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No. 60

## Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Holy God, how excellent is Your Name and all the Earth. Our praise can never match Your glory and majesty. Your grace gives worth even to the least of our efforts, so use us to fulfill Your purposes.

Give the Members of this body a new vision of Your glory. Help them to see that no obstacle is so difficult, no challenge so great, no setback so irreversible that Your purposes will not prevail. Free them to depend on You more deeply as they wait patiently for You to replenish their spirits. Lord, speak to our Senators so that their words may reflect the tenor of Your truth and the tone of Your grace. Father, let Your Name be magnified, for the kingdom, the power, and the glory belong to You. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, April 16, 2008.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. CARDIN thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following my remarks and those of Senator McCONNELL, if he chooses to make any this morning, there will be a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees. The majority will control the first half, and the Republicans will control the second half.

Following morning business, the Senate will resume consideration of the highway corrections bill. There will be no rollcall votes between 10 and 11 because the Pope is at the White House. I have spoken to staff, and I think we should be on a pathway of finishing this bill today. I hope so. I hope it is not necessary to file cloture on the bill. If that is necessary, I will file cloture this afternoon, and a vote will occur on Friday morning.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will now proceed to a period of morning business, with the time divided and controlled by the two leaders or their designees, with the majority controlling the first half of the time and the Republicans controlling the final half.

Mr. DURBIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### VIRGINIA TECH TRAGEDY

Mr. McCONNELL. Mr. President, 1 year ago today, a tragedy struck the campus of Virginia Tech, where the lives of 32 students and faculty members were tragically cut short in what was the worst campus shooting in U.S. history. We remember with sadness the terrible loss we all suffered that day while we all mourned with the Virginia Tech family. Our prayers go out to everyone in the Virginia Tech community who is remembering a loved one on this day.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GRAHAM. Mr. President, I would like 5 minutes to talk about the judge situation.

The ACTING PRESIDENT pro tempore. The Senator is recognized.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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## JUDICIAL NOMINATIONS

Mr. GRAHAM. Mr. President, No. 1, I wish to acknowledge the progress that was made yesterday between Senator MCCONNELL and Senator REID regarding an impasse over circuit court nominations.

The average, I believe, for the last 2 years of a Presidential term when the opposing party had control of the Senate, was 15 circuit court nominations being confirmed by the Senate. At this point, we are at seven.

As I understand, an agreement reached yesterday between Senator REID and Senator MCCONNELL will allow three circuit court judges to be moved forward by the May 23 recess. I appreciate that progress.

I live in the State of South Carolina, which is in the Fourth Judicial Circuit. We have a judicial emergency on hand there. A third of the Fourth Circuit Court of Appeals is vacant. We have two nominees, one from South Carolina and one from North Carolina, who have been awaiting hearings and confirmation for well over 200 days now.

I urge my colleagues to allow these fine candidates for the judiciary to move forward and the Senate get on about its business when it comes to judges. What I worry the most about is, over the last 4 or 5 years, we have had an experience with judges pretty much unknown to the Senate. There are a lot of anecdotal stories, a lot of cases in the past where people slow walked. I can only speak to my time here. I was involved in the Gang of 14 to make sure the Senate did not do something that would haunt the body for years to come. The Gang of 14 was a bipartisan effort to make sure filibustering judges would be done only in extraordinary circumstances, simply because if we engage in this practice of trying to hold up Presidential nominations based on philosophy and not qualifications, if all of us become President, so to speak, saying, I am not going to allow a vote on a judge I wouldn't have picked, it becomes chaos.

I urge Senators CLINTON and OBAMA, who have been, quite frankly, part of the problem, to look at the model they are setting, because if they do secure the White House, they do not want this to come back to haunt them.

I want an independent judiciary. I wish to make sure it is well paid and insulated as much as possible from an unfair process. The confirmation process is getting out of hand, overly political, too many political interest groups on the left or right have an inordinate amount of say in who gets on the bench. The role of the Senate is to pass judgment, an up-or-down vote, on qualified nominees sent over by the President.

I found in the Senate if you get someone who is an outlier, there is usually bipartisan support to say no to that nominee. President Bush sent over a couple nominees I opposed. Generally speaking, I expect my time in the Senate to defer as much as possible to a

Presidential nominee who I think is qualified and not base my vote or denying a nominee a vote based on the fact I would not have chosen that person. I certainly would not have chosen Justice Ginsburg, if I was President, but she is eminently qualified and received well over 90 votes, I believe.

I hope in the future we will allow judges to come to the floor, through the committee, in a timely process. The Fourth Judicial Circuit is in dire need of Judge Conrad and Mr. Steve Matthews from South Carolina having hearings and a vote. If a Senator does not like these nominees, they can vote against them. What happened there is creating a problem in the area of the country in which I live and, quite frankly, it is unfair.

I look forward to working with my colleagues to break this logjam. Senator DURBIN and Senator KENNEDY were kind enough to meet with Steve Matthews, the nominee from South Carolina, and I appreciate them doing so.

Let's not get into a pattern that will come back to haunt us as a body and do a lot of damage to the confirmation process and over time erode the independence of the judiciary.

I appreciate the progress that was achieved yesterday, but there is a lot more to do, particularly when it comes to the Fourth Circuit.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEMINT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## JUDICIAL CONFIRMATIONS

Mr. DEMINT. Mr. President, over the past couple of weeks, there has been a lot of talk about the lack of progress the Democrat majority in the Senate has made on judicial confirmations in the last couple of years, but I want to thank the majority leader for his promise last night to confirm three judges by Memorial Day. This is certainly welcome news. I hope at least one of those is the nominee for the Fourth Circuit.

As we all know, our courts are in crisis. Currently, there are over 40 vacancies on the U.S. Circuit Court, and of those half are judicial emergencies. The consequences of the majority's failure to act on these nominations result in extended judicial vacancies, increased casework, and a delay in verdicts. This obstruction is harmful for the American judicial system and the American people.

One of the most important jobs we have here in the Senate is to offer advice and consent to the President's judicial nominees. While I believe all of these nominees deserve an up-or-down

vote on the Senate Floor, I rise today specifically to speak on the current judicial vacancies on the Fourth Circuit Court of Appeals and the qualified nominees waiting for a vote.

The Fourth Circuit of Appeals, which covers South Carolina, North Carolina, Virginia, West Virginia, and Maryland, is one-third vacant. Even though the Fourth Circuit is facing so many pronounced vacancies, and there is a critical need for judges, the Democratic leadership has made no effort to move any of the pending nominees.

In spite of the number of vacancies, the Fourth Circuit, run by Chief Judge Karen Williams, continues to do a remarkable job. Many of the cases brought before the Fourth Circuit are extremely complex, and the judges must spend a longer amount of time on each of these cases before issuing their opinion. Our judges will not sacrifice quality, but it may take a lot longer for the court to issue its decision. We are lucky that the Fourth Circuit has the leadership it has. They are dedicated and hardworking, clearly, but we cannot continue with this high level of vacancy.

I have heard firsthand about the impact these vacancies have on the Fourth Circuit. Appellate courts must have enough judges to fill the panel, and if a seat is vacant, they must fill it somehow. This means judges from other circuits or judges from the district courts must take time away from their families, their caseload, their administrative tasks to fill the spot on the panel.

Two of the Fourth Circuit nominees, Mr. Steve Matthews of South Carolina and Mr. Robert Conrad of North Carolina, have the support of their home State Senators and are ready for a hearing in the Senate Judiciary Committee. Despite these facts, both nominees have been waiting for over 200 days for a hearing.

Let me quote an editorial from the Washington Post in December of 2007 in which they addressed the dire straits of the Fourth Circuit.

The Senate should act in good faith to fill vacancies—not as a favor to the President but out of respect for the residents, businesses, defendants, and victims of crime in the region the Fourth Circuit covers. Two nominees—Mr. Conrad and Steve A. Matthews—should receive confirmation hearings as soon as possible.

On that note, I wish to spend a couple of minutes telling you about Mr. Steve Matthews from South Carolina. President Bush nominated Steve Matthews in September of 2007, but the Senate Judiciary Committee has failed to hold a hearing on his nomination.

Matthews received his undergraduate degree from the University of South Carolina and his law degree from Yale Law School. He is currently the managing director of Haynesworth, Sinkler, and Boyd in Columbia, SC.

Prior to joining the Columbia firm, Matthews practiced in the Washington office of Dewey Ballantine and served

in the U.S. Department of Justice during President Reagan's second term. During his time at the Department of Justice, Matthews advised then Attorney General Ed Meese and President Reagan on the selection of nominees for Federal judgeships, and served as special counsel to Meese on the Iran Contra investigation.

I have personally met with Mr. Matthews several times and know he has the experience, the intellect, and the integrity necessary to serve on one of our Nation's highest courts.

We must fulfill our constitutional responsibility to vote on judicial nominations and allow hearings, as well as plain up-or-down votes here on the Senate Floor. The Senate Judiciary Committee has several extraordinary nominees before it, and the Fourth Circuit desperately needs their service.

Our courts are in critical need of judges and any inaction on these nominees is irresponsible and puts our Nation's judicial system at risk. Again, I thank the majority leader for committing to at least three by Memorial Day, and I appreciate the opportunity to address this issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I think the Senate is clearly in a slowdown. It is not fulfilling its responsibility to evaluate and vote on Presidential nominees for our courts in America.

We are now into the fourth month of 2008 and only one circuit judge, Judge Haynes, who received an ABA rating of unanimously well qualified—the highest rating by the bar—has been confirmed, and that confirmation only happened last week, April 10. So we have gone quite a long time here. We still have 10 pending nominations to the appeals courts that need hearings, need votes out of the Judiciary Committee, and need up-or-down votes on the Senate Floor.

Why is this a problem? I will tell you. Because President Bush campaigned on, and effectively, I believe, won the day on the argument that judges should be, as now Chief Justice John Roberts said at his confirmation hearing, neutral umpires. They are supposed to call the balls and strikes. They are not supposed to be on one side or the other. They are not supposed to be setting forth their personal political agendas in the guise of ruling on disputes of law in a courtroom. That is an abuse of the power of the judiciary. Members of the Judiciary are given lifetime appointments. They cannot be removed except through impeachment or death, and their salaries can not be reduced. It is critical that those judges show restraint and remember their proper role in our three branch system.

Now, the truth is that for many years my liberal activist colleagues have delighted in having Federal judges, and sometimes State judges, promote and affect a political agenda they could not

win at the ballot box. That is what it is all about. But we need judges who respect the rule of law and who understand they are not policymakers. If they want to set policy, let them run for Governor, let them run for President or the Senate. So President Bush has consistently submitted nominees with high ratings, even from the American Bar Association, which frequently, I submit, is more activist than I would favor. Indeed, they meet and have all these resolutions and pass these resolutions on issues with which I do not agree. I am a member of the ABA, but I don't agree with some of the positions they take in these resolutions. They meet in some big conference, unrepresented by the members of the bar, and they do these things.

I mention all that to say they have been rating these present nominees very well. They have been giving them high ratings because they are men and women of good legal ability, sound judgment, and President Bush would not nominate them if they were not committed to the proper role of a judge, in my view.

Circuit court vacancies—these are the 11 circuits we have. The circuit courts are the first level of appellate courts above the Federal district court, the trial courts. When you appeal a criminal conviction or a civil judgment in America, you appeal first from the district court to the circuit court. That is one step below the Supreme Court. Then you can appeal from there to the U.S. Supreme Court, Chief Justice Roberts and his team, right across the street. That is the way the system works. These appellate courts are important because the Supreme Court only takes 100 or so cases a year, and many of the rulings of the circuit courts have become final. That is one reason people consider them to be important. Ultimately, the Supreme Court will rule.

Despite the fact that there are 10 nominees for the 13 vacancies in the circuit courts, the Judiciary Committee, our committee, of which I have been a member now for almost 12 years, has only given a hearing to 1, and that was over a year and a half ago when Senator SPECTER was chairman, the Republican chairman.

Peter Keisler, the circuit nominee for the D.C. Circuit here in Washington, was given a hearing in August 2006, but he has still not been voted on, called up for a vote in the Judiciary Committee. He is a fabulous nominee. One of the reasons he is being objected to is the same reason they objected to Miguel Estrada, the same reason they objected to a lot of other nominees—he is so capable, he would be on the short list for the Supreme Court of the United States. If they can kill them off at this level, they will not be considered sometime in the future. That is just a fact. I have been here. I know how this works. There is no reason Peter Keisler ought not to be confirmed. He had a hearing in August 2006, and he still has

not been brought up for a vote in the committee.

Catharina Haynes was highly rated too. She was confirmed last week after we began to complain about this. That was the first circuit court nomination hearing since September of last year.

The Fourth Circuit is in a crisis. The vacancy rate is alarming. One-third of the seats are vacant. Four nominees are pending for those vacancies, but none has even been given a hearing.

Robert Conrad, former Federal prosecutor, has been waiting for a hearing for 265 days. He is also, at this point, a Federal district judge, a Federal district judge for the Western District of North Carolina. He was nominated for a judicial emergency. He has the support of both his home Senators, received a unanimous ABA rating of "well qualified," the highest rating you can get. He is a consensus nominee. The Senate unanimously confirmed him for his current district judge seat, and the ABA, then, ranked him unanimously "well qualified." The whole ABA 15-member committee voted him the highest rating, unanimously. So why hasn't he been given a hearing?

Steve Matthews has been waiting over 205 days. We have others out there who I think are being slowed down.

Mr. Conrad is an excellent nominee, in my opinion. He has a number of qualifications. I remember he was given the duty to conduct one of the investigations that occurred in the Department of Justice. He testified. I remember him testifying because I liked the honesty and directness in his testimony. He chose not to prosecute anybody for those offenses, but by all accounts he examined it carefully and fairly. Among other qualifications he had, he played point guard on the Clemson University basketball team in the ACC where he was an academic All-American basketball player, among the other things he did, which has always impressed me.

I would say there has been talk about invoking the so-called Thurmond Rule. The Thurmond Rule could sort of be, if you want it to be, an excuse for slow-walking nominees and not approving the nominees who ought to be approved just because there is a Presidential election on the horizon. Majority Leader HARRY REID mentioned last night that the so-called rule would be invoked in June. Senator LEAHY has mentioned before that he would invoke it in the second half of this year. Let me say this about the Thurmond Rule. It is a myth. It does not exist. There is no reason for stopping the confirmation of judicial nominees in the second half of a year in which there is a Presidential election.

I remind my colleagues that our now chairman of the Judiciary Committee, Chairman LEAHY, when he assumed control over the committee, stated he would institute the Thurmond Rule starting the spring of this year. He said:

The Thurmond rule, in memory of Senator Strom Thurmond—he put this in when the Republicans were in the minority—which said in a Presidential election year, after spring, no judges would go through except by the consent of both Republican and Democratic leaders. I want to be bipartisan. We will institute the Thurmond rule.

Those were his remarks at Georgetown University Law School in December 2006.

In May 2007, he reiterated that the Thurmond Rule would kick in next April. Senator LEAHY said:

Obviously the Thurmond rule kicks in.

But let's be very clear about it. The Thurmond Rule as interpreted is a false myth. Senator LEAHY, before the statements he made in 2006 and 2007 during the Bush Presidency, has admitted as much. In fact, as Senator LEAHY said in 2000, when the situation was somewhat different—during President Clinton's final year in office, like this is President Bush's last year:

There is a myth that judges are not traditionally confirmed in Presidential election years. That is not true. Recall that 64 judges were confirmed in 1980; 44 in 1984; 42 in 1988, when a Democratic majority in the Senate confirmed the Reagan nominees and, as I have noted, 66 in 1992, when a Democratic majority in the Senate confirmed 66 Bush nominees.

Those are not my words. Those are Senator LEAHY's words.

I see the distinguished ranking member of the Judiciary Committee is here. It is time for him to speak. I will just say that we, as Members of this Senate, have a Constitutional responsibility to move judicial nominees. We should not be playing games. Good nominees with strong support ought to be moved forward. A lot of these nominees have not been treated fairly. It is time to move them forward.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I begin by thanking my distinguished colleague from Alabama for his cogent, timely comments about the need to process the confirmation of judges. Republicans have reserved time in our period for morning business to speak to this issue in order to acquaint the American people with the importance of proceeding with the confirmation of Federal judges. The process has been slowed down very materially during the final two years of Presidential terms when the White House is controlled by one party and the Senate the other, as the White House is now controlled by Republicans and the Senate by Democrats.

As I have said on the Senate floor, this is a problem that has been going on for the past two decades. In the last two years of President Reagan's administration, there was a slowdown when Democrats were in charge of the Senate. The slowdown continued during the term of President Bush, the 41st President. Then, Republicans retaliated during the term of President Clin-

ton by slowing down the process. We have had very major disputes—I would even call them bitter disputes. Notwithstanding the disrepute of the word "bitter," sometimes it is applicable, and I think it is certainly applicable to the filibusters of 2005. During that confrontation between the parties, filibusters were used repeatedly by Democrats. Republicans retaliated in kind with the threat of a so-called nuclear or constitutional option.

As I have said on the floor on previous occasions, the fault lies, in my judgment, with both parties. I thought the Republican caucus was wrong in its response to President Clinton's nominees, and I backed up my opinion with my votes. I voted in support of President Clinton's qualified nominees.

It is my hope that we can find a resolution to this issue, that we can reach across the aisle. There is no doubt the American people are sick and tired of party bickering. There is also no doubt that the American people want prompt justice in our courts. Where you have judicial emergencies, as you have in many courts where nominees have been pending for protracted periods of time, failing to fill vacancies does great harm to the litigants who are waiting to have their cases heard. As a simple illustration, I'll use an automobile accident case. If somebody has this type of case in court, first you look to the jurisdiction, which is a judicial emergency, and there is no district judge to try the case. The litigant waits and waits. You do not have to emphasize the consequences of that situation. People are perhaps out of work from their injuries as their medical bills are rising. They ought to have their day in court to have the matter adjudicated. If the matter is finally tried, then an appeal is taken in the courts of appeals, and there are judicial emergencies there. Again, the litigant waits and waits. The problem is clear. It is my hope we would move ahead here and process judicial nominees.

I am pleased to note that some progress has been made, as announced by the majority leader after consultation with Senator MCCONNELL, the Republican leader. There is an arrangement to have three circuit judges confirmed before Memorial Day. That is a step in the right direction, providing that the right judges are confirmed.

It has been announced similarly that finally, at long last, after protracted disputes, there is an agreement between the White House and the Michigan Senators on the nomination of two circuit judges for the Sixth Circuit.

It is my hope that the confirmations will be directed to three of the nominees who have been ready for hearings or committee votes and have been waiting the longest time.

Peter Keisler, nominee for the District of Columbia Circuit Court of Appeals, has been waiting for more than 650 days. There has been some talk about the D.C. Circuit not needing an additional judge. That is simply not

factually correct. Mr. Keisler has been lauded by newspaper editorials—The Washington Post, the Los Angeles Times—and is preeminently well qualified to be confirmed to that position.

Judge Robert Conrad, Chief Judge of the U.S. District Court in North Carolina, has been waiting for over 270 days, and he is nominated to fill a judicial emergency. There is no blue-slip problem with Judge Conrad; the Senators from North Carolina are both urging his confirmation.

Similarly, with the nomination of Steve Matthews of the Fourth Circuit, he has been waiting for more than 220 days. And, again, both the blue slips have been returned. So, it is my hope we will move quickly to confirm Mr. Keisler, Judge Conrad, and Mr. Matthews. They are the ones who have been ready for committee action the longest and are most pressing.

By letter dated April 10, I wrote to Senator JOHN MCCAIN, Senator HILLARY CLINTON, and Senator BARACK OBAMA, asking for their positions on prospective motions, which I intend to pursue in the Senate, to discharge from the Senate Judiciary Committee the nominations of Judge Conrad, Mr. Keisler, and Mr. Matthews.

There are procedures where we can take the matters from the committee and take them to the floor for action by the entire body. The Constitution provides that confirmations will be handled by the Senate; there is no provision for committee action. In my judgment, when the controversies have raged for this period of time, the nominees ought to come to the full Senate.

I have also written to the interrogators of the debate, which is scheduled for this evening at the convention center of Philadelphia, Mr. George Stephanopoulos of ABC News and Mr. Charles Gibson of ABC News, suggesting that these would be appropriate questions for Senator CLINTON and Senator OBAMA during the course of the discussion this evening.

I ask unanimous consent that the text of the letters to Senator MCCAIN, Senator CLINTON, Senator OBAMA and Mr. Stephanopoulos and Mr. Gibson be included in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. SPECTER. Now, in these letters to the three Senators, dated April 10, I said I would not make the disclosure of them public until April 15, in order to give them an opportunity to reply before these letters were released to the press. I said:

I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Yesterday evening, I did receive a response from Senator OBAMA. I think it is worthwhile to read this into the RECORD. Senator OBAMA writes:

I am responding to your letter of April 10, 2008, regarding several pending judicial

nominations. As a former constitutional law instructor, I fully appreciate the important work that our Federal judges do and the need to fill judicial vacancies. However, I have great respect for the Senate's constitutional advice and consent role in the confirmation of these judges.

The concerns you have raised in your letter are important ones. However, since I am not a member of the Judiciary Committee, I would defer to Chairman Leahy on the scheduling of any committee votes on these pending nominations, and I would defer to Senator Reid on the scheduling of any floor votes.

Moreover, I am confident that we can work in a bipartisan fashion to continue to fill vacancies. Just last week, the Senate confirmed five judicial nominations. And today, Chairman Leahy has announced a resolution reached with the Administration over Sixth Circuit nominations. Those events highlight a desire on all sides to ensure that vacancies on the bench are filled.

Thank you for seeking my views on this issue. Sincerely, Barack Obama, United States Senator.

I begin by thanking Senator OBAMA for his reply. But, I disagree with him, disagree respectfully, on the position he has taken. When he says he is not a member of the Judiciary Committee, I believe his standing as a Member of the Senate is the determinative membership, and under the Constitution of the United States, the Senate has the constitutional responsibility to consent or not on pending nominations.

When Senator OBAMA says that "I would defer to Chairman LEAHY on the scheduling of any committee votes on these nominations," and, "I would defer to Senator REID on the scheduling of any floor votes," again, I disagree, respectfully.

A Senator's duties are not delegated. No Senator can delegate to anyone else his constitutional responsibilities. The Constitution does not refer to the Judiciary Committee. The Constitution does not refer to the majority leader. Even if it did, that would not provide a basis for a Senator, duly elected and sworn to uphold the Constitution, as I took an oath on five occasions and as Senator OBAMA has taken an oath and as every Member of this body has taken an oath, not to uphold the Constitution.

The Constitution says: The Senate confirms. The Constitution says: Senators vote. You cannot delegate your constitutional responsibilities. There is an abundance of case law on this subject in a myriad of contexts, and so, I would respectfully ask my colleague, Senator OBAMA, to reconsider.

I would also ask, respectfully, for Senator McCain to respond and for Senator Clinton to respond. Further, when Senator OBAMA talks about his confidence that we can work out, in a bipartisan fashion, an agreement to fill the current vacancies, I think that confidence is misplaced.

When Senator OBAMA makes note of the fact that there were confirmations last week, he does not make note of the fact that these were the first confirmations this year, and that there was no hearing on any circuit judge from September 25, 2007, until February 21, 2008.

What is required to move the process along is for Senators to discharge their duty. In proposing to bring these matters to the floor for action by the full Senate, it is my view that every Senator ought to stand up and say whether he agrees with what is going on today because I think we have an electorate that is concerned.

