has in place mechanisms for the transparency of data elements and specifications, risk models, and measures;

“(II) requires the submission of data from participants with respect to multiple payers;

“(III) provides timely performance reports to participants at the individual participant level; and

“(IV) supports quality improvement initiatives for participants.

“(iii) MEASURES.—With respect to measures used by a qualified clinical data registry—

“(I) sections 1890(b)(7) and 1890A(a) shall not apply; and

“(II) measures endorsed by the entity with a contract with the Secretary under section 1890(a) may be used.

“(iv) CONSULTATION.—In carrying out this subparagraph, the Secretary shall consult with interested parties.

Process.

“(v) DETERMINATION.—The Secretary shall establish a process to determine whether or not an entity meets the requirements established under clause (i). Such process may involve one or both of the following:

“(I) A determination by the Secretary.

“(II) A designation by the Secretary of one or more independent organizations to make such determination.”

(2) GAO STUDY AND REPORT ON INCORPORATING REGISTRY DATA INTO THE MEDICARE PROGRAM IN ORDER TO IMPROVE QUALITY AND EFFICIENCY.—

(A) STUDY.—The Comptroller General of the United States shall conduct a study on the potential of clinical data registries to improve the quality and efficiency of care in the Medicare program, including through payment system incentives. Such study shall include an analysis of the role of health information technology in facilitating clinical data registries and the use of data from such registries among private health insurers as well as other entities the Comptroller General determines appropriate.

(B) REPORT.—Not later than November 15, 2013, the Comptroller General of the United States shall submit to Congress a report on the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate. Recommendations.

SEC. 602. WORK GEOGRAPHIC ADJUSTMENT.

Section 1848(e)(1)(E) of the Social Security Act (42 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before January 1, 2013” and inserting “before January 1, 2014”.

SEC. 603. PAYMENT FOR OUTPATIENT THERAPY SERVICES.

(a) EXTENSION.—Section 1833(g) of the Social Security Act (42 U.S.C. 1395l(g)) is amended—

(1) in paragraph (5)(A), in the first sentence, by striking “December 31, 2012” and inserting “December 31, 2013”; and

(2) in paragraph (6)—

(A) by striking “December 31, 2012” and inserting “December 31, 2013”; and

(B) by inserting “or 2013” after “during 2012”.

(b) APPLICATION OF THERAPY CAP TO THERAPY FURNISHED AS PART OF OUTPATIENT CRITICAL ACCESS HOSPITAL SERVICES.—Section 1833(g)(6) of the Social Security Act (42 U.S.C. 1395l(g)(6)), as amended by subsection (a), is amended—

(1) by striking “In applying” and inserting “(A) In applying”; and

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

“(B)(i) With respect to outpatient therapy services furnished beginning on or after January 1, 2013, and before January 1, 2014, for which payment is made under section 1834(g), the Secretary shall count toward the uniform dollar limitations described in paragraphs (1) and (3) and the threshold described in paragraph (5)(C) the amount that would be payable under this part if such services were paid under section 1834(k)(1)(B) instead of being paid under section 1834(g). Time period.

“(ii) Nothing in clause (i) shall be construed as changing the method of payment for outpatient therapy services under section 1834(g).”.

(c) BENEFICIARY PROTECTIONS.—Section 1833(g)(5) of the Social Security Act (42 U.S.C. 1395l(g)(5)) is amended by adding at the end the following new subparagraph:

“(D) With respect to services furnished on or after January 1, 2013, where payment may not be made as a result of application of paragraphs (1) and (3), section 1879 shall apply in the same manner as such section applies to a denial that is made by reason of section 1862(a)(1).” Applicability.

(d) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may implement the provisions of, and the amendments made by, this section by program instruction or otherwise. 42 USC 1395l note.

SEC. 604. AMBULANCE ADD-ON PAYMENTS.

(a) GROUND AMBULANCE.—Section 1834(l)(13)(A) of the Social Security Act (42 U.S.C. 1395m(l)(13)(A)) is amended—

(1) in the matter preceding clause (i), by striking “January 1, 2013” and inserting “January 1, 2014”; and

1, 2013” and inserting “January 1, 2014” each place it appears.

(b) AIR AMBULANCE.—Section 146(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110–275), as amended by sections 3105(b) and 10311(b) of the Patient Protection and Affordable Care Act (Public Law 111–148), section 106(b) of the Medicare and Medicaid Extenders Act of 2010 (Public Law 111–309), section 306(b) of the Temporary Payroll Tax Cut Continuation Act of 2011 (Public Law 112–78), and section 3007(b) of the Middle Class Tax Relief and Job Creation Act of 2012 (Public Law 112–96), is amended by striking “December 31, 2012” and inserting “June 30, 2013”.

42 USC 1395m note.

(c) SUPER RURAL AMBULANCE.—Section 1834(l)(12)(A) of the Social Security Act (42 U.S.C. 1395m(l)(12)(A)) is amended in the first sentence by striking “January 1, 2013” and inserting “January 1, 2014”.

(d) STUDIES OF AMBULANCE COSTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall conduct a study of each of the following:

(A) A study that analyzes data on existing cost reports for ambulance services furnished by hospitals and critical access hospitals, including variation by characteristics of such providers of services.

(B) A study of the feasibility of obtaining cost data on a periodic basis from all ambulance providers of services and suppliers for potential use in examining the appropriateness of the Medicare add-on payments for ground ambulance services furnished under the fee schedule under section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) and in preparing for future reform of such payment system.

(2) COMPONENTS OF ONE OF THE STUDIES.—In conducting the study under paragraph (1)(B), the Secretary shall—

Consultation.

(A) consult with industry on the design of such cost collection efforts;

(B) explore use of cost surveys and cost reports to collect appropriate cost data and the periodicity of such cost data collection;

(C) examine the feasibility of development of a standard cost reporting tool for providers of services and suppliers of ground ambulance services; and

(D) examine the ability to furnish such cost data by various types of ambulance providers of services and suppliers, especially by rural and super-rural providers of services and suppliers.

(3) REPORTS.—

(A) EXISTING COST REPORTS.—Not later than October 1, 2013, the Secretary shall submit a report to Congress on the study conducted under paragraph (1)(A), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

Recommendations.

(B) OBTAINING COST DATA.—Not later than July 1, 2014, the Secretary shall submit a report to Congress on the study conducted under paragraph (1)(B), together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

SEC. 605. EXTENSION OF MEDICARE INPATIENT HOSPITAL PAYMENT ADJUSTMENT FOR LOW-VOLUME HOSPITALS.

Section 1886(d)(12) of the Social Security Act (42 U.S.C. 1395ww(d)(12)) is amended—

- (1) in subparagraph (B), in the matter preceding clause (i), by striking “2013” and inserting “2014”;
- (2) in subparagraph (C)(i), by striking “and 2012” each place it appears and inserting “, 2012, and 2013”; and
- (3) in subparagraph (D), by striking “and 2012” and inserting “, 2012, and 2013”.

SEC. 606. EXTENSION OF THE MEDICARE-DEPENDENT HOSPITAL (MDH) PROGRAM.

(a) EXTENSION OF PAYMENT METHODOLOGY.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

- (1) in clause (i), by striking “October 1, 2012” and inserting “October 1, 2013”; and
- (2) in clause (ii)(II), by striking “October 1, 2012” and inserting “October 1, 2013”.

(b) CONFORMING AMENDMENTS.—

(1) EXTENSION OF TARGET AMOUNT.—Section 1886(b)(3)(D) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(D)) is amended—

- (A) in the matter preceding clause (i), by striking “October 1, 2012” and inserting “October 1, 2013”; and
- (B) in clause (iv), by striking “through fiscal year 2012” and inserting “through fiscal year 2013”.

(2) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—Section 13501(e)(2) of the Omnibus Budget Reconciliation Act of 1993 (42 U.S.C. 1395ww note) is amended by striking “through fiscal year 2012” and inserting “through fiscal year 2013”.

SEC. 607. EXTENSION FOR SPECIALIZED MEDICARE ADVANTAGE PLANS FOR SPECIAL NEEDS INDIVIDUALS.

Section 1859(f)(1) of the Social Security Act (42 U.S.C. 1395w-28(f)(1)) is amended by striking “2014” and inserting “2015”.

SEC. 608. EXTENSION OF MEDICARE REASONABLE COST CONTRACTS.

Section 1876(h)(5)(C)(ii) of the Social Security Act (42 U.S.C. 1395mm(h)(5)(C)(ii)) is amended, in the matter preceding subclause (I), by striking “January 1, 2013” and inserting “January 1, 2014”.

SEC. 609. PERFORMANCE IMPROVEMENT.

(a) EXTENSION OF FUNDING FOR CONTRACT WITH CONSENSUS-BASED ENTITY REGARDING PERFORMANCE MEASUREMENT.—

(1) IN GENERAL.—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended by striking “fiscal years 2009 through 2012” and inserting “fiscal years 2009 through 2013”.

(2) REVISION TO DUTIES.—Section 1890(b) of the Social Security Act (42 U.S.C. 1395aaa(b)) is amended by striking paragraph (4).

(b) PROVIDING DATA FOR PERFORMANCE IMPROVEMENT IN A TIMELY MANNER.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall

Strategy.

in a timely manner to applicable providers under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including with respect to the provision of the following:

(A) Utilization data, including such data for items and services under parts A, B, and D of the Medicare program.

(B) Feedback on quality data submitted by the applicable provider under the Medicare program.

(2) CONSIDERATIONS.—In developing the strategy under paragraph (1), the Secretary shall consider—

(A) the type of applicable provider receiving the data;

(B) the frequency of providing the data so that it can be the most relevant in improving provider performance;

(C) risk adjustment methods;

(D) presentation of the data in a meaningful manner and easily understandable format;

(E) with respect to utilization data, the provision of data that the Secretary determines would be useful to improve the performance of the type of applicable provider involved; and

(F) administrative costs involved with providing data.

Deadline.
Web posting.

(3) SUBMISSION AND AVAILABILITY OF INITIAL STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall—

(A) submit to the relevant committees of Congress the strategy described in paragraph (1); and

(B) post such strategy on the website of the Centers for Medicare & Medicaid Services.

(4) STRATEGY UPDATE.—

(A) FEEDBACK FROM STAKEHOLDERS.—The Secretary shall seek feedback from stakeholders on the initial strategy submitted under paragraph (3).

Deadline.
Web posting.

(B) STRATEGY UPDATE.—The Secretary shall—

(i) update the strategy described in paragraph (1) based on the feedback submitted under subparagraph (A); and

(ii) not later than 18 months after the date of the enactment of this Act—

(I) submit such updated strategy to the relevant committees of Congress; and

(II) post such updated strategy on the website of the Centers for Medicare & Medicaid Services.

(5) GAO STUDY AND REPORT ON PRIVATE SECTOR INFORMATION SHARING ACTIVITIES.—

(A) STUDY.—The Comptroller General of the United States (in this paragraph referred to as the “Comptroller General”) shall conduct a study on information sharing activities. Such study shall include an analysis of—

(i) how private sector entities share timely data with hospitals, physicians, and other providers and what lessons can be learned from those activities;

(ii) how the Medicare program currently shares data with providers, including what data is provided and to which providers, and what divisions within the Centers for Medicare & Medicaid Services oversee those efforts;

(iii) what, if any, differences there are between the private sector and the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in terms of sharing data; and

(iv) what, if any, barriers there are for the Centers for Medicare & Medicaid Services to sharing timely data with applicable providers and recommendations to eliminate or reduce such barriers.

(B) REPORT.—Not later than 8 months after the date of the enactment of this Act, the Comptroller General shall submit to the relevant committees of Congress a report containing the results of the study conducted under subparagraph (A), together with recommendations for such legislation and administrative action as the Comptroller General determines appropriate.

(6) DEFINITIONS.—In this subsection:

(A) APPLICABLE PROVIDER.—The term “applicable provider” means the following:

(i) A critical access hospital (as defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395xx(mm)(1))).

(ii) A hospital (as defined in section 1861(e) of such Act (42 U.S.C. 1395x(e))).

(iii) A physician (as defined in section 1861(r) of such Act (42 U.S.C. 1395x(r))).

(iv) Any other provider the Secretary determines should receive the information described in subsection (a).

(B) PERFORMANCE IMPROVEMENT.—The term “performance improvement” means improvements in quality, reducing per capita costs, and other criteria the Secretary determines appropriate.

SEC. 610. EXTENSION OF FUNDING OUTREACH AND ASSISTANCE FOR LOW-INCOME PROGRAMS.

(a) ADDITIONAL FUNDING FOR STATE HEALTH INSURANCE PROGRAMS.—Subsection (a)(1)(B) of section 119 of the Medicare Improvements for Patients and Providers Act of 2008 (42 U.S.C. 1395b–3 note), as amended by section 3306 of the Patient Protection and Affordable Care Act Public Law 111–148), is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:
“(iii) for fiscal year 2013, of \$7,500,000.”.

(b) ADDITIONAL FUNDING FOR AREA AGENCIES ON AGING.—Subsection (b)(1)(B) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:
“(iii) for fiscal year 2013, of \$7,500,000.”.

(c) ADDITIONAL FUNDING FOR AGING AND DISABILITY RESOURCE CENTERS.—Subsection (c)(1)(B) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:
“(iii) for fiscal year 2013, of \$5,000,000.”.

(d) **ADDITIONAL FUNDING FOR CONTRACT WITH THE NATIONAL CENTER FOR BENEFITS AND OUTREACH ENROLLMENT.**—Subsection (d)(2) of such section 119, as so amended, is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by inserting after clause (ii) the following new clause:
“(iii) for fiscal year 2013, of \$5,000,000.”.

Subtitle B—Other Health Extensions

SEC. 621. EXTENSION OF THE QUALIFYING INDIVIDUAL (QI) PROGRAM.

(a) **EXTENSION.**—Section 1902(a)(10)(E)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)(iv)) is amended by striking “2012” and inserting “2013”.

