

(Ms. STABENOW) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S.J. Res. 44, a joint resolution granting the consent of Congress to the State and Province Emergency Management Assistance Memorandum of Understanding.

S.J. RES. 48

At the request of Mr. JOHNSON of Wisconsin, the names of the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S.J. Res. 48, a joint resolution disapproving the rule submitted by the Internal Revenue Service relating to the health insurance premium tax credit.

S.J. RES. 50

At the request of Mr. HATCH, the names of the Senator from Indiana (Mr. COATS), the Senator from Oklahoma (Mr. INHOFE), the Senator from Maine (Ms. COLLINS) and the Senator from Tennessee (Mr. CORKER) were added as cosponsors of S.J. Res. 50, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Office of Family Assistance of the Administration for Children and Families of the Department of Health and Human Services relating to waiver and expenditure authority under section 1115 of the Social Security Act (42 U.S.C. 1315) with respect to the Temporary Assistance for Needy Families program.

S. RES. 401

At the request of Mr. WHITEHOUSE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. Res. 401, a resolution expressing appreciation for Foreign Service and Civil Service professionals who represent the United States around the globe.

S. RES. 448

At the request of Mrs. BOXER, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. Res. 448, a resolution recognizing the 100th anniversary of Hadassah, the Women's Zionist Organization of America, Inc.

AMENDMENT NO. 2785

At the request of Mr. BEGICH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 2785 intended to be proposed to S. 3457, a bill to require the Secretary of Veterans Affairs to establish a veterans jobs corps, and for other purposes.

AMENDMENT NO. 2786

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of amendment No. 2786 intended to be proposed to S. 3457, a bill to require the Secretary of Veterans Affairs to establish a veterans jobs corps, and for other purposes.

AMENDMENT NO. 2789

At the request of Mrs. MURRAY, the name of the Senator from West Vir-

ginia (Mr. ROCKEFELLER) was added as a cosponsor of amendment No. 2789 proposed to S. 3457, a bill to require the Secretary of Veterans Affairs to establish a veterans jobs corps, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON (for herself and Mr. CARDIN):

S. 3532. A bill to amend the Internal Revenue Code of 1986 to clarify the treatment of church pension plans, and for other purposes; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that this statement be included in the RECORD upon introduction of my legislation, the Church Plan Clarification Act of 2012, with Senator CARDIN.

Today, my colleague Senator CARDIN and I are reintroducing this legislation, which refines the language included in our previous bill, S. 143.

Our goal is to resolve an unfortunate application of our current pension rules on church pension beneficiaries, and protect the retirement security of ministers and church lay workers.

Church pensions are critically important compensation plans that help support over one million clergy members across the country in their retirement—particularly those who dedicated their careers to serving in economically disadvantaged congregations.

Some of these plans date back to the 18th Century, and they are designed to ensure that our pastors and lay staff, who are often paid lower salaries, have adequate resources during their retirement years.

Today, denominational church plans provide benefits to an estimated one million-plus ministers, church workers, and their dependents, most of them working for small churches throughout the nation.

Church plans developed structures and mechanisms that reflect the differing church polities they serve and their unique status has been recognized in law.

However, recent IRS regulations governing 403(b) pension programs and legislative changes have resulted in uncertainty and compliance issues for church pension plans. In response, Senator CARDIN and I sent a letter to the Internal Revenue Service informing them of our legislation, nothing that the unintended consequences of their regulations may negatively affect church ministers and church lay workers.

I hope we can work to provide clarity for these distinctive plans and resolve this issue before the end of the year.

This unequal treatment is simply unfair, and it is time we correct it.

I ask my colleagues to join Senator CARDIN and me today in establishing parity for the beneficiaries of church pensions by supporting this necessary,

long overdue fix to the Internal Revenue Code.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3532

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

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Church Plan Clarification Act of 2012".

### SEC. 2. CHURCH PLAN CLARIFICATION.

(a) APPLICATION OF CONTROLLED GROUP RULES TO CHURCH PLANS.—

(1) IN GENERAL.—Section 414(c) of the Internal Revenue Code of 1986 is amended—

(A) by striking "For purposes" and inserting the following:

"(1) IN GENERAL.—For purposes", and

(B) by adding at the end the following new paragraph:

"(2) CHURCH PLANS.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), for purposes of this subsection and subsection (m), an organization that is otherwise eligible to participate in a church plan as defined in subsection (e) shall not be aggregated with another such organization and treated as a single employer with such other organization unless—

"(i) one such organization provides directly or indirectly at least 80 percent of the operating funds for the other organization during the preceding tax year of the recipient organization, and

"(ii) there is a degree of common management or supervision between the organizations.