And, the purpose of this discussion today is to fully acquaint the electorate with what is happening. As we have seen in prior elections, obstructionism costs at the ballot box. I would prefer not to resort to the political process. I would prefer not to make this a campaign or an election issue. I would prefer to see the Senate decide this on the merits.

Again, I emphasize the need for independent judgments. I do not think it is sufficient for a Senator to say: I am going to defer to the chairman. I do not think it is sufficient for a Senator to say: I am going to defer to the majority leader.

When I disagreed with the chairman of the Judiciary Committee—and we had a very distinguished chairman, Senator HATCH, sitting beside me—I said to Senator HATCH: ORIN, I respectfully disagree. I am going to vote that way. Let the RECORD show Senator HATCH is nodding in the affirmative.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. SPECTER. I ask unanimous consent for 1 more minute.

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

Mr. SPECTER. When I disagreed with the majority leader, I said so. I would ask other Senators to do the same.

Mr. President, we have the Senator from South Carolina on the floor. He arrived in the middle of my remarks. I would ask that he be permitted to speak, and also Senator HATCH, be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Is there objection?

Mrs. BOXER. Reserving the right to object, we are laying down our bill. Senator DEMINT has been waiting for his amendment. He has a time problem. So I am willing to give another 3 minutes to our Republican friends. But, seriously, we need to get going on this bill. We have been on this bill now for 3 days.

We finally have an amendment. We would like to hear it. So I would agree to 3 minutes more.

Mr. SPECTER. Mr. President, I renew my request for 5 minutes for the two Senators who are on the floor.

Mr. DEMINT. I thank the Senator. I have spoken on judges. I will defer to Senator HATCH and make my comments later.

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

## EXHIBIT 1

U.S. SENATE,  
Washington, DC, April 10, 2008.

Hon. HILLARY RODHAM CLINTON,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR CLINTON: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

Mr. Keisler's nomination has been on the agenda since June 29, 2006, without a Committee vote despite his excellent credentials. He graduated magna cum laude from Yale University and then received his Juris Doctor from Yale Law School. In addition to clerking for Supreme Court Justice Anthony Kennedy, Mr. Keisler has held several high level positions in the Department of Justice. Most recently, he served as Acting Attorney General, providing much needed leadership after the resignation of Attorney General Gonzales. Prior to that, Mr. Keisler served as the Assistant Attorney General managing the Civil Division of the Justice Department. He is currently a partner in the D.C. office of Sidley Austin LLP. The American Bar Association has awarded him its highest rating, a "unanimous well qualified," and the editorial boards of the Los Angeles Times and The Washington Post have called him a "moderate conservative," a "highly qualified nominee," and someone who "certainly warrants confirmation."

The only objections raised to Mr. Keisler's nomination have nothing to do with his qualifications or suitability to sit on the D.C. Circuit. Instead, the objections concern whether the Senate needs to fill the 11th seat on the D.C. Circuit, the seat to which Mr. Keisler is nominated. On the contrary, there is recent precedent of the Senate confirming a nominee to fill the 11th seat on the D.C. Circuit. In 2005, the Senate voted to confirm Thomas Griffith to fill the 11th seat on the D.C. Circuit. Judge Griffith was voted out of the Judiciary Committee and confirmed with bipartisan support, including the support of Senators Biden, Feinstein, Durbin, Kohl, and Schumer. In addition, Congress recently validated the 11th seat of the D.C. Circuit when it passed the Court Security Improvement Act last year. Further, arguments against filling the 11th seat based on the decrease in the D.C. Circuit's caseload since 1997 are premature due to the recent addition of detainee cases to the circuit's jurisdiction and the possibility of an increase in administrative law cases due to choice of venue options.

I include Judge Conrad and Mr. Matthews in the proposed motion due to the critical need to expeditiously fill the vacancies on the Court of Appeals for the Fourth Circuit. Currently, one-third of the seats on the Fourth Circuit are vacant, leaving the court inexcusably understaffed. Judge Conrad and Mr. Matthews are also exceptional appellate court nominees. Judge Conrad is the Chief Judge of the Western District of North Carolina, a position to which he was unanimously confirmed in 2005. Prior to his service on the bench, he had a long career as a federal prosecutor, working in both Republican and Democratic administrations. He has the support of both his home state senators, and the ABA has rated him unanimously "well qualified." The vacancy to which Judge Conrad has been nominated has been declared a "judicial emergency" by the nonpartisan Administrative Office of the Courts. In fact,

there is a protracted history to this particular seat, which has been vacant since 1994. However, Judge Conrad has been waiting for a hearing for over 260 days.

Mr. Matthews is another outstanding circuit court nominee. A graduate of Yale Law School, Mr. Matthews has had a distinguished career in private practice in South Carolina. He also served for several years in appointed positions in the Department of Justice, including positions in the Civil Division, the Civil Rights Division, the Office of Legal Policy, and the Office of the Attorney General. He has been a shareholder of a prominent South Carolina law firm since 1991, and from 2004 to 2008 served as the managing director. He has the strong support of both of his home state senators. Despite his impressive and varied professional credentials, Mr. Matthews has been waiting for a hearing for over 200 days. Notwithstanding my repeated requests, no Committee action is planned at this time on any of the aforementioned nominees.

Another nominee, Justice Stephen Agee of Virginia was recently nominated to fill another judicial emergency on the Fourth Circuit. I remain hopeful that Justice Agee will be listed on a hearing agenda and acted on by the Committee in the very near future. If the Committee delays in processing his nomination, I may return to him, given the judicial emergency on the Fourth Circuit.

I write to find out how you would vote on the proposed discharge petition, but also, candidly, to focus the public's attention on these nominations. I know you are aware of the ongoing controversy as to whether the Judiciary Committee is processing nominations with appropriate dispatch. This type of delay has been a recurrent problem during the last two years of every President's Administration for the past two decades when the White House is controlled by one party and the Senate by the other.

I am also seeking the responses of Senator Obama and Senator McCain on this subject. I do not plan to make the news media aware of my inquiries until April 15th in order to give you ample opportunity to advise me of your response.

Thank you very much for your consideration of this request.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,

Washington, DC, April 10, 2008.

Hon. JOHN MCCAIN,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR MCCAIN: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

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Sincerely,

ARLEN SPECTER.

U.S. SENATE,

Washington, DC, April 10, 2008.

Hon. BARACK OBAMA,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR BARACK OBAMA: I write seeking your position on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler, nominee to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina, nominee to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina, nominee to the Court of Appeals for the Fourth Circuit.

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Sincerely,

ARLEN SPECTER.

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, April 15, 2008.

Mr. GEORGE STEPHANOPOULOS,  
ABC News.

DEAR GEORGE: On April 10, 2008, I wrote to Senator John McCain, Senator Hillary Clinton and Senator Barack Obama seeking their positions on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Caro-

lina to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina to the Court of Appeals for the Fourth Circuit.

With this letter, I am enclosing copies of those letters. I suggest you may find this subject a matter for questioning Senator Clinton and Senator Obama during tomorrow's debate in Philadelphia.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC, April 15, 2008.

Mr. CHARLES GIBSON,  
ABC's World News.

DEAR CHARLES: On April 10, 2008, I wrote to Senator John McCain, Senator Hillary Clinton and Senator Barack Obama seeking their positions on a prospective motion to discharge from the Senate Judiciary Committee the pending nominations of Mr. Peter Keisler to the Court of Appeals for the D.C. Circuit, Judge Robert Conrad of North Carolina to the Court of Appeals for the Fourth Circuit, and Mr. Steve Matthews of South Carolina to the Court of Appeals for the Fourth Circuit.

With this letter, I am enclosing copies of those letters. I suggest you may find this subject a matter for questioning Senator Clinton and Senator Obama during tomorrow's debate in Philadelphia.

Sincerely,

ARLEN SPECTER.

Mr. HATCH. Mr. President, last week an event occurred that was a long time coming.

I am not talking about the grand opening of the Newseum a few blocks from here down Pennsylvania Avenue.

No, last week the Senate finally voted on and confirmed a few nominees to the Federal bench.

This event is of historical proportions because not since 1848 had the Senate taken this long to confirm a Federal judge in a Presidential election year.

You heard me right.

The first judicial confirmation of 2004 was on January 28, the first one in 2000 was on February 10, and the first one in 1996 was on January 2.

One of my Democratic colleagues was here on the floor last week trying to shuffle the historical chairs on the judicial confirmation deck by talking about the 1996 session rather than 1996 itself because the second session of the 104th Congress began on January 3.

By dicing and splicing the calendar that way, he tried to avoid counting all of the judges we confirmed that year.

I am not going to play that game.

I am comparing apples with apples, years with years.

In 33 of the 40 Presidential election years since 1848, the Senate confirmed the first Federal judge by the end of February.

Not mid-April, not mid-March, but the end of February.

This is the latest start to judicial confirmations in a presidential election year in 160 years.

Now I realize that the Senate cannot vote on nominations that have not been reported to the floor from the Judiciary Committee.

And the Judiciary Committee generally does not report out nominees who have not had a hearing.

Unfortunately, the Judiciary Committee has simply not been holding hearings for nominees to the U.S. Court of Appeals.

There was no judicial confirmation hearing at all last month, and the hearing 2 weeks ago was yet another one with no appeals court nominee.

This graph shows the number of appeals court nominees receiving a Judiciary Committee hearing in each of the 16 Congresses since I was first elected to the Senate.

These are the 95th Congress in 1977-78 to the current 110th Congress.

You can see there is some variation here and there from Congress to Congress, but without a doubt the 110th Congress is the lowest of them all.

Appeals court nominees are simply not getting hearings.

This graph helps us better evaluate what is going on today.

The Judiciary Committee held a hearing for an average of 23 appeals court nominees in the previous 15 Congresses during which I have served in this body.

One of my Democratic colleagues last week actually mocked using such an average as a comparison.

This average is over many years and includes periods when Democrats as well as Republicans ran the Senate and occupied the White House.

It is a much better, much more reliable standard than pulling out the single year or, worse yet, only the portion of a single year that makes a predetermined partisan point.

Today, 15 months into the 110th Congress, only five appeals court nominees have received a hearing.

That is less than one-fourth the average over the previous 30 years.

Now some might say that Presidential election years, and therefore Presidential election Congresses, are different, that everything slows down.

OK, fair enough, perhaps that would be a better comparison.

Comparing the current Congress with the previous seven Presidential election Congresses, however, only widens the contrast between what the Senate has done in the past and what the Senate is not doing today.

It turns out that the Judiciary Committee held a hearing for an even higher average of 25 appeals court nominees during those Presidential election seasons.

In the current Presidential election season, however, only five appeals court nominees have had hearings.

If the partisan roles were reversed and the pace of hearings for appeals court nominees had slowed to perhaps one-half or one-third of the historic average, I can guarantee you that my friends across the aisle would be down here raising the roof about how we were failing to do our confirmation duty.

In fact, when I chaired the Judiciary Committee under the previous President and the hearing pace was much faster than it is today, my colleagues

on the other side did complain early, loudly, and often.

But the pace today is worse than one-half, worse than one-third, worse even than one-fourth of the historic average.

The current Judiciary Committee hearing pace for appeals court nominees is the worst in decades.

In fact, there is virtually no current pace at all.

It has not been this way in the past, and it does not have to be this way today.

I am pleased that last night the distinguished majority and minority leaders spoke about this here on the floor and the majority leader acknowledged that "we need to make more progress on judges."

The majority leader said he would do his very best, his utmost as he put it, to confirm three more appeals court nominees by Memorial Day, which is coming in less than 6 weeks.

I would like to point out a few highly qualified nominees who have been waiting a long time and who I hope will be included in this effort.

Yesterday, this editorial appeared in the Washington Post.

It opens with these words: "It is time to stop playing games with judicial nominees."

The editorial correctly notes that the Senate confirmed more than twice as many appeals court nominees in the final 2 years of the Clinton administration than the Senate has confirmed so far in the 110th Congress.

Even with the three additional appeals court nominees the majority leader has pledged to confirm, we have a lot of ground to make up.

The editorial suggests beginning to make up that ground by confirming Peter Keisler to the U.S. Court of Appeals for the D.C. Circuit and Rod Rosenstein to the Fourth Circuit.

Unlike some other languishing appeals court nominees, Mr. Keisler has at least had a hearing.

But it was 624 days ago.

Mr. Rosenstein has not been waiting that long but is fully as qualified. As the Post editorial points out, he has admirers on both sides of the aisle and is an excellent and principled lawyer.

Two other Fourth Circuit nominees whose consideration by the Judiciary Committee is long overdue are Steven Matthews of South Carolina and Robert Conrad of North Carolina.

My colleagues from those States are speaking in more detail on the floor today, but I want to highlight that these fine nominees have the strong support of their home-State Senators.

Lack of such support can be a reason why a nominee does not get a hearing.

I know, because that is the reason I could not give a hearing to some Clinton judicial nominees when I chaired the Judiciary Committee.

But that is not the case with these nominees.

And in Judge Conrad's case, this body confirmed him just a few years ago to the U.S. District Court without even a rollcall vote.

I hope that this pledge by the majority to make some much-needed confirmation progress is not just a temporary flash in the pan.

The majority leader last night suggested that there is some kind of rule that the Senate does not confirm judicial nominees after June.

He actually referred to this as the Thurmond doctrine.

I want to say to my colleagues that there is no such thing as a Thurmond doctrine, a Thurmond rule, or even a Thurmond guideline for judicial confirmations in a Presidential election year.

In 2000, the current Judiciary Committee chairman said that while things might, he said might, slow down "within a couple months of a presidential election," that the best judicial confirmation standard was set in 1992.

Like today, his party was in the majority.

Like today, a President Bush was in the White House.

Senator Thurmond himself was ranking member of the Judiciary Committee.

In that Presidential election year, the Judiciary Committee held hearings on appeals court nominees until September 24 and the Senate confirmed appeals court nominees until October 8.

The Senate confirmed 66 judges, including 11 appeals court judges, in 1992.

So I want to dispel this judicial confirmation myth that there is any kind of rule, let alone a doctrine, that justifies shutting down the confirmation activity which I hope and trust is finally about to begin.

There is no doubt that we are way behind where we should be in the judicial confirmation process.

But it does not have to stay that way, not if we are serious about doing our duty.

As the Washington Post editorial said, the Senate "should at least give every current nominee an up-or-down vote and expeditiously process the nominees to the U.S. Court of Appeals for the Fourth Circuit."

That would be a great place to start.

#### MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### HIGHWAY TECHNICAL CORRECTIONS ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1195, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1195) to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

AMENDMENT NO. 4146

(Purpose: In the nature of a substitute)

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 4146.

(The amendment is printed in the RECORD of March 7, 2008, under "Text of Amendments.")

Mrs. BOXER. Mr. President, I know my colleague Senator DEMINT is here to offer what will be the first amendment to this bill. I thank him, because I know he initially had several amendments. It looks as though he has boiled it down to one amendment. I know Senator INHOFE and I are glad about that. I thanked him previously for calling me and saying that he was pleased with the way we treated the transparency of this bill.

I have been given a copy of the amendment by the Senator from South Carolina. I will listen carefully to his presentation, and I will have remarks afterward. Senator INHOFE may also have some remarks prior to Senator DEMINT being recognized.

Senator INHOFE and I are hopeful we can get this completed. This is a bill that overall creates not one more penny of new spending. It will unleash into our economy, however, a billion dollars already budgeted for. That is why so many people are supporting this in real life: Construction companies, workers, transit operators. All of them have written to us. I will put those names in the RECORD. We are hopeful, if everybody cooperates today, we can get this finished. This bill isn't rocket science. It is very simply making technical corrections to SAFETEA-LU and in places where some projects simply couldn't go forward, replacing those projects without adding a penny of new spending. There is full transparency.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I agree with the comments made by the chairman. It is my understanding we are down to maybe three amendments. I have talked to Senator COBURN, who has an amendment, as well as Senator BOND. It is my hope that Senator DEMINT will be able to present his amendment. Then it is my understanding we will hold votes until early this afternoon and maybe try to get some of the others out of the way. Being a conservative, I want to make sure everybody understands: A technical corrections bill is always necessary when we have a major reauthorization of transportation. There are some things in here that are borderline. One case, in my State of Oklahoma, in Durant, I mistakenly said 200 yesterday, but it is \$300,000 on a road program that the Department of Transportation came back and said: We thought we were ready for this, but we



are not. But we are, on down the road in Idabel.

It is common sense that that is where it should be done. It is the same amount of money. I agree with the principle behind the amendment of the Senator from South Carolina, but in this case we have to have the technical corrections bill in order to go forward with a lot of the projects that have been authorized since 2005. I am hopeful we will be able to proceed along those lines.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

#### MOTION TO RECOMMIT

Mr. DEMINT. Mr. President, I have a motion to recommit at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Motion to recommit H.R. 1195 to the Committee on Environment and Public Works of the Senate with instructions to report the bill back to the Senate with an amendment striking all new earmarks and spending increases for existing earmarks.

Mr. DEMINT. Mr. President, I thank the chairwoman and ranking member for setting an example for this body in how a bill should be presented to the Senate—with full disclosure, all documentation. It allows us to have an open and honest debate about any differences. There is no question about what is contained therein and what is not. In this case, we disagree on parts of this, but I don't want to begin without first saying I believe the chairwoman and ranking member have set an example for the rest of the committees.

My motion to recommit simply addresses what I believe are serious problems in developing a technical corrections bill that actually changes the legislation from one earmark to another or pluses up earmarks, takes money from an earmark that might be not needed anymore, the project is not wanted, that money is moved somewhere else. While it certainly is correct that the total cost of the bill is about the same, we do need to remember that by next year, we are projecting over a \$3 billion shortfall in the trust fund. So instead of adding to earmarks and creating new ones, it makes sense to try to save some of that money so we can fund important infrastructure projects around the country.

The motion to recommit sends this bill back to committee with an amendment that says it should be presented back to the Senate where all of the new earmarks are excluded and any additions to funding for existing earmarks is returned to the current level. What that leaves us with is a technical corrections bill, which is what this bill should be.

The administration has noted with strong concerns that the majority of the technical corrections bill is devoted to earmarks. It modifies hundreds of earmarks from the legislation

that passed in 2005. It effectively creates new earmarks, including a standalone section that would provide mandatory funding for a magnetically levitating rail system. The presence of excessive earmarks in the 2005 bill created significant inefficiency in the allocation of resources to fund transportation infrastructure.

I have heard regularly from the Department of Transportation of the difficulty in implementing a national transportation system with thousands and thousands of earmarks for special projects that don't necessarily match State priorities.

I encourage my colleagues to take a look at the motion to recommit. It does not kill the bill. It simply refocuses on a technical correction perspective rather than adding to earmarks or creating new ones.

I thank the chairwoman for the opportunity to offer this and thank both her and the ranking member for setting an example of how a bill should be brought to the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, again, I thank the Senator for his kind comments about the way we have handled this legislation.

This amendment is, first, wrong on its face and, second, it is going to kill the bill. Of all times to try and kill what I consider a mini-economic stimulus plan, this is not one of them. We have a lot of people out of work. Many people have called Senator INHOFE and myself, and others, saying this is an important piece of legislation.

I will read the names of those people, because I believe it is important that we show the breadth of support. It is a very simple piece of legislation, but it will correct some errors. It will say, as an example, in Oklahoma—and we have them in California—and for all these 500 projects, one leg of a project might not have been ready. Let's put the funds where they can be used now, where they are ready to go. Unleashing up to a billion dollars of funds right now means tens of thousands of jobs, and we have to rebuild our infrastructure. We are doing it within the confines of the moneys that were already authorized.

Again I have said this so many times, I am sure it is boring people, but I think it is important to note who has written to Senator INHOFE and myself to move this bill: the American Association of State Highway and Transportation Officials, whose members include the Departments of Transportation for all 50 States; the American Highway Users Alliance, whose members represent millions of highway users; the American Public Transit Association; the American Road and Transportation Builders Association; the Associated General Contractors; the Council of University Transportation Centers; the National Stone, Sand and Gravel Association; the Na-

tional Asphalt and Pavement Association.

This is not one of these bills that is a matter of some intellectual debate. This means real jobs for real people and real infrastructure improvements for all the people of this Nation who count on us to keep their highway and transit systems moving.

What does Senator DEMINT do? He would send this bill back to the committee, in essence killing the bill. We passed this bill out of committee on a bipartisan voice vote on June of 2007. Here we are, moving toward June of 2008. Why on Earth would we want to stop the forward progress of this legislation? We can't afford further delay.

I am sorry my colleague has left the Chamber, but Senator DEMINT had several projects that he asked for in SAFETEA-LU. I ask unanimous consent to print a list of those projects in the RECORD.

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

#### DEMINT SAFETEA PROJECT REQUESTS

Senator DeMint requested 13 different earmarks in SAFETEA, totaling \$110 million dollars.

1. I-73, Construction of I-73 from Myrtle Beach, SC to I-95, ending at the North Carolina state line: \$40,000,000.
2. Construction of I-73 from Myrtle Beach, SC to I-95, ending at the NC state line: \$10,000,000.
3. Widening of US 278 to six lanes in Beaufort County, SC between Hilton Head Island and SC 170: \$15,000,000.
4. Engineering, design and construction of a Port Access Road connecting to I-26 in North Charleston, SC: \$10,000,000.
5. Improvements to US 17 in Beaufort and Colleton Counties to improve safety between US 21 and SC 64: \$10,000,000.
6. Widening of SC 9 in Spartanburg County from SC 292 to Rainbow Lake Road: \$5,000,000.
7. Complete Construction of Palmetto Parkway Extension (I-520) Phase II to I-20: \$3,000,000.
8. Complete a multi-lane widening project on SC Hwy 5 Bypass in York County, SC between I-77 and I-85: \$4,000,000.
9. Re-construction of an existing interchange at I-385 and SC 14, in Laurens County, SC: \$2,000,000.
10. Construction of the Lexington Connector in Lexington County, SC to alleviate traffic congestion: \$2,000,000.
11. Widening of 4.4 miles of West Georgia Road in Greenville County, SC: \$2,000,000.
12. Extension of Wells Highway in Oconee County, SC: \$2,000,000.
13. Demolition of the old Cooper River Bridges in Charleston, SC: \$5,000,000.

Total: \$110,000,000.

Mrs. BOXER. All of these will bring jobs and improve transportation in the State of South Carolina. That is why I supported it, as did Senator INHOFE. That is why we all supported it. There is a number of projects contained here, 13 projects, \$110 million, Senator DEMINT has in SAFETEA-LU. Fortunately for Senator DEMINT, none of his projects required any technical corrections.

Let's take one: Construction of I-73 from Myrtle Beach, SC to I-95, ending

at the North Carolina State line. Suppose something had turned up in the engineering and they had to stop it further toward Myrtle Beach, but they couldn't go ahead with the project until they made that technical change. Then Senator DEMINT would find that the project was stymied. He is fortunate. He didn't have this problem. But a lot of us weren't so fortunate. We did have issues in our States where we had to make changes.

This legislation fixes nearly 500 descriptions for highway and transit projects. Without the changes included in the legislation, many of these projects will continue to be stuck at red lights. This isn't the time to slow down job creation. This is the time to unleash job creation. This technical corrections bill provides a green light that could unleash up to \$1 billion in transportation projects. The funding has been approved before, so we are not increasing spending. Given the current slowdown in our economy, we simply cannot afford to allow these funds to remain unused.

At the appropriate time, I am going to move to table the DeMint motion. I think we are working on an agreement to have a vote on that motion at around 2 o'clock.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will just be a moment. I see the Senator from Florida wants the floor. But let me, first of all, say that this is right. In my State of Oklahoma, we had some things for which it took 7 years for this bill to come into reality. The reauthorization is something we should do every other year, but we did not do it.