(b) **EXTENDING TOTAL AMOUNT AVAILABLE FOR ALLOCATION.**—Section 1933(g) of such Act (42 U.S.C. 1396u–3(g)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (Q), by striking “and” after the semicolon;

(B) in subparagraph (R), by striking the period at the end and inserting a semicolon; and

Time periods.

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

“(S) for the period that begins on January 1, 2013, and ends on September 30, 2013, the total allocation amount is \$485,000,000; and

“(T) for the period that begins on October 1, 2013, and ends on December 31, 2013, the total allocation amount is \$300,000,000.”; and

(2) in paragraph (3), in the matter preceding subparagraph (A), by striking “or (R)” and inserting “(R), or (T)”.

SEC. 622. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA).

Sections 1902(e)(1)(B) and 1925(f) of the Social Security Act (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking “2012” and inserting “2013”.

SEC. 623. EXTENSION OF MEDICAID AND CHIP EXPRESS LANE OPTION.

Section 1902(e)(13)(I) of the Social Security Act (42 U.S.C. 1396a(e)(13)(I)) is amended by striking “2013” and inserting “2014”.

SEC. 624. EXTENSION OF FAMILY-TO-FAMILY HEALTH INFORMATION CENTERS.

Section 501(c)(1)(A)(iii) of the Social Security Act (42 U.S.C. 701(c)(1)(A)(iii)) is amended by striking “2012” and inserting “2013”.

SEC. 625. EXTENSION OF SPECIAL DIABETES PROGRAM FOR TYPE I DIABETES AND FOR INDIANS.

(a) **SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.**—Section 330B(b)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–2(b)(2)(C)) is amended by striking “2013” and inserting “2014”.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2)(C) of the Public Health Service Act (42 U.S.C. 254c–3(c)(2)(C)) is amended by striking “2013” and inserting “2014”.

Subtitle C—Other Health Provisions

SEC. 631. IPPS DOCUMENTATION AND CODING ADJUSTMENT FOR IMPLEMENTATION OF MS-DRGS.

(a) RULE OF CONSTRUCTION AND CLARIFICATION.—

(1) RULE OF CONSTRUCTION.—Nothing in the amendments made by subsection (b) shall be construed as changing the existing authority under section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) to make prospective documentation and coding adjustments to the standardized amounts under such section 1886(d) to correct for changes in the coding or classification of discharges that do not reflect real changes in case mix.

(2) CLARIFICATION.—Effective on the date of the enactment of this section, except as provided in section 7(b)(1)(B)(ii) of the TMA, Abstinence Education, and QI Programs Extension Act of 2007, as added by subsection (b)(2)(A)(ii)(IV) of this section, the Secretary of Health and Human Services shall not have authority to fully recoup past overpayments related to documentation and coding changes from fiscal years 2008 and 2009.

(b) ADJUSTMENT.—Section 7 of the TMA, Abstinence Education, and QI Programs Extension Act of 2007 (Public Law 110–90; 121 Stat. 986) is amended—

(1) in the heading, by striking “LIMITATION” and all that follows through “ADJUSTMENT” and inserting “DOCUMENTATION AND CODING ADJUSTMENTS”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A)—

(I) by striking “or 2009” and inserting “, 2009, or 2010”; and

(II) by inserting “or otherwise applied for such year” after “applied under subsection (a)”; and

(ii) in subparagraph (B)—

(I) by inserting “(i)” after “(B)”; and

(II) by striking “or decrease”;

(III) by striking the period at the end and inserting “; and”;

(IV) by adding at the end the following:

“(ii) make an additional adjustment to the standardized amounts under such section 1886(d) based upon the Secretary’s estimates for discharges occurring only during fiscal years 2014, 2015, 2016, and 2017 to fully offset \$11,000,000,000 (which represents the amount of the increase in aggregate payments from fiscal years 2008 through 2013 for which an adjustment was not previously applied).”;

(B) in paragraph (3)—

(i) in subparagraph (A), by inserting before the semicolon the following: “or affecting the Secretary’s authority under such paragraph to apply a prospective

adjustment to offset aggregate additional payments related to documentation and coding improvements made with respect to discharges during fiscal year 2010”; and

(ii) in subparagraph (B), by striking “and 2012” and inserting “2012, 2014, 2015, 2016, and 2017”.

SEC. 632. REVISIONS TO THE MEDICARE ESRD BUNDLED PAYMENT SYSTEM TO REFLECT FINDINGS IN THE GAO REPORT.

(a) **ADJUSTMENT TO ESRD BUNDLED PAYMENT RATE TO ACCOUNT FOR CHANGES IN THE UTILIZATION OF CERTAIN DRUGS AND BIOLOGICALS.**—Section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)) is amended by adding at the end the following new subparagraph:

Reductions.

“(I) For services furnished on or after January 1, 2014, the Secretary shall, by comparing per patient utilization data from 2007 with such data from 2012, make reductions to the single payment that would otherwise apply under this paragraph for renal dialysis services to reflect the Secretary’s estimate of the change in the utilization of drugs and biologicals described in clauses (ii), (iii), and (iv) of subparagraph (B) (other than oral-only ESRD-related drugs, as such term is used in the final rule promulgated by the Secretary in the Federal Register on August 12, 2010 (75 Fed. Reg. 49030)). In making reductions under the preceding sentence, the Secretary shall take into account the most recently available data on average sales prices and changes in prices for drugs and biological reflected in the ESRD market basket percentage increase factor under subparagraph (F).”.

42 USC 1395rr note.

(b) **TWO-YEAR DELAY OF IMPLEMENTATION OF ORAL-ONLY ESRD-RELATED DRUGS IN THE ESRD PROSPECTIVE PAYMENT SYSTEM; MONITORING.**—

(1) **DELAY.**—The Secretary of Health and Human Services may not implement the policy under section 413.174(f)(6) of title 42, Code of Federal Regulations (relating to oral-only ESRD-related drugs in the ESRD prospective payment system), prior to January 1, 2016.

(2) **MONITORING.**—With respect to the implementation of oral-only ESRD-related drugs in the ESRD prospective payment system under subsection (b)(14) of section 1881 of the Social Security Act (42 U.S.C. 1395rr(b)(14)), the Secretary of Health and Human Services shall monitor the bone and mineral metabolism of individuals with end stage renal disease.

42 USC 1395rr note.

(c) **ANALYSIS OF CASE MIX PAYMENT ADJUSTMENTS.**—By not later than January 1, 2016, the Secretary of Health and Human Services shall—

(1) conduct an analysis of the case mix payment adjustments being used under section 1881(b)(14)(D)(i) of the Social Security Act (42 U.S.C. 1395rr(b)(14)(D)(i)); and

(2) make appropriate revisions to such case mix payment adjustments.

Analysis.

(d) **UPDATED GAO REPORT.**—Not later than December 31, 2015, the Comptroller General of the United States shall submit to Congress a report that updates the report submitted to Congress under section 10336 of the Patient Protection and Affordable Care Act (Public Law 111–148; 124 Stat. 974). The updated report shall include an analysis of how the Secretary of Health and Human Services has addressed points raised in the report submitted under

such section 10336 with respect to the Secretary's preparations to implement payment for oral-only ESRD-related drugs in the bundled prospective payment system under section 1881(b)(14) of the Social Security Act (42 U.S.C. 1395rr(b)(14)).

SEC. 633. TREATMENT OF MULTIPLE SERVICE PAYMENT POLICIES FOR THERAPY SERVICES.

(a) SERVICES FURNISHED BY PHYSICIANS AND CERTAIN OTHER PROVIDERS.—Section 1848(b)(7) of the Social Security Act (42 U.S.C. 1395w-4(b)(7)) is amended—

(1) by striking “2011,” and inserting “2011, and before April 1, 2013,”; and

(2) by adding at the end the following new sentence: “In the case of such services furnished on or after April 1, 2013, and for which payment is made under such fee schedules, instead of the 25 percent multiple procedure payment reduction specified in such final rule, the reduction percentage shall be 50 percent.”.

(b) SERVICES FURNISHED BY OTHER PROVIDERS.—Section 1834(k) of the Social Security Act (42 U.S.C. 1395m(k)) is amended by adding at the end the following new paragraph:

“(7) ADJUSTMENT IN DISCOUNT FOR CERTAIN MULTIPLE THERAPY SERVICES.—In the case of therapy services furnished on or after April 1, 2013, and for which payment is made under this subsection pursuant to the applicable fee schedule amount (as defined in paragraph (3)), instead of the 25 percent multiple procedure payment reduction specified in the final rule published by the Secretary in the Federal Register on November 29, 2010, the reduction percentage shall be 50 percent.”.

SEC. 634. PAYMENT FOR CERTAIN RADIOLOGY SERVICES FURNISHED UNDER THE MEDICARE HOSPITAL OUTPATIENT DEPARTMENT PROSPECTIVE PAYMENT SYSTEM.

Section 1833(t)(16) of the Social Security Act (42 U.S.C. 1395l(t)(16)) is amended by adding at the end the following new subparagraph:

“(D) SPECIAL PAYMENT RULE.—

“(i) IN GENERAL.—In the case of covered OPD services furnished on or after April 1, 2013, in a hospital described in clause (ii), if—

“(I) the payment rate that would otherwise apply under this subsection for stereotactic radiosurgery, complete course of treatment of cranial lesion(s) consisting of 1 session that is multi-source Cobalt 60 based (identified as of January 1, 2013, by HCPCS code 77371 (and any succeeding code) and reimbursed as of such date under APC 0127 (and any succeeding classification group)); exceeds

“(II) the payment rate that would otherwise apply under this subsection for linear accelerator based stereotactic radiosurgery, complete course of therapy in one session (identified as of January 1, 2013, by HCPCS code G0173 (and any succeeding code) and reimbursed as of such date under APC 0067 (and any succeeding classification group)),

the payment rate for the service described in subclause (I) shall be reduced to an amount equal to the payment rate for the service described in subclause (II).

“(ii) HOSPITAL DESCRIBED.—A hospital described in this clause is a hospital that is not—

“(I) located in a rural area (as defined in section 1886(d)(2)(D));

“(II) classified as a rural referral center under section 1886(d)(5)(C); or

“(III) a sole community hospital (as defined in section 1886(d)(5)(D)(iii)).

“(iii) NOT BUDGET NEUTRAL.—In making any budget neutrality adjustments under this subsection for 2013 (with respect to covered OPD services furnished on or after April 1, 2013, and before January 1, 2014) or a subsequent year, the Secretary shall not take into account the reduced expenditures that result from the application of this subparagraph.”.

Time period.

SEC. 635. ADJUSTMENT OF EQUIPMENT UTILIZATION RATE FOR ADVANCED IMAGING SERVICES.

Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(1) in subsection (b)(4)(C)—

(A) by striking “and subsequent years” and inserting “, 2012, and 2013”; and

(B) by adding at the end the following new sentence: “With respect to fee schedules established for 2014 and subsequent years, in such methodology, the Secretary shall use a 90 percent utilization rate.”; and

(2) in subsection (c)(2)(B)(v)(III), by striking “change in the utilization rate applicable to 2011, as described in” and inserting “changes in the utilization rate applicable to 2011 and 2014, as described in the first and second sentence, respectively, of”.

SEC. 636. MEDICARE PAYMENT OF COMPETITIVE PRICES FOR DIABETIC SUPPLIES AND ELIMINATION OF OVERPAYMENT FOR DIABETIC SUPPLIES.

(a) APPLICATION OF COMPETITIVE BIDDING PRICES FOR DIABETIC SUPPLIES.—Section 1834(a)(1) of the Social Security Act (42 U.S.C. 1395m(a)(1)) is amended—

(1) in subparagraph (F), in the matter preceding clause (i), by striking “subparagraph (G)” and inserting “subparagraphs (G) and (H)”; and

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

“(H) DIABETIC SUPPLIES.—

“(i) IN GENERAL.—On or after the date described in clause (ii), the payment amount under this part for diabetic supplies, including testing strips, that are non-mail order items (as defined by the Secretary) shall be equal to the single payment amounts established under the national mail order competition for diabetic supplies under section 1847.

“(ii) DATE DESCRIBED.—The date described in this clause is the date of the implementation of the single payment amounts under the national mail order competition for diabetic supplies under section 1847.”.

(b) OVERPAYMENT ELIMINATION FOR DIABETIC SUPPLIES.—Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

“(22) SPECIAL PAYMENT RULE FOR DIABETIC SUPPLIES.—Notwithstanding the preceding provisions of this subsection, for purposes of determining the payment amount under this subsection for diabetic supplies furnished on or after the first day of the calendar quarter during 2013 that is at least 30 days after the date of the enactment of this paragraph and before the date described in paragraph (1)(H)(ii), the Secretary shall recalculate and apply the covered item update under paragraph (14) as if subparagraph (J)(i) of such paragraph was amended by striking ‘but only if furnished through mail order’.”

Time period.
Applicability.

SEC. 637. MEDICARE PAYMENT ADJUSTMENT FOR NON-EMERGENCY AMBULANCE TRANSPORTS FOR ESRD BENEFICIARIES.

Section 1834(l) of the Social Security Act (42 U.S.C. 1395m(l)) is amended by adding at the end the following new paragraph:

“(15) PAYMENT ADJUSTMENT FOR NON-EMERGENCY AMBULANCE TRANSPORTS FOR ESRD BENEFICIARIES.—The fee schedule amount otherwise applicable under the preceding provisions of this subsection shall be reduced by 10 percent for ambulance services furnished on or after October 1, 2013, consisting of non-emergency basic life support services involving transport of an individual with end-stage renal disease for renal dialysis services (as described in section 1881(b)(14)(B)) furnished other than on an emergency basis by a provider of services or a renal dialysis facility.”

SEC. 638. REMOVING OBSTACLES TO COLLECTION OF OVERPAYMENTS.

(a) IN GENERAL.—The last sentence of subsections (b) and (c) of section 1870 of the Social Security Act (42 U.S.C. 1395gg) are each amended—

(1) by striking “third year” and inserting “fifth year”; and
(2) by striking “three-year” and inserting “five-year”.

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

42 USC 1395gg
note.

SEC. 639. MEDICARE ADVANTAGE CODING INTENSITY ADJUSTMENT.