For purposes of this subparagraph, a degree of common management or supervision exists only if the organization providing the operating funds is directly involved in the day-to-day operations of the other organization.

"(B) NONQUALIFIED CHURCH-CONTROLLED ORGANIZATIONS.—Notwithstanding the provisions of subparagraph (A), for purposes of this subsection and subsection (m), an organization that is a nonqualified church-controlled organization shall be aggregated with one or more other nonqualified church-controlled organizations, or with an organization that is not exempt from tax under section 501, and treated as a single employer with such other organizations, if at least 80 percent of the directors or trustees of such organizations are either representatives of, or directly or indirectly controlled by, the first organization. For purposes of this subparagraph, a 'nonqualified church controlled organization' shall mean a church-controlled organization described in section 501(c)(3) that is not a qualified church-controlled organization described in section 3121(w)(3)(B).

"(C) PERMISSIVE AGGREGATION AMONG CHURCH-RELATED ORGANIZATIONS.—Organizations described in subparagraph (A) may elect to be treated as under common control for purposes of this subsection. Such election shall be made by the church or convention or association of churches with which such organizations are associated within the meaning of subsection (e)(3)(D), or by an organization determined by such church or convention or association of churches to be the appropriate organization for making such election.

"(D) PERMISSIVE DISAGGREGATION OF CHURCH-RELATED ORGANIZATIONS.—For purposes of subparagraph (A), in the case of a church plan (as defined in subsection (e)),

any employer may permissively disaggregate those entities that are not churches (as defined in section 403(b)(12)(B)) separately from those entities that are churches, even if such entities maintain separate church plans.

“(E) ANTI-ABUSE RULE.—For purposes of subparagraphs (A) and (B), the anti-abuse rule in Treasury Regulation section 1.414(c)-5(f) shall apply.”

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(b) APPLICATION OF CONTRIBUTION AND FUNDING LIMITATIONS TO 403(b) GRANDFATHERED DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 251(e)(5) of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248), is amended—

(A) by striking “403(b)(2)” and inserting “403(b)”, and

(B) by inserting before the period at the end the following: “, and shall be subject to the applicable limitations of section 415(b) of such Code as if it were a defined benefit plan under section 401(a) of such Code and not the limitations of section 415(c) of such Code (relating to limitation for defined contribution plans).”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply as if included in the enactment of the Tax Equity and Fiscal Responsibility Act of 1982.

(c) AUTOMATIC ENROLLMENT BY CHURCH PLANS.—

(1) IN GENERAL.—This subsection shall supersede any law of a State which would directly or indirectly prohibit or restrict the inclusion in any church plan (as defined in this subsection) of an automatic contribution arrangement.

(2) DEFINITION OF AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term “automatic contribution arrangement” means an arrangement—

(A) under which a participant may elect to have the plan sponsor make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash, and

(B) under which a participant is treated as having elected to have the plan sponsor make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage).

(3) NOTICE REQUIREMENTS.—

(A) IN GENERAL.—The plan administrator of an automatic contribution arrangement shall, within a reasonable period before such plan year, provide to each participant to whom the arrangement applies for such plan year notice of the participant's rights and obligations under the arrangement which—

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(B) ELECTION REQUIREMENTS.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

(i) the notice includes an explanation of the participant's right under the arrangement not to have elective contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage),

(ii) the participant has a reasonable period of time, after receipt of the notice described in clause (i) and before the first elective contribution is made, to make such election, and

(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.

(4) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act.

(d) ALLOW CERTAIN PLAN TRANSFERS AND MERGERS.—

(1) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(Z) CERTAIN PLAN TRANSFERS AND MERGERS.—

“(1) IN GENERAL.—Under rules prescribed by the Secretary, except as provided in paragraph (2), no amount shall be includible in gross income by reason of—

“(A) a transfer of all or a portion of the account balance of a participant or beneficiary, whether or not vested, from a plan described in section 401(a) or an annuity contract described in section 403(b), which is a church plan described in subsection (e) to an annuity contract described in section 403(b), if such plan and annuity contract are both maintained by the same church or convention or association of churches,

“(B) a transfer of all or a portion of the account balance of a participant or beneficiary, whether or not vested, from an annuity contract described in section 403(b) to a plan described in section 401(a) or an annuity contract described in section 403(b), which is a church plan described in subsection (e), if such plan and annuity contract are both maintained by the same church or convention or association of churches, or

“(C) a merger of a plan described in section 401(a), or an annuity contract described in section 403(b), which is a church plan described in subsection (e) with an annuity contract described in section 403(b), if such plan and annuity contract are both maintained by the same church or convention or association of churches.