When you pass a bill of this magnitude—and, look, I have to say there is no one person in this body of 100 Senators who is more conservative than I am. That is what all the ratings say. ACLU has me as No. 1. So it is not a matter of conservative versus liberal. This is a matter of doing what we are supposed to do. We are supposed to defend America. We are supposed to work on the infrastructure. We have been doing it since the National Highway System came into effect back in the Eisenhower administration.

But I had two changes that were in my bill. I had a light signalization that was meant to take place in Tulsa, OK. This is a modernization, using new technology. However, in the original bill, it said "Oklahoma." It did not say "Tulsa, OK," when clearly that was our intent. So the Department of Transportation of Oklahoma said: Put in "Tulsa" so we know where that belongs.

The other one, which I have already mentioned, was the \$300,000 for a project. Actually, it was a feasibility study in Durant, OK, in southern Oklahoma. Then they found out later that you are better off doing it down the road from there in Idabel. Consequently, if we are forced not to be

able to make that technical correction, we would be forced to spend \$300,000 on something we are not ready to do.

So the important thing to get across to people is that this technical corrections bill does not increase the total amount of authorizations that are taking place right now from the 2005 bill. It is the same amount. I do not want people to think it is not, because it is, and that is an irrefutable fact.

I kind of agree with the chairman of the committee when she talks about that this will kill the bill. It would if it went back and they could not move it, the House would not accept this. This is one of the most difficult things to deal with when we are doing the authorization bill because every time we finally get an agreement here, we have to go over there and get the same thing—Democrats and Republicans here and Democrats and Republicans there. I just don't want to put ourselves in a position where we send anything over there that could kill this bill because this is necessary to finally finish the implementation of the 2005 Transportation authorization bill.

So with that, I will yield the floor, and I will have more to say later.

The PRESIDING OFFICER. The senior Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise to speak in favor of the technical corrections bill. In large part, we have a technical correction in the bill affecting a major interstate project in Florida that needs to be passed.

Now, the story I am about to tell you is going to amaze some people of what happened.

A few years back, when we passed the highway bill, they passed the version in the House, and we passed the version in the Senate, and they got merged so they were identical. The bill was getting ready then—the same bill that had passed both Houses—to go to the President for signature. But a strange thing happened on the way to the White House because someone—identity yet unknown—went in and changed the language, which was, "Widening and Improvements for I-75 in Collier and Lee County"—a matter of \$10 million in the highway bill—and changed that to be, instead, \$10 million for a study for an interchange on Interstate 75 at Coconut Road.

Now, the long and short of it is, you simply cannot do that once it passes the House and passes the Senate in identical form and then goes to the President in that identical form for signature. Somewhere in the process of enrolling the bill to send it down to the White House, someone is not permitted to go in and change the meaning of the appropriation—in this case, \$10 million for widening Interstate 75, which has become a parking lot at 7 o'clock in the morning and 5 o'clock in the afternoon because of all the traffic. That is why we want to widen Interstate 75 in southwest Florida to six lanes instead of the existing four lanes.

Someone went in and changed the intent and wording of the bill. So what we have in the technical corrections bill is a technical correction to have the law read, in fact, what it was intended to read, and what it, in fact, did read until somebody went in and tampered with it.

Now, in the meantime, we have had correspondence from the chairman of the Committee on Transportation and Infrastructure in the House of Representatives to the local metropolitan planning organization, which has, under State law, the authority for setting up the priorities for road projects, saying to them that you need to follow the law—the law as it went to the President for signature. We have correspondence back from the metropolitan planning organization—in this case, many letters, but in the one I have in my hand to me—stating there was an error in the enrollment of the bill and the metropolitan planning organization wants the original intent of the legislation to be what governs, which is the widening of Interstate 75, and the \$10 million used for that.

So, Mr. President, I ask unanimous consent to have printed in the RECORD both of these pieces of correspondence.

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

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, January 23, 2006.

Mr. JOHN ALBION,  
Chairman, Lee County Metropolitan Planning Organization (MPO), Fort Myers, FL.

DEAR CHAIRMAN ALBION: Thank you for your letter of December 21, 2005 updating the Committee Transportation and Infrastructure on the Lee County MPO's Long Range Transportation Plan and their decision to exclude the Coconut Road Interchange from its financially feasible plan. The letter further requests a "re-programming" to occur for these funds.

Section 1701 of Subtitle G, Title I of SAFETEA-LU (Public Law 109-59) contained amendments to the law located in Section 117 U.S.C. Title 23, titled High Priority Projects. The authority provided in Sec. 117 with regard to projects authorized in Sec. 1702 on SAFETEA-LU is quite clear and unambiguous. Projects for which funds are designated are available only for that project. The state in which the designated project resides is free under the terms of the law to build, or not build the project. However, the law does not provide authority for a state to use funds designated for an authorized project on some other project.

In this important sense then, the funds made available to these authorized projects are not subject to the same legal terms and conditions as formula funds.

As the second session of the 109th Congress proceeds, the Committee will, as the Committee has historically done on previous re-authorizations, work to pass into law a bill to amend SAFETEA-LU. This bill, which in previous Congresses has been titled a corrections bill, will seek to make improvements, rectify errors and modify aspects of SAFETEA-LU. With regard to Sec. 1702, my past experience on this committee suggests that where a state elects to not utilize funds designated for an authorized project, the committee will incorporate the effect of that

decision as appropriate when developing the bill. In an era of funding shortfalls, it is an important responsibility of the committee to see that all funds provided in SAFETEA-LU are in fact used for their intended benefit on the transportation system.

Sincerely,

DON YOUNG,  
*Chairman.*

LEE COUNTY METROPOLITAN  
PLANNING ORGANIZATION,  
Fort Myers, FL, August 20, 2007.

Hon. BILL NELSON,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR NELSON, I write as Chair of the Lee County MPO requesting that the language for the \$10 million "Coconut Road Earmark" be restored to the language that both the House and Senate approved when they voted final passage of SAFETEA-LU on 7/28/05—"Widening and improvements for I-75."

This correction to the legislation corrects an error in the enrollment of the bill. The language in the Public Law is not the same as that passed by the House and Senate. During the enrollment process, managed by Congressman Don Young (AK), someone tampered with the bill. Funds for I-75 improvement were changed to funds for a totally new Coconut Rd. interchange—a project not on the MPO priority list.

The specific requested change is as follows: Technical Amendment to SAFETEA-LU (119 Stat. 1509) [PL. 109-59, Section 1934]: The table contained in Section 1934 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1509) is amended in item number 462 by striking "Coconut Rd. interchange I-75/Lee County" and inserting "I-75 widening and improvements in Collier and Lee County, FL."

The MPO has been discussing this topic for two years, attempting to understand how we received money for a project that was not anywhere on our priority list. We were told that we had no choice other than to accept it or return it. Having learned that our entire delegation and the full Congress actually voted for an MPO priority project and that it is possible to have an enrollment error corrected, on Friday August 17, 2007, the MPO voted (10 in favor, 3 opposed, 2 absent) to request this technical amendment.

On behalf of the MPO, I thank you for your assistance in this matter. If you wish to contact me, please contact me directly. I look forward to your reply to our request.

Cordially,

CARLA BROOKS JOHNSTON,  
*MPO Chair.*

Mr. NELSON of Florida. So we come to this point. It is absolutely critical that we pass a technical correction so that the law, as it was intended by the passage in the House and the Senate, be honored. The question is, What about the tampering? Well, we need to find out.

Mr. COBURN, the Senator from Oklahoma, has taken great umbrage at this tampering. I can tell you, as the senior Senator from Florida, I am very grateful to him for him being upset and wanting to do something about this. This Senator and my colleague from Florida have signed on to an amendment by Senator COBURN trying to get to the bottom of who did the tampering and how did it occur so this kind of stuff will never happen again.

There is some question about the way Senator COBURN's amendment is

drafted, that it would be a direction to the House of Representatives which might meet some constitutional problem, in which case what we are trying to work out is that there would be a future amendment where there would be an investigation by the General Accounting Office and maybe some resolution with regard to the Justice Department saying that this matter ought to be investigated as to a violation of the laws of this country in that you cannot tamper with legislation like this.

Whatever we resolve, I hope we will get it in because we have that separate issue of the tampering that needs to be dealt with, and it needs to be exposed to the light of day so people will understand you just do not take a bill that is duly passed by the Congress of the United States and, while it is en route from Capitol Hill to 1600 Pennsylvania Avenue, change the meaning of the bill.

It is my hope that as we get into all these other issues that seem to have cropped up that have nothing to do with Interstate 75, we can get these other issues resolved so the technical correction can proceed and that we can get this particular technical correction adopted into law.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent that at 2:15 p.m. today the Senate proceed to vote in relation to the DeMint motion to recommend the bill, and that no further amendments be in order to the motion prior to the vote; that following the conclusion of the debate this morning with respect to the motion, it be set aside to recur at 2 p.m., with the time until 2:15 p.m. equally divided and controlled between Senators BOXER and DEMINT or their designees; and that at 2:15, without further intervening action or debate, the Senate proceed to vote in relation to the DeMint motion to recommit the bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mrs. BOXER. Mr. President, since we have a lull in the conversation about the technical corrections bill—and the reason for that is, frankly, it is a very straightforward bill. We know of two other amendments. We are working with Senator COBURN on his amendment dealing with an investigation into what occurred in the Coconut Road project in Florida. We know Senator BOND has an amendment which is

really not a technical correction. It goes to overturning a law that was passed which protects consumers when they are defrauded by furniture moving companies. That is his amendment. We hope he can come down here so we can get going; we can start to debate that.

But in the meantime, I have asked Senator INHOFE if he had any objection if I rose to pay tribute to 19 young Americans who were killed in Iraq who were either from California or based in California, and he had no objection to that. I don't know if I need to ask to speak as in morning business. If that is the appropriate thing, I ask unanimous consent to do so.

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

(The remarks of Mrs. BOXER are printed in today's RECORD under "Morning Business.")

Mrs. BOXER. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CASEY). The Senator from Wyoming is recognized.

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak as in morning business.

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

HALTING THE GROWTH OF GREENHOUSE GASES

Mr. BARRASSO. Mr. President, later today, President Bush will propose halting growth in U.S. greenhouse gases by the year 2025. In his speech at the White House, the President is expected to place significant emphasis on new technology.

I recently introduced legislation to address the challenge of how to deal with greenhouse gases. The bill is called the Greenhouse Gas Emissions Atmospheric Removal Act, or the GEAR Act.

Members of this body have discussed various proposals to regulate the output of greenhouse gases. Some advocate doing it through a cap-and-trade approach. Others have advocated a carbon tax. Such proposals are aimed at limiting future carbon output into the atmosphere. Many proposals have been introduced and debated using this approach of dealing with carbon output.

Overlooked in the debate are the greenhouse gases that are already in the atmosphere. The best science tells us that the greenhouse gases already in the atmosphere are the gases that are causing the warming of our planet. To what extent, we are not certain.

So let's resolve to find a way to remove the excess greenhouse gases that are already in the atmosphere—remove them and then permanently sequester them.

To accomplish this goal, we are, as a nation, going to need to make a significant investment to develop new technology.

The approach my legislation takes to address this is through a series of financial prizes—prizes where we set the technological goals and also define the outcomes we demand.

The first researchers who meet each criteria will receive not only a financial prize but also international acclaim.

The prizes would be determined by a Federal commission under the Department of Energy. The commission would be composed of climate scientists, physicists, chemists, engineers, business managers, and economists.

The commission would be appointed by the President with the advice and consent of the Senate. The awards would go to those, both public and private, who would achieve milestones in developing and applying technology—technology that could significantly help to slow and even reverse the accumulation of greenhouse gases in our atmosphere.

The greenhouse gases would have to be permanently sequestered, and sequestered in a manner that would be without significant harmful effects.

This is how it would work. There would be four different levels of prizes.

The first level would go to either the private or public entity that could first demonstrate a design for successful technology that could remove and permanently sequester the greenhouse gases.

Second, there would be a prize for a lab scale demonstration project of the technology that accomplishes the same thing.

Third, there would be an award for demonstrating the technology to remove and permanently sequester greenhouse gases that is operational at a larger working model scale.

Finally, there would be an award for whoever can demonstrate the technology to remove and permanently sequester greenhouse gases on a commercially viable scale.

There you have it—four different levels of development: First, to design the technology; second, a lab scale demonstration of the technology; then for a larger working model; and then, finally, the proven use of the technology on a commercially viable scale.

Well, once the technology is developed, the United States would share intellectual property rights to that technology with whomever invented it.

This bill, as drafted, does not include a specific dollar amount for each prize. Instead, it authorizes such sums as may be necessary.

The commission will be directed to report to Congress 1 year after enactment into law. The commission will recommend the levels of funding that would be necessary to achieve the goals of this act.

I believe prizes can be a unique tool in creating the technological development we need. It only seems natural that if we get all the best scientific minds thinking about the same problem, and working on it, we significantly enhance our chances of solving it.

Historically, prizes have been used to spur all types of technological development to solve big problems.

In 1714, the British Government offered the first prize of this type, and they did it for a device capable of accurately measuring longitude. John Harrison, a clock maker, was awarded 20,000 pounds for designing an accurate and durable chronometer 59 years later. This transformed our ability to sail the seas.

In 1810, the first vacuum-sealed food was produced after 15 years of experimentation. It was driven, again, by a prize offered, this time, by Napoleon. Today, vacuum sealing is still used throughout the world.

In 1909, the first flight across the English Channel was spurred by a prize offered by a newspaper.

Charles Lindbergh was competing for a prize offered by a wealthy hotel owner when he flew the Spirit of St. Louis nonstop from New York to Paris in 1927. Well, that achievement spawned what is a \$300 billion aviation industry today.

It is my hope and my goal that this legislation will foster the kind of solutions that we need to address the concerns about climate change.

What I am proposing is that we take a brand new look at climate change. With that new look, our solution will be based on removing excess greenhouse gases that are already in the atmosphere. We must think anew and we must act anew.

That line—“we must think anew and we must act anew”—is engraved on a scenic overlook along Interstate 80 between Cheyenne and Laramie, WY. It is engraved on the pedestal that holds a large-size bust of Abraham Lincoln. Lincoln was the one to have the vision for the Transcontinental Railroad.

It is now time for us as Americans to think anew and act anew about the issue of climate change and controlling greenhouse gases. Americans have always looked within ourselves for solutions. We have always had confidence in American ingenuity and American creativity to deal with the challenges of the future.

Yes, we want to protect our environment and, yes, we want a strong economy. The way to have both is by thinking anew and acting anew. It is time to use our untapped human potential and the American spirit to develop the technologies we need.

It is now time for the Senate and for Congress to find a solution to global climate change, not through limits but through imagination, innovation, and invention. I look forward to working with each and every Member of the Senate in achieving this goal.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I ask my friend from Iowa if he wants to speak in morning business.

Mr. GRASSLEY. Yes, for 6 or 7 minutes.

Mrs. BOXER. Mr. President, I ask unanimous consent that at the conclusion of my remarks, Senator GRASSLEY be recognized for up to 10 minutes.

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

Mrs. BOXER. Mr. President, first of all, I make a plea to my friends on the other side of the aisle. There are a couple of amendments out there. Senator INHOFE and I are anxious to get done with the bill. The bill is a mini-economic stimulus. It would release a billion dollars worth of projects for important highway and transit programs. It is a technical corrections bill that stays within the limits we set in terms of spending. When Senator INHOFE and I agree on something, it usually covers the spectrum. So we hope we will have a good vote.

I wanted to say something before Senator BARRASSO leaves because he mentioned the President's goals. The President says we should halt the growth of greenhouse gases by 2025—“halt the growth,” which means 18 years of nothing. What a pathetic response to a crisis that has united evangelical groups, scientists, businesses, and much of the world.

So I am just here to say—I am not going to have a debate with my good friend, whom I really enjoy as a member of our Committee, but I want to say this gives new meaning to doing nothing. When we have a crisis such as we have now and we have a small window to act and we wait 18 years, this is not talking about leaving the problems to the new President, like he is doing in Iraq. It means we are following a recipe for gloom and doom instead of looking at this problem and seeing it for what it is—an amazing opportunity.

It is interesting that my friend, Senator GRASSLEY, is here, who is so strong on ethanol. Well, this is the kind of thing we are going to do so we can get off of fossil fuel. We have other opportunities, such as cellulose. We have new ways of making cars.

I happen to drive a hybrid. It is amazing. I get over 50 miles per gallon. I sort of wave at the gas stations because I don't have to go there that often. These cars are getting better and better.

We have so many ways, but it is not going to happen if we simply say, by 2025 we will halt the growth of greenhouse gas emissions. We have to halt the growth very soon. I view it as a great opportunity for an economic renaissance in this country. If you look at Great Britain, they have cut their carbon emissions by 15 percent over the last 10 years or so. Their GDP has grown by 45 percent, and they have added 500,000 new green jobs.

I think rather than being so frightened and meek as the President is about this, we should be leading the world to this new great economic renaissance. America should be in the front, inventing these products. I know the President says he wants to invest in new technology. Unless you have a cap on greenhouse gas emissions, unless your proposal involves a cap so we get down to what is necessary to prevent catastrophe, then you are part of

the problem. You are not part of the solution. You are just making believe you are part of the solution.

I don't want to do any more than is necessary. I want to do what is necessary to reverse a real, serious, horrific problem for the world. As our intelligence community tells us, as our Pentagon tells us, if we do nothing, the ravages of global warming will be the cause of wars, will be the cause of droughts, will be the cause of famine, will be the cause of unrest, and will be the cause of refugees wandering around starving to death.

That is why so many churches have joined us, many of the great religions have joined us in this effort. We have a great group working here. I was a little bit surprised when the President sort of took on the Lieberman-Warner bill in his way. He didn't mention it by name, but he basically referred to efforts in the Senate and the dangers. Mr. President, I have been trying to get to see you on this issue. I have wanted to talk to you on this issue. I know the former Prime Minister of England, Tony Blair, spoke to you about this issue. He is coming to speak to me again. We need to work together. This should not be partisan.

Unfortunately, it is. When I and my staff were in Great Britain, we were meeting to understand what steps they have taken and how about a cap-and-trade system and the rest. What we found out was most remarkable. Each party, Labor and Conservative, was staking claim to the issue of global warming and saying to the other party: You are not doing enough. I turned to my staff and said: Oh, if I have one prayer, it is that we have a situation where that happens at home instead of this horrible fight. And if I have another prayer, it is that the Presidential candidates, Republican and Democratic, will argue over who has the best plan. That may happen, and that would be exciting. But I do not want to wait until then. I do not want to do nothing. I do not want to be part of the problem. I do not want my grandkids to say: Where was my grandma? At the moment they had a window to do something, they slammed it shut.

I am glad my friend came to speak about global warming. I hope we can continue to work together to get him on board in a more aggressive way to do more, to do our job, to fulfill our responsibility. We would never take our grandchild, put him or her in an infant seat in the car, go to a parking lot at the supermarket and leave him or her inside with the windows closed and the Sun beating down. We would not do that because we adore our children and our grandchildren, and we want the world to be better. At least we want it to be as good as it was for us.

We are so lucky. We have lived through such golden years for ourselves and our families. We have the American dream. We saw Richard Nixon step to the plate and create the Environmental Protection Agency, and

Presidents, Republican and Democratic, who have come after stand up—until now.

I say to my colleagues, we are going to have a moment come June. It is going to be a little bit different than today. Today Senator INHOFE and I are joined at the hip on this technical corrections highway bill. We are not going to be that way on global warming, but I hope we can have some bipartisan ship, and JOHN WARNER has been leading the way. We need to do more instead of wait until 2025 to halt the growth of greenhouse emissions. That is too late. That is dangerously late. That is the equivalent of doing nothing.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Iowa.

#### MEDICAID MORATORIUMS

Mr. GRASSLEY. Mr. President, today the House Energy and Commerce Committee is taking up—or maybe has already taken up—consideration of a bill, H.R. 5613. This bill seeks to place a moratorium on seven Medicaid regulations until the next administration.

I know some people have concerns, because I have discussed those concerns, with these CMS Medicaid regulations. So let me be very clear that I am not unsympathetic with those concerns. I am not here to argue the regulations put forth by the administration are perfect. I have issues with some of them that I wish to see addressed.

However, the regulations do address areas where there are real problems with Medicaid. CMS is taking care of those problems, and we ought to let them move forward instead of delaying all of these Medicaid regulations at once.

As everyone knows, Medicaid is a Federal-State partnership that provides a crucial health care safety net for some very vulnerable populations, people whom we all agree we have a social responsibility to look out for—low-income seniors, the disabled, pregnant women, and children. These classes of people depend on Medicaid, and it does generally serve them well.

Medicaid is also a program with a checkered history of financial challenges that we, as fiscal conservatives—and we all brag about fiscal conservatism—ought to be concerned about, these financial challenges coming from Medicaid, sometimes not being administered the way it should be.

Quite frankly, using the term “fiscal challenges” is a gentle way of putting it sometimes. A more severe way of putting it would be that Medicaid has a history in our respective States—not every State but a lot of States—of abusively pushing the limits of what should be allowed to maximize Federal dollars that we send to them under various formulas.

I am not going to devote time in my remarks today to issues of fraud and abuse in Medicaid, but that is legitimate to talk about. I will be back with

that at another time. Instead, I want to focus on a very simple concept, and that simple concept is that Medicaid program integrity depends upon the setter for Medicaid services and the States and providers and ultimately beneficiaries having a clear understanding of the rules of the road. That is what we ought to expect out of any government program, that everybody knows how that program operates.

In this instance, States have not had clear guidance. In that case, they could be inappropriately spending taxpayers' dollars. Improper payments, wasteful spending—what does it do? It only increases the financial pressure on a very worthwhile safety net.

The Medicaid regulations that H.R. 5613 attempts to halt would halt all efforts by CMS to provide clear rules, rules of the road in very critical areas where there have been well-documented problems and most of those problems costing the taxpayers more money.

During the recent debate on the budget resolution, I entered into the RECORD a Congressional Research Service memo that showed some of the issues that exist under current law. I am not going to go into all of those issues today in detail because they are in the RECORD, but when CMS does not know how a State is billing for a service and States do not have clear guidance for how they should bill, neither Medicaid beneficiaries nor the taxpayers at the Federal or State levels are well served.

We should be, in fact, talking about fixing the regulations so that they better address real problems in Medicaid. But instead, the House of Representatives is trying to kick this can down the road to next year.

What does that mean for the taxpayers? H.R. 5613 spends \$1.7 billion to place a short moratorium on these regulations. This is only to delay the regulations until March of next year—\$1.7 billion to delay the regulations for 1 year.

I know supporters hope the next administration, whichever party that might be, whichever of the three candidates still in the race might be, will completely cancel the regulations. If these regulations were canceled, what would it cost if we tried to completely prevent these regulations from ever taking effect? It would not cost just this \$1.7 billion that is going to be spent between now and next March. It would actually cost the taxpayers almost \$20 billion over the next 5 years and almost \$50 billion over the next 10 years.

It is absolutely a farce for anyone to argue that all of those dollars are being appropriately spent and that Congress ought to walk away from these issues. But that is what this bill, H.R. 5613, does; it walks away. Let's say it another way. It kicks the can down the road hoping the next President might walk away.

I know supporters of that bill will say they need more time. They say

they have not had enough time to study the regulations and to respond. That argument is starting to strain credibility. The public provider rule was proposed well over a year ago to study and react. The rehabilitation services rule was proposed 9 months ago for people in the House of Representatives to respond to and react.