Section 1853(a)(1)(C)(ii)(III) of the Social Security Act (42 U.S.C. 1395w-23(a)(1)(C)(ii)(III)) is amended—

(1) by striking “1.3 percentage points” and inserting “1.5 percentage points”; and
(2) by striking “5.7 percent” and inserting “5.9 percent”.

SEC. 640. ELIMINATION OF ALL FUNDING FOR THE MEDICARE IMPROVEMENT FUND.

Section 1898(b)(1) of the Social Security Act (42 U.S.C. 1395iii(b)(1)) is amended by striking subparagraphs (A), (B), and (C) and inserting the following new subparagraphs:

“(A) fiscal year 2014, \$0; and
“(B) fiscal year 2015, \$0.”

SEC. 641. REBASING OF STATE DSH ALLOTMENTS.

Section 1923(f)(8) of the Social Security Act (42 U.S.C. 1396r-4(f)(8)) is amended to read as follows:

“(8) SPECIAL RULES FOR CALCULATING DSH ALLOTMENTS FOR CERTAIN FISCAL YEARS.—

“(A) FISCAL YEAR 2021.—Only with respect to fiscal year 2021, the DSH allotment for a State, in lieu of the amount determined under paragraph (3) for the State for that year, shall be equal to the DSH allotment for the State as reduced under paragraph (7) for fiscal year 2020, increased, subject to subparagraphs (B) and (C) of paragraph (3), and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2020.

“(B) FISCAL YEAR 2022.—Only with respect to fiscal year 2022, the DSH allotment for a State, in lieu of the amount determined under paragraph (3) for the State for that year, shall be equal to the DSH allotment for the State for fiscal year 2021, as determined under subparagraph (A), increased, subject to subparagraphs (B) and (C) of paragraph (3), and paragraph (5), by the percentage change in the consumer price index for all urban consumers (all items; U.S. city average), for fiscal year 2021.

“(C) SUBSEQUENT FISCAL YEARS.—The DSH allotment for a State for fiscal years after fiscal year 2022 shall be calculated under paragraph (3) without regard to this paragraph and paragraph (7).”.

SEC. 642. REPEAL OF CLASS PROGRAM.

42 USC
30011—30011-9.

(a) REPEAL.—Title XXXII of the Public Health Service Act (42 U.S.C. 30011 et seq.; relating to the CLASS program) is repealed.

(b) CONFORMING CHANGES.—

42 USC 201 note,
30011 notes.

(1) Title VIII of the Patient Protection and Affordable Care Act (Public Law 111-148; 124 Stat. 119, 846-847) is repealed.

(2) Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking paragraphs (81) and (82);

(B) in paragraph (80), by inserting “and” at the end;

and

(C) by redesignating paragraph (83) as paragraph (81).

(3) Paragraphs (2) and (3) of section 6021(d) of the Deficit Reduction Act of 2005 (42 U.S.C. 1396p note) are amended to read as such paragraphs were in effect on the day before the date of the enactment of section 8002(d) of the Patient Protection and Affordable Care Act (Public Law 111-148). Of the funds appropriated by paragraph (3) of such section 6021(d), as amended by the Patient Protection and Affordable Care Act, the unobligated balance is rescinded.

Rescission.

SEC. 643. COMMISSION ON LONG-TERM CARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Long-Term Care (referred to in this section as the “Commission”).

(b) DUTIES.—

Plans.

(1) IN GENERAL.—The Commission shall develop a plan for the establishment, implementation, and financing of a comprehensive, coordinated, and high-quality system that ensures the availability of long-term services and supports for individuals in need of such services and supports, including elderly individuals, individuals with substantial cognitive or functional limitations, other individuals who require assistance to perform

activities of daily living, and individuals desiring to plan for future long-term care needs.

(2) EXISTING HEALTH CARE PROGRAMS.—For purposes of developing the plan described in paragraph (1), the Commission shall provide recommendations for—

Recommendations.

(A) addressing the interaction of a long-term services and support system with existing programs for long-term services and supports, including the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), and private long-term care insurance;

(B) improvements to such health care programs that are necessary for ensuring the availability of long-term services and supports; and

(C) issues related to workers who provide long-term services and supports, including—

(i) whether the number of such workers is adequate to provide long-term services and supports to individuals with long-term care needs;

(ii) workforce development necessary to deliver high-quality services to such individuals;

(iii) development of entities that have the capacity to serve as employers and fiscal agents for workers who provide long-term services and supports in the homes of such individuals; and

(iv) addressing gaps in Federal and State infrastructure that prevent delivery of high-quality long term services and supports to such individuals.

(3) ADDITIONAL CONSIDERATIONS.—For purposes of developing the plan described in paragraph (1), the Commission shall take into account projected demographic changes and trends in the population of the United States, as well as the potential for development of new technologies, delivery systems, or other mechanisms to improve the availability and quality of long-term services and supports.

(4) CONSULTATION.—For purposes of developing the plan described in paragraph (1), the Commission shall consult with the Medicare Payment Advisory Commission, the Medicaid and CHIP Payment and Access Commission, the National Council on Disability, and relevant consumer groups.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, to be appointed not later than 30 days after the date of enactment of this Act, as follows:

Deadline. Appointments. President. Congress.

(A) The President of the United States shall appoint 3 members.

(B) The majority leader of the Senate shall appoint 3 members.

(C) The minority leader of the Senate shall appoint 3 members.

(D) The Speaker of the House of Representatives shall appoint 3 members.

(E) The minority leader of the House of Representatives shall appoint 3 members.

(2) REPRESENTATION.—The membership of the Commission shall include individuals who—

- (A) represent the interests of—
 - (i) consumers of long-term services and supports and related insurance products, as well as their representatives;
 - (ii) older adults;
 - (iii) individuals with cognitive or functional limitations;
 - (iv) family caregivers for individuals described in clause (i), (ii), or (iii);
 - (v) the health care workforce who directly provide long-term services and supports;
 - (vi) private long-term care insurance providers;
 - (vii) employers;
 - (viii) State insurance departments; and
 - (ix) State Medicaid agencies;

(B) have demonstrated experience in dealing with issues related to long-term services and supports, health care policy, and public and private insurance; and

(C) represent the health care interests and needs of a variety of geographic areas and demographic groups.

(3) CHAIRMAN AND VICE-CHAIRMAN.—The Commission shall elect a chairman and vice chairman from among its members.

(4) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(5) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under subsection (e)(1).

(6) MEETINGS.—The Commission shall meet at the call of its chairman or a majority of its members.

(7) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

(A) IN GENERAL.—To enable the Commission to exercise its powers, functions, and duties, there are authorized to be disbursed by the Senate the actual and necessary expenses of the Commission approved by the chairman and vice chairman, subject to subparagraph (B) and the rules and regulations of the Senate.

(B) MEMBERS.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

(d) STAFF AND ETHICAL STANDARDS.—

(1) STAFF.—The chairman and vice chairman of the Commission may jointly appoint and fix the compensation of staff as they deem necessary, within the guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate.

(2) ETHICAL STANDARDS.—Members of the Commission who serve in the House of Representatives shall be governed by the ethics rules and requirements of the House. Members of the Senate who serve on the Commission and staff of the Commission shall comply with the ethics rules of the Senate.

(e) POWERS.—

(1) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings

Compliance.

and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(2) STUDIES BY GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General of the United States shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(3) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(4) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(6) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(7) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(8) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) COMMISSION CONSIDERATION.—

(1) APPROVAL OF REPORT AND LEGISLATIVE LANGUAGE.—

(A) IN GENERAL.—Not later than 6 months after appointment of the members of the Commission (as described in subsection (c)(1)), the Commission shall vote on a comprehensive and detailed report based on the long-term care plan described in subsection (b)(1) that contains any recommendations or proposals for legislative or administrative action as the Commission deems appropriate, including proposed legislative language to carry out the recommendations or proposals (referred to in this section as the “Commission bill”).

(B) APPROVAL BY MAJORITY OF MEMBERS.—The Commission bill shall require the approval of a majority of the members of the Commission.

(2) TRANSMISSION OF COMMISSION BILL.—

(A) IN GENERAL.—If the Commission bill is approved by the Commission pursuant to paragraph (1), then not later than 10 days after such approval, the Commission

Deadline.

shall submit the Commission bill to the President, the Vice President, the Speaker of the House of Representatives, and the majority and minority Leaders of each House on Congress.

(B) COMMISSION BILL TO BE MADE PUBLIC.—Upon the approval or disapproval of the Commission bill pursuant to paragraph (1), the Commission shall promptly make such proposal, and a record of the vote, available to the public.

(g) TERMINATION.—The Commission shall terminate 30 days after the vote described in subsection (f)(1).

(h) CONSIDERATION OF COMMISSION RECOMMENDATIONS.—If approved by the majority required by subsection (f)(1), the Commission bill that has been submitted pursuant to subsection (f)(2)(A) shall be introduced in the Senate (by request) on the next day on which the Senate is in session by the majority leader of the Senate or by a Member of the Senate designated by the majority leader of the Senate and shall be introduced in the House of Representatives (by request) on the next legislative day by the majority leader of the House or by a member of the House designated by the majority leader of the House.

SEC. 644. CONSUMER OPERATED AND ORIENTED PLAN PROGRAM CONTINGENCY FUND.

42 USC 18042
note.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a fund to be used to provide assistance and oversight to qualified nonprofit health insurance issuers that have been awarded loans or grants under section 1322 of the Patient Protection and Affordable Care Act (42 U.S.C. 18042) prior to the date of enactment of this Act.

(b) TRANSFER AND RESCISSION.—

(1) TRANSFER.—From the unobligated balance of funds appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)), 10 percent of such sums are hereby transferred to the fund established under subsection (a) to remain available until expended.

(2) RESCISSION.—Except as provided for in paragraph (1), amounts appropriated under section 1322(g) of the Patient Protection and Affordable Care Act (42 U.S.C. 18042(g)) that are unobligated as of the date of enactment of this Act are rescinded.

TITLE VII—EXTENSION OF AGRICULTURAL PROGRAMS

7 USC 8701 note.

SEC. 701. 1-YEAR EXTENSION OF AGRICULTURAL PROGRAMS.

Deadline.

(a) EXTENSION.—Except as otherwise provided in this section and amendments made by this section and notwithstanding any other provision of law, the authorities provided by each provision of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1651) and each amendment made by that Act (and for mandatory programs at such funding levels), as in effect on September 30, 2012, shall continue, and the Secretary of Agriculture shall carry out the authorities, until the later of—

(1) September 30, 2013; or

ment made by that Act.

(b) COMMODITY PROGRAMS.—

(1) IN GENERAL.—The terms and conditions applicable to a covered commodity or loan commodity (as those terms are defined in section 1001 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8702)) or to peanuts, sugarcane, or sugar beets for the 2012 crop year pursuant to title I of that Act (7 U.S.C. 8702 et seq.) and each amendment made by that title shall be applicable to the 2013 crop year for that covered commodity, loan commodity, peanuts, sugarcane, or sugar beets.

(2) MILK.—

(A) IN GENERAL.—Notwithstanding subsection (a), the Secretary of Agriculture shall carry out the dairy product price support program under section 1501 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8771) through December 31, 2013.

(B) MILK INCOME LOSS CONTRACT PROGRAM.—Section 1506 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8773) is amended by striking “2012” each place it appears in subsections (c)(3), (d)(1), (d)(2), (e)(2)(A), (g), and (h)(1) and inserting “2013”.

7 USC 8773 note.

(3) SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITIES.—The provisions of law specified in subsections (a) through (c) of section 1602 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 8782) shall be suspended—

(A) for the 2013 crop or production year of a covered commodity (as that term is defined in section 1001 of that Act (7 U.S.C. 8702)), peanuts, sugarcane, and sugar, as appropriate; and

(B) in the case of milk, through December 31, 2013.

(c) CONSERVATION PROGRAMS.—

(1) CONSERVATION RESERVE.—Section 1231(d) of the Food Security Act of 1985 (16 U.S.C. 3831(d)) is amended in the second sentence by striking “and 2012” and inserting “2012, and 2013”.

(2) VOLUNTARY PUBLIC ACCESS.—Section 1240R of the Food Security Act of 1985 (16 U.S.C. 3839bb-5) is amended by striking subsection (f) and inserting the following:

“(f) FUNDING.—

“(1) FISCAL YEARS 2009 THROUGH 2012.—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section, to the maximum extent practicable, \$50,000,000 for the period of fiscal years 2009 through 2012.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2013.”.

(d) SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM.—

(1) EMPLOYMENT AND TRAINING PROGRAM.—Section 16(h)(1)(A) of the Food and Nutrition Act of 2008 (7 U.S.C. 2025(h)(1)(A)) is amended by inserting “, except that for fiscal year 2013, the amount shall be \$79,000,000” before the period at the end.

(2) NUTRITION EDUCATION.—Section 28(d)(1) of the Food and Nutrition Act of 2008 (7 U.S.C. 2036a(d)(1)) is amended—

(A) in subparagraph (A), by striking “and” after the semicolon at the end; and

(B) by striking subparagraph (B) and inserting the following:

“(B) for fiscal year 2012, \$388,000,000;

“(C) for fiscal year 2013, \$285,000,000;

“(D) for fiscal year 2014, \$401,000,000;

“(E) for fiscal year 2015, \$407,000,000; and

“(F) for fiscal year 2016 and each subsequent fiscal year, the applicable amount during the preceding fiscal year, as adjusted to reflect any increases for the 12-month period ending the preceding June 30 in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.”.

(e) RESEARCH PROGRAMS.—

(1) ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.—Section 1672B(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b(f)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”;

(B) in the heading of paragraph (2), by striking “ADDITIONAL FUNDING” and inserting “DISCRETIONARY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 2013.”.

Appropriation authorization.

(2) SPECIALTY CROP RESEARCH INITIATIVE.—Section 412(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7632(h)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012”;

(B) in the heading of paragraph (2), by inserting “FOR FISCAL YEARS 2008 THROUGH 2012” after “APPROPRIATIONS”;

(C) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(D) by inserting after paragraph (2) the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$100,000,000 for fiscal year 2013.”.