“(2) LIMITATION.—Paragraph (1) shall not apply to a transfer or merger unless the participant's or beneficiary's benefit immediately after the transfer or merger is equal to or greater than the participant's or beneficiary's benefit immediately before the transfer or merger.

“(3) QUALIFICATION.—A plan or annuity contract shall not fail to be considered to be described in sections 401(a) or 403(b) merely because such plan or account engages in a transfer or merger described in this subsection.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) CHURCH.—The term ‘church’ includes an organization described in subparagraph (A) or (B)(ii) of subsection (e)(3).

“(B) ANNUITY CONTRACT.—The term ‘annuity contract’ includes a custodial account described in section 403(b)(7) and a retirement income account described in section 403(b)(9).”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to transfers or mergers occurring after the date of the enactment of this Act.

(e) INVESTMENTS BY CHURCH PLANS IN COLLECTIVE TRUSTS.—

(1) IN GENERAL.—In the case of—

(A) a church plan (as defined in section 414(e) of the Internal Revenue Code of 1986), including a plan described in section 401(a) of such Code and a retirement income account described in section 403(b)(9) of such Code, and

(B) an organization described in section 414(e)(3)(A) of such Code the principal purpose or function of which is the administration of such a plan or account,

the assets of such plan, account, or organization (including any assets otherwise per-

mitted to be commingled for investment purposes with the assets of such a plan, account, or organization) may be invested in a group trust otherwise described in Internal Revenue Service Revenue Ruling 81-100 (as modified by Internal Revenue Service Revenue Rulings 2004-67 and 2011-1), or any subsequent revenue ruling that supersedes or modifies such revenue ruling, without adversely affecting the tax status of the group trust, such plan, account, or organization, or any other plan or trust that invests in the group trust.

(2) EFFECTIVE DATE.—This subsection shall apply to investments made after the date of the enactment of this Act.

## SUBMITTED RESOLUTIONS

SENATE RESOLUTION 551—COMMENDING THE 4 AMERICAN PUBLIC SERVANTS WHO DIED IN BENGHAZI, LIBYA, INCLUDING AMBASSADOR J. CHRISTOPHER STEVENS, FOR THEIR TIRELESS EFFORTS ON BEHALF OF THE AMERICAN PEOPLE AND CONDEMNING THE VIOLENT ATTACK ON THE UNITED STATES CONSULATE IN BENGHAZI

Mr. LUGAR (for himself, Mr. KERRY, Mr. REID of Nevada, Mr. MCCONNELL, Mr. AKAKA, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BAUCUS, Mr. BEGICH, Mr. BENNET, Mr. BINGAMAN, Mr. BLUMENTHAL, Mr. BLUNT, Mr. BOOZMAN, Mrs. BOXER, Mr. BROWN of Massachusetts, Mr. BROWN of Ohio, Mr. BURR, Ms. CANTWELL, Mr. CARDIN, Mr. CARPER, Mr. CASEY, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Ms. COLLINS, Mr. CONRAD, Mr. COONS, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. DURBIN, Mr. ENZI, Mrs. FEINSTEIN, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. GRAHAM, Mr. GRASSLEY, Mrs. HAGAN, Mr. HARKIN, Mr. HATCH, Mr. HELLER, Mr. HOEVEN, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JOHANNIS, Mr. JOHNSON of Wisconsin, Mr. JOHNSON of South Dakota, Mr. KIRK, Ms. KLOBUCHAR, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEE, Mr. LEVIN, Mr. LIEBERMAN, Mr. MANCHIN, Mr. MCCAIN, Mrs. MCCASKILL, Mr. MENENDEZ, Mr. MERKLEY, Ms. MIKULSKI, Mr. MORAN, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Nebraska, Mr. NELSON of Florida, Mr. PAUL, Mr. PORTMAN, Mr. PRYOR, Mr. REED of Rhode Island, Mr. RISCH, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. RUBIO, Mr. SANDERS, Mr. SCHUMER, Mr. SESSIONS, Mrs. SHAHEEN, Mr. SHELBY, Ms. SNOWE, Ms. STABENOW, Mr. TESTER, Mr. THUNE, Mr. TOOMEY, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VITTER, Mr. WARNER, Mr. WEBB, Mr. WHITEHOUSE, Mr. WICKER, and Mr. WYDEN) submitting the following resolution; which was considered and agreed to:

S. RES. 551

Whereas on September 11, 2012, 4 American public servants, including United States Ambassador to Libya, John Christopher Stevens, and Sean Smith, were killed in a reprehensible and vicious attack on the United States consulate in Benghazi, Libya;