Supporters of that bill have had plenty of time; that is, plenty of time if they wanted to make new policy. But it is obvious by these actions that their only real interest is in making these regulations go away.

This is very unfortunate because finding solutions is what we should be doing instead of kicking the can down the road. When we start talking about the integrity of the Medicaid Program, it is clarity of the rules that is most needed between the Center for Medicaid Services and our 50 States. So if you do not like the rules, that is fine, but there are tens of billions of dollars involved in this delay.

I say to my colleagues: Roll up your sleeves, or maybe I should say roll up our sleeves and let us all get to work to solve a problem that the regulations try to solve instead of kicking the can down the road. That is what we should be doing for the taxpayers. That is what we should be doing for the credibility of the Medicaid Program, a Medicaid Program that is needed, a Medicaid Program, for the most part, that serves people well. Contrariwise, putting moratoriums on all the Medicaid regulations issued by the Center for Medicaid Services is not the right answer.

I yield the floor, Mr. President, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MENENDEZ). Without objection, it is so ordered.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion on the Boxer substitute amendment to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Boxer substitute amendment No. 4146 to H.R. 1195, an act to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

Barbara Boxer, Harry Reid, Charles E. Schumer, Frank R. Lautenberg, Jon Tester, Mark L. Pryor, Bernard Sanders, Benjamin L. Cardin, Jeff Bingaman, Patty Murray, Sheldon

Whitehouse, Debbie Stabenow, Bill Nelson, John D. Rockefeller IV, Jack Reed, Ron Wyden, Dianne Feinstein.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a second cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 1195, an act to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, to make technical corrections, and for other purposes.

Barbara Boxer, Harry Reid, Charles E. Schumer, Frank R. Lautenberg, Jon Tester, Mark L. Pryor, Bernard Sanders, Benjamin L. Cardin, Jeff Bingaman, Patty Murray, Sheldon Whitehouse, Debbie Stabenow, Bill Nelson, John D. Rockefeller IV, Jack Reed, Ron Wyden, Dianne Feinstein.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call required by those motions be waived.

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

Mr. REID. Mr. President, as I have indicated to the Chairman, and, of course, I have not had the opportunity to speak to the ranking member, but we have explained to the minority that I am filing these cloture motions—I have done so with the hope and anticipation that we need not have a cloture vote on this bill. We should finish this bill today. I hope we can do that. If not, of course, with these being filed, we will have the cloture vote Friday morning. But I hope that is not necessary. There is not a reason in the world we should not finish this bill today and go on to something else.

#### WELCOMING POPE BENEDICT XVI

Mr. REID. Mr. President, this morning I was honored to help welcome Pope Benedict XVI to the United States for his first papal visit to America.

In his brief remarks this morning on the south lawn of the White House, he spoke of his admiration and respect for America, our country.

His lifetime of righteousness in faith and deeds is an inspiration, not just to the more than 1 billion Catholics worldwide but to those of every faith.

As Pope Benedict XVI said shortly after his election 3 years ago:

I place my ministry in the service of reconciliation and harmony between peoples.

During my entire life, I have known the Catholic Church to be a deep well of comfort and aid to those in need and a pillar of strength in times of uncertainty.

I had a wonderful conversation this morning with Cardinal Mahony of Los Angeles. He indicated: Can we please do something on immigration? I said: We are trying. And he has been so helpful to us on this issue. I hope we can fulfill

the wishes and prayers of Cardinal Mahony and do something about immigration. Certainly, it is something that needs to be done. Comprehensive immigration reform is what we need, which he supports.

On behalf of the Senate, I certainly wish to extend my welcome to the Pope. We welcome him to America with open arms.

#### ONE YEAR ANNIVERSARY OF VIRGINIA TECH SHOOTING

Mr. REID. One year ago today, on a campus not far from here, southwest of where we stand, the Virginia Tech community suffered a tragedy that continues to defy our comprehension. This great university, academically sound, athletically, in many instances superior, suffered a great loss. Thirty-two lives were taken by the hand of a young man with a deeply disturbed mind and some guns.

One year from that day, we pause to honor memory of these 32 young men and women and to grieve for their friends, family, and loved ones. I would, in passing, indicate that there were others than just students killed. Our thoughts go out to those unfortunate individuals whose lives were snuffed out for no reason.

I also grieve for our country, for these bright young men and women taken from all of us before their limitless potential could be fulfilled. As we mark this sad anniversary, the terrible images of chaos, panic, and heartbreak remain woven in the fabric of that community and our common memory.

But we remember also the amazing strength of Virginia Tech's community in those days and weeks that followed, how they lifted themselves from the deepest depths of despair to find a brotherhood and sisterhood of solace, peace, and even hope. President Steger and the entire Virginia Tech family demonstrated grace and steely resolve.

I want to take particular note at this time and extend my admiration and appreciation to Governor Kaine, who has led that State with such integrity and political brilliance but with an example of all things good during the time of this tragedy. To this day, he has done a wonderful job of reaching out to the community, everyone in the State of Virginia, meeting with people, and giving them confidence that the future will be better.

Now, as then, there is little we can offer but the broad shoulders of our Nation to lean upon and help carry the heavy burden of their pain.

Mr. President, I say for those of us who suffer this time of year with allergies, being outside on the south lawn for an hour today, as indicated by my inability to stop coughing, makes me reflect on how great it is to live in the desert with no rose petals, flower petals, and pollen around. In the desert, we do not worry about that kind of stuff. But we also do not have much hay fever.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.



The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### FAIR PAY RESTORATION ACT

Mr. KENNEDY. Mr. President, earlier this month, we honored the 40th anniversary of the death of Dr. Martin Luther King, Jr. Each year on this anniversary we get together and speak glowingly of Dr. King's life and work. These words are important; make no mistake. But even more important than honoring Dr. King with words is honoring Dr. King with action. Today, we have the opportunity to do that by passing the Fair Pay Restoration Act.

The right to equal pay for equal work is a fundamental right. Indeed, Dr. King was in Memphis on that fateful day in April 1968 to protest pay discrimination against African-American Memphis sanitation workers. We hope to have this legislation on the floor in the early part of next week. It involves overturning the Ledbetter case, a Supreme Court decision of recent times.

Forty years later, we are still fighting the same fight as Dr. King. We are still trying to empower workers to assert their civil rights.

Over the years, I have been proud to stand with the majority of the Congress for justice and fairness by passing strong bipartisan laws against pay discrimination. In 1963, we passed the Equal Pay Act. We followed that in 1964 with the landmark Civil Rights Act. Then we passed the Age Discrimination Act, then the Americans With Disabilities Act. Most recently, we passed the Civil Rights Act of 1991. All these laws protected workers from pay discrimination and have made our country a stronger, better, and fairer land.

These laws are just words on a page of a lawbook if workers can't get into court when employers break the law. To bring these words to life, we must today continue the work Dr. King started. This effort is necessary because last May the Supreme Court undermined the fundamental protections against pay discrimination. In the Ledbetter decision, the Court imposed serious obstacles in the path of workers seeking to enforce their rights.

Ledbetter was a textbook case of pay discrimination. Lilly Ledbetter, whom I have had the honor to meet, was one of a few women supervisors at a Goodyear Tire and Rubber Company plant in Gadsden, AL. She worked at the plant for almost two decades, consistently demonstrating that a woman can do a job traditionally done by men. She put up with teasing and taunting from her male coworkers, but she persevered and consistently gave the company a fair day's work for what she thought was a fair day's pay. What she didn't know, however, was that Goodyear wasn't living up to its end of the bargain.

For almost two decades, the company used discriminatory evaluations to pay

her less than her male colleagues who performed exactly the same work. The jury saw the injustice in Goodyear's treatment of Ms. Ledbetter and awarded her full damages. But five members of the Supreme Court ignored that injustice and held that Ms. Ledbetter was entitled to nothing at all—nothing at all—saying she was too late in filing her claim.

Under the rule in the Ledbetter case, Ms. Ledbetter would have had to file her claim within a few months of when Goodyear first started discriminating against her. Never mind that Ms. Ledbetter didn't know about the discrimination when it first began. Never mind that she had no means to learn of the discrimination because Goodyear kept salary information confidential. Never mind that Goodyear's discrimination against Ms. Ledbetter continued each and every time it gave her a smaller paycheck than it gave her male colleagues. The rule imposed by the Supreme Court reversed decades of precedent in the courts of appeal, it overturned the policy of the EEOC under Democratic and Republican administrations, and it upset the Nation's accepted definition of what is right.

This chart shows that the paycheck accrual rule was the law of the land prior to Ledbetter. In all these areas, these are the courts of appeal decisions that would have helped Ms. Ledbetter to recover. These areas are the areas where the EEOC demonstrates the paycheck accrual rule under EEOC policy, as well as these others. This small area in here shows what is now known in the Supreme Court decision as the Ledbetter decision. But this is the way the law of the land had been for years prior to this judgment and this decision.

The rule imposed by the Supreme Court reversed the decades of precedent in the courts of appeal, it overturned the policy of the EEOC under both Democratic and Republican administrations, and it upset the Nation's accepted definition as to what is fair and right.

The Court's decision turned back the clock on civil rights. Every year, thousands of workers suffer pay discrimination. The Ledbetter decision will hurt workers alleging discrimination of every kind: Sex, race, national origin, age, and disability. This chart shows 5,700 pay discrimination charges that have been brought. These here are on disability, discrimination on the basis of disability, after we passed the Americans with Disabilities Act. The dark green is on gender discrimination. The lighter green is on race discrimination; discrimination on the basis of race. This is national origin in here: 588. This is discrimination on age. All these cases—5,700—are based upon the pay discrimination that has crossed the country.

This is a real challenge. This doesn't represent the hundreds of thousands—hundreds of thousands—of cases of peo-

ple who don't know about it. This is what is happening in this country. This is what is going to continue to happen unless we overturn the Ledbetter decision.

The Supreme Court's decision in Ledbetter gives employers free rein to continue to discriminate and leaves workers powerless to stop it. The result defies both justice and common sense. We must act to restore the decency and fairness to our Nation's civil rights laws.

The bipartisan Fair Pay Restoration Act will restore the clear intent of Congress. That is the legislation we will have on the floor to act on this next week. It provides a reasonable rule that reflects how pay discrimination actually occurs in the workplace. It links the time for filing a pay discrimination claim to the date a worker receives a discriminatory paycheck—not when an employer makes a discriminatory decision. Workers shouldn't have to be mindreaders in order to protect themselves from discrimination. Workers who aren't allowed to share information about their wages shouldn't be rendered powerless to combat discrimination. This bill recognizes that workers who receive a discriminatory check today should not be out of time to file a claim simply because the employer managed to hide its illegal behavior initially.

This legislation holds no surprises. It puts the law back to what it was on the day before the Supreme Court's Ledbetter decision. So we know this legislation is fair and it is workable. There would not be any unexpected consequences. Courts would not be overwhelmed. In fact, the Congressional Budget Office has said this bill would not increase litigation costs by much and businesses would not be blindsided. We are restoring what the law was previously. Most importantly, the Fair Pay Restoration Act makes employers accountable for violating the law. Under the Supreme Court's rule, if an employer can keep its discriminatory ways secret for 6 months, it gets a free pass. Do my colleagues hear me? If they are able to keep this secret that they are discriminating on any one of these bases—any of the bases we have mentioned, including age or disability, national origin, sex or race—in any of these areas, if they are able to do that and keep that a secret for 6 months, the employers get the free pass.

They can continue to discriminate and its victims are powerless to stop the unfair treatment. It only makes sense that, if the violation continues, the right to challenge it should continue. No one should get a free pass to break the law.

The Supreme Court's decision in Ledbetter took us backward in time. It takes us farther away from our ideal of a fair and just workplace for all Americans. We have too much progress still to make, and we cannot afford a step back. With this legislation, we can at least make up the ground we have lost.

That is why this legislation has such widespread support. This chart indicates the various groups. A wide array of civil rights groups, labor unions, and religious and disability rights groups support this legislation. It includes the American Association of People with Disabilities. AARP understands what is happening in terms of age discrimination; Business and Professional Women understand the discrimination taking place against women; NAACP; the United Auto Workers and other labor organizations, too; National Congress of Black Women; Religious Action Center understands the moral implications of this issue; U.S. Women's Chamber of Commerce, and others. They all support this legislation. Many businesses also support the bill, including the U.S. Women's Chamber of Commerce, as I said. All companies that play by the rules and treat workers fairly should support this legislation.

Workers have lived for almost a year with the inequity of the Ledbetter decision. It is time to stand up for the right to fair pay. As Dr. King said so eloquently after the passage of the Civil Rights Act of 1964:

Many people felt that after the passage of the civil rights bill, we had accomplished everything. We didn't have anything else to do and we would miraculously move into a new era of freedom.

But when we opened our eyes, we came to see that the civil rights bill, as marvelous as it is, is only the beginning of a new day and not the end of a journey.

If this bill is not implemented in all of its dimensions, it will mean nothing, and all of its eloquent words will be as sounding brass on a tinkling cymbal. We must take this bill and lift it from thin paper to thick action, and go all out, all over this Nation, to implement it.

It is time to hold employers accountable for their unlawful conduct. It is time to turn the clock forward on civil rights, instead of backward. It is time to pass the Fair Pay Restoration Act.

A final comment. This is a remarkable woman, Lily Ledbetter. Here is her quote:

And according to the Court, if you don't figure things out right away, the company can treat you like a second class citizen for the rest of your career. That isn't right.

She played by the rules. She worked hard and provided for her family and was being discriminated against. Here she is again:

I hope that Congress won't let this happen to anyone else. I would feel that this long fight was worthwhile if, at least at the end of it, I knew that I played a part in getting the law fixed so that it can provide real protection to real people in the real world.

We hear a lot of speeches in this body about the importance of work and paying people fairly. We hear speeches on both sides of the aisle about this. Here we have the classic example of a hard-working, decent, fairminded woman, who is trying to provide for a family, is playing by the rules, and she is getting shortchanged on the basis of doing equal work but not getting equal pay. She finds that out and pursues her rights and receives damages, under the

rule of law in most of the States; and the Supreme Court, by a narrow margin of one, makes a decision that because she didn't know about it at the time this was started, when there was no chance in the world she would know about it because pay records are kept confidential, she is going to lose out on the fair pay she is entitled to under the protection of the law we have passed.

This body has gone on record time in and time out about fair wages for their work. We are going to have another opportunity in the next week to see whether we are going to continue this.

Let me finally say we are going back to the previous law. This isn't a new, bold idea carving out terms of the future. This is the way the law was. We are restoring the law, restoring the protections. This should have passed unanimously. How can Members of this body say no to restoring the law to what it was in the overwhelming majority of the jurisdictions of this country, on the fundamental issue of fairness that applies to virtually all workers, applies to men and women of color, men and women of disability, men and women of age, applies to national origin, and applies across the board? What are we afraid of?

We will have the chance to take this up and to take action on it and to call the roll, and the American people will understand who in this body is for fairness and treating American workers right, and who is for going back in terms of the Nation's fundamental commitment to decency and honoring hard-working people, who should be entitled to equal pay for equal work. We will find out when we call the roll the early part of next week.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TESTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks of Mr. TESTER pertaining to the introduction of S. 2875 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. TESTER. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THUNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TAX DAY

Mr. THUNE. Mr. President, I rise to speak today on an issue that is on the forefront of most Americans' minds this week, and that is the issue of tax day. Yesterday was the filing deadline,

April 15, which comes around every year, and for most Americans it is greeted with a great deal of trepidation and anxiety.

April 15 represents the annual call of Uncle Sam, the tax collector, knocking on the doors of hard-working taxpayers, and it highlights the real tax burden that is placed on American families.

This year, Americans will work 74 days to pay their Federal taxes, 74 days to pay their Federal tax burden alone. In order to pay State and local taxes, Americans will work an average of 39 additional days. What that means is that the typical hard-working, tax-paying, law-abiding American in this country will have to work an average of 113 days to pay taxes in 2008.

If we look at a calendar, that pretty much takes care of the months of January, February, March, and April, up to the 23rd of this month. If you think about it, every American is still working this year to pay the tax man. They have not gotten to that point in the tax year when everything they make can then be dedicated to the expenses they have for their families, for their children's education, for retirement, for fuel costs—all the things we deal with in our daily lives. We are still at a point on the calendar where none of what we make can be applied to those necessities of life because we are still at a point on the calendar where everything we earn and make in this country is dedicated to paying the tax man. Literally 113 days of the calendar year of this year up until April 23, which will be next week, is dedicated to pay the tax man.

What does that mean? Another perspective: If you put it into an 8-hour work day, taxpayers are going to work 1 hour and 37 minutes every single day to pay Federal taxes, and an additional 51 minutes to pay State and local taxes.

Put that into perspective. All other categories of consumer spending pale in comparison to the annual tax burden. In fact, Americans only need to work 60 days to pay for annual housing costs, 50 days for health and medical care, 35 days to pay for their annual costs, and 29 days to pay for transportation.

So the expenses most people deal with in their every-day lives, whether, again, that is the cost of housing, health care, food, or transportation—all are basic necessities—pale in comparison to the number of days the American taxpayer works every single year to pay their tax burden.

That is a pretty remarkable chart, I think you would have to say, when you look at the tax burden and the number of days you have to pay relative to the things we spend the rest of our money on.

This year, the statistics are probably better, if you can imagine that, than they were a few years ago. In 2000, before the historic tax cuts took effect, taxpayers had to work an all-time high

of 123 days to pay their tax burden. We have gone from 123 days down to 113 days.

In that same year 2000, a record 33.6 percent of the Nation's income was dedicated to paying taxes. After the 2001 and 2003 tax cuts, Americans were able to work an average of two fewer weeks to meet their Federal tax burden. That is why we find the average American working 113 days to meet their tax liability as opposed to 123 days a few short years ago. That is attributable to the tax relief that was enacted in 2001 and 2003.

Aside from paying taxes, filling out tax returns is a burden in and of itself. We have a Tax Code that is out of control, out of date, and is imploding under its own weight. The U.S. Tax Code spans over 54,000 pages. Some of the current provisions of the code were created 40 years ago. Each year individuals, families, and businesses spend needless hours poring over IRS forms and regulations trying to make sense of the endless exercise of filing taxes. In fact, in total, taxpayers dedicate over 6 billion hours to file their taxes and spend over \$140 billion a year in compliance costs.

I read a story a couple of days ago that those who still fill out their own tax returns take an average of 34 hours to do so. That is almost a week. That is a workweek almost for most people to comply or fill out the tax return—for those who still fill out their own tax returns.

Bear in mind that a lot of Americans have gotten to the point where it is so complex, burdensome, and complicated they turn it over to a tax preparer. For those who still fill out their tax returns, 34 hours is the average they spend in complying with the Tax Code in this country.

Ironically, the complexity and uncertainty of filing taxes is only amplified by congressional action. Since 1986, we have made—I say we, the Congress—have made 15,000 changes to our Tax Code, or approximately 2 every single day. Many of these changes focus on 1- or 2-year extensions of expiring provisions.

For example, last year, Congress was unable to extend the alternative minimum tax until the IRS had published its 2007 tax return forms. Because of this delay, 13.5 million taxpayers had to wait until February 11 to file forms relative to the alternative minimum tax.

Only Congress can create a complex tax provision, such as the alternative minimum tax, and actually make it more complicated by extending it after the IRS publication deadline.

Unfortunately, the congressional leadership is simply either oblivious or unsympathetic to the tax burden on American families. Last month, the Senate Democrats called for the largest tax increase in American history. Under the Democratic budget, the reduced individual tax rates are set to expire in 20 months.

As millions of Americans have now finished coping with this year's April 15 deadline, I think it is important to point out that this deadline is going to be even more painful under the Democratic budget that passed the Senate earlier this year.

If the 2001 and 2003 tax cuts are not extended, on January 1, 2011, the 10-percent tax bracket will expire, the tax bracket that was put into effect that impacts low-income earners, lowers their tax liability and took literally millions of American taxpayers completely off the tax rolls. The 25-percent tax bracket that currently applies to earners in that tax rate bracket is going to go up to 28 percent. The 28-percent tax rate will increase to 31 percent. The 33-percent tax rate will increase to 36 percent. And the 35-percent tax rate will increase to 39.9 percent.

On top of the increased tax rates that will happen on January 1, 2010, unless we take steps to extend and prevent those tax cuts from expiring, the increased child tax credit will expire as well. Families with children are going to see their tax burden increase substantially when the \$1,000 tax credit is reduced to \$500 after the year 2010.

Additionally, the marriage penalty is reinstated. The 31 million filers who report dividend income and the 26 million filers who report capital gains income also will see their taxes on their investments go up.

Finally, the death tax will be reinstated at pre-2001 levels of \$1 million. In other words, you can exempt \$1 million worth of your income, the wealth you acquired over the years, from the death tax liability. If we think about how that impacts small businesses, farmers, and ranchers—and I can share that as someone who lives in a rural State where we have a lot of farm and ranch families. We have a lot of people with lots of assets, lots of land, lots of equipment, but they are very cash poor. When you take \$1 million anymore, with land values being what they are in a place such as even my State of South Dakota, you are going to have an awful lot of people who are going to be hit very hard by the death tax when it becomes reinstated at a \$1 million-level exemption.

Attach to that a maximum statutory rate of 55 percent—which, incidentally, is one of the highest death tax rates in the world. So literally you are going to have for people now who worked their whole lives—small businesses, farmers, ranchers—to accumulate some things to pass on to the next generation, all but \$1 million of that would be taxed at a rate as high as 55 percent.

Think about the impact that is going to have on family farm and ranch operations in this country and many of our small businesses, which is where most of the jobs in the country are generated.

In total, the average family is going to see their taxes increase by roughly \$2,300 per year. That is enough to buy several months of groceries or several months worth of health care.

It does not have to be this difficult. Congress can work in a bipartisan manner to fix our broken Tax Code and to ease the tax burden for families and small businesses.

Commissions have been convened, hearings have been held, studies have been published, and yet another tax day has passed without comprehensive tax reform.

Streamlining our Tax Code will strengthen our economy, it will improve the competitiveness of our businesses, and it will greatly ease the tax burden for all American families.

The problem is not that Washington taxes too little. The problem is that Washington spends too much. The American people, when they start spending virtually a third of their year to pay the tax burden that is imposed on them at the Federal level, the State level, and the local level, we are asking way too much and imposing way too much a burden on the working men and women in this country and those small businesses that are creating the jobs and those who are trying to pass on those operations to the next generation so we can keep family farms, ranches, and small businesses in the family, contributing, creating jobs, and paying taxes. With a confiscatory death tax, which will happen if we do not take steps to extend the tax cuts, we are going to see a lot of those farms, ranchers, and small businesses go by the wayside.

I hope the sentiment in this body, the Senate, and the House of Representatives will change to the point that we recognize the importance of extending the tax relief that was enacted in 2001 and 2003 so we do not see these steep increases in income rates and return of the marriage penalty and a decrease in the per-child tax credit, dividend, and capital gains income being taxed at much higher rates, and the death tax being reinstated. If we are successful in extending those tax cuts, I think we will see an economy that, although experiencing an economic downturn right now, will improve, will start to grow again and create jobs. If we allow these tax cuts to expire, I think it is "Katy, bar the door" in terms of the adverse economic consequences and impact it will have on this economy and on the working men and women of this country and the entrepreneurs who make it work.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Under the previous order, the time until 2:15 shall be equally divided and controlled between the Senator from

California, Mrs. BOXER, and the Senator from South Carolina, Mr. DEMINT, or their designees.