Appropriation authorization.

(3) BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.—Section 7405(h) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3319f(h)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “MANDATORY FUNDING FOR FISCAL YEARS 2009 THROUGH 2012”;

(B) in the heading of paragraph (2), by inserting “FOR FISCAL YEARS 2008 THROUGH 2012” after “APPROPRIATIONS”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$30,000,000 for fiscal year 2013.”.

Appropriation authorization.

(f) ENERGY PROGRAMS.—

(1) BIOBASED MARKETS PROGRAM.—Section 9002(h) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C.

inserting “2013”.

(2) **BIOREFINERY ASSISTANCE.**—Section 9003(h)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8103(h)(2)) is amended by striking “2012” and inserting “2013”.

(3) **REPOWERING ASSISTANCE.**—Section 9004(d)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8104(d)(2)) is amended by striking “2012” and inserting “2013”.

(4) **BIOENERGY PROGRAM FOR ADVANCED BIOFUELS.**—Section 9005(g)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8105(g)(2)) is amended by striking “2012” and inserting “2013”.

(5) **BIODIESEL FUEL EDUCATION PROGRAM.**—Section 9006 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8106) is amended by striking subsection (d) and inserting the following:

“(d) **FUNDING.**—

“(1) **FISCAL YEARS 2009 THROUGH 2012.**—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section \$1,000,000 for each of fiscal years 2008 through 2012.

“(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000 for fiscal year 2013.”

(6) **RURAL ENERGY FOR AMERICA PROGRAM.**—Section 9007(g)(3) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(g)(3)) is amended by striking “2012” and inserting “2013”.

(7) **BIOMASS RESEARCH AND DEVELOPMENT.**—Section 9008(h)(2) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108(h)(2)) is amended by striking “2012” and inserting “2013”.

(8) **RURAL ENERGY SELF-SUFFICIENCY INITIATIVE.**—Section 9009(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8109(d)) is amended by striking “2012” and inserting “2013”.

(9) **FEEDSTOCK FLEXIBILITY PROGRAM FOR BIOENERGY PRODUCERS.**—Section 9010(b) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8110(b)) is amended in paragraphs (1)(A) and (2)(A) by striking “2012” each place it appears and inserting “2013”.

(10) **BIOMASS CROP ASSISTANCE PROGRAM.**—Section 9011(f) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8111(f)) is amended—

(A) by striking “(f) **FUNDING.**—Of the funds” and inserting “(f) **FUNDING.**—

“(1) **FISCAL YEARS 2008 THROUGH 2012.**—Of the funds”; and (B) adding at the end the following:

“(2) **FISCAL YEAR 2013.**—

“(A) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2013.

“(B) **MULTIYEAR CONTRACTS.**—For each multiyear contract entered into by the Secretary during a fiscal year under this paragraph, the Secretary shall ensure that sufficient funds are obligated from the amounts appropriated

Appropriation authorization.

for that fiscal year to fully cover all payments required by the contract for all years of the contract.”

(11) FOREST BIOMASS FOR ENERGY.—Section 9012(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8112(d)) is amended by striking “2012” and inserting “2013”.

(12) COMMUNITY WOOD ENERGY PROGRAM.—Section 9013(e) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8113(e)) is amended by striking “2012” and inserting “2013”.

(g) HORTICULTURE AND ORGANIC AGRICULTURE PROGRAMS.—

(1) FARMERS MARKET PROMOTION PROGRAM.—Section 6(e) of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3005(e)) is amended—

(A) in the heading of paragraph (1), by striking “IN GENERAL” and inserting “FISCAL YEARS 2008 THROUGH 2012”;

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

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

Appropriation authorization.

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2013.”;

(D) in paragraph (3) (as so redesignated), by striking “paragraph (1)” and inserting “paragraph (1) or (2)”;

(E) in paragraph (5) (as so redesignated), by striking “paragraph (2)” and inserting “paragraph (3)”.

(2) NATIONAL CLEAN PLANT NETWORK.—Section 10202(e) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 7761(e)) is amended—

(A) by striking “Of the funds” and inserting the following:

“(1) FISCAL YEARS 2009 THROUGH 2012.—Of the funds”;

(B) by adding at the end the following:

Appropriation authorization.

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out the Program \$5,000,000 for fiscal year 2013.”.

(3) NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.—Section 10606 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523) is amended—

(A) in subsection (a), by striking “Of funds of the Commodity Credit Corporation, the Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use \$22,000,000 for fiscal year 2008, to remain available until expended, to” and inserting “The Secretary of Agriculture (acting through the Agricultural Marketing Service) shall”;

(B) by adding at the end the following:

“(d) FUNDING.—

“(1) MANDATORY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$22,000,000 for the period of fiscal years 2008 through 2012.

Appropriation authorization.

“(2) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$22,000,000 for fiscal year 2013, to remain available until expended.”.

(4) ORGANIC PRODUCTION AND MARKET DATA INITIATIVES.—Section 7407(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5925c(d)) is amended—

GENERAL” and inserting “MANDATORY FUNDING THROUGH FISCAL YEAR 2012”;

(B) in the heading of paragraph (2), by striking “ADDITIONAL FUNDING” and inserting “DISCRETIONARY FUNDING FOR FISCAL YEARS 2008 THROUGH 2012”; and

(C) by adding at the end the following:

“(3) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$5,000,000, to remain available until expended.”

Appropriation authorization.

(h) OUTREACH AND TECHNICAL ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS OR RANCHERS.—Section 2501(a)(4) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(a)(4)) is amended—

(1) in the heading of subparagraph (A), by striking “IN GENERAL” and inserting “FISCAL YEARS 2009 THROUGH 2012”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(3) by inserting after subparagraph (A) the following:

“(B) FISCAL YEAR 2013.—There is authorized to be appropriated to carry out this section \$20,000,000 for fiscal year 2013.”;

Appropriation authorization.

(4) in subparagraph (C) (as so redesignated), by striking “subparagraph (A)” and inserting “subparagraph (A) or (B)”; and

(5) in subparagraph (D) (as so redesignated), by striking “subparagraph (A)” and inserting “subparagraph (A) or (B)”.

(i) EXCEPTIONS.—

(1) IN GENERAL.—Subsection (a) does not apply with respect to mandatory funding provided by programs authorized by provisions of law amended by subsections (d) through (h).

(2) CONSERVATION.—Subsection (a) does not apply with respect to the programs specified in paragraphs (3)(B), (4), (6), and (7) of section 1241(a) of the Food Security Act of 1985 (16 U.S.C. 3841(a)), relating to the conservation stewardship program, farmland protection program, environmental quality incentives program, and wildlife habitat incentives program, for which program authority was extended through fiscal year 2014 by section 716 of Public Law 112–55 (125 Stat. 582).

(3) TRADE.—Subsection (a) does not apply with respect to the following provisions of law:

(A) Section 3206 of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 1726c) relating to the use of Commodity Credit Corporation funds to support local and regional food aid procurement projects.

(B) Section 3107(l)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1736o–1(l)(1)) relating to the use of Commodity Credit Corporation funds to carry out the McGovern-Dole International Food for Education and Child Nutrition Program.

(4) SURVEY OF FOODS PURCHASED BY SCHOOL FOOD AUTHORITIES.—Subsection (a) does not apply with respect to section 4307 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1893) relating to the use of Commodity Credit Corporation funds for a survey and report regarding foods purchased by school food authorities.

(5) **RURAL DEVELOPMENT.**—Subsection (a) does not apply with respect to the following provisions of law:

(A) Section 379E(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008s(d)(1)), relating to funding of the rural microentrepreneur assistance program.

(B) Section 6029 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 1955) relating to funding of pending rural development loan and grant applications.

(C) Section 231(b)(7)(A) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1632a(b)(7)(A)), relating to funding of value-added agricultural market development program grants.

(D) Section 375(e)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008j(e)(6)(B)) relating to the use of Commodity Credit Corporation funds for the National Sheep Industry Improvement Center.

(6) **MARKET LOSS ASSISTANCE FOR ASPARAGUS PRODUCERS.**—Subsection (a) does not apply with respect to section 10404(d) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2112).

(7) **SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.**—Subsection (a) does not apply with respect to section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) and title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.) relating to the provision of supplemental agricultural disaster assistance.

(8) **PIGFORD CLAIMS.**—Subsection (a) does not apply with respect to section 14012 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2209) relating to determination on the merits of Pigford claims.

(9) **HEARTLAND, HABITAT, HARVEST, AND HORTICULTURE ACT OF 2008.**—Subsection (a) does not apply with respect to title XV of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246; 122 Stat. 2246), and amendments made by that title, relating to the provision of supplemental agricultural disaster assistance under title IX of the Trade Act of 1974 (19 U.S.C. 2497 et seq.), certain revenue and tax provisions, and certain trade benefits and other matters.

(j) **EFFECTIVE DATE.**—Except as otherwise provided in this section, this section and the amendments made by this section take effect on the earlier of—

- (1) the date of the enactment of this Act; or
- (2) September 30, 2012.

SEC. 702. SUPPLEMENTAL AGRICULTURAL DISASTER ASSISTANCE.

(a) **IN GENERAL.**—Section 531 of the Federal Crop Insurance Act (7 U.S.C. 1531) is amended—

(1) in subsection (a)(5)—

(A) in the matter preceding clause (i), by striking the first “under”; and

(B) by redesignating clauses (i) through (iii) as subparagraphs (A), (B), and (C), respectively, and indenting appropriately;

(2) in subsection (c)—

(A) in paragraph (1), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$80,000,000 for each of fiscal years 2012 and 2013.”;

(3) in subsection (d)—

(A) in paragraph (2), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$400,000,000 for each of fiscal years 2012 and 2013.”;

(4) in subsection (e)—

(A) in paragraph (1), by striking “use up to \$50,000,000 per year from the Trust Fund to”; and

(B) by adding at the end the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$50,000,000 for each of fiscal years 2012 and 2013.”;

(5) in subsection (f)—

(A) in paragraph (2)(A), by striking “use such sums as are necessary from the Trust Fund to”; and

(B) by adding at the end the following:

“(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2012 and 2013.”; and

(6) in subsection (i), by inserting “or, in the case of subsections (c) through (f), September 30, 2013” after “2011,”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2012. 7 USC 1531 note.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. STRATEGIC DELIVERY SYSTEMS.

(a) IN GENERAL.—Paragraph 3 of section 495(c) of title 10, United States Code,, as added by section 1035 of the National Defense Authorization Act for Fiscal Year 2013, is amended—

(1) by striking “that” before “the Russian Federation” and inserting “whether”; and

(2) by inserting “strategic” before “arms control obligations”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2013. 10 USC 495 note.

SEC. 802. NO COST OF LIVING ADJUSTMENT IN PAY OF MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2013. 2 USC 31 note.

TITLE IX—BUDGET PROVISIONS

Subtitle A—Modifications of Sequestration

SEC. 901. TREATMENT OF SEQUESTER.

2 USC 901a. (a) ADJUSTMENT.—Section 251A(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (C), by striking “and” after the semicolon;

(2) in subparagraph (D), by striking the period and inserting “; and”; and

(3) by inserting at the end the following:

“(E) for fiscal year 2013, reducing the amount calculated under subparagraphs (A) through (D) by \$24,000,000,000.”.

(b) AFTER SESSION SEQUESTER.—Notwithstanding any other provision of law, the fiscal year 2013 spending reductions required by section 251(a)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be evaluated and implemented on March 27, 2013.

(c) POSTPONEMENT OF BUDGET CONTROL ACT SEQUESTER FOR FISCAL YEAR 2013.—Section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (4), by striking “January 2, 2013” and inserting “March 1, 2013”; and

(2) in paragraph (7)(A), by striking “January 2, 2013” and inserting “March 1, 2013”.

(d) ADDITIONAL ADJUSTMENTS.—

2 USC 901. (1) SECTION 251.—Paragraphs (2) and (3) of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:

“(2) for fiscal year 2013—

“(A) for the security category, as defined in section 250(c)(4)(B), \$684,000,000,000 in budget authority; and

“(B) for the nonsecurity category, as defined in section 250(c)(4)(A), \$359,000,000,000 in budget authority;

“(3) for fiscal year 2014—

“(A) for the security category, \$552,000,000,000 in budget authority; and

“(B) for the nonsecurity category, \$506,000,000,000 in budget authority;”.

Effective date.
President.
Applicability.
2 USC 901a note.

(e) 2013 SEQUESTER.—On March 1, 2013, the President shall order a sequestration for fiscal year 2013 pursuant to section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by this section, pursuant to which, only for the purposes of the calculation in sections 251A(5)(A), 251A(6)(A), and 251A(7)(A), section 251(c)(2) shall be applied as if it read as follows:

“(2) For fiscal year 2013—

“(A) for the security category, \$544,000,000,000 in budget authority; and

“(B) for the nonsecurity category, \$499,000,000,000 in budget authority;”.

SEC. 902. AMOUNTS IN APPLICABLE RETIREMENT PLANS MAY BE TRANSFERRED TO DESIGNATED ROTH ACCOUNTS WITHOUT DISTRIBUTION.

(a) IN GENERAL.—Section 402A(c)(4) is amended by adding 26 USC 402A. at the end the following:

“(E) SPECIAL RULE FOR CERTAIN TRANSFERS.—In the case of an applicable retirement plan which includes a qualified Roth contribution program—

“(i) the plan may allow an individual to elect to have the plan transfer any amount not otherwise distributable under the plan to a designated Roth account maintained for the benefit of the individual,

“(ii) such transfer shall be treated as a distribution to which this paragraph applies which was contributed in a qualified rollover contribution (within the meaning of section 408A(e)) to such account, and

“(iii) the plan shall not be treated as violating the provisions of section 401(k)(2)(B)(i), 403(b)(7)(A)(i), 403(b)(11), or 457(d)(1)(A), or of section 8433 of title 5, United States Code, solely by reason of such transfer.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers after December 31, 2012, in taxable years ending after such date. 26 USC 402A note.

