

“(II) The history of the payment system or person in connection with permitting restricted transactions.

“(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

“(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any Federal, State or other law by virtue of engaging in any such transaction.

“(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

“(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.

“(11) COMPLIANCE.—A payment system, and any person described in paragraph (2)(B), shall not be deemed to be in violation of paragraph (1)—

“(A)(i) if an alleged violation of paragraph (1) occurs prior to the mandatory compliance date of the regulations issued under paragraph (7); and

“(ii) such entity has adopted or relied on policies and procedures that are reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; or

“(B)(i) if an alleged violation of paragraph (1) occurs after the mandatory compliance date of such regulations; and

“(ii) such entity is in compliance with such regulations.”

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this Act.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (h)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this Act.

SEC. 3009. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking “not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.” and inserting “import into the United States not more than 10 dosage units combined of all such controlled substances.”

SEC. 3010. SEVERABILITY.

If any provision of this title, an amendment by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments

made by this title, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SA 3689. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. NO PAY RAISE FOR MEMBERS OF CONGRESS UNTIL THEY BALANCE THE BUDGET.

(a) RESTRICTION ON COLA ADJUSTMENTS.—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 2011 or any succeeding fiscal year, until the fiscal year following the first fiscal year that the annual Federal budget deficit is \$0 as determined in the report submitted under subsection (b).

(b) DETERMINATIONS AND REPORTS.—

(1) IN GENERAL.—Not later than 30 days after the end of each fiscal year, the Secretary of the Treasury shall—

(A) make a determination of whether or not the annual Federal budget deficit was \$0 for that fiscal year; and

(B) if the determination is that the annual Federal budget deficit was \$0 for that fiscal year, submit a report to Congress of that determination.

(2) RESTRICTION OF COLA ADJUSTMENTS.—Not later than the end of each calendar year, the Secretary of the Treasury shall submit a report to the Secretary of the Senate and the Chief Administrative Officer of the House of Representatives on—

(A) any determination made under paragraph (1); and

(B) whether or not the restriction under subsection (a) shall apply to the succeeding fiscal year.

SA 3690. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

On page 113, after line 21, add the following:

SEC. 1502. RELOCATION OF THE UNITED STATES EMBASSY TO JERUSALEM.

(a) REMOVAL OF WAIVER AUTHORITY.—The Jerusalem Embassy Act of 1995 (Public Law 104-45; 109 Stat. 398) is amended—

(1) by striking section 7; and

(2) by redesignating section 8 as section 7.

(b) TIMETABLE.—Not more than 50 percent of the funds appropriated to the Department of State for fiscal year 2012 for “Acquisition and Maintenance of Buildings Abroad” may be obligated until the Secretary of State determines and reports to Congress that the United States Embassy in Jerusalem has officially opened.

(c) FISCAL YEARS 2010 AND 2011 FUNDING.—

(1) FISCAL YEAR 2010.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State for fiscal year 2010, such sums as may be necessary shall be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(2) FISCAL YEAR 2011.—Of the funds authorized to be appropriated for “Acquisition and Maintenance of Buildings Abroad” for the Department of State for fiscal year 2011, such sums as may be necessary shall be made available until expended only for construction and other costs associated with the establishment of the United States Embassy in Israel in the capital of Jerusalem.

(d) DEFINITION.—In this section, the term “United States Embassy” means the offices of the United States diplomatic mission and the residence of the United States chief of mission.

SA 3691. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 4872, to provide for reconciliation pursuant to Title II of the concurrent resolution on the budget for fiscal year 2010 (S. Con. Res. 13); which was ordered to lie on the table; as follows:

At the end of subtitle F of title I, add the following:

SEC. 1502. PAYMENT FOR ILLEGAL UNAPPROVED DRUGS.

(a) LISTING OF DRUGS AND DEVICES.—Section 510 of the Food, Drug and Cosmetic Act (21 U.S.C. 360) is amended—

(1) in subsection (j)(1)(B)—

(A) in clause (i), by inserting “in the case of a drug, the authority under this Act that does not require such drug to be subject to section 505 and section 512,” after “labeling for such drug or device;” and

(B) in clause (ii), by inserting “, in the case of a drug, the authority under this Act that does not require such drug to be subject to section 505 and section 512,” after “for such drug or device;” and

(2) in subsection (f)—

(A) by striking “(f) The Secretary” and inserting the following:

“(f) INSPECTION BY PUBLIC OF REGISTRATION.—

“(1) IN GENERAL.—The Secretary;” and

(B) by adding at the end the following:

“(2) LIST OF DRUGS THAT ARE NOT APPROVED UNDER SECTION 505 OR 512.—Not later than January 1, 2011, the Secretary shall make available to the public on the Internet website of the Food and Drug Administration a list that includes, for each drug described in subsection (j)(1)(B)—

“(A) the drug;

“(B) the person who listed such drug; and

“(C) the authority under this Act that does not require such drug to be subject to section 505 and section 512, as provided by such person in such list.”

(b) PAYMENT FOR COVERED OUTPATIENT DRUGS.—Section 1927 of the Social Security Act (42 U.S.C. 1396r-8) is amended by inserting at the end the following:

“(1) CONDITION.—Beginning January 1, 2011, no State shall make any payment under this section for any covered outpatient drug unless such State first verifies with the Food and Drug Administration that such covered outpatient drug has been approved by the Food and Drug Administration under a new drug application under section 505(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)) or an abbreviated new drug application under section 505(j) of such Act, or that such drug is not subject to such section 505 or section 512 due to the application of section 201(p) of such Act (21 U.S.C. 321(p)). The Secretary shall have the authority to proscribe regulations to create an information sharing protocol to allow States to verify that a covered outpatient drug has been approved by the Food and Drug Administration.”

SA 3692. Mr. GRASSLEY submitted an amendment intended to be proposed