The Senator from California is recognized.

Mrs. BOXER. Mr. President, I don't see the Senator from South Carolina here, and I don't want to presume to describe his amendment. That wouldn't be fair because he views his amendment as something that will help this bill and I view it as something that will kill this bill. Simply put, what he is saying is we need to recommit this bill to the Environment and Public Works Committee, and what he is basically saying is that we need to scrub out of this bill any changes that were made to projects.

Although Senator DEMINT wasn't here at the time, I made the point earlier that in this SAFETEA-LU bill is \$110 million worth of projects he requested. He was fortunate: all those projects seemed to be moving forward, and they do not need any technical correction. But many of us—many of us—don't have that experience. For example, Senator INHOFE explained a road project in Oklahoma where one portion of the project wasn't ready for funding and another was. So, yes, we make a technical correction. I have a similar project in my State where we have to make sure the project is changed a little bit or there are going to be some bad impacts on some of my people who live in those communities.

So there is really nothing nefarious going on here. We are just trying to get these projects moving. We are trying to give a green light to projects that are facing a red light. What that means is that about \$1 billion worth of projects could actually get started—transit projects, road projects—and we think that, at this particular time when we are suffering a recession, the last thing we should do is try to bring this bill back to the committee because, effectively, that would kill it. So I have respect for my colleague's intention here, but, in essence, if he was being completely straightforward, he would admit this is going to kill this bill.

We know how hard it is to get bills up before the Senate. This bill actually passed when Senator INHOFE was chairman of the committee, but it has languished because we haven't had a chance to bring it to the floor. Senator REID gave us time. It is a simple bill. I was hopeful it could be finished by now. I am grateful we are having a vote on at least one of the amendments—we know of another couple of amendments.

So that is really what I have to say. At the appropriate time, I am going to make a motion to table this motion, so I will return to do that, as I say, at the appropriate time.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator is advised that the time is under the control of the Senator from South Carolina.

Mr. DEMINT. Mr. President, I yield to the Senator from Virginia.

(The remarks of Mr. WARNER are printed in today's RECORD under "Morning Business.")

Mr. DEMINT. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. Two minutes 25 seconds.

Mr. DEMINT. I appreciate the chairman giving me the time to speak on the bill. I am offering a motion to recommit, which will be up for a vote in just a few minutes, and it is a motion to recommit the technical corrections bill back to the EPW Committee.

The purpose of this is clear: Colleagues, we have to stop increasing spending at every point, never cutting anything and never looking for savings. On this Transportation bill, there have been a number of projects, hundreds of millions of dollars worth, that were not needed or wanted. And we need to be reminded that the highway trust fund by next year is going to be over \$3 billion in the red. With this Transportation bill, we had an opportunity to save. Yet, instead of doing that, I am afraid this technical corrections bill goes well beyond technical corrections and takes the money that would have been saved from unwanted or unneeded projects and uses it to add new earmarks to the Transportation bill that aren't in the original legislation and adds spending to existing earmarks.

My motion would recommit the technical corrections bill to the committee and instruct them to take out any new earmarks and any increases in spending for existing earmarks. What that will do is just leave the base bill, which would be, at that point, technical corrections. That is what this bill is intended to be. So I encourage all my colleagues to show some fiscal restraint and to restore this bill to a technical corrections bill.

I thank the Chair, and I yield back the remainder of my time.

Mr. INHOFE. Mr. President, I ask unanimous consent I have 1 minute to respond.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, we talked about this before. First of all, I am coming from a very conservative perspective. Looking at this and also looking at the infrastructure needs we have, we want to make sure the technical corrections bill is not killed because that will stop all the activity going on that is so desperately needed in South Carolina as well as the rest of the country.

There is no increase in the technical corrections bill in the amount of authorization. That is very important for people to know. We talk about projects and assume they are projects that were not considered before. The top line is an amount of authorization that is the same. It has not increased at all. So I contend, with all due respect to one of my closest friends and fellow conservatives, that the conservative position is to stay with the technical corrections bill.

Mrs. BOXER. Mr. President, I move to table the DeMint motion to recommit and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The question is on agreeing to the motion to table the motion to recommit.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New York (Mrs. CLINTON) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Nebraska (Mr. HAGEL) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 18, as follows:

[Rollcall Vote No. 104 Leg.]

#### YEAS—78

|           |            |             |
|-----------|------------|-------------|
| Akaka     | Durbin     | Murray      |
| Alexander | Ensign     | Nelson (FL) |
| Baucus    | Feinstein  | Nelson (NE) |
| Bennett   | Grassley   | Pryor       |
| Biden     | Harkin     | Reed        |
| Bingaman  | Hatch      | Reid        |
| Bond      | Hutchison  | Roberts     |
| Boxer     | Inhofe     | Rockefeller |
| Brown     | Inouye     | Salazar     |
| Bunning   | Isakson    | Sanders     |
| Byrd      | Johnson    | Schumer     |
| Cantwell  | Kennedy    | Shelby      |
| Cardin    | Kerry      | Smith       |
| Carper    | Klobuchar  | Snowe       |
| Casey     | Kohl       | Specter     |
| Chambliss | Landrieu   | Stabenow    |
| Cochran   | Lautenberg | Stevens     |
| Coleman   | Leahy      | Tester      |
| Collins   | Levin      | Thune       |
| Conrad    | Lieberman  | Vitter      |
| Craig     | Lincoln    | Voinovich   |
| Crapo     | Lugar      | Warner      |
| Dodd      | McConnell  | Webb        |
| Dole      | Menendez   | Whitehouse  |
| Domenici  | Mikulski   | Wicker      |
| Dorgan    | Murkowski  | Wyden       |

#### NAYS—18

|           |          |           |
|-----------|----------|-----------|
| Allard    | Corker   | Gregg     |
| Barrasso  | Cornyn   | Kyl       |
| Bayh      | DeMint   | Martinez  |
| Brownback | Enzi     | McCaskill |
| Burr      | Feingold | Sessions  |
| Coburn    | Graham   | Sununu    |

#### NOT VOTING—4

|         |        |
|---------|--------|
| Clinton | McCain |
| Hagel   | Obama  |

The motion to table was agreed to.

Mrs. LINCOLN. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. BOXER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I rise to talk about an amendment that has been filed, which may or may not be offered. I wanted to alert the Senate to the possibility of an amendment that deals with moving companies—companies that move families, move furniture, et cetera, from city to city and across State lines—in fact, move them all over the country.

This amendment touches on a bipartisan provision that the Commerce Committee handled 3 years ago, which was, I guess, led by Senators INOUE, STEVENS, Lott, and myself. We basically acknowledged that there has been a problem in the moving industry for quite some time. I don't want to go into great detail, but I will be glad to if Senator BOND comes down and offers his amendment.

I want to give a little bit of background. Basically, if you look at the statistics, since 2001, there have been about 25,000 official complaints with the Department of Transportation related to household good carriers transporting goods in interstate commerce. These complaints do cover a wide range of abusive household good carrier practices—everything from fraudulent cost estimates to lost and even damaged goods. So they really do cover the waterfront. However, the most outrageous of these complaints, in my view, is what they call “hostage goods.”

What happens here is a moving company will move goods, and they will hold a consumer's possessions hostage until they pay thousands of dollars in excess of the original estimate. It is hard to believe that people would treat each other this way, but we have seen this thousands of times around the country, where a moving company will hold goods hostage because they want to chisel more money out of the customer.

Three years ago now, in the Commerce Committee, we looked at this situation. We understood the Federal Motor Carrier Safety Administration only had five employees assigned for the entire Nation when it comes to household goods and those complaints. Obviously, we had a problem. We worked on a solution. Again, this was a very bipartisan solution.

Part of the solution was to authorize State attorneys general and State consumer protection officials—they are not always AGs; it depends on the State. Usually they are attorneys general offices, but they don't have to be. It would allow the State to enforce certain Federal household goods consumer protection laws and regulations as determined by the Secretary of Transpor-

tation. This set up a partnership between the State governments and the Federal Government. We think it has been working well. We are hearing positive feedback.

State attorneys general, back in January of 2004, sent a letter, signed by 48 State attorneys general, saying they would like to have this authority. Let me tell you why. Probably, they have had similar experiences that I had when I was in the attorney general's office in Arkansas. I had a friend of mine who had moved from Florida back to Arkansas; he was moving back with his family, et cetera, et cetera. Literally, his goods—everything he owned—were held hostage by one of these unscrupulous moving companies. Naturally, as the attorney general, I thought surely we could help him. We started looking at it and learned that we were preempted by Federal law. I think he filed a complaint with the U.S. Department of Transportation, but let me ask my colleagues, who is going to be better at enforcing this and doggedly pursuing relief for their citizens, the State attorney general or the U.S. DOT in Washington—again, with five employees for the whole Nation? That is a pretty easy answer, and that is the State AGs. This is something we crafted, and we believe it is balanced. It came out of committee unanimously. There was compromise. Two Democrats and two Republicans worked together to get compromise language that we believed was fair and, we thought, served the purpose, and we believe it is good law.

I think it is important that it did come out of the committee unanimously. Again, Senator Lott took a real leadership role, and Senator STEVENS was involved and Senator INOUE was involved and I was involved. We worked hard to get this done for the committee and for the Senate and for the American people.

As part of all this, we listened to industry complaints. We really did try to go the extra mile with the industry. We even had a hearing held by Chairman Lott on May 4, 2006. We brought in witnesses and allowed moving companies to come in and talk about the situation. Basically, at the conclusion of the hearing, the committee found strong support for our safety provision, including the endorsement of the U.S. DOT inspector general and the FMCSA.

So this has been something that has been vetted, has been agreed to, has been passed by the committee and by the Senate, and it has been signed into law. We think it is a good provision.

Obviously, if there is an amendment on this today, this would not be a technical correction, this would be a big shift in policy. I think that is an important factor for colleagues to consider as they look at this.

Also, if it is offered and if, in fact, I have a chance to come back to the floor and talk about it further, I know there will be a little bit of a comparison to the Consumer Product Safety

Act and the Consumer Product Safety Commission bill that we filed a few weeks ago, and we passed it on the Senate floor 79 to 13, I believe it was.

I know there will be a little comparison, but this is very different. This is different in a number of ways. It is similar in some ways, but it is different also. And that is, with a consumer recall and with the State being able to enforce a consumer recall once that decision has been made in Washington, there may be thousands, tens of thousands, possibly millions of units of that product out in the American marketplace that has been recalled. Those products may be in warehouses or they may show up on the Internet. There are a lot of different ways they can show up. It can take literally years to get all those products out of the stream of commerce.

The moving industry is very different than that. Almost always what happens with one of these moving companies is something goes on during the move which more often than not is over a few days' period. Oftentimes, it is from one State to another State. The fact situation here is very different.

One of the reasons we are seeing an increase—and even though we passed this law, we are still seeing a fairly steady increase in these types of complaints—is the proliferation of the Internet. You can get on the Internet right now—I did this yesterday as an experiment. I clicked on something such as “cheap moving companies.” I don't know exactly what I typed. Several came up. With many of these companies, what you do is click a couple of little buttons to tell how many rooms you have in the house, or something very rudimentary, and you get a quote.

For folks who know about moving, it takes a lot more than that. You cannot make a couple clicks on the computer and think you are going to get an accurate moving estimate.

My experience has been with these large companies, they have written contracts and they have procedures in place. They come out to your home, or wherever you may be, and they look at your goods. They measure, they offer various services for crating, boxing, and all this kind of jazz. They can look, do their measurements and calculations and give you an estimate down to the penny. More often than not, those estimates are very accurate.

The problem is not so much the name-brand companies. I am sure there are occasional problems with them. But the problem we are trying to get to is these companies that are fly by night, many based on the Internet, many of them you do not know with whom you are dealing.

What we are trying to do is clean up this industry and help the American public in any way we can.

Since we passed this legislation, you would think you would see an amazing drop in statistics. We have seen the numbers grow a little bit. Again, it has been fairly steady. We feel as though

we do not have accurate numbers yet. We are actually going to request a GAO study to allow them to do their analysis and see how our provision is working. I think what we will find, once the numbers come in and are analyzed, is some good movement in the right direction.

One point that is important is that under SAFETEA-LU, the FMCSA did not add that many employees. It went from 5 employees to 11 employees. That is still a very small number of employees to do this all over the country. Hopefully, the State attorneys general will be able to help resolve these matters that are very good for the people in their States.

Madam President, I don't know if Senator BOND is going to offer his amendment. He told me earlier he thought he would. I hope he does not. If it does require a vote, certainly I will ask my colleagues to vote against his amendment. If he, in fact, does offer his amendment, I would like to have a chance to respond to Senator BOND. I know Senator BOXER and a few others have indicated their interest in doing that as well.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COBURN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 4538 TO AMENDMENT NO. 4146

Mr. COBURN. Madam President, I ask that the pending amendment be set aside and at the appropriate place amendment No. 4538 be inserted into the Boxer substitute.

The PRESIDING OFFICER. The Senator may propose an amendment to that substitute.

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. MCCAIN, Mr. OBAMA, Mrs. CLINTON, and Mrs. MCCASKILL, proposes an amendment numbered 4538 to amendment No. 4146.

Mr. COBURN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To create a bipartisan, bicameral special committee to investigate the improper insertion of an earmark for Coconut Road into the conference report of the 2005 highway bill after both chambers of Congress had approved identical versions of the conference report)

At the appropriate place, insert the following:

#### SEC. \_\_. COCONUT ROAD INVESTIGATION.

(a) FINDINGS.—Congress makes the following findings:

(1) According to item number 462 of the table contained in section 1934 of the Con-

ference Report on H.R. 3 (109th Congress), which was passed by the Senate and the House of Representatives on July 29, 2005, \$10,000,000 was allocated for "Widening and Improvements for I-75 in Collier and Lee County".

(2) According to item number 462 of such table in the enrolled version of H.R. 3 (109th Congress), which was signed into law by the President on August 10, 2005, \$10,000,000 was allocated for "Coconut Rd. interchange I-75/ Lee County".

(3) A December 3, 2007, article in the Naples Daily News noted, "Mysteriously, after Congress voted on the bill but before the president signed it into law, language in the earmark was changed to read: 'Coconut Rd. interchange I-75/Lee County.'".

(4) Page 824 of Riddick's Senate Procedure notes that "Concurrent resolutions are used to correct errors in bills when enrolled, or to correct errors by authorizing the re-enrollment of a specified bill with the designated changes to be made."

(5) The only concurrent resolution that Congress passed regarding the enrollment of H.R. 3 (H. Con. Res. 226) does not refer to the change made to item 462 of section 1934.

(6) The secret, unauthorized redirection of \$10,000,000 to the "Coconut Rd. interchange I-75/Lee County" calls into question the integrity of the Constitution and the legislative process.

(7) A full and open investigation into this improper change to congressionally-passed legislation is necessary to restore the integrity of the legislative process.

(b) PRESERVATION OF DOCUMENTATION RELATING TO THE ENROLLMENT OF H.R. 3.—Officers and employees of the Senate and the House of Representatives shall take whatever actions may be necessary to preserve all records, documents, e-mails, and phone records relating to the enrollment of H.R. 3 in the 109th Congress, including all documents relating to changes made to item 462 of the table contained in section 1934 of such Act, to allocate funding for the Coconut Road interchange in Lee County, Florida.

(c) SPECIAL COMMITTEE ON ENROLLMENT IRREGULARITIES.—

(1) ESTABLISHMENT.—There is established a select committee of Congress to be known as the Special Committee on Enrollment Irregularities (referred to in this subsection as the "Committee").

(2) PURPOSES.—The purposes of the Committee are to—

(A) investigate the improper insertion of substantive new matter into the table contained in section 1934(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) after the Act passed the Senate and the House of Representatives on July 29, 2005; and

(B) determine when, how, why, and by whom such improper revisions were made;

(3) MEMBERSHIP.—The Committee shall be comprised of 8 members, of which—

(A) 2 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 2 shall be appointed by the Speaker of the House of Representatives; and

(D) 2 shall be appointed by the minority leader of the House of Representatives.

(4) AUTHORITY.—The Committee, consistent with the applicable rules of the Senate or the House of Representatives, may—

(A) hold such hearings, take such testimony, and receive such documents as the Committee determines necessary to carry out the purposes described in paragraph (2); and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses

and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Committee determines necessary.

(5) REPORTS.—

(A) INTERIM REPORT.—Not later than August 1, 2008, the Committee shall prepare an interim report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(B) FINAL REPORT.—Not later than October 1, 2008, the Committee shall prepare a final report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(6) USE OF INFORMATION.—The Committee may share all findings, documents, and information gathered in an investigation under this subsection with—

(A) the Select Committee on Ethics of the Senate;

(B) the Committee on Standards of Official Conduct of the House of Representatives; and

(C) appropriate law enforcement authorities.

Mr. COBURN. Madam President, I am on the floor this afternoon because a few years ago something happened in Congress that should never have happened. What happened is a bill passed the House and a bill passed the Senate. A bill that both Houses agreed to was changed before it went to the President. We do not know where it was changed or who changed it. We do not know the details of it. There has been speculation in the press, but we do not have any real knowledge of how this happened. But there is a principle, and the principle is, if we cannot trust what we agree to in both bodies of Congress will be sent to the President, then everything we pass has to be suspect.

This is a hard amendment to offer because there is a lot of angst around looking at ourselves and looking at the problems. But the one thing we do know is the American people expect the process to be one that is open, one that is accurate, and that when the President gets a bill, it truly represents what the Congress intended.

What actually happened? On the highway bill conference report passed by Congress, item 461, there were widening improvements for the I-75 corridor in Collier and Lee Counties in Florida. What actually went to the President was different. This was changed to Lee County only and for an interchange. Somehow that got changed. This money has been rejected three times by the citizens and their elected representatives in that area because they do not want an interchange. What they wanted was to widen I-75 in terms of hurricane evacuations.

As I said, we do not know how this happened. There is press speculation. We don't know if it occurred in the Senate. We don't know if it occurred in the House. What we do know is it did occur, and nobody can dispute the fact. And this bill, thanks to Chairman BOXER, corrects that and puts it back to what the original intent of Congress was, what Congress intended originally.

Some will say: Now that we fixed it, we don't need to do anything about it.



But the problem the American public has in terms of confidence in us is that we will do the right thing, and the right thing is to figure out how something such as this happened and make sure it never happens again and put in the safeguards so we know it will not happen again. I believe it is time for Congress to look at this issue and fix it.

Many of my colleagues say we are treading on dangerous water because if this occurred in the House, we are forcing the House to look at something, one body telling the other body to do something. We don't know where it occurred.

The amendment I am offering creates a committee of Members, four from the House, four from the Senate, that will look at this issue and make appropriate recommendations to the appropriate bodies; that is, the House Committee on Official Conduct and the Senate Ethics Committee or any law enforcement officers.

I understand that there will possibly be a second-degree amendment, and this ought to be offered and made, that the Justice Department look at this. That can certainly happen in due time, but there is this little issue of separation of powers. We have the responsibility in Congress to do what is right.

It is very interesting the debates we have had, especially in this Congress, about separation of powers and not wanting the executive branch to take power away from us. However, we are thinking about offering a second-degree amendment that would do that.

I believe in the people in this body. I believe we all do not like that this happened. I believe we all want to see that it never happens again. The best way to do this is to have an investigation, two Members appointed by the Speaker and two Members appointed by the minority leader in the House, two Members appointed by the majority leader in the Senate and two Members appointed by the minority leader in the Senate. So we have eight Members reporting back to us what happened and making recommendations to the appropriate committees, not necessarily to us.

As we all know, Senate ethics investigations, as well as House investigations in terms of official conduct, are not public. We don't know if something is going on regarding this issue now. But what we do know is something happened, and we ought to be about fixing it.

My worry is if we modify this amendment or we do not agree to this amendment, this is going to be the feeling of the American public: Is this political? Can we not control the rules of our own body in terms of enrollment?

It is interesting what Jefferson said when he talked about this in his manual. He described what should and shouldn't be done when a bill has passed both Houses of Congress.

The House last acting on it, notifies its passage to the other and delivers

the bill to the Joint Committee on Enrollment, who sees it is truly enrolled in parchment. When the bill is enrolled, it is not to be written in paragraphs but solidly, all in one piece, that the blanks between the paragraphs may not give room for forgery.

That is, in essence, what happened in this case. Now, that is not a case for the Justice Department to investigate at this time. That is a case for us to investigate and look at our own rules. The fact is, something went terribly wrong on the way of a bill going to the President that was different than both Houses of Congress passed.

I understand the angst of someone coming from the Senate and saying this ought to happen, and I understand we don't want to get in a fingerprinting mode. But if the House agrees with this in conference, it will happen; and if they do not agree with this in conference, it won't happen. But what should happen in the Senate should be that we look at this so we can create the confidence that the American people deserve to have in this body to know that when we pass a bill out, that the bill we passed is actually the bill the President signs.

I am thankful to the Transportation Committee and Chairman BOXER and Ranking Member INHOFE for clarifying this and fixing it. It is right that it should be done. It is right that the original intention of it should be done. But that is not good enough. That is not good enough for the American public. I understand the desire of the chairman of the committee to move this out of our hands and into the Justice Department's hands, but I have some problems with that. One is this idea of separation of powers. What other powers are we going to give up when we can't handle a simple investigation into what went wrong during the process of enrollment?

The second thing is, my legal staff tells me we cannot mandate to the executive branch what they will and will not investigate. So should they choose not to investigate this, we will have been no further down the road. But the 100-percent guarantee that it will get investigated is if we have Members of both bodies investigate this and come to a resolution so it does not happen again.

It doesn't matter whose bill it is, and it doesn't matter which party's bill it is. If a bill, no matter whose bill it is, is changed, it affects the whole country, and it affects the confidence in this body. This is an ethical issue for us, if in fact it involved the Senate.

The easy thing would be not to offer this. That is easy; you don't make other Senators uncomfortable with you; you don't have the chance that the House could be upset at what we are suggesting in a conference, if they agree to us jointly in investigating this. We could sweep it under the rug as if it never happened because we corrected it. But it did happen. And by not investigating it, it means it can happen again.

This is not without precedent. I believe in 1982 or 1992, this same thing happened and it didn't get investigated. It just got changed. So here we have it happening again, and only because of some very good work in the press were we made aware of it. Consequently, we ought to be the ones to fix it. We ought to take responsibility for our actions and we ought to correct the problem that happened with this, wherever it may be. If it happened in the House, the House should correct it. If it happened in the Senate, the Senate should correct it. But at least we ought to know the details of how and why, and then, if appropriate, a referral, if in fact that is justified. If it was a simple clerical error, we will know that. If it was more than that, we will know that.

The fact is, by not doing this, what we are saying to the American people is, oops, we had a mistake that is paramount to the quality and the clarity of how this body functions, and we believe it is not a grave error. Well, I happen to disagree. It is an entirely egregious error because it impacts every other piece of legislation.

If I as a Senator can no longer trust that the bills we pass in Congress, after they are enrolled, are exactly what we pass, then I now have to spend the time looking at every bill after it has been enrolled to make sure it matches. None of us has the time to do that. That is what we entrust the Secretary of the Senate and the Clerk of the House for.

So somewhere along the way, something changed. We need to know that. We don't need to play the same political games. We don't need to play a partisan game with it, because nobody knows for sure who did what. What we do need to do is to do the hard work of looking at what went wrong and making the appropriate changes.

I note there are several cosponsors, and the Presiding Officer is one. She has been a great addition to our body because she seeks clarity and transparency in what we do here; also Senator MCCAIN and Senator OBAMA, as well as Senator MARTINEZ and Senator NELSON of Florida. They are the two Senators where this had the most impact.