Subtitle B—Budgetary Effects

SEC. 911. BUDGETARY EFFECTS.

(a) PAYGO SCORECARD.—The budgetary effects of this Act shall not be entered on either PAYGO scorecard maintained pursuant to section 4(d) of the Statutory Pay-As-You-Go Act of 2010.

(b) SENATE PAYGO SCORECARD.—The budgetary effects of this Act shall not be entered on any PAYGO scorecard maintained for purposes of section 201 of S. Con. Res. 21 (110th Congress).

Approved January 2, 2013.

LEGISLATIVE HISTORY—H.R. 8:

CONGRESSIONAL RECORD:

Vol. 158 (2012): Aug. 1, considered and passed House.

Dec. 31, considered and passed Senate, amended.

Vol. 158 (2013): Jan. 1, House concurred in Senate amendments.

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SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

DEC 20 2012

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Implications of Ongoing Fiscal Cliff Negotiations

We are providing you this information regarding the potential impact of sequestration here at DoD. As you are all likely aware, the Administration and Congress are continuing to work to resolve a series of economic or fiscal events, collectively referred to as the "fiscal cliff," that are scheduled to occur around the end of the year. One of the key issues involves potential across-the-board reductions in Federal spending—also known as "sequestration"—which were put in place by the Budget Control Act of 2011. Under current law, these reductions are scheduled to take effect on January 2, 2013. Many of you have raised questions regarding the impact of a potential sequestration for the Department of Defense, and I would like to take a moment to clarify a few things.

I want to start by noting that this past summer, the President indicated his intent to exercise his legal authority to exempt military personnel funding from sequestration. This means that military endstrength will not be affected by sequestration in FY2013.

Our civilian employees should keep in mind that the Administration remains focused on working with Congress to reach agreement on a balanced deficit reduction plan that avoids such cuts. Sequestration was never intended to be implemented, and there is no reason why both sides should not be able to come together and prevent this scenario.

Nevertheless, with only a couple of weeks left before sequestration could occur should a deal not be reached, it is important to clarify the potential implications. Let me start by explaining what sequestration is and what it is not. Sequestration is an across-the-board reduction in budgetary resources for all accounts within the Department of Defense that have not been exempted by Congress. If it occurs, sequestration will reduce our budgetary resources for the remainder of the fiscal year (which runs through September 30). These cuts, while significant and harmful to our collective mission as an agency, would not necessarily require immediate reductions in spending. Under sequestration, we would still have funds available after January 2, 2013, but our overall funding for the remainder of the year would be reduced. Accordingly, this situation is different from other scenarios we have encountered in recent years, such as threats of government shutdown due to a lapse in appropriations.

For these reasons, I do not expect our day-to-day operations to change dramatically on or immediately after January 2, 2013, should sequestration occur. This means that we will not be executing any immediate civilian personnel actions, such as furloughs, on that date. Should we have to operate under reduced funding levels for an extended period of time, we may have to consider furloughs or other actions in the future. But let me assure you that we will carefully examine other options to reduce costs within the agency before taking such action, taking into



OSD015618-12

consideration our obligation to execute our core mission. Moreover, if such action proves to be necessary, we would provide affected employees the requisite advance notice before a furlough or other personnel action would occur. We would also immediately cancel any scheduled personnel actions should a deficit reduction agreement be reached that restores our agency funding.

I want to assure you that we will do our very best to provide clear information about the status of events as they unfold.

Finally, let me express my gratitude during this holiday season for your continued hard work and dedication to the vital mission of the Department of Defense. Your contributions touch people's lives in many significant ways, and I want you to know how deeply appreciative the President and myself are for all that you do.



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PUBLIC LAW 112-25—AUG. 2, 2011

BUDGET CONTROL ACT OF 2011

125 STAT. 240

PUBLIC LAW 112-25—AUG. 2, 2011

Public Law 112-25
112th Congress

An Act

To provide for budget control.

Aug. 2, 2011
[S. 365]

Budget Control
Act of 2011.

2 USC 900 note.

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 “Budget Control Act of 2011”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Severability.

TITLE I—TEN-YEAR DISCRETIONARY CAPS WITH SEQUESTER

- Sec. 101. Enforcing discretionary spending limits.
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2 USC 900 note.

SEC. 2. SEVERABILITY.

If any provision of this Act, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act and the application of this Act to any other person or circumstance shall not be affected.

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TITLE I—TEN-YEAR DISCRETIONARY CAPS WITH SEQUESTER

SEC. 101. ENFORCING DISCRETIONARY SPENDING LIMITS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

2 USC 901.

“SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

“(a) ENFORCEMENT.—

“(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

Deadline.

“(2) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

“(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any personnel account from sequestration under section 255(f), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(f) has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary resources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

“(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

“(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

“(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation for that account.

“(5) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

“(6) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category for that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

Deadline.

“(7) ESTIMATES.—

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“(A) CBO ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by that legislation.

Deadline.
Reports.

“(B) OMB ESTIMATES AND EXPLANATION OF DIFFERENCES.—Not later than 7 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year, if any, and the budget year provided by that legislation, and an explanation of any difference between the 2 estimates. If during the preparation of the report OMB determines that there is a significant difference between OMB and CBO, OMB shall consult with the Committees on the Budget of the House of Representatives and the Senate regarding that difference and that consultation shall include, to the extent practicable, written communication to those committees that affords such committees the opportunity to comment before the issuance of the report.

Consultation.

“(C) ASSUMPTIONS AND GUIDELINES.—OMB estimates under this paragraph shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the Committees on the Budget of the House of Representatives and the Senate, CBO, and OMB.

“(D) ANNUAL APPROPRIATIONS.—For purposes of this paragraph, amounts provided by annual appropriations shall include any discretionary appropriations for the current year, if any, and the budget year in accounts for which funding is provided in that legislation that result from previously enacted legislation.

“(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—

“(1) CONCEPTS AND DEFINITIONS.—When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear to reflect changes in concepts and definitions. Such changes shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions, minus those levels using the concepts and definitions in effect before such changes. Such changes may only be made after consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate, and that consultation shall include written communication to such committees that affords such committees the opportunity to comment before official action is taken with respect to such changes.

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“(2) SEQUESTRATION REPORTS.—When OMB submits a sequestration report under section 254(e), (f), or (g) for a fiscal year, OMB shall calculate, and the sequestration report and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year, as follows:

“(A) EMERGENCY APPROPRIATIONS; OVERSEAS CONTINGENCY OPERATIONS/GLOBAL WAR ON TERRORISM.—If, for any fiscal year, appropriations for discretionary accounts are enacted that—

“(i) the Congress designates as emergency requirements in statute on an account by account basis and the President subsequently so designates, or

“(ii) the Congress designates for Overseas Contingency Operations/Global War on Terrorism in statute on an account by account basis and the President subsequently so designates,

the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements or for Overseas Contingency Operations/Global War on Terrorism, as applicable.

“(B) CONTINUING DISABILITY REVIEWS AND REDETERMINATIONS.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for continuing disability reviews under titles II and XVI of the Social Security Act and for the cost associated with conducting redeterminations of eligibility under title XVI of the Social Security Act, then the adjustments for that fiscal year shall be the additional new budget authority provided in that Act for such expenses for that fiscal year, but shall not exceed—

“(I) for fiscal year 2012, \$623,000,000 in additional new budget authority;

“(II) for fiscal year 2013, \$751,000,000 in additional new budget authority;

“(III) for fiscal year 2014, \$924,000,000 in additional new budget authority;

“(IV) for fiscal year 2015, \$1,123,000,000 in additional new budget authority;

“(V) for fiscal year 2016, \$1,166,000,000 in additional new budget authority;

“(VI) for fiscal year 2017, \$1,309,000,000 in additional new budget authority;

“(VII) for fiscal year 2018, \$1,309,000,000 in additional new budget authority;

“(VIII) for fiscal year 2019, \$1,309,000,000 in additional new budget authority;

“(IX) for fiscal year 2020, \$1,309,000,000 in additional new budget authority; and

“(X) for fiscal year 2021, \$1,309,000,000 in additional new budget authority.

“(ii) As used in this subparagraph—

“(I) the term ‘continuing disability reviews’ means continuing disability reviews under sections 221(i) and 1614(a)(4) of the Social Security Act;

Definitions.

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“(II) the term ‘redetermination’ means redetermination of eligibility under sections 1611(c)(1) and 1614(a)(3)(H) of the Social Security Act; and

“(III) the term ‘additional new budget authority’ means the amount provided for a fiscal year, in excess of \$273,000,000, in an appropriation Act and specified to pay for the costs of continuing disability reviews and redeterminations under the heading ‘Limitation on Administrative Expenses’ for the Social Security Administration.

“(C) HEALTH CARE FRAUD AND ABUSE CONTROL.—(i) If a bill or joint resolution making appropriations for a fiscal year is enacted that specifies an amount for the health care fraud abuse control program at the Department of Health and Human Services (75-8393-0-7-571), then the adjustments for that fiscal year shall be the amount of additional new budget authority provided in that Act for such program for that fiscal year, but shall not exceed—

“(I) for fiscal year 2012, \$270,000,000 in additional new budget authority;

“(II) for fiscal year 2013, \$299,000,000 in additional new budget authority;

“(III) for fiscal year 2014, \$329,000,000 in additional new budget authority;

“(IV) for fiscal year 2015, \$361,000,000 in additional new budget authority;

“(V) for fiscal year 2016, \$395,000,000 in additional new budget authority;

“(VI) for fiscal year 2017, \$414,000,000 in additional new budget authority;

“(VII) for fiscal year 2018, \$434,000,000 in additional new budget authority;

“(VIII) for fiscal year 2019, \$454,000,000 in additional new budget authority;

“(IX) for fiscal year 2020, \$475,000,000 in additional new budget authority; and

“(X) for fiscal year 2021, \$496,000,000 in additional new budget authority.

Definition.

“(ii) As used in this subparagraph, the term ‘additional new budget authority’ means the amount provided for a fiscal year, in excess of \$311,000,000, in an appropriation Act and specified to pay for the costs of the health care fraud and abuse control program.

“(D) DISASTER FUNDING.—

“(i) If, for fiscal years 2012 through 2021, appropriations for discretionary accounts are enacted that Congress designates as being for disaster relief in statute, the adjustment for a fiscal year shall be the total of such appropriations for the fiscal year in discretionary accounts designated as being for disaster relief, but not to exceed the total of—

“(I) the average funding provided for disaster relief over the previous 10 years, excluding the highest and lowest years; and

“(II) the amount, for years when the enacted new discretionary budget authority designated as being for disaster relief for the preceding fiscal

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year was less than the average as calculated in subclause (I) for that fiscal year, that is the difference between the enacted amount and the allowable adjustment as calculated in such subclause for that fiscal year.

“(ii) OMB shall report to the Committees on Appropriations and Budget in each House the average calculated pursuant to clause (i)(II), not later than 30 days after the date of the enactment of the Budget Control Act of 2011.

“(iii) For the purposes of this subparagraph, the term ‘disaster relief’ means activities carried out pursuant to a determination under section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).” Definition.

“(iv) Appropriations considered disaster relief under this subparagraph in a fiscal year shall not be eligible for adjustments under subparagraph (A) for the fiscal year.

“(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term ‘discretionary spending limit’ means—” Definition.

“(1) with respect to fiscal year 2012—

“(A) for the security category, \$684,000,000,000 in new budget authority; and

“(B) for the nonsecurity category, \$359,000,000,000 in new budget authority;

“(2) with respect to fiscal year 2013—

“(A) for the security category, \$686,000,000,000 in new budget authority; and

“(B) for the nonsecurity category, \$361,000,000,000 in new budget authority;

“(3) with respect to fiscal year 2014, for the discretionary category, \$1,066,000,000,000 in new budget authority;

“(4) with respect to fiscal year 2015, for the discretionary category, \$1,086,000,000,000 in new budget authority;

“(5) with respect to fiscal year 2016, for the discretionary category, \$1,107,000,000,000 in new budget authority;

“(6) with respect to fiscal year 2017, for the discretionary category, \$1,131,000,000,000 in new budget authority;

“(7) with respect to fiscal year 2018, for the discretionary category, \$1,156,000,000,000 in new budget authority;

“(8) with respect to fiscal year 2019, for the discretionary category, \$1,182,000,000,000 in new budget authority;

“(9) with respect to fiscal year 2020, for the discretionary category, \$1,208,000,000,000 in new budget authority; and

“(10) with respect to fiscal year 2021, for the discretionary category, \$1,234,000,000,000 in new budget authority;

as adjusted in strict conformance with subsection (b).”.

SEC. 102. DEFINITIONS.

Section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike paragraph (4) and insert the following new paragraph:

“(4)(A) The term ‘nonsecurity category’ means all discretionary appropriations not included in the security category defined in subparagraph (B).”

2 USC 900.

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“(B) The term ‘security category’ includes discretionary appropriations associated with agency budgets for the Department of Defense, the Department of Homeland Security, the Department of Veterans Affairs, the National Nuclear Security Administration, the intelligence community management account (95-0401-0-1-054), and all budget accounts in budget function 150 (international affairs).

“(C) The term ‘discretionary category’ includes all discretionary appropriations.”.

(2) In paragraph (8)(C), strike “the food stamp program” and insert “the Supplemental Nutrition Assistance Program”.

(3) Strike paragraph (14) and insert the following new paragraph:

“(14) The term ‘outyear’ means a fiscal year one or more years after the budget year.”.

(4) At the end, add the following new paragraphs:

“(20) The term ‘emergency’ means a situation that—

“(A) requires new budget authority and outlays (or new budget authority and the outlays flowing therefrom) for the prevention or mitigation of, or response to, loss of life or property, or a threat to national security; and

“(B) is unanticipated.

“(21) The term ‘unanticipated’ means that the underlying situation is—

“(A) sudden, which means quickly coming into being or not building up over time;

“(B) urgent, which means a pressing and compelling need requiring immediate action;

“(C) unforeseen, which means not predicted or anticipated as an emerging need; and

“(D) temporary, which means not of a permanent duration.”.