I don't come to the floor lightly saying we want to poke at people, but I do think it is important for the integrity of our body that we, along with the House, get to the bottom of it. It was my hope we could work this out without trying to refer it to the Justice Department. If in fact it needs to get there, it will get there after appropriate investigation.

To bypass us and give up our power to correct things that are wrong with our rules—not laws, our rules—seems to me to be the antithesis of what we have debated so many times in this Senate over the past 9 to 15 months about the executive power encroaching on the Senate. Now we are ready to give that power away for something that is duly ours and set a precedent

that we are going to ask the Justice Department to investigate us? We ought to be investigating ourselves.

We have the integrity, we have the quality, we have the people, and we have the goodwill of all the Senators of this body and all the Members of the House to do that. Because the institution is more important than any one of us. What we do for the American people has to be more important than any one of us. So it is my hope—I will not take much more time—the Senate will concur.

This is done with all sincerity. I am pointing a finger at no one. But I think if we do not do this, by a second amendment that takes it away, what we will have done is to abrogate our responsibility in terms of the clarity of our purpose and the quality of our work. And if we choose to do that, here is what we will find. We will find another notch down the confidence in Congress by the American people, if we refuse to look under our own bed sheets for our own bedbugs and give that responsibility away.

I appreciate the help of the staff of the committee. They have been very forthright in working with us. As I have said before, I appreciate Senator BOXER's cooperative attitude on this. We disagree on how best to handle this, and I understand her right as the chairman and as a Member of this body, but my hope is we don't give away powers that are ours. The separation of powers is a very important concept in this body, and to abrogate our responsibility and appoint it somewhere else, when we don't have the facts—that can always happen afterwards.

In fact, this amendment states that appropriate referrals will be made to both Ethics Committees of the House and Senate and to law enforcement, if necessary. So my hope would be that we could vote this eventually and look at it. I think it is paramount for the quality of our work.

Madam President, I reserve any time I may have, and I look forward to the comments of the chairman.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, when I learned about this whole issue of what went on in a very devious way related to a highway project, I was very glad Senator COBURN called it to our attention. Where we are right now is the best way to handle this, and this is where there is a bit of a disagreement.

I am concerned, as I look at the Senator's solution here. Essentially, what he has is the House and Senate selecting Members to go on this special committee, and I believe that injects politics into it right away. We can all say we are going to be objective, and so on and so forth, but I think people get the sense, oh, that is a Republican, and he may feel one way; or she is a Democrat, she may feel one way; or I saw that person going to dinner with another Senator or another House Member this way.

I am chair of the Ethics Committee, so I know it is very hard to be totally objective, and you must be in this circumstance. But I think the appearance of a conflict of interest in setting up this committee is something I would rather avoid. So I think that Senator COBURN has done everything in his power to set up a way to investigate this that is fair, but my feeling is there is a better way to go.

As a matter of fact, I am going to offer an amendment to the underlying substitute, and I would ask the Parliamentarian if I need to lay aside the pending amendment in order to do that.

The PRESIDING OFFICER. The Senator does not need to do that. The amendment is in order at this time.

#### AMENDMENT NO. 4539

(Purpose: To call for a review by the Department of Justice of allegations of violations of Federal criminal law)

Mrs. BOXER. I send an amendment to the underlying substitute to the desk.

The PRESIDING OFFICER. The clerk will report.

Mrs. BOXER. Do I need to ask for its immediate consideration?

The PRESIDING OFFICER. That is automatic. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 4539 to the text of the committee substitute to be inserted:

At the end of the amendment, insert the following:

#### SEC. \_\_\_\_ DEPARTMENT OF JUSTICE REVIEW.

Consistent with applicable standards and procedures, the Department of Justice shall review allegations of impropriety regarding item 462 in section 1934(c) of Public Law 109–59 to ascertain if a violation of Federal criminal law has occurred.

Mrs. BOXER. Madam President, I thank the clerk for reading. That is it in its entirety. We call attention to the exact problem that occurred in the bill, the exact project, without naming it. It is explained here. We know it is the Coconut Road project.

This is not a sense of the Senate. This is a very direct amendment that says the Department of Justice shall review these allegations and they shall ascertain if a violation of Federal criminal law has occurred.

So what we do, by taking it into this realm, we take it out of the realm of politics. Senators selected by the Senate to be on this investigation committee of something that happened over in the House; House Members selected by the House to investigate, to me it injects politics into the process.

Secondly, if you read the Constitution and you see the speech and debate clause, you understand that this raises constitutional issues—the Coburn amendment—as to whether one part of Congress can investigate another. I don't want to see this whole thing collapse like a deck of cards because we did something unconstitutional. We know that the Justice Department,

when there is an allegation of improper behavior, we know when there is a possibility here of laws being broken, they have the clear obligation and responsibility, and now we are, in essence, telling them they must review this.

In our conversations, one of the things Senator COBURN was worried about was that the Department of Justice could not use the subpoena power. I have looked at that and what I have found is that is not true. In the case of the Jefferson investigation, it was because there was no warrant. That was the problem. There was some narrow issue involving that. Clearly, this investigation would be appropriate.

Also, we don't give up anything here, I say to my colleague. Consistent with applicable standards and procedures, that is what we say. The Department of Justice shall review, consistent with applicable standards and procedures. No new rules, no new laws, no new ways, and very clearly done.

Frankly, if I might say, I am so angry about this. I am so upset about this. I am sick about this. I think it is very possible people ought to go to jail here. A Senate and House committee can't send anybody to jail. They simply can't. They could make a referral to Justice, but they can't do it.

I am saying I think what we are doing here, by requiring that the Justice Department—by saying, "They shall review allegations," I think is a much better way to go. It keeps politics out of this, it keeps constitutional questions about the debate clause out of this, and it gets to the heart of this, which is, if there was a crime, the person ought to go to jail or the people ought to go to jail.

Let's get right to the point instead of setting up some political committee. They will call hearings and the press will come and people—Senators will make speeches and make their careers. I can just see this thing. I can see this coming. I want to avoid a circus. I want to put somebody in jail if they did something wrong. That is why I think this particular amendment I am offering is the way to go.

I do respect my friend. I certainly am looking forward to having votes on both of these, but I do think this simple amendment we have here will get to the bottom of this, which is where my friend wants to go. He wants to punish the people who have done something wrong. That is what I think we do here.

I will be happy to yield the floor because I see my colleague would like to respond.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, first of all, I thank the chair for her words. I stated that this amendment language is based on a very big precedent established in 1992 in this body with a joint committee of Members of Congress to look at the rules in both Houses, to look at the processes in both Houses. There is a precedent. There is not a

problem with the debate clause. I think that is not a prudent argument to be against this.

The Justice Department will eventually get this if, in fact, we find out there was a crime. I also make the point that nobody knows right now where this occurred. At least I don't. Nobody knows what the facts are, so the assumption we are making that we would be involved in investigating the House is—we do not know that. At least I certainly do not know it, and I have kind of been looking at this for quite some time. So it is an assumption that we are going to have, necessarily, an investigation of the House. We may be having an investigation of the Senate.

The fact is, we have a good precedent for this. This was a Joint Committee on the Organization of Congress, H. Con. Res. 192, in the 102nd, and it looked at everything. It didn't just look at one specific thing. So there is precedent for it.

More important is the separation of powers issue. What we are saying to the American public is we do not have the power to control our own body and that we have to ask the Justice Department to come in and do it. If there is a criminal violation, they certainly ought to be involved in that, but we do not know that yet.

First of all, these are the rules of the Senate. They are not law. We are asking them to investigate the rules of the Senate, not a law; therefore, we are giving power to the executive branch, we are asking the executive branch to come in. My great worry—there is no question, Senator BOXER's amendment will do this. It will get an investigation, if they will come and do it—there is no way we can force them to come and do it—and we will get to the bottom of it.

But I am worried about the integrity of the body, saying to the American public that we cannot police ourselves; we cannot do it; we do not want to take the heavy lifting it is going to take. And I do not believe a four-by-four panel of two Democratic Senators, two Republican Senators, two Democratic Congressmen, and two Republican Congressmen—and this committee has the right to not do any of this in public if they do not want to. The committee totally gets to do this. Nobody wants a circus. I am even reticent that I am actually here making this point. I think it is a pox on our body that this happened, but I think it needs to be addressed.

My hope is that people will not take a partisan viewpoint on how they vote. My hope is they will think about the institution of Congress, they will think about the separation of powers, they will think about the difference between laws and rules of the Senate and rules of the Congress. Then, if a referral needs to be made to the Justice Department, we would do that, but that would most appropriately come from our Ethics Committees, not from this

committee—after a referral from this committee to the Ethics Committee.

The chair of the Ethics Committee cannot say whether they are looking at this right now. They may be. They may not be. We do not know. The Justice Department cannot say whether they are or not. So we do not know what is happening.

The point is, something needs to happen. I worry that when we tell the American public we are not capable of looking into our own dysfunction, that, in fact, what it says is that we give up power to the Justice Department to look at how we enroll bills and whether we violated the rules under how we do it. I have a real concern with that. I have tremendous concern with that, especially since we made such a large issue of separation of powers in this Congress.

I will make one other point, and it is not to demean the Senator from California. If this were important to the committee, why was your amendment not part of the committee mark? If, in fact, the committee was enraged over this, why was this not a part of the original committee mark?

Mrs. BOXER. Is that a question to me?

Mr. COBURN. Why have we not addressed this in the original committee mark or the substitute? We corrected it—and I said, while the Senator was out, I was thankful that the problem was corrected. But the issue of how it got changed is not in the committee mark.

This amendment, this second-degree amendment, comes on the fact that we are trying to offer what I think is a cogent way that has precedent in both the House and Senate for solving this. That is probably just an oversight because I know the Senator cares deeply about this. I know she was upset about it. With everything they had to do to bring this bill to the floor as quickly as they did, that is probably what happened. But the fact is, we are at this point. If the body wants the Justice Department—if we want to give up that power to the Justice Department, the body will vote that, and that is fine.

The last point I will make, and I will not continue on a lot further, is this does not force the House to do anything. Let me tell you why. This bill will go to a conference committee, I believe, of which Chairman BOXER will be the head, and all the House has to say is: We disagree with this; we do not want to do this; we do not want to have a committee look into this. The House has that option, and if it does not agree to it, it will not come out of the conference committee and we will not do anything on it.

The same is true of her amendment in terms of the Department of Justice. But it is important for the American people to know whether something happens on it and whether we do it in a way that emboldens and strengthens the institution of Congress or weakens it.

AMENDMENT NO. 4540 TO AMENDMENT NO. 4539

Before I yield the floor, I have a second-degree amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 4540 to amendment No. 4539.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . COCONUT ROAD INVESTIGATION.**

(a) FINDINGS.—Congress makes the following findings:

(1) According to item number 462 of the table contained in section 1934 of the Conference Report on H.R. 3 (109th Congress), which was passed by the Senate and the House of Representatives on July 29, 2005, \$10,000,000 was allocated for "Widening and Improvements for I-75 in Collier and Lee County".

(2) According to item number 462 of such table in the enrolled version of H.R. 3 (109th Congress), which was signed into law by the President on August 10, 2005, \$10,000,000 was allocated for "Coconut Rd. interchange I-75/Lee County".

(3) A December 3, 2007, article in the Naples Daily News noted, "Mysteriously, after Congress voted on the bill but before the president signed it into law, language in the earmark was changed to read: 'Coconut Rd. interchange I-75/Lee County.'"

(4) Page 824 of Riddick's Senate Procedure notes that "Concurrent resolutions are used to correct errors in bills when enrolled, or to correct errors by authorizing the re-enrollment of a specified bill with the designated changes to be made."

(5) The only concurrent resolution that Congress passed regarding the enrollment of H.R. 3 (H. Con. Res. 226) does not refer to the change made to item 462 of section 1934.

(6) The secret, unauthorized redirection of \$10,000,000 to the "Coconut Rd. interchange I-75/Lee County" calls into question the integrity of the Constitution and the legislative process.

(7) A full and open investigation into this improper change to congressionally-passed legislation is necessary to restore the integrity of the legislative process.

(b) PRESERVATION OF DOCUMENTATION RELATING TO THE ENROLLMENT OF H.R. 3.—Officers and employees of the Senate and the House of Representatives shall take whatever actions may be necessary to preserve all records, documents, e-mails, and phone records relating to the enrollment of H.R. 3 in the 109th Congress, including all documents relating to changes made to item 462 of the table contained in section 1934 of such Act, to allocate funding for the Coconut Road interchange in Lee County, Florida.

(c) SPECIAL COMMITTEE ON ENROLLMENT IRREGULARITIES.—

(1) ESTABLISHMENT.—There is established a select committee of Congress to be known as the Special Committee on Enrollment Irregularities (referred to in this subsection as the "Committee").

(2) PURPOSES.—The purposes of the Committee are to—

(A) investigate the improper insertion of substantive new matter into the table contained in section 1934(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) after the Act passed the Senate and the House of Representatives on July 29, 2005; and

(B) determine when, how, why, and by whom such improper revisions were made;

(3) MEMBERSHIP.—The Committee shall be comprised of 8 members, of which—

(A) 2 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 2 shall be appointed by the Speaker of the House of Representatives; and

(D) 2 shall be appointed by the minority leader of the House of Representatives.

(4) AUTHORITY.—The Committee, consistent with the applicable rules of the Senate or the House of Representatives, may—

(A) hold such hearings, take such testimony, and receive such documents as the Committee determines necessary to carry out the purposes described in paragraph (2); and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Committee determines necessary.

(5) REPORTS.—

(A) INTERIM REPORT.—Not later than August 2, 2008, the Committee shall prepare an interim report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(B) FINAL REPORT.—Not later than October 1, 2008, the Committee shall prepare a final report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(6) USE OF INFORMATION.—The Committee may share all findings, documents, and information gathered in an investigation under this subsection with—

(A) the Select Committee on Ethics of the Senate;

(B) the Committee on Standards of Official Conduct of the House of Representatives; and

(C) appropriate law enforcement authorities.

Mr. COBURN. I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Madam President, let me just say to my friend, I am the chair of the Environment and Public Works Committee. I am not the chair of the Judiciary Committee. I just want to say for the record, in defense of my committee members all, that we fixed this problem in this bill. We fixed the problem in the bill. Do I support the Justice Department going after the evildoers and putting them in jail? You bet I do. But—I hate to say it—in Environment and Public Works, that is not our role. I support what the Senator is trying to do here. So let's get that clear.

On page 86, here it is fixed, in section 110. I want to make that clear, that our committee did the right thing and fixed this problem.

My friend is right, there was a committee to look at the rules. But if all he is doing is looking at rules—and I know he is not—then what is the point? I want to look at what happened. My friend himself talked about fraud. The fact is, we better get to the bottom of this, and all this committee is going to do is look at rules. Frankly, I don't think it is doing much. I would much rather put people in jail. The proper way to do that is to call on the Justice Department to look at these crimes be-

cause, to me, it is the crimes that concern me. I think what they did, on the face of it, going in the dead of night, is certainly not allowed in our rules—at least my interpretation of the rules. That, to me, is not.

I tell you right now, in our committee we are pretty tough on this. We are not allowing people to change things.

Everything that is in this technical corrections bill—and that is why Senator DEMINT praised us—is on the Web site for all to see. We believe in transparency.

What this is about is getting to the bottom of allegations of serious crimes—bribery. Bribery. That is why I do believe at the end of the day let's keep politics out of this issue.

I can tell you right now, the Senators who get on this committee are going to have the flashbulbs going off in their faces, they are going to make a big to-do about this, and they are not going to talk about rules, they are going to talk about crimes. The sad thing is, even if they got to the bottom of it, at the end of the day the committee cannot put anybody in jail. The Justice Department can.

The speech and debate clause is really clear. I know my colleague in the chair is a very prominent attorney. If you look at section 6, article I, it clearly says:

... for any Speech or Debate in either House, they shall not be questioned in any other Place.

So our attorneys are saying the way this is set up, A, you have politics in it; B, you have a constitutional problem, probably; and C, it is a lot of hoopla, a lot of cameras, and at the end of the day we want to put people in jail. That is what we are talking about, really, at the end of the day.

Looking at the Senator's own document on page 5, he says the committee shall share its findings, share its documents, share its information, and so on, with various groups.

I just believe to be tough you have to get the Justice Department involved. When there is a knock on the door from the Justice Department, you will get to the bottom of this. That is what the Boxer amendment does.

I hope people who really want to be tough will do the tough thing, not set up some committee that is going to give Senators and House Members a chance to make political points, and the public will look at us and say this is just a great big show, but really get to the bottom of it and get the Justice Department into this now. There are reports that they are looking at some issues, but there is nothing to say that they are looking at this particular problem.

That is what I have to say. My friend is right to bring this up. I am glad. When the press said: What do you think? I said: Good for him for bringing this up. I am sorry we were not able to agree on the right approach, but I feel very good about the approach I have

come up with here. I look forward to our colleagues voting on this at the appropriate time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, I will just make one comment.

First of all, the chair of the EPW Committee is very gracious. I appreciate her words, and I intended no disrespect for her in terms of her effort. I know she supports this effort to get to the bottom of it. But I would make a correction. We only say we should share with three people: the appropriate law authorities and the appropriate ethics committees of both the House and the Senate.

We did not envision a show. I would envision that the people who might be on this committee would take this very seriously; that, in fact, it probably would not be open hearings but, rather, closed, and that, in fact, we would get to the bottom of the problem.

But either way we get to the bottom of the problem, I am happy we are going to get there. I think it is important that we get there. As I outlined, I think the integrity of what we pass, no matter how we get there, as long as we can ensure the integrity, I will be satisfied we have done that. I am not sure we will get that.

The final point I would make is we will be setting a precedent. Let us not forget, we will be setting a precedent that the Congress says the Justice Department should investigate us. That is a big precedent. That is a big precedent. I am not a lawyer. I do not know if it has happened before, but I do not like that precedent. I don't like it at all. Because I think the integrity of this body is far greater than that. I think Members of this body are far above that, that we do not need the Justice Department to investigate us. I think we can investigate ourselves and we need to demonstrate to the American public that we do have the will and courage to do the disciplined thing and do the right thing and to solve the problem.

Then if a referral is needed to the Justice Department, we should give it. But I have great qualms, great worries about ceding to the Justice Department the power to investigate us. My own personal experience is, we do not know where they will go. We do not know that they will stick on us. The point is, this is a big precedent I would worry about setting.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, if I might respond to my friend, No. 1, we do not cede a thing. We do not give up anything. As a matter of fact, we stay consistent with applicable standards and procedures, and this cannot be a fishing expedition. We say the Department of Justice shall review allegations of impropriety regarding item 462 in section 193(4)(C) of Public Law 109—

59, to ascertain if a violation of Federal criminal law has occurred.

The question is, to me: Will the people or persons who did something wrong be punished? At the end of the day, that is what I am about. I am not about big committee hearings and special committees and the rest. Listen, I am not about that. I am about: We have a lot of work to do for the American people. My friend used words—"fraud," he said. He said "fraud." He already used it. And in his own resolution he says: If they find that there was such fraud, which he already thinks there was—which, by the way, I think it was worse than that, but that is what I think from what I know.

There needs to be proof here. I do not mean to leap ahead too far. He says he is going to refer it to the proper law enforcement. Why can't I say: Well, that is a bad precedent. I do not get it. The difference between what the Senator is doing and what I am doing is I am saying: It looks bad, as if there were a crime committed; we are not sure. Let's get right to the heart of it, and let's go after it.

Here, what my friend is doing, he says: Before we tell them to look at it, we are going to have these hearings. By the way, in his own words, he is going to put the findings on the Internet, he is going to publish them. I have been around here long enough to know what a circus is. I have been involved in a lot of investigations on a lot of committees, and what I want is justice done. I do not want political theatre. I want justice done. I will tell you why. When justice is done and someone goes to jail—we have seen a few people from the other side walk off to jail—that sends the best possible message.

I do not think it ought to be delayed by hearings. Sometimes what happens is, it holds up a Justice Department investigation when there are public hearings going on. I have been in that circumstance too. So I say, here we have two options. One sets up this elaborate committee, and the other one says: Let's get to the heart of this, go after these bad actors, put them in jail. I think that is the better way to go.

I guess I have said it a hundred ways to Sunday. I would stand on those remarks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. I certainly appreciate hearing the debate on the amendments of the technical corrections of the highway bill.

I want to take a little detour for a moment. I ask unanimous consent to speak as in morning business.

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

#### NIGERIAN DETAINING

Mr. TESTER. Madam President, I rise to speak on a matter that has been of great concern this week to not only the Governor of the State of Montana and Senator BAUCUS, but to my colleagues from the State of Washington, Senator CANTWELL and Senator MURRAY.

Four Americans were detained last weekend in Nigeria. They have been held in Nigeria until today. Today they were released. It is an enormous relief to all of us and particularly to those families, that Sandy Cioffi, Tammi Sims, Clifford Worsham, and Sean Porter will soon be reunited with their loved ones.

Nigeria's State Security Service has been overseeing their custody since Saturday afternoon, more than 100 hours. They were charged with no crime. They were in the country legally. They did nothing wrong. So we worked closely to try to get these folks released, and it did happen. It is particularly of importance to me because one of the people who was detained is a lady by the name of Tammi Sims. Tammi is from Joplin, MT, which is a stone's throw away from my hometown. I have been in regular contact with her family since last weekend, and they have been worried sick. But now we have reason for hope. We will not be celebrating, however, until Tammi is reunited and the others are reunited with their families here in the United States. We will continue to keep our fingers crossed, and Sharla and I will continue to pray for Tammi and the rest of the group until they are back here on American soil.

I do, however, want to take a minute to thank the consular affairs section of the U.S. Embassy in Nigeria, who were so very helpful in getting information about these individuals back to my office and to the families of those folks. I also thank the dedicated Foreign Service officers of the State Department. They do this kind of work all over the world, probably every day, but it is not until one of your own is in need of assistance that you appreciate their work, and I do.

I also thank some of my other colleagues, including Senator FEINGOLD, Senator BROWN, who also expressed support for these folks. I thank them for that. This is a good day, and hopefully those folks will be back in their home country very soon with their families.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

#### CONGRATULATING DOVER AIR FORCE BASE

Mr. CARPER. While we are talking as in morning business, I wish to continue the detour, although I may take a little different direction.

As the Chair and my colleague from Montana probably know, each year our military bases in this country go through a competition in which Air Force bases are evaluated against other Air Force bases, and naval installations against other naval installations, Marine Corps against others, Army installations against other Army installations.

For 23 years or so the Air Force has been comparing their bases in a friendly competition called the Commander in Chief's Installation Excellence Award. During that period of time, it is my understanding that no mobility command, no airlift base, if you will,

such as Dover, has ever been honored as the best of the best.

Yesterday I was visited here on Capitol Hill by COL Steve Harrison, who is the active-duty wing commander for the Dover Air Force Base, and he gave me this letter announcing the good news, that Dover Air Force Base has been selected for this high honor.

As an old naval flight officer, I remember often my squadrons on the naval bases where I was located participating in ORI exercises, operational readiness exercises. This is not an ORI. This is a competition which digs in deep and looks at things other than how well you fly your airplanes and meet your readiness requirements and meet your mission, although that is part of it.

This is a competition that also involves how you care for your people; what kind of workspaces do you provide for the folks who are on your bases, the uniformed, nonuniformed personnel? How do you look out for the families of those military personnel? How well do you think outside the box in trying to address the problems and challenges you face? What kind of commitment do you have to innovation in the delivery of the service you provide to support our military forces?