SEC. 103. REPORTS AND ORDERS.

2 USC 904. Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) In subsection (c)(2), strike “2002” and insert “2021”.

(2) At the end of subsection (e), insert “This report shall also contain a preview estimate of the adjustment for disaster funding for the upcoming fiscal year.”.

(3) In subsection (f)(2)(A), strike “2002” and insert “2021”; before the concluding period insert “, including a final estimate of the adjustment for disaster funding”.

SEC. 104. EXPIRATION.

2 USC 900 note. (a) REPEALER.—Section 275 of the Balanced Budget and Emergency Deficit Control Act of 1985 is repealed.

2 USC 902 note. (b) CONFORMING CHANGE.—Sections 252(d)(1), 254(c), 254(f)(3), and 254(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall not apply to the Congressional Budget Office.

SEC. 105. AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.

2 USC 645. (a) ADJUSTMENTS.—Section 314 of the Congressional Budget Act of 1974 is amended as follows:

(1) Strike subsection (a) and insert the following:

“(a) ADJUSTMENTS.—After the reporting of a bill or joint resolution or the offering of an amendment thereto or the submission

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of a conference report thereon, the chairman of the Committee on the Budget of the House of Representatives or the Senate may make appropriate budgetary adjustments of new budget authority and the outlays flowing therefrom in the same amount as required by section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(2) Strike subsections (b) and (e) and redesignate subsections (c) and (d) as subsections (b) and (c), respectively.

(3) At the end, add the following new subsections:

“(d) EMERGENCIES IN THE HOUSE OF REPRESENTATIVES.— (1) In the House of Representatives, if a reported bill or joint resolution, or amendment thereto or conference report thereon, contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, the chair of the Committee on the Budget of the House of Representatives shall not count the budgetary effects of such provision for purposes of title III and title IV of the Congressional Budget Act of 1974 and the Rules of the House of Representatives.

“(2)(A) In the House of Representatives, if a reported bill or joint resolution, or amendment thereto or conference report thereon, contains a provision providing new budget authority and outlays or reducing revenue, and a designation of such provision as an emergency pursuant to paragraph (1), the chair of the Committee on the Budget shall not count the budgetary effects of such provision for purposes of this title and title IV and the Rules of the House of Representatives.

“(B) In the House of Representatives, a proposal to strike a designation under subparagraph (A) shall be excluded from an evaluation of budgetary effects for purposes of this title and title IV and the Rules of the House of Representatives.

“(C) An amendment offered under subparagraph (B) that also proposes to reduce each amount appropriated or otherwise made available by the pending measure that is not required to be appropriated or otherwise made available shall be in order at any point in the reading of the pending measure.

“(e) ENFORCEMENT OF DISCRETIONARY SPENDING CAPS.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause the discretionary spending limits as set forth in section 251 of the Balanced Budget and Emergency Deficit Control Act to be exceeded.”

(b) DEFINITIONS.—Section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following new paragraph:

2 USC 622.

“(11) The terms ‘emergency’ and ‘unanticipated’ have the meanings given to such terms in section 250(c) of the Balanced Budget and Emergency Deficit Control Act of 1985.”

(c) APPEALS FOR DISCRETIONARY CAPS.—Section 904(c)(2) of the Congressional Budget Act of 1974 is amended by striking “and 312(c)” and inserting “312(c), and 314(e)”.

2 USC 621 note.

SEC. 106. SENATE BUDGET ENFORCEMENT.

2 USC 631 note.

(a) IN GENERAL.—

Applicability.

(1) For the purpose of enforcing the Congressional Budget Act of 1974 through April 15, 2012, including section 300 of

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that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(1) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2012 with appropriate budgetary levels for fiscal years 2011 and 2013 through 2021.

(2) For the purpose of enforcing the Congressional Budget Act of 1974 after April 15, 2012, including section 300 of that Act, and enforcing budgetary points of order in prior concurrent resolutions on the budget, the allocations, aggregates, and levels set in subsection (b)(2) shall apply in the Senate in the same manner as for a concurrent resolution on the budget for fiscal year 2013 with appropriate budgetary levels for fiscal years 2012 and 2014 through 2022.

(b) COMMITTEE ALLOCATIONS, AGGREGATES, AND LEVELS.—

(1) As soon as practicable after the date of enactment of this section, the Chairman of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2011 and 2012 consistent with the discretionary spending limits set forth in this Act for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2011 and 2012 and aggregate revenue levels for fiscal years 2011, 2012, 2012 through 2016, 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2011, 2012, 2012 through 2016, and 2012 through 2021 consistent with the Congressional Budget Office's March 2011 baseline adjusted to account for the budgetary effects of this Act and legislation enacted prior to this Act but not included in the Congressional Budget Office's March 2011 baseline, for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(2) Not later than April 15, 2012, the Chairman of the Committee on the Budget shall file—

(A) for the Committee on Appropriations, committee allocations for fiscal years 2012 and 2013 consistent with the discretionary spending limits set forth in this Act for

Deadline.

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the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(B) for all committees other than the Committee on Appropriations, committee allocations for fiscal years 2012, 2013, 2013 through 2017, and 2013 through 2022 consistent with the Congressional Budget Office’s March 2012 baseline for the purpose of enforcing section 302 of the Congressional Budget Act of 1974;

(C) aggregate spending levels for fiscal years 2012 and 2013 and aggregate revenue levels for fiscal years 2012, 2013, 2013–2017, and 2013–2022 consistent with the Congressional Budget Office’s March 2012 baseline and the discretionary spending limits set forth in this Act for the purpose of enforcing section 311 of the Congressional Budget Act of 1974; and

(D) levels of Social Security revenues and outlays for fiscal years 2012 and 2013, 2013–2017, and 2013–2022 consistent with the Congressional Budget Office’s March 2012 baseline budget for the purpose of enforcing sections 302 and 311 of the Congressional Budget Act of 1974.

(c) SENATE PAY-AS-YOU-GO SCORECARD.—

(1) Effective on the date of enactment of this section, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

Effective date.

(2) Not later than April 15, 2012, for the purpose of enforcing section 201 of S. Con. Res. 21 (110th Congress), the Chairman of the Senate Committee on the Budget shall reduce any balances of direct spending and revenues for any fiscal year to 0 (zero).

Deadline.

(3) Upon resetting the Senate paygo scorecard pursuant to paragraph (2), the Chairman shall publish a notification of such action in the Congressional Record.

Notification.
Congressional
Record.

(d) FURTHER ADJUSTMENTS.—

(1) The Chairman of the Committee on the Budget of the Senate may revise any allocations, aggregates, or levels set pursuant to this section to account for any subsequent adjustments to discretionary spending limits made pursuant to this Act.

(2) With respect to any allocations, aggregates, or levels set or adjustments made pursuant to this section, sections 412 through 414 of S. Con. Res. 13 (111th Congress) shall remain in effect.

(e) EXPIRATION.—

(1) Subsections (a)(1), (b)(1), and (c)(1) shall expire if a concurrent resolution on the budget for fiscal year 2012 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

(2) Subsections (a)(2), (b)(2), and (c)(2) shall expire if a concurrent resolution on the budget for fiscal year 2013 is agreed to by the Senate and House of Representatives pursuant to section 301 of the Congressional Budget Act of 1974.

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TITLE II—VOTE ON THE BALANCED BUDGET AMENDMENT

SEC. 201. VOTE ON THE BALANCED BUDGET AMENDMENT.

Time period.

After September 30, 2011, and not later than December 31, 2011, the House of Representatives and Senate, respectively, shall vote on passage of a joint resolution, the title of which is as follows: “Joint resolution proposing a balanced budget amendment to the Constitution of the United States.”.

SEC. 202. CONSIDERATION BY THE OTHER HOUSE.

Deadline.

(a) HOUSE CONSIDERATION.—

(1) REFERRAL.—If the House receives a joint resolution described in section 201 from the Senate, such joint resolution shall be referred to the Committee on the Judiciary. If the committee fails to report the joint resolution within five legislative days, it shall be in order to move that the House discharge the committee from further consideration of the joint resolution. Such a motion shall not be in order after the House has disposed of a motion to discharge the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except twenty minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the joint resolution in accordance with paragraph (3). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(2) PROCEEDING TO CONSIDERATION.—After the joint resolution has been referred to the appropriate calendar or the committee has been discharged (other than by motion) from its consideration, it shall be in order to move to proceed to consider the joint resolution in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to the joint resolution. 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.

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

Deadline.

(b) SENATE CONSIDERATION.—(1) If the Senate receives a joint resolution described in section 201 from the House of Representatives, such joint resolution shall be referred to the appropriate committee of the Senate. If such committee has not reported the joint resolution at the close of the fifth session day after its receipt by the Senate, such committee shall be automatically discharged from further consideration of the joint resolution and it shall be placed on the appropriate calendar.

(2) Consideration of the joint resolution and on all debatable motions and appeals in connection therewith, shall be limited to

not more than 20 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the joint resolution, including time used for quorum calls and voting, shall be counted against the total 20 hours of consideration.

(3) If the Senate has voted to proceed to a joint resolution, the vote on passage of the joint resolution shall be taken on or before the close of the seventh session day after such joint resolution has been reported or discharged or immediately following the conclusion of consideration of the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

Deadline.

TITLE III—DEBT CEILING DISAPPROVAL PROCESS

SEC. 301. DEBT CEILING DISAPPROVAL PROCESS.

(a) IN GENERAL.—Subchapter I of chapter 31 of subtitle III of title 31, United States Code, is amended—

- (1) in section 3101(b), by striking “or otherwise” and inserting “or as provided by section 3101A or otherwise”; and
- (2) by inserting after section 3101 the following:

“§ 3101A. Presidential modification of the debt ceiling

“(a) IN GENERAL.—

“(1) \$900 BILLION.—

“(A) CERTIFICATION.—If, not later than December 31, 2011, the President submits a written certification to Congress that the President has determined that the debt subject to limit is within \$100,000,000,000 of the limit in section 3101(b) and that further borrowing is required to meet existing commitments, the Secretary of the Treasury may exercise authority to borrow an additional \$900,000,000,000, subject to the enactment of a joint resolution of disapproval enacted pursuant to this section. Upon submission of such certification, the limit on debt provided in section 3101(b) (referred to in this section as the ‘debt limit’) is increased by \$400,000,000,000.

Deadline.

“(B) RESOLUTION OF DISAPPROVAL.—Congress may consider a joint resolution of disapproval of the authority under subparagraph (A) as provided in subsections (b) through (f). The joint resolution of disapproval considered under this section shall contain only the language provided in subsection (b)(2). If the time for disapproval has lapsed without enactment of a joint resolution of disapproval under this section, the debt limit is increased by an additional \$500,000,000,000.

“(2) ADDITIONAL AMOUNT.—

“(A) CERTIFICATION.—If, after the debt limit is increased by \$900,000,000,000 under paragraph (1), the

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President submits a written certification to Congress that the President has determined that the debt subject to limit is within \$100,000,000,000 of the limit in section 3101(b) and that further borrowing is required to meet existing commitments, the Secretary of the Treasury may, subject to the enactment of a joint resolution of disapproval enacted pursuant to this section, exercise authority to borrow an additional amount equal to—

“(i) \$1,200,000,000,000, unless clause (ii) or (iii) applies;

“(ii) \$1,500,000,000,000 if the Archivist of the United States has submitted to the States for their ratification a proposed amendment to the Constitution of the United States pursuant to a joint resolution entitled ‘Joint resolution proposing a balanced budget amendment to the Constitution of the United States’; or

“(iii) if a joint committee bill to achieve an amount greater than \$1,200,000,000,000 in deficit reduction as provided in section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011 is enacted, an amount equal to the amount of that deficit reduction, but not greater than \$1,500,000,000,000, unless clause (ii) applies.

“(B) RESOLUTION OF DISAPPROVAL.—Congress may consider a joint resolution of disapproval of the authority under subparagraph (A) as provided in subsections (b) through (f). The joint resolution of disapproval considered under this section shall contain only the language provided in subsection (b)(2). If the time for disapproval has lapsed without enactment of a joint resolution of disapproval under this section, the debt limit is increased by the amount authorized under subparagraph (A).

“(b) JOINT RESOLUTION OF DISAPPROVAL.—

Deadlines.

“(1) IN GENERAL.—Except for the \$400,000,000,000 increase in the debt limit provided by subsection (a)(1)(A), the debt limit may not be raised under this section if, within 50 calendar days after the date on which Congress receives a certification described in subsection (a)(1) or within 15 calendar days after Congress receives the certification described in subsection (a)(2) (regardless of whether Congress is in session), there is enacted into law a joint resolution disapproving the President’s exercise of authority with respect to such additional amount.

Definition.

“(2) CONTENTS OF JOINT RESOLUTION.—For the purpose of this section, the term ‘joint resolution’ means only a joint resolution—

“(A)(i) for the certification described in subsection (a)(1), that is introduced on September 6, 7, 8, or 9, 2011 (or, if the Senate was not in session, the next calendar day on which the Senate is in session); and

“(ii) for the certification described in subsection (a)(2), that is introduced between the date the certification is received and 3 calendar days after that date;

“(B) which does not have a preamble;

“(C) the title of which is only as follows: ‘Joint resolution relating to the disapproval of the President’s exercise of authority to increase the debt limit, as submitted under section 3101A of title 31, United States Code, on

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_____’ (with the blank containing the date of such submission); and

“(D) the matter after the resolving clause of which is only as follows: ‘That Congress disapproves of the President’s exercise of authority to increase the debt limit, as exercised pursuant to the certification under section 3101A(a) of title 31, United States Code.’

“(c) EXPEDITED CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

“(1) RECONVENING.—Upon receipt of a certification described in subsection (a)(2), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such certification.

Notification.
Deadline.

“(2) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House without amendment not later than 5 calendar days after the date of introduction of a joint resolution described in subsection (a). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

“(3) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after introduction of a joint resolution under subsection (a), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on a joint resolution addressing a particular submission. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

Deadline.