There are over 100 Air Force installations throughout this country. To have been chosen as the one that is believed to be most worthy of receiving this award this year is a matter of great pride, not only for the men and women who wear the uniform at the base, not only for the civilians who work there, and for the families, not only for the Air Force retirees in our State—and there are a lot of them who served at Dover Air Force Base—not only for the folks who live in Dover, the civilian population in central Delaware, this is a matter of pride for all of Delaware.

We have one active-duty installation, actually active duty and a reserve wing at Dover Air Force Base. We have an Air Guard installation up north in our State that we are very proud of. They fly C-130s. But this one, Dover Air Force Base, is very special to the people in our State. They fly C-5 aircraft, which are among the largest aircraft in the world. To be from a little State, and to be the home of one of the biggest aircraft in the world, gives us bragging rights that little States do not often get.

We have C-5B aircraft, about 18 of those at our base. We are getting a new squadron, a squadron of brand new C-17 aircraft that will complement our C-5s. The C-5s will be modernized in the years to come.

Dover Air Force Base has not only wonderful people, a terrific tradition and reputation, but will also have the new C-17s and maybe the first modernized C-5s. We will be ready to go to work and do our job.

Among the things pointed out in the recognition of Dover Air Force Base is



that they have secured, I think in the last year or so, October 1, last fiscal year, October 1, 2006 through September 30, 2007, among other things, they have secured some roughly \$50 million in milcon projects. I hope our delegation, Senator BIDEN, Congressman CASTLE and I, was helpful in that process. We are grateful to our colleagues for the support of that funding.

During that period of time, we opened a brand new air freight terminal that cost, over several years, about \$77.5 million. The efficiencies that will flow from that new cargo-handling facility will actually pay for that facility within 2 years. Now, whenever companies are looking for a way of a return on investment, the idea that you can get a return on investment in 5 years or maybe even 10 years is not deemed very bad. We will realize a return on this investment for our new cargo-handling facility, our air freight terminal, within 2 years of bringing it on line.

What we have done at the base in terms of privatizing the housing and providing enlisted and officer personnel with better housing for themselves and their families is something we greatly appreciate. Also, in the Air Force, they conduct roughly every 400 or so days an inspection called an isochronal inspection. The isochronal inspections that are now being provided for C-5 aircraft take place not only for the air mobility command C-5S but for those that are in the Air Reserve components and the C-5s that are part of the Air National Guards are all done at Dover Air Force Base.

The good news is not only are they done at Dover, because they are done at the Air Force base with people who know how to do this work, trained to do it, they are able to greatly reduce the amount of time it takes to produce the isochronal inspection—not to diminish the quality, the thoroughness of that inspection, but to reduce the time. Since time is money, we are saving some money there for the taxpayers.

Dover Air Force Base provides over one-quarter of all the Department of Defense airlift requirements. They have for some time. With the new cargo-handling facility coming on line, we expect to see that number go up. I understand in the last year or so, the last fiscal year, they completed more than 20 antiterrorism and force protection initiatives.

So to the team at Dover Air Force base that very much is a team, the active-duty wing, the Reserve wing, which works seamlessly together in providing airlift capabilities for our country and around the world, this old naval flight officer salutes you on a job well done. On behalf of every single Delawarean, congratulations and God bless. Keep up the great work.

Mr. BIDEN. Madam President, yesterday, the Secretary of Defense announced the 2008 Commander in Chief's Awards for Installation Excellence.

These awards honor the best installation for each service. For the first time in the 23-year history of the award, the Air Force winner is a mobility base, Dover Air Force Base. Out of 117 Air Force installations, Dover AFB was chosen as the absolute best.

I cannot say that I was surprised. I believe they won because of the tradition of excellence imbued in each man and woman working at Dover.

It started in 1941, when the 112th Observation Squadron of the Ohio National Guard arrived to set up antisubmarine operations at the new Dover airfield. That mission and the others that helped America and her allies win World War II began an enduring tradition of excellence. In 1948, the airfield was officially named Dover Air Force Base and the Nation moved into its Cold War posture. Some may not know this, but for 7 years, 1951–1958, Dover was home to fighter squadrons defending American airspace.

In 1955, one of Dover's best known missions came to the base, the Aerial Port Mortuary. For over 70 years, the Dover team has given fallen Americans an honorable and compassionate homecoming. While it is only one mission on the base, every generation of air men and women stationed at Dover has taken pride in honoring America's heroes and ensuring the grace and dignity of their return to our Nation and their families.

By the late 1950s, Dover was transformed into a mobility base, under the Military Air Transport Service, which became Military Airlift Command, and eventually became Air Mobility Command. Since 1973, Dover has been home to America's largest military transport aircraft, the C-5. Just last year, the Nation's second largest military transport aircraft, the C-17, was added to the base. As home to the Nation's great airlifters, Dover has always been busy—supporting American forces in every military engagement from Vietnam to Grenada to Panama to the first gulf war to the Balkans to Afghanistan and Iraq; supporting our Israeli allies with critical supplies during the Yom Kippur War; evacuating Americans from Iran in 1978; assisting with clean-up from the devastating Exxon Valdez oil spill; assisting Central American nations, Turkey, and Taiwan that have experienced devastating earthquakes; providing humanitarian aid around the globe after major natural disasters; and supporting Presidential travel around the world. This dual mission, to provide lethal force and vital humanitarian aid, makes Dover critical to America's use of both hard and soft power and has made it all the more important that every generation serving at Dover carry on the tradition of excellence.

This year, Dover's tradition of excellence and the entire Dover team have been recognized with the Commander in Chief's Award. What does it mean to be the best base in the Air Force? It means that the entire Dover team has

found innovative ways to make the absolute most of the resources they have. They have not only saved the taxpayers money, they have also given the warfighter more capability.

They have also been unstinting in giving back to the local community and the larger Delaware community. The Dover team is not just the air men and women serving on the base. It is also their families, civilians working on base, the businesses that support base operations and life, the State and local government that support base needs, and the entire Delaware military community working together to give the State and the Nation the very best.

Let me give you some examples from the seven categories that were considered in the competition. Keep in mind that all of these accomplishments occurred in 1 year. They were only possible because the people at Dover, despite full-time, 365/24/7 operations in support of Iraq and Afghanistan, constantly challenged themselves to do more and to do it better.

First, improvements to the infrastructure of the base and the working environment were considered.

Dover opened a state-of-the-art, \$77.5 million Air Freight Terminal that increased cargo capacity and efficiency through Dover by 50 percent. The base also invested \$53 million in a major runway improvement project and another \$3.5 million to repair 183,000 square feet of taxiway, improving both the efficiency and safety of airfield operations. After a close analysis of their budget, the Dover team found \$32 million to use for base improvements, including a \$5 million renovation of a squadron operations building, C-5 recapitalization, and projects needed for the C-17 squadron setup. Thoughtful planning allowed Dover to keep the bed down of a new C-17 squadron on schedule because base personnel proactively made \$780,000 necessary basic infrastructure improvements. In addition, they installed solar lights on the runways and reinforced the taxiway so that C-17 aircrews could do navigation training and combat off-load training.

Dover also improved security operations by installing over 450 removable bollards on the base, including some at the gate in a "Lazy S" curve to prevent reverse entry threats. The bollard installation reduced the force protection squadron's time spent on contracting by 50 percent, freeing them for security missions. Security was further enhanced by the installation of a \$450,000 crash-rated airfield gate, U.S. Transportation Command's No. 1 priority for force protection, and by the use of radiological detection equipment to screen over 91,000 trucks in 1 year alone. This valuable equipment, valued at \$150,000, was obtained by base personnel at no cost. In addition, by renovating the Security Forces firing range at a cost of \$4.8 million, the base was able to increase the range's capacity by 15 percent and save 1,000 manhours per year.



Second, improvements to the quality of life on the base were considered.

Dover has pioneered Air Mobility Command's privatization effort for base housing. Dover built 240 homes in 2007 and was named the 2007 Outstanding Housing Installation Team-Privatized Location for the Air Force. The \$250 million housing project is the benchmark for the command and will ultimately increase the housing standards for 980 families when complete in 2009. Dover's Services Squadron was recognized as Air Mobility Command's 2007 Youth Program of the Year and the Outdoor Recreation Program earned the Air Force's 5-Star Program Award. Quality of life for airmen was further enhanced by finalizing the design of a \$13 million, 144-room dormitory that exceeds command standards and will be a model for other bases.

Keeping the Dover team, including families, healthy is critical to a high quality of life. Dover is the only base in the command with 100 percent of its pharmacy technicians nationally certified. In addition, the base was first in the command and third in the Air Force for flu immunization rates, at over 99 percent.

Third, efforts to enhance the productivity of the workforce were considered.

Dover has taken the lead role in reducing the time needed for Isochronal, ISO, inspections and, as a result, was made the regional center for all east coast C-5 Isochronal inspections in July of 2007. This is the first such regional facility in the Air Force. Historically, an ISO inspection took up to 38 days to complete. The 436th Maintenance Team reviewed the entire process to increase velocity while maintaining quality. This led the team to one record-breaking effort in which an ISO inspection was completed in only 13.2 days. These initiatives were also a key reason the 436th Maintenance Squadron won the 2006 Air Force Maintenance Effectiveness Award.

In order to reduce the time planes are on the ground, the 436th Maintenance Squadron did a complete review of how they maintained ground equipment. As a result, they were able to reduce the steps each mechanic takes from 763 to 73, saving 29.7 minutes per inspection, while reducing wait time by 34 minutes. They also saved 63.7 minutes per inspection or 26.54 manhours per year and vacated 17,660 square feet of floor space to be designated for other use. The cellular work design they came up with is considered the benchmark for such designs in the command and is a model of how the Air Force Smart Operations for the 21st century initiative and use of Lean Six Sigma, a process improvement approach first used in the private sector, can make better use of existing resources.

The Dover Operations Group improved throughput for aircraft by creating the only C-5 one-stop/jet-side service system in the Air Force. The

Required Flight Manual, Flight Information Publications, weapons and tools needed by an aircrew for a mission are delivered directly to the aircraft. This reduces travel time by 20 minutes, allowing a 12-percent reduction in the C-5 launch sequence and providing more duty days for the crews to complete their missions.

Dover was able to reduce the amount of time needed to overhaul and rebuild C-5 jet engines, TF39, by 12 days, going from 75 to 63 days. The process improvement also allowed two production crews to be reassigned to other sections, regained five critical manning positions, and saved 36 manpower positions and \$3.8 million in operating costs. On the whole, by reducing wasted motion for support equipment and tools, the 436th Maintenance Group has saved 73.3 annual man-days and expedited engine repairs so that they are done 5 days faster than the original standard and freeing 1,944 square feet of floor space for other work.

Another key initiative was the effort to ensure that Basic Post Flight inspections be done within 10 hours of mission completion. This initiative was begun in 2005 by the Dover Maintenance Group Commander and brought completion time down to 6 hours, a 40-percent improvement. The complete process review improved Home Station Logistics Reliability rate by 40 percent and overtime man hours were reduced by 75 percent. Overall, this means the team saved 23,000 labor-hours and \$1.168 million. The mission benefits included the following: a reduced number of tail swaps, increased number of aircraft ready for flight, reduced number of late take-offs, and dramatically improved efficiency in the launch sequence of events.

The Dover team also ensured a seamless transition for the new C-17 squadron, ensuring that Dover's first C-17 was able to fly its first combat mission within 36 days of arrival. In the squadron's first month, they had a 100-percent on-time departure rate and a 99-percent mission capable rate.

In addition, once investigators were done with the 2007 C-5 crash scene, Dover personnel took the initiative to save and recover parts. Their efforts ensured that 127 parts were recovered, inspected, and restocked into the Air Force supply system, saving \$7 million.

Fourth, increases in customer satisfaction or improvements in customer service were considered.

Today, Dover's key mission, or customer service, is to support operations in Iraq and Afghanistan. Twenty-seven percent of the entire Department of Defense airlift requirement last year went from Dover. The 3rd and 9th Airlift Squadrons flew more than 8,000 hours, with more than 2,000 combat hours and 460 combat missions. The two squadrons combined airlifted 59.4 million pounds of cargo and more than 12,000 passengers.

Dover is the second busiest en route airfield in the Department of Defense.

It supported 3,000 en route missions in 2007 with a 95-percent departure reliability rate.

In addition, Dover assisted America's diplomatic efforts and the State Department by supporting foreign military sales to 32 countries, handling 85 missions and 950 tons of cargo.

The Dover team also made sure that it provided the best possible services to military personnel and their families on base. Access to mental health care was increased by 35 percent, despite a 40-percent decrease in manning. This exceeded the command's goal for access by 20 percent. In order to keep basic operations functioning, the Communications Squadron answered 99 percent of their 2,700 assistance requests within 2 days. That is 4 percent better than the Air Force standard.

In an effort to improve safety and provide instantaneous responses to emergencies with existing resources, the Civil Engineer Fire Department teamed with the Medical Group to provide 24/7 ambulance service. The Medical Group Airmen who provide ambulance response are now co-located at the emergency call center at the base Fire Department.

Fifth, efforts to encourage bottom-to-top communication and team problem solving were considered.

Dover has been a true leader in implementing Air Force Smart Operations for the 21st century. The key to the success of this initiative to make operations more streamlined and "lean" has been clear communication and a team approach. In recognition of this excellence, Dover has hosted numerous training sessions for units from five major commands, Air Force senior leaders, and for the Royal Air Force. Dover instructors have trained 4,200 students in Basic Lean Awareness including a program at the First Term Airmen Center.

Dover is the first base in the command to have two fully qualified level-2 facilitators. These facilitators certified seven level-1 facilitators and trained another 20 level-1 students. They have successfully made operations more efficient in over 50 areas in just 1 year. In addition, Dover's trainers ensured that 210 future Ramstein Air Force Base and Charleston Air Force Base facilitators understood the basics of lean initiatives. These efforts won the Dover team praise from the Logistics Director at Air Mobility Command Headquarters.

Sixth, the promotion of unit cohesiveness and the recognition of outstanding individual effort was considered.

The Dover team won two Department of Defense, one Secretary of the Air Force, 12 Air Force, and 93 Air Mobility Command Awards in 2006. In addition, they won the 2007 U.S. Small Business Administration Award for the State of Delaware. One critical example of why these awards were won is in antiterrorism, where they won command honors for the ninth consecutive year for best

antiterrorism and force protection programs. Dover was able to obtain \$1.2 million in Combating Terrorism Readiness Initiative Funds that it used to resolve installation vulnerabilities, resulting in winning the Department of Defense's Best Antiterrorism Operational Unit in 2006 and the Department of Defense's Best Antiterrorism Program Manager Awards for 2007. The Dover team won these awards by completing over 20 antiterrorism and force protection initiatives that created a hard target security signature. These efforts paid off by deterring Fort Dix terrorists from attacking Dover AFB. This event permeated Air Force culture and is commonly referred to as the "Dover Effect."

Seventh, the promotion of energy conservation and environmental safety, including compliance, remediation, and stewardship, was considered.

The maintenance squadron at Dover was able to dramatically improve the process for cleaning ground equipment while also making it more environmentally sound. Formerly all ground equipment had to be moved to a separate wash facility primarily used for aircraft. Through careful research, a completely self-contained wash system with zero environmental impact was selected, designed, and installed in the ground equipment facility. This decreased travel time from 190 hours to 12 hours a year, a 94-percent savings. This increased the capability and availability for ground equipment, alleviated contractual issues that had arisen with the old cleaning system, and reduced the chance for aircraft delays. The new process is environmentally friendly and captures, filters, and recycles all waste water.

Dover also received the 2006 Secretary of Defense Environmental Restoration Award for Best Environmental Restoration Program for its restoration of natural resources used to support the base's warfighting mission. Dover reached the Defense Department's environmental goals 4 to 8 years ahead of schedule. Activities at Dover Air Force Base which earned this award include, but are not limited to: obtaining regulator signatures on six Records of Decision for 39 sites in 6 months; achieving Response Complete status at 27 of Dover's 59 sites; opening up 54 acres of formerly restricted land for use in supporting the base's mission; and completing Remedial Designs and Work Plans for 17 sites in only 3 months.

In addition, Dover won the 2006 Air Force General Thomas D. White Environmental Award which recognizes the efforts of installations and individuals to improve environmental quality, restoration, pollution prevention, recycling, and conservation of natural and cultural resources. Dover is 6 years ahead of schedule in its environmental remediation program.

These are the areas that the selection committee looked at when it decided which base was the best in the

Air Force this past year. It is obvious that in every area, the Dover team took seriously the challenge to improve base operations and the quality of life wherever possible. From the smallest process improvements to the largest investments in critical infrastructure, Dover personnel found ways to do more. The result is not just that they upheld the base's long tradition of excellence, they surpassed it. In so doing, they have truly given our Nation their best and have made me and every Delawarean proud. We have always known Dover is the best in the Air Force. It is time the rest of the Nation knew about your excellence.

Congratulations, Dover Air Force Base!

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SALAZAR. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SALAZAR. Madam President, I ask unanimous consent to speak as in morning business for up to 5 minutes.

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

#### FIREFIGHTERS KILLED IN COLORADO

Mr. SALAZAR. I come to speak in regard to three firefighters killed in the State of Colorado in the last day and a half. These three firefighters are part of the legion of first responders who make sure they are keeping us safe day in and day out. In Colorado, in the last day we have had three significant fires that have broken out: one in Crowley County, one in El Paso County in Fort Carson, and a third in Garfield and Pitkin Counties in Carbondale.

The fire in Crowley County, we had two volunteer firefighters who gave their lives fighting that fire. They are John Schwartz and Terry DeVore. To them, their families, we appreciate their sacrifice, serving as first responders often do, putting their lives on the line to make sure communities are protected.

In the case of Gert Marais, who was fighting the fire at Fort Carson and whose plane crashed while he was fighting the fire, to his family we also send our condolences and appreciation.

These are unusual fires for us in Colorado. Usually we get to fire season during the dry times of July and August, September and October. This year in particular we have had moisture that is on average about 200 percent over a normal year in all of our southern river basins, which is seemingly unprecedented. But the fires have been driven by high winds, and the damage has been significant.

In Ordway in Crowley County, a rural and remote part of our State, much of the town of Ordway has been devastated; 1,100 people who live in the town had to be evacuated because of the fire. I have been in Crowley County and Ordway many times in my public

life. It is one of those counties in Colorado which is part of that forgotten America. It is rural and very remote. Thousands upon thousands of acres of land within Crowley County have been dried up as the water that irrigated those fields has been taken to so-called higher economic uses of the city, the cities of Pueblo, and Colorado Springs, and the Denver metropolitan area.

It is this fire that caused extensive damage to the town of Ordway and has also created the devastation.

I am certain the 1,100 citizens of Ordway, as devastated as they are in the aftermath of the fire, are also very rich and powerful in spirit. With that power of spirit, they will rebuild the town and the community. I will be there, along with my colleagues, to do everything we can to help them rebuild.

I appreciate the efforts of Governor Ritter and the Federal agencies that have been so responsive to the issues created by these fires in Colorado.

#### VISIT OF POPE BENEDICT

I also rise to speak concerning the Pope's visit to America. This morning, along with many of my colleagues in the Senate, I participated in greeting the Pope upon his arrival at the White House with President and Mrs. Bush.

It is a momentous occasion for all of us who come from a Roman Catholic tradition to have Pope Benedict visit America. It is our hope that as he comes to Washington and then goes to New York and visits Ground Zero and also addresses the United Nations, one of the things the Pope will do is to talk about what he is here to do, and that is to talk about how it is that we are one global community. As we deal with the issues that confront our world today, whether they relate to terrorism or poverty, disease or the issue of global climate change, at the end of the day it is important to recognize that the hope and optimism of humanity is bound up in how we work together as one people. It is a message of hope and optimism.

We have looked forward to his visit to America and to the inspiration that he will give to 300 million Americans, as well as the over 50 million Catholics we have in the United States.

Some years ago, in 1993 and 1994, we prepared for and held World Youth Day where Pope John Paul II came to the United States and visited many of us in Colorado. He had a mass at Cherry Creek State Park which was attended by over 500,000 young Americans from throughout the United States as well as the world. It was a celebration of World Youth Day in Denver. It was characterized as one of the most peaceful gatherings of a crowd that size in the history of the State, a crowd that size, in terms of the peacefulness of it, probably in the United States. It left a legacy not only in Colorado but across the United States and the world about the hope and optimism that we see in America and in the world, so much of it through the eyes of our young people.

Today, for me, as I greeted the Pope in Washington, DC, at the White House, I was reminded about the hope and optimism which is part of the legacy John Paul II left when he came to visit in Colorado now some 15 years ago.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. SCHUMER.) Without objection, it is so ordered.

Mrs. BOXER. Mr. President, the majority leader will be coming out shortly to let Members know what is happening. But I can tell everybody that this bill is being slow walked. This is a simple bill. This is a mini-economic stimulus bill. It would release \$1 billion of highway trust fund moneys to build roads, to fix bridges, to run transit systems, and it got caught up in Presidential politics, investigations—everything you can think of—while the people wonder what we are doing.

This bill, simple as it is, would create about 50,000 new jobs at a time when we know—it is worse than a middle-class squeeze. It is really a middle-class struggle that is going on, and people are worried. They are worried about their homes, they are worried about everything, and this bill will create jobs.

So what we have is a classical slowdown, with Presidential politics being involved dealing with the gas tax that funds the highway trust fund. That is fine, but just let everybody know from where it is coming. The only amendments to this bill—the only amendments—come from the Republican side. I offered one as a side-by-side to Senator COBURN's, which I think is a good amendment. My amendment will not bring down this bill. Others will.

Here is where we are. We have a simple bill. It passed a year ago in the House. It passed, I believe it was June of 2007, under the leadership of Senator INHOFE. Actually, it was under my leadership but with the work of Senator INHOFE, both of us working together, bipartisan, bicameral.

I want to show you, Mr. President, who is strongly supporting this bill: the American Association of Highway and Transportation Officials, that is departments of transportation officials of all 50 States; the American Highway Users Alliance, millions of highway users throughout the country; the American Public Transit Association, transit systems from across the country; the American Road and Transportation Builders Associations, more than 5,000 members of the transportation construction industry; Associated General Contractors, more than 32,000 contractors, service providers, and suppliers; the Council of University Transportation Centers, more than

30 university transportation centers from across the country; the National Stone, Sand and Gravel Association, companies producing more than 92 percent of crushed stone and 75 percent of sand and gravel used in the U.S. annually; the National Asphalt and Pavement Association, more than 1,100 companies that produce and pave with asphalt.

These are real people who are willing, ready, and able to build and rebuild our infrastructure, to build and rebuild our transit systems. This bill is a no brainer. Instead, it is caught up in all of these negotiations right now. Whether we vote tonight or not, we are going to find out soon enough from Senator REID. But, Mr. President, let me say to my colleagues on both sides of the aisle, Senator INHOFE and I really wanted to get them a good bill. Senator INHOFE and I really wanted to get this work done quickly. We did all our homework. We put everybody's name on the Web site, so we complied with the new ethical rules. Senator DEMINT said he was very pleased with the standard we set for transparency.

These projects are ready to go. They are ready to go in Brooklyn, they are ready to go in Manhattan, they are ready to go in San Francisco, they are ready to go in Atlanta, and they are ready to go in Oklahoma. They are ready to go in every State of the Union. I say to all these good people who told us how much they want this bill to move: Please contact the Republican leadership and tell them to play Presidential politics another day with amendments that are not germane, with amendments that don't belong on this bill. Today pass this legislation.