“(4) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

“(d) EXPEDITED PROCEDURE IN SENATE.—

“(1) RECONVENING.—Upon receipt of a certification under subsection (a)(2), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

Notification.
Deadline.

“(2) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be immediately placed on the calendar.

“(3) FLOOR CONSIDERATION.—

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Time period.
Waiver.

“(A) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the day after the date on which Congress receives a certification under subsection (a) and, for the certification described in subsection (a)(1), ending on September 14, 2011, and for the certification described in subsection (a)(2), on the 6th day after the date on which Congress receives a certification under subsection (a) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

“(B) CONSIDERATION.—Consideration of the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

“(C) VOTE ON PASSAGE.—If the Senate has voted to proceed to a joint resolution, the vote on passage of the joint resolution shall occur immediately following the conclusion of consideration of the joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

“(D) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

“(e) AMENDMENT NOT IN ORDER.—A joint resolution of disapproval considered pursuant to this section shall not be subject to amendment in either the House of Representatives or the Senate.

“(f) COORDINATION WITH ACTION BY OTHER HOUSE.—

“(1) IN GENERAL.—If, before passing the joint resolution, one House receives from the other a joint resolution—

“(A) the joint resolution of the other House shall not be referred to a committee; and

“(B) the procedure in the receiving House shall be the same as if no joint resolution had been received from the other House until the vote on passage, when the joint resolution received from the other House shall supplant the joint resolution of the receiving House.

“(2) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House shall be entitled to expedited floor procedures under this section.

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“(3) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

“(4) CONSIDERATION AFTER PASSAGE.—(A) If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President signs, allows to become law without his signature, or vetoes and returns the joint resolution (but excluding days when either House is not in session) shall be disregarded in computing the appropriate calendar day period described in subsection (b)(1).

“(B) Debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

“(5) VETO OVERRIDE.—If within the appropriate calendar day period described in subsection (b)(1), Congress overrides a veto of the joint resolution with respect to authority exercised pursuant to paragraph (1) or (2) of subsection (a), the limit on debt provided in section 3101(b) shall not be raised, except for the \$400,000,000,000 increase in the limit provided by subsection (a)(1)(A).

“(6) SEQUESTRATION.—(A) If within the 50-calendar day period described in subsection (b)(1), the President signs the joint resolution, the President allows the joint resolution to become law without his signature, or Congress overrides a veto of the joint resolution with respect to authority exercised pursuant to paragraph (1) of subsection (a), there shall be a sequestration to reduce spending by \$400,000,000,000. OMB shall implement the sequestration forthwith.

Time period.
President.

“(B) OMB shall implement each half of such sequestration in accordance with section 255, section 256, and subsections (c), (d), (e), and (f) of section 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, and for the purpose of such implementation the term ‘excess deficit’ means the amount specified in subparagraph (A).

Definition.

“(g) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection and subsections (b), (c), (d), (e), and (f) (other than paragraph (6)) are enacted by Congress—

“(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 31 of title 31, United States Code, is amended by inserting after the item relating to section 3101 the following new item:

“3101A. Presidential modification of the debt ceiling.”.

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SEC. 302. ENFORCEMENT OF BUDGET GOAL.

(a) IN GENERAL.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after section 251 the following new section:

2 USC 901a.

“SEC. 251A. ENFORCEMENT OF BUDGET GOAL.

Deadline.

“Unless a joint committee bill achieving an amount greater than \$1,200,000,000,000 in deficit reduction as provided in section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011 is enacted by January 15, 2012, the discretionary spending limits listed in section 251(c) shall be revised, and discretionary appropriations and direct spending shall be reduced, as follows:

Definitions.

“(1) REVISED SECURITY CATEGORY; REVISED NONSECURITY CATEGORY.—(A) The term ‘revised security category’ means discretionary appropriations in budget function 050.

“(B) The term ‘revised nonsecurity category’ means discretionary appropriations other than in budget function 050.

“(2) REVISED DISCRETIONARY SPENDING LIMITS.—The discretionary spending limits for fiscal years 2013 through 2021 under section 251(c) shall be replaced with the following:

“(A) For fiscal year 2013—

“(i) for the security category, \$546,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$501,000,000,000 in budget authority.

“(B) For fiscal year 2014—

“(i) for the security category, \$556,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$510,000,000,000 in budget authority.

“(C) For fiscal year 2015—

“(i) for the security category, \$566,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$520,000,000,000 in budget authority.

“(D) For fiscal year 2016—

“(i) for the security category, \$577,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$530,000,000,000 in budget authority.

“(E) For fiscal year 2017—

“(i) for the security category, \$590,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$541,000,000,000 in budget authority.

“(F) For fiscal year 2018—

“(i) for the security category, \$603,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$553,000,000,000 in budget authority.

“(G) For fiscal year 2019—

“(i) for the security category, \$616,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$566,000,000,000 in budget authority.

“(H) For fiscal year 2020—

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“(i) for the security category, \$630,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$578,000,000,000 in budget authority.

“(I) For fiscal year 2021—

“(i) for the security category, \$644,000,000,000 in budget authority; and

“(ii) for the nonsecurity category, \$590,000,000,000 in budget authority.

“(3) CALCULATION OF TOTAL DEFICIT REDUCTION.—OMB shall calculate the amount of the deficit reduction required by this section for each of fiscal years 2013 through 2021 by—

“(A) starting with \$1,200,000,000,000;

“(B) subtracting the amount of deficit reduction achieved by the enactment of a joint committee bill, as provided in section 401(b)(3)(B)(i)(II) of the Budget Control Act of 2011;

“(C) reducing the difference by 18 percent to account for debt service; and

“(D) dividing the result by 9.

“(4) ALLOCATION TO FUNCTIONS.—On January 2, 2013, for fiscal year 2013, and in its sequestration preview report for fiscal years 2014 through 2021 pursuant to section 254(c), OMB shall allocate half of the total reduction calculated pursuant to paragraph (3) for that year to discretionary appropriations and direct spending accounts within function 050 (defense function) and half to accounts in all other functions (nondefense functions).

Effective date.

“(5) DEFENSE FUNCTION REDUCTION.—OMB shall calculate the reductions to discretionary appropriations and direct spending for each of fiscal years 2013 through 2021 for defense function spending as follows:

“(A) DISCRETIONARY.—OMB shall calculate the reduction to discretionary appropriations by—

“(i) taking the total reduction for the defense function allocated for that year under paragraph (4);

“(ii) multiplying by the discretionary spending limit for the revised security category for that year; and

“(iii) dividing by the sum of the discretionary spending limit for the security category and OMB’s baseline estimate of nonexempt outlays for direct spending programs within the defense function for that year.

“(B) DIRECT SPENDING.—OMB shall calculate the reduction to direct spending by taking the total reduction for the defense function required for that year under paragraph (4) and subtracting the discretionary reduction calculated pursuant to subparagraph (A).

“(6) NONDEFENSE FUNCTION REDUCTION.—OMB shall calculate the reduction to discretionary appropriations and to direct spending for each of fiscal years 2013 through 2021 for programs in nondefense functions as follows:

“(A) DISCRETIONARY.—OMB shall calculate the reduction to discretionary appropriations by—

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“(i) taking the total reduction for nondefense functions allocated for that year under paragraph (4);

“(ii) multiplying by the discretionary spending limit for the revised nonsecurity category for that year; and

“(iii) dividing by the sum of the discretionary spending limit for the revised nonsecurity category and OMB’s baseline estimate of nonexempt outlays for direct spending programs in nondefense functions for that year.

“(B) DIRECT SPENDING.—OMB shall calculate the reduction to direct spending programs by taking the total reduction for nondefense functions required for that year under paragraph (4) and subtracting the discretionary reduction calculated pursuant to subparagraph (A).

“(7) IMPLEMENTING DISCRETIONARY REDUCTIONS.—

“(A) FISCAL YEAR 2013.—On January 2, 2013, for fiscal year 2013, OMB shall calculate and the President shall order a sequestration, effective upon issuance and under the procedures set forth in section 253(f), to reduce each account within the security category or nonsecurity category by a dollar amount calculated by multiplying the baseline level of budgetary resources in that account at that time by a uniform percentage necessary to achieve—

“(i) for the revised security category, an amount equal to the defense function discretionary reduction calculated pursuant to paragraph (5); and

“(ii) for the revised nonsecurity category, an amount equal to the nondefense function discretionary reduction calculated pursuant to paragraph (6).

“(B) FISCAL YEARS 2014–2021.—On the date of the submission of its sequestration preview report for fiscal years 2014 through 2021 pursuant to section 254(c) for each of fiscal years 2014 through 2021, OMB shall reduce the discretionary spending limit—

“(i) for the revised security category by the amount of the defense function discretionary reduction calculated pursuant to paragraph (5); and

“(ii) for the revised nonsecurity category by the amount of the nondefense function discretionary reduction calculated pursuant to paragraph (6).

“(8) IMPLEMENTING DIRECT SPENDING REDUCTIONS.—On the date specified in paragraph (4) during each applicable year, OMB shall prepare and the President shall order a sequestration, effective upon issuance, of nonexempt direct spending to achieve the direct spending reduction calculated pursuant to paragraphs (5) and (6). When implementing the sequestration of direct spending pursuant to this paragraph, OMB shall follow the procedures specified in section 6 of the Statutory Pay-As-You-Go Act of 2010, the exemptions specified in section 255, and the special rules specified in section 256, except that the percentage reduction for the Medicare programs specified in section 256(d) shall not be more than 2 percent for a fiscal year.

“(9) ADJUSTMENT FOR MEDICARE.—If the percentage reduction for the Medicare programs would exceed 2 percent for a fiscal year in the absence of paragraph (8), OMB shall

Effective date.
President.
Sequestration
order.

President.
Sequestration
order.

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increase the reduction for all other discretionary appropriations and direct spending under paragraph (6) by a uniform percentage to a level sufficient to achieve the reduction required by paragraph (6) in the non-defense function.

“(10) IMPLEMENTATION OF REDUCTIONS.—Any reductions imposed under this section shall be implemented in accordance with section 256(k).

“(11) REPORT.—On the dates specified in paragraph (4), OMB shall submit a report to Congress containing information about the calculations required under this section, the adjusted discretionary spending limits, a listing of the reductions required for each nonexempt direct spending account, and any other data and explanations that enhance public understanding of this title and actions taken under it.”

(b) CONFORMING AMENDMENT.—The table of contents set forth in section 250(a) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting after the item relating to section 251 the following:

“Sec. 251A. Enforcement of budget goal.”

TITLE IV—JOINT SELECT COMMITTEE ON DEFICIT REDUCTION

SEC. 401. ESTABLISHMENT OF JOINT SELECT COMMITTEE.

2 USC 900 note.

(a) DEFINITIONS.—In this title:

(1) JOINT COMMITTEE.—The term “joint committee” means the Joint Select Committee on Deficit Reduction established under subsection (b)(1).

(2) JOINT COMMITTEE BILL.—The term “joint committee bill” means a bill consisting of the proposed legislative language of the joint committee recommended under subsection (b)(3)(B) and introduced under section 402(a).

(b) ESTABLISHMENT OF JOINT SELECT COMMITTEE.—

(1) ESTABLISHMENT.—There is established a joint select committee of Congress to be known as the “Joint Select Committee on Deficit Reduction”.

(2) GOAL.—The goal of the joint committee shall be to reduce the deficit by at least \$1,500,000,000,000 over the period of fiscal years 2012 to 2021.

(3) DUTIES.—

(A) IN GENERAL.—

(i) IMPROVING THE SHORT-TERM AND LONG-TERM FISCAL IMBALANCE.—The joint committee shall provide recommendations and legislative language that will significantly improve the short-term and long-term fiscal imbalance of the Federal Government.

Recommendations.

(ii) RECOMMENDATIONS OF COMMITTEES.—Not later than October 14, 2011, each committee of the House of Representatives and the Senate may transmit to the joint committee its recommendations for changes in law to reduce the deficit consistent with the goal described in paragraph (2) for the joint committee’s consideration.

Deadline.

(B) REPORT, RECOMMENDATIONS, AND LEGISLATIVE LANGUAGE.—

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(i) IN GENERAL.—Not later than November 23, 2011, the joint committee shall vote on—

(I) a report that contains a detailed statement of the findings, conclusions, and recommendations of the joint committee and the estimate of the Congressional Budget Office required by paragraph (5)(D)(ii); and

(II) proposed legislative language to carry out such recommendations as described in subclause (I), which shall include a statement of the deficit reduction achieved by the legislation over the period of fiscal years 2012 to 2021.

Any change to the Rules of the House of Representatives or the Standing Rules of the Senate included in the report or legislative language shall be considered to be merely advisory.

(ii) APPROVAL OF REPORT AND LEGISLATIVE LANGUAGE.—The report of the joint committee and the proposed legislative language described in clause (i) shall require the approval of a majority of the members of the joint committee.

Time period.

(iii) ADDITIONAL VIEWS.—A member of the joint committee who gives notice of an intention to file supplemental, minority, or additional views at the time of final joint committee vote on the approval of the report and legislative language under clause (ii) shall be entitled to 3 calendar days in which to file such views in writing with the staff director of the joint committee. Such views shall then be included in the joint committee report and printed in the same volume, or part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the joint committee report may be printed and transmitted immediately without such views.

(iv) TRANSMISSION OF REPORT AND LEGISLATIVE LANGUAGE.—If the report and legislative language are approved by the joint committee pursuant to clause (ii), then not later than December 2, 2011, the joint committee shall submit the joint committee report and legislative language described in clause (i) to the President, the Vice President, the Speaker of the House of Representatives, and the majority and minority Leaders of each House of Congress.

(v) REPORT AND LEGISLATIVE LANGUAGE TO BE MADE PUBLIC.—Upon the approval or disapproval of the joint committee report and legislative language pursuant to clause (ii), the joint committee shall promptly make the full report and legislative language, and a record of the vote, available to the public.

(4) MEMBERSHIP.—

(A) IN GENERAL.—The joint committee shall be composed of 12 members appointed pursuant to subparagraph (B).

(B) APPOINTMENT.—Members of the joint committee shall be appointed as follows:

(i) The majority leader of the Senate shall appoint three members from among Members of the Senate.

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(ii) The minority leader of the Senate shall appoint three members from among Members of the Senate.

(iii) The Speaker of the House of Representatives shall appoint three members from among Members of the House of Representatives.

(iv) The minority leader of the House of Representatives shall appoint three members from among Members of the House of Representatives.

(C) CO-CHAIRS.—

(i) IN GENERAL.—There shall be two Co-Chairs of the joint committee. The majority leader of the Senate shall appoint one Co-Chair from among the members of the joint committee. The Speaker of the House of Representatives shall appoint the second Co-Chair from among the members of the joint committee. The Co-Chairs shall be appointed not later than 14 calendar days after the date of enactment of this Act.

Appointments.

Deadline.

(ii) STAFF DIRECTOR.—The Co-Chairs, acting jointly, shall hire the staff director of the joint committee.

(D) DATE.—Members of the joint committee shall be appointed not later than 14 calendar days after the date of enactment of this Act.

Appointments.
Deadline.

(E) PERIOD OF APPOINTMENT.—Members shall be appointed for the life of the joint committee. Any vacancy in the joint committee shall not affect its powers, but shall be filled not later than 14 calendar days after the date on which the vacancy occurs, in the same manner as the original designation was made. If a member of the joint committee ceases to be a Member of the House of Representatives or the Senate, as the case may be, the member is no longer a member of the joint committee and a vacancy shall exist.

Deadline.

(5) ADMINISTRATION.—

(A) IN GENERAL.—To enable the joint committee to exercise its powers, functions, and duties, there are authorized to be disbursed by the Senate the actual and necessary expenses of the joint committee approved by the co-chairs, subject to the rules and regulations of the Senate.

(B) EXPENSES.—In carrying out its functions, the joint committee is authorized to incur expenses in the same manner and under the same conditions as the Joint Economic Committee is authorized by section 11 of Public Law 79-304 (15 U.S.C. 1024 (d)).

(C) QUORUM.—Seven members of the joint committee shall constitute a quorum for purposes of voting, meeting, and holding hearings.

(D) VOTING.—

(i) PROXY VOTING.—No proxy voting shall be allowed on behalf of the members of the joint committee.

(ii) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—The Congressional Budget Office shall provide estimates of the legislation (as described in paragraph (3)(B)) in accordance with sections 308(a) and 201(f) of the Congressional Budget Act of 1974 (2 U.S.C. 639(a) and 601(f))(including estimates of the effect of

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interest payment on the debt). In addition, the Congressional Budget Office shall provide information on the budgetary effect of the legislation beyond the year 2021. The joint committee may not vote on any version of the report, recommendations, or legislative language unless such estimates are available for consideration by all members of the joint committee at least 48 hours prior to the vote as certified by the Co-Chairs.

Deadline.

Deadlines. (E) MEETINGS.—

(i) INITIAL MEETING.—Not later than 45 calendar days after the date of enactment of this Act, the joint committee shall hold its first meeting.

(ii) AGENDA.—The Co-Chairs of the joint committee shall provide an agenda to the joint committee members not less than 48 hours in advance of any meeting.

Deadlines. (F) HEARINGS.—

(i) IN GENERAL.—The joint committee may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, require attendance of witnesses and production of books, papers, and documents, take such testimony, receive such evidence, and administer such oaths as the joint committee considers advisable.

(ii) HEARING PROCEDURES AND RESPONSIBILITIES OF CO-CHAIRS.—

(I) ANNOUNCEMENT.—The Co-Chairs of the joint committee shall make a public announcement of the date, place, time, and subject matter of any hearing to be conducted, not less than 7 days in advance of such hearing, unless the Co-Chairs determine that there is good cause to begin such hearing at an earlier date.

(II) WRITTEN STATEMENT.—A witness appearing before the joint committee shall file a written statement of proposed testimony at least 2 calendar days before the appearance of the witness, unless the requirement is waived by the Co-Chairs, following their determination that there is good cause for failure to comply with such requirement.

(G) TECHNICAL ASSISTANCE.—Upon written request of the Co-Chairs, a Federal agency shall provide technical assistance to the joint committee in order for the joint committee to carry out its duties.

(c) STAFF OF JOINT COMMITTEE.—

(1) IN GENERAL.—The Co-Chairs of the joint committee may jointly appoint and fix the compensation of staff as they deem necessary, within the guidelines for employees of the Senate and following all applicable rules and employment requirements of the Senate.

(2) ETHICAL STANDARDS.—Members on the joint committee who serve in the House of Representatives shall be governed by the ethics rules and requirements of the House. Members of the Senate who serve on the joint committee and staff of the joint committee shall comply with the ethics rules of the Senate.

Compliance.

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(d) **TERMINATION.**—The joint committee shall terminate on January 31, 2012.

SEC. 402. EXPEDITED CONSIDERATION OF JOINT COMMITTEE RECOMMENDATIONS. 2 USC 900 note.

(a) **INTRODUCTION.**—If approved by the majority required by section 401(b)(3)(B)(ii), the proposed legislative language submitted pursuant to section 401(b)(3)(B)(iv) shall be introduced in the Senate (by request) on the next day on which the Senate is in session by the majority leader of the Senate or by a Member of the Senate designated by the majority leader of the Senate and shall be introduced in the House of Representatives (by request) on the next legislative day by the majority leader of the House or by a Member of the House designated by the majority leader of the House.

(b) **CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.**—

(1) **REFERRAL AND REPORTING.**—Any committee of the House of Representatives to which the joint committee bill is referred shall report it to the House without amendment not later than December 9, 2011. If a committee fails to report the joint committee bill within that period, it shall be in order to move that the House discharge the committee from further consideration of the bill. Such a motion shall not be in order after the last committee authorized to consider the bill reports it to the House or after the House has disposed of a motion to discharge the bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion except 20 minutes of debate equally divided and controlled by the proponent and an opponent. If such a motion is adopted, the House shall proceed immediately to consider the joint committee bill in accordance with paragraphs (2) and (3). A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(2) **PROCEEDING TO CONSIDERATION.**—After the last committee authorized to consider a joint committee bill reports it to the House or has been discharged (other than by motion) from its consideration, it shall be in order to move to proceed to consider the joint committee bill in the House. Such a motion shall not be in order after the House has disposed of a motion to proceed with respect to the joint committee bill. 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.

(3) **CONSIDERATION.**—The joint committee bill shall be considered as read. All points of order against the joint committee bill and against its consideration are waived. The previous question shall be considered as ordered on the joint committee bill to its passage without intervening motion except 2 hours of debate equally divided and controlled by the proponent and an opponent and one motion to limit debate on the joint committee bill. A motion to reconsider the vote on passage of the joint committee bill shall not be in order.

Waiver.

(4) **VOTE ON PASSAGE.**—The vote on passage of the joint committee bill shall occur not later than December 23, 2011.

Deadline.

(c) **EXPEDITED PROCEDURE IN THE SENATE.**—

(1) **COMMITTEE CONSIDERATION.**—A joint committee bill introduced in the Senate under subsection (a) shall be jointly

Reports.
Deadline.

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referred to the committee or committees of jurisdiction, which committees shall report the bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than December 9, 2011. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

Deadline.

(2) MOTION TO PROCEED.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order, not later than 2 days of session after the date on which a joint committee bill is reported or discharged from all committees to which it was referred, for the majority leader of the Senate or the majority leader's designee to move to proceed to the consideration of the joint committee bill. It shall also be in order for any Member of the Senate to move to proceed to the consideration of the joint committee bill at any time after the conclusion of such 2-day period. A motion to proceed is in order even though a previous motion to the same effect has been disagreed to. All points of order against the motion to proceed to the joint committee bill are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint committee bill is agreed to, the joint committee bill shall remain the unfinished business until disposed of.

Waiver.

(3) CONSIDERATION.—All points of order against the joint committee bill and against consideration of the joint committee bill are waived. Consideration of the joint committee bill and of all debatable motions and appeals in connection therewith shall not exceed a total of 30 hours which shall be divided equally between the Majority and Minority Leaders or their designees. A motion further to limit debate on the joint committee bill is in order, shall require an affirmative vote of three-fifths of the Members duly chosen and sworn, and is not debatable. Any debatable motion or appeal is debatable for not to exceed 1 hour, to be divided equally between those favoring and those opposing the motion or appeal. All time used for consideration of the joint committee bill, including time used for quorum calls and voting, shall be counted against the total 30 hours of consideration.

(4) NO AMENDMENTS.—An amendment to the joint committee bill, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint committee bill, is not in order.

Deadline.

(5) VOTE ON PASSAGE.—If the Senate has voted to proceed to the joint committee bill, the vote on passage of the joint committee bill shall occur immediately following the conclusion of the debate on a joint committee bill, and a single quorum call at the conclusion of the debate if requested. The vote on passage of the joint committee bill shall occur not later than December 23, 2011.

(6) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure

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relating to a joint committee bill shall be decided without debate.

(d) AMENDMENT.—The joint committee bill shall not be subject to amendment in either the House of Representatives or the Senate.

(e) CONSIDERATION BY THE OTHER HOUSE.—

(1) IN GENERAL.—If, before passing the joint committee bill, one House receives from the other a joint committee bill—

(A) the joint committee bill of the other House shall not be referred to a committee; and

(B) the procedure in the receiving House shall be the same as if no joint committee bill had been received from the other House until the vote on passage, when the joint committee bill received from the other House shall supplant the joint committee bill of the receiving House.

(2) REVENUE MEASURE.—This subsection shall not apply to the House of Representatives if the joint committee bill received from the Senate is a revenue measure.

(f) RULES TO COORDINATE ACTION WITH OTHER HOUSE.—

(1) TREATMENT OF JOINT COMMITTEE BILL OF OTHER HOUSE.—If the Senate fails to introduce or consider a joint committee bill under this section, the joint committee bill of the House shall be entitled to expedited floor procedures under this section.

(2) TREATMENT OF COMPANION MEASURES IN THE SENATE.—If following passage of the joint committee bill in the Senate, the Senate then receives the joint committee bill from the House of Representatives, the House-passed joint committee bill shall not be debatable. The vote on passage of the joint committee bill in the Senate shall be considered to be the vote on passage of the joint committee bill received from the House of Representatives.

(3) VETOES.—If the President vetoes the joint committee bill, debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(g) LOSS OF PRIVILEGE.—The provisions of this section shall cease to apply to the joint committee bill if—

(1) the joint committee fails to vote on the report or proposed legislative language required under section 401(b)(3)(B)(i) not later than November 23, 2011; or

(2) the joint committee bill does not pass both Houses not later than December 23, 2011.

Deadlines.

SEC. 403. FUNDING.

2 USC 900 note.

Funding for the joint committee shall be derived in equal portions from—

(1) the applicable accounts of the House of Representatives; and

(2) the contingent fund of the Senate from the appropriations account “Miscellaneous Items”, subject to the rules and regulations of the Senate.

SEC. 404. RULEMAKING.

2 USC 900 note.

The provisions of this title are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply,

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and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE V—PELL GRANT AND STUDENT LOAN PROGRAM CHANGES

SEC. 501. FEDERAL PELL GRANTS.

Section 401(b)(7)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(7)(A)(iv)) is amended—

(1) in subclause (II), by striking “\$3,183,000,000” and inserting “\$13,183,000,000”; and

(2) in subclause (III), by striking “\$0” and inserting “\$7,000,000,000”.

SEC. 502. TERMINATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS TO GRADUATE AND PROFESSIONAL STUDENTS.

Section 455(a) of the Higher Education Act of 1965 (20 U.S.C. 1087e(a)) is amended by adding at the end the following new paragraph:

“(3) TERMINATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS TO GRADUATE AND PROFESSIONAL STUDENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding any provision of this part or part B, for any period of instruction beginning on or after July 1, 2012—

“(i) a graduate or professional student shall not be eligible to receive a Federal Direct Stafford loan under this part; and

“(ii) the maximum annual amount of Federal Direct Unsubsidized Stafford loans such a student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be the maximum annual amount for such student determined under section 428H, plus an amount equal to the amount of Federal Direct Stafford loans the student would have received in the absence of this subparagraph.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to an individual enrolled in course work specified in paragraph (3)(B) or (4)(B) of section 484(b).”.

SEC. 503. TERMINATION OF DIRECT LOAN REPAYMENT INCENTIVES.

Section 455(b)(8) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)(8)) is amended—

(1) in subparagraph (A)—

(A) by amending the header to read as follows: “(A) INCENTIVES FOR LOANS DISBURSED BEFORE JULY 1, 2012.—”; and

(B) by inserting “with respect to loans for which the first disbursement of principal is made before July 1, 2012,” after “of this part”;

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(2) in subparagraph (B), by inserting “with respect to loans for which the first disbursement of principal is made before July 1, 2012” after “repayment incentives”; and

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

“(C) NO REPAYMENT INCENTIVES FOR NEW LOANS DISBURSED ON OR AFTER JULY 1, 2012.—Notwithstanding any other provision of this part, the Secretary is prohibited from authorizing or providing any repayment incentive not otherwise authorized under this part to encourage on-time repayment of a loan under this part for which the first disbursement of principal is made on or after July 1, 2012, including any reduction in the interest or origination fee rate paid by a borrower of such a loan, except that the Secretary may provide for an interest rate reduction for a borrower who agrees to have payments on such a loan automatically electronically debited from a bank account.”.

SEC. 504. INAPPLICABILITY OF TITLE IV NEGOTIATED RULEMAKING AND MASTER CALENDAR EXCEPTION.

20 USC 1089
note.

Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the amendments made by this title, or to any regulations promulgated under those amendments.

Approved August 2, 2011.

LEGISLATIVE HISTORY—S. 365:

CONGRESSIONAL RECORD, Vol. 157 (2011):

Feb. 17, considered and passed Senate.

Aug. 1, considered and passed House, amended.

Aug. 2, Senate concurred in House amendment.