There is too much talk around here and not enough action. We passed a stimulus bill. We did it in a bipartisan way, but we all know there is more to be done. This little bill will create tens of thousands of good-paying jobs in America, doing something that has to be done. But, no, we cannot finish it. We had one vote so far on an amendment by Senator DEMINT. We defeated it, which was important because it was a killer amendment. It says to me people want this bill.

This is the status. We are waiting for some type of agreement. This whole thing is being slow walked. We look forward to hearing from the majority leader as to whether there will be any more votes this evening. But as far as this Senator is concerned—I know I speak for Senator INHOFE—we want to get this bill done. But people are slow walking this bill. We are going to do our best to see if we can get this logjam stopped. But at this point, we have not been able to do it.

Tens of thousands of jobs are in jeopardy, and 500 various transit projects already paid for are in jeopardy. What a shame we cannot go forward. What a shame we are in another slowdown by my friends from the other side of the aisle. It is very discouraging.

Again, as the eternal optimist, I will return to this place tonight, if we can

continue working, or tomorrow after we come in after we pay our respects to the Pope.

#### MORNING BUSINESS

The PRESIDING OFFICER. (Ms. CANTWELL). The Senator from California.

Mrs. BOXER. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

Mr. BROWN. Madam President, I ask unanimous consent to speak up to only 5 minutes as in morning business.

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

#### TRADE POLICY

Mr. BROWN. Madam President, there has been a lot of controversy in the last couple of weeks about the President's sending the Colombia so-called free trade agreement to the House of Representatives. Under this unusual law, there is something called fast track procedure. Fast track procedure—this is a lot of inside baseball—changes the way we do business in the House and Senate. Trade law is the only issue that changes the way that we do business. On no other issue that comes in front of the House and Senate, except the budget, are there limits on amendments, are there limits on required up-or-down votes, timetables—all of that. The Senate rules do not apply on that legislation. It is the only time—in part because of who has written trade policy in this country in the last 20 years.

We have seen trade agreements that always look out for the interests of the drug industry, look out for the interests of the insurance industry, of banking interests, of energy interests. But we have not seen trade policy written in this country, negotiated by the President of the United States, the U.S. Trade Representative, that has shown any of the same concern for workers, for the environment, for food safety, for the safety of consumer products. That is why we have seen what happened with all the toys that came into this country from China. It should not have been a surprise to us that at Eastertime, that at Christmas, that at Halloween last year, that consumer products, especially toys for small children, came into this country that were dangerous. It should not have surprised us because it was somewhat inevitable because of the way we do trade policy in this country.

Professor Jeff Weidenheimer, a professor of chemistry at Ashland University, about 10 miles from where I grew up in north central Ohio, took his class to test children's toys last fall at Halloween and then did it again at Christmas and did it again at Easter. In case after case, they would go to a toy store

or a discount store and they would buy a bunch of toys, very inexpensive toys, and they would test them for lead. Every one of these batches of toys had significant numbers of toys that had lead content—lead in the paint that covered these toys—lead content way above on average what is considered safe. What is considered safe is about 600 parts per million. These were, in some cases, thousands of parts per million.

What should not surprise us about that is the way we set up trade policy in this country. We don't write trade policy to protect our children or to protect our communities or to protect our workers. We don't write trade policy to protect our food supply. We write long trade agreements—this isn't one, but I have to gather these papers to show how long they are. We pass trade policies that are this long. If we wanted to eliminate tariffs, we would pass trade policies that are this long. You could write a schedule of eliminating tariffs in the Colombian free trade agreement of 2 or 3 pages. Instead, we write agreements that are hundreds, if not in some cases over a thousand pages, because they are full of protections—not for workers, not for communities, not for children, not for our kitchen tables, our families—but these are trade policies that are chock-full of protections for the drug industry, the insurance industry, the oil companies, the banks. That is what our trade policy is all about. That is why.

Go back to Jeff Weidenheimer's class at Ashland University and look what happened. American companies decide they are going to shut down in this country because they would rather pay Chinese workers low wages and not have environmental laws and not have worker safety laws and not have to worry about consumer protection laws, so they shut down plants such as Huffy Bicycle in Sidney, OH, and they move to China where it is a whole lot cheaper. You don't have to worry about treating Chinese workers well because they are disposable. They did have to worry about treating American workers well, frankly, because many of them were union, and even if they were not, we have consumer protection laws, safe drinking water, clean air, environmental laws—all of those kinds of things. So these companies in Ohio and in the State of Washington where the Presiding Officer is from, all over our country, these companies shut down and they move to China.

A company such as Hasbro, a toy manufacturer, moves their production to China. Hasbro then subcontracts with a Chinese company, they subcontract their work. They go to a country, China, that does not have the same environmental safety, worker safety, consumer safety, and wages we have in this country, and then they deal with Chinese contractors and they push those Chinese contractors to cut costs: You have to cut costs; you have to cut costs. Every year they cut costs

over the year before, because that is good business. These American companies, when they outsource their jobs to China, force those Chinese contractors to cut costs.

Do you know what happens? They use lead-based paints. Do you know why? Because lead-based paint is cheaper to apply, it is cheaper to buy, it dries faster. These toys, then, all of a sudden, instead of having a coating that is safe for little children instead now have a coating that has lead base in them, making them dangerous to children. But they do that because these American companies are pushing these subcontractors to cut costs.

Forgetting for a moment—because these American companies don't seem much to care and the Chinese contractors don't seem to care much—forgetting for a moment these people in China are working in these factories and are probably ingesting all kinds of toxic lead themselves—forget that for a moment, as bad as that is. These toys then come back to the United States. Do you know what the Bush administration did? The Bush administration has weakened consumer protection laws and cut the number of inspectors so these products come through the American regulatory system that used to be the best regulatory system, the best consumer product safety system in the world, the best Food and Drug Administration system in the world—agencies that protected consumer products, about toys, especially—and agencies that protected food products that came into this country. And what do we end up with? We end up with toxic toys coming to our children's bedrooms, we end up with contaminated vitamins and other contaminated food coming into our kitchens. That is the result of American trade policy. It doesn't look out for our families, it doesn't look out for our children, it doesn't look out for our workers, it doesn't look out for our communities. Instead, it looks out for the drug companies, it looks out for the big toy manufacturers, it looks out for the big insurance companies, it looks out for the banks, it looks out for the oil industry. That is what is wrong with our trade policy.

President Bush's answer is let's send another free trade agreement to the Senate, to the House of Representatives, the Colombia free trade agreement. It is more of the same. It will not work.

The last point, Madam President, and I think we are pretty ready to adjourn for the night. When I came to Congress—I was elected the same year the Presiding Officer was elected, 1992—we had a \$38 billion trade deficit. That means our country bought \$38 billion more than our country sold to other countries around the world. Today, that trade deficit exceeds \$800 billion—from \$38 billion to \$800 billion in a decade and a half. President Bush the First said for every \$1 billion trade surplus or trade deficit, it amounted to

13,000 jobs. That means if we had a \$1 billion trade surplus, if we were selling more than we were bringing in, it meant 13,000 net gain of jobs in country. If we had a \$1 billion trade deficit, it meant we bought \$1 billion more than we sold, we had a 13,000 jobs net loss. We have an \$800 billion plus trade deficit. Do the math. Think about that.

As we adjourn for the evening, think about what this trade policy is doing. It continues to fail the American people, continues to fail our communities, and it kind of begs the issue about which Albert Einstein once said: The definition of insanity is to do the same thing over and over and expect a different result.

We are getting the same result. It hurts our communities, it doesn't protect our families—consumer protection and food safety and all of that. These trade agreements are a bad idea. We can fix them. I, like Senator DORGAN, who has spoken on the floor many times about this, want more trade. We want plenty of trade. We just want it under a very different set of rules, rules that protect our families, protect our communities, that protect our workers—not just protecting the drug industry and the oil industry and the energy companies and those toy manufacturers that sort of forget about the safety of our children.

#### HONORING OUR ARMED FORCES

Mrs. BOXER. Madam President, today I rise to pay tribute to 19 young Americans who have been killed in Iraq since November 6, 2007. This brings to 831 the number of servicemembers who were either from California or based in California who have been killed while serving our country in Iraq. This represents 21 percent of all U.S. deaths in Iraq.

SPC Peter W. Schmidt, 30, died on November 13, in Mukhisa, Iraq, of wounds suffered when an improvised explosive device detonated during dismounted combat operations. Specialist Schmidt was assigned to the 2nd Battalion, 23rd Infantry Regiment, 4th Stryker Brigade Combat Team, 2nd Infantry Division, Fort Lewis, WA. He was from Eureka, CA.

SSgt Alejandro Ayala, 26, died November 18, of injuries sustained as a result of a vehicle accident in Kuwait. Staff Sergeant Ayala was assigned to the 90th Logistics Readiness Squadron, F.E. Warren Air Force Base, WY. He was from Riverside, CA.

SGT Kyle Dayton, 22, died December 3 in Ashwah, Iraq, of injuries suffered from a noncombat-related incident. Sergeant Dayton was assigned to the 2nd Battalion, 504th Parachute Infantry Regiment, 1st Brigade Combat Team, 82nd Airborne Division, Fort Bragg, NC. He was from El Dorado Hills, CA.

CPO Mark T. Carter, 27, died December 11 as a result of enemy action while conducting combat operations in Iraq. Chief Petty Officer Carter was permanently assigned as an East Coast-based

Navy SEAL. He was from Fallbrook, CA.

PFC George J. Howell 24, died December 21 in Riyadh, Iraq, of wounds suffered when his vehicle was attacked by an improvised explosive device. Private First Class Howell was assigned to the 1st Battalion, 87th Infantry Regiment, 1st Brigade Combat Team, 10th Infantry Division, Light Infantry, Fort Drum, NY. He was from Salinas, CA.

SGT Benjamin B. Portell, 27, died December 26 in Mosul, Iraq, of wounds suffered from small arms fire during dismounted combat operations. Sergeant Portell was assigned to the 3rd Squadron, 3rd Armored Cavalry Regiment, III Corps, Fort Hood, TX. He was from Bakersfield, CA.

PFC Ivan E. Merlo, 19, died in Samarra, Iraq, on January 9, of wounds sustained during combat operations. Private First Class Merlo was assigned to the 2nd Battalion, 327th Infantry Regiment, 1st Brigade Combat Team, 101st Airborne Division, Air Assault, Fort Campbell, KY. He was from San Marcos, CA.

SGT David J. Hart, 22, died in Balad, Iraq, on January 9, of wounds sustained during combat operations in Samarra, Iraq. Sergeant Hart was assigned to the 2nd Battalion, 327th Infantry Regiment, 1st Brigade Combat Team, 101st Airborne Division, Air Assault, Fort Campbell, KY. He was from Lake View Terrace, CA.

SGT James E. Craig, 26, died from wounds suffered when his unit encountered an improvised explosive device during convoy operations on January 28, in Mosul, Iraq. Sergeant Craig was assigned to the 1st Battalion, 8th Infantry Regiment, 3rd Brigade Combat Team, 4th Infantry Division, Fort Carson, CO. He was from Hollywood, CA.

PFC Brandon A. Meyer, 20, died from wounds suffered when his unit encountered an improvised explosive device during convoy operations on January 28 in Mosul, Iraq. Private First Class Meyer was assigned to the 1st Battalion, 8th Infantry Regiment, 3rd Brigade Combat Team, 4th Infantry Division, Fort Carson, CO. He was from Orange, CA.

SGT Timothy P. Martin, 27, died February 8 in Taji, Iraq, of wounds suffered when his vehicle encountered an improvised explosive device. Sergeant Martin was assigned to 2nd Squadron, 14th Cavalry Regiment, 2nd Stryker Brigade Combat Team, 25th Infantry Division, Schofield Barracks, HI. He was from Pixley, CA.

SPC Michael T. Manibog, 31, died February 8 in Taji, Iraq, of wounds suffered when his vehicle encountered an improvised explosive device. Specialist Manibog was assigned to 1st Battalion, 21st Infantry Regiment, 2nd Stryker Brigade Combat Team, 25th Infantry Division, Schofield Barracks, HI. He was from Alameda, CA.

LCpl Drew W. Weaver, 20, died February 21 while conducting combat operations in Al Anbar Province, Iraq. Lance Corporal Weaver was assigned to

3rd Light Armored Reconnaissance Battalion, 1st Marine Division, I Marine Expeditionary Force, Twentynine Palms, CA.

CPL Jose A. Paniagua-Morales, 22, died March 7, in Balad, Iraq, of injuries sustained in Samarra, Iraq, when an improvised explosive device detonated near his vehicle. Corporal Paniagua-Morales was assigned to C Company, 4th Battalion, 9th Infantry Regiment, 2nd Infantry Division, Fort Lewis, WA. He was from Bell Gardens, CA.

PVT George Delgado, 21, died March 24 in Baghdad, Iraq, from wounds suffered when his vehicle encountered an improvised explosive on March 23. Private Delgado was assigned to the 4th Battalion, 64th Armor Regiment, 4th Brigade Combat Team, 3rd Infantry Division, Fort Stewart, GA. He was from Palmdale, CA.

MAJ William G. Hall, 38, died March 30 from wounds he suffered while conducting combat operations in Al Anbar Province, Iraq, on March 29. Major Hall was assigned to 3rd Low Altitude Air Defense Battalion, Marine Air Control Group 38, 3rd Marine Aircraft Wing, I Marine Expeditionary Force, Camp Pendleton, CA.

SGT Richard A. Vaughn, 22, died April 7, in Baghdad, Iraq, from wounds suffered when enemy forces attacked using a rocket propelled grenade, improvised explosive device and small arms fire. Sergeant Vaughn was assigned to the 1st Battalion, 66th Armor Regiment, 1st Brigade Combat Team, 4th Infantry Division, Fort Hood, TX. He was from San Diego, CA.

SGT Timothy M. Smith, 25, died April 7, in Baghdad, Iraq, of wounds suffered when his vehicle encountered an improvised explosive device. Sergeant Smith was assigned to the 4th Brigade Special Troops Battalion, 4th Brigade Combat Team, 10th Mountain Division, Light Infantry, located at Fort Polk, LA. He was from South Lake Tahoe, CA.

TSgt Anthony L. Capra, 31, died April 9, near Golden Hills, Iraq, of wounds suffered when he encountered an improvised explosive device. Technical Sergeant Capra was assigned to Detachment 63, 688 Armament Systems Squadron, Indian Head City, MD. He was from Hanford, CA.

I would also like to pay tribute to the eight servicemembers from California who have died while serving our country in Operation Enduring Freedom since November 6.

SPC Lester G. Roque, 23, died November 10 of wounds sustained when his patrol was attacked by direct fire from enemy forces in Aranus, Afghanistan, on November 9. Specialist Roque was assigned to 2nd Battalion, 503rd Airborne Infantry Regiment, 173rd Airborne Brigade Combat Team, Vicenza, Italy. He was from Torrance, CA.

SPC Sean K. A. Langevin, 23, died November 9 of wounds sustained when his patrol was attacked by direct fire from enemy forces in Aranus, Afghanistan. Specialist Langevin was assigned

to 2nd Battalion, 503rd Airborne Infantry Regiment, 173rd Airborne Brigade Combat Team, Vicenza, Italy. He was from Walnut Creek, CA.

First Lieutenant Matthew C. Ferrara, 24, died November 9 of wounds sustained when his patrol was attacked by direct fire from enemy forces in Aranus, Afghanistan. First Lieutenant Ferrara was assigned to 2nd Battalion, 503rd Airborne Infantry Regiment, 173rd Airborne Brigade Combat Team, Vicenza, Italy. He was from Torrance, CA.

SGT Phillip A. Bocks, 28, died November 9 while conducting combat operations in Aranus, Afghanistan. Sergeant Bocks was assigned to Marine Corps Mountain Warfare Training Center, Bridgeport, CA.

SrA Nicholas D. Eischen, 24, died December 24, in Bagram Air Base, Afghanistan, in a noncombat-related incident. Senior Airman Eischen was assigned to the 60th Medical Operations Squadron, Travis Air Force Base, CA. He was from Sanger, CA.

SGT James K. Healy, 25, died at Jalalabad Airfield, Afghanistan, of wounds sustained when his vehicle struck an improvised explosive device on January 7, in Laghar Juy. Sergeant Healy was assigned to the 703rd Explosive Ordnance Detachment, Fort Knox, KY. He was from Hesperia, CA.

SGT Robert T. Rapp, 22, died March 3, in the Sabari District of Afghanistan, of wounds suffered during combat operations. Sergeant Rapp was assigned to the 1st Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division, Fort Bragg, NC. He was from Sonora, CA.

SGT Gabriel Guzman, 25, died March 8 at Orgun E, Afghanistan, of wounds suffered when his vehicle encountered an improvised explosive device in Gholam Haydar Kala, Afghanistan. Sergeant Guzman was assigned to the 2nd Battalion, 508th Parachute Infantry Regiment, 4th Brigade Combat Team, 82nd Airborne Division, Fort Bragg, NC. He was from Hornbrook, CA.

May all these brave soldiers, brave marines, brave Navy SEALs and sailors, brave airmen—brave all—may they rest in peace. I wish to say that if you come to my office in the Hart Building, before you enter, I have listed on big charts the names of all the individuals who are either from California or assigned in California, and if they passed, they are on that listing. We started with one enormous chart, then two, three, and four. I am sad to say it is growing.

The reason I wished to mention their names on the floor is because sometimes we tend to just look at numbers—and we should—but behind those numbers are our children. I am a grandmother. I ache every time I sign a letter. Every single one of these brave Americans died doing something they wanted to do for their country. Their Commander in Chief sent them

into battle, so of course not one of them has died in vain. But I want to do all I can—and I say this from my heart—to ensure that when we get into a conflict, we know there is a way out and that we can bring these conflicts to an end as soon as possible because so many sacrifices are being made, and no more so than the loss of America's finest.

SERGEANT HEATHER SPRINGER

Mr. NELSON of Nebraska. Madam President, I rise today to honor Nebraska Army National Guard Sergeant Heather Springer, in recognition of receiving the Army Veterans' Association Medic of the Year award and the Bronze Star Medal for Valor.

Sergeant Springer is a native of Lincoln, NE, and currently attends the University of Nebraska Medical Center College of Nursing. She joined the Nebraska Army National Guard on April, 8, 2004, and served with the 313th Ground Ambulance and 110th Medical Battalion. On March 1, 2006, Sergeant Springer transferred to Charlie Company 2-135 General Support Aviation Battalion, 36th Combat Brigade, to become a flight medic. Soon after, she was deployed to Iraq in Diyala Province in support of Operation Iraqi Freedom.

On July 15, 2007, Sergeant Springer was transported to a landing zone where several U.S. soldiers had been struck by a roadside bomb. While conducting treatment for a critically injured soldier, her team suddenly came under enemy fire. She immediately secured the wounded soldier she was attending to and then moved 10 meters to a second wounded soldier, willingly exposing herself to open fire. During this hostile situation, Sergeant Springer remained composed and demonstrated assertive judgment by concluding that the wounds sustained by the first soldier were more critical. She determinedly led part of her team through 60 meters of open road, completely susceptible to enemy fire, to secure the soldier inside a Black Hawk helicopter. Once inside the helicopter, Sergeant Springer noticed that the second wounded soldier she had attended to was being moved towards the helicopter, and instantly moved to help safely transport the soldier aboard the aircraft.

Sergeant Springer displayed remarkable courage and selflessness while placing her own life at risk. These two wounded warriors are alive today as a direct result of her steadfastness and superb medical skills. The DUSTOFF—Dedicated Unhesitating Service to Our Fighting Forces—Association recently awarded her the DUSTOFF Medic of the Year award. The DUSTOFF Association is a nonprofit organization for the Army Medical Department's enlisted and officer personnel, aviation crew members, and others who have actively supported Army aeromedical evacuation programs in war or in peacetime.

Sergeant Heather Springer's admirable performance in Iraq led her to be-

come the second woman in Nebraska National Guard history to receive the Bronze Star Medal for Valor. I wish Sergeant Springer all the best as she pursues her education in nursing school, and join all Nebraskans in honoring the heroism of this exceptional soldier.

#### ONE-YEAR ANNIVERSARY OF VIRGINIA TECH TRAGEDY

Mr. WARNER. Madam President, 1 year ago today, the horrific shootings at Virginia Tech claimed 32 innocent lives.

In remembrance of the lives of promise that were forever lost that shocking day, I would simply like to read each of their names into the CONGRESSIONAL RECORD: Ross A. Alameddine; Christopher James Bishop; Brian R. Bluhm; Ryan Christopher Clark; Austin Michelle Cloyd; Jocelyne Couture-Nowak; Daniel Alejandro Perez Cueva; Kevin P. Granata; Matthew Gregory Gwaltney; Caitlin Millar Hammaren; Jeremy Michael Herbstritt; Rachael Elizabeth Hill; Emily Jane Hilscher; Jarrett Lee Lane; Matthew Joseph La Porte; Henry J. Lee; Liviu Librescu; G.V. Loganathan; Partahi Mamora Halomoan Lumbantoruan; Lauren Ashley McCain; Daniel Patrick O'Neil; Juan Ramon Ortiz-Ortiz; Minal Hiralal Panchal; Erin Nicole Peterson; Michael Steven Pohle, Jr.; Julia Kathleen Pryde; Mary Karen Read; Reema Joseph Samaha; Waleed Mohamed Shaalan; Leslie Geraldine Sherman; Maxine Shelly Turner; Nicole Regina White.

The day after the shooting, I mourned with the campus community at a convocation held on the campus of Virginia Tech. While the mourning of that tragic day continues for all of us, in the past year the Tech family has come together to support each other in a way that all of America admires. I know that those who have suffered most in the tragedy, and their families, remain in the thoughts and prayers of not only all Hokies, but indeed Americans across the country.

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Madam President, Senate Democrats have worked hard to make progress on judicial nominations. That hard work has paid off, with circuit court vacancies at less than half of what they were when President Clinton left office. The majority leader last week was right to call the Republican complaints chutzpah.

Yesterday, the Michigan Senators and I were able to overcome a long impasse lasting more than a decade over vacancies on the Sixth Circuit. I have long urged the President to work with the Michigan Senators, and, after 7 years, he finally has. With his nomination of Judge Helene White of Michigan, we have a significant development that can lead to filling the last two vacancies on the Sixth Circuit before this year ends.

Our actions in resolving this impasse stands in sharp contrast to action of Senate Republicans who refused to consider any nomination to the Sixth Circuit Court of Appeals in the last 3 years of the Clinton administration, leaving open four vacancies. Thanks to the hard work of Senator LEVIN and Senator STABENOW, we are now poised to fill them all.

Judge White was initially nominated 11 years ago, but her nomination was 1 of the more than 60 judicial nominees the Republicans pocket filibustered. After literally years of work, her re-nomination yesterday allows us to move forward with the support of the Senators from Michigan. I plan to consider the Sixth Circuit nominations as quickly as possible.

We are also poised to make progress to end a long impasse on the Fourth Circuit with the pending nomination of Steve Agee of Virginia. After insisting on nominating a series of contentious and time-consuming choices such as Jim Haynes, Claude Allen and Duncan Getchell, a nomination that was not supported by either the Republican Senator or the Democratic Senator from Virginia, the President this year has finally chosen to work with Senator WARNER and Senator WEBB. I have already said that I expect to hold the confirmation hearing on the Agee nomination as soon as the paperwork is completed. If we are able to confirm Steve Agee, there will be fewer Fourth Circuit vacancies than there were at the end of the Clinton administration.

Just last week, on a day when the Republicans chose to ignore the pressing problems affecting the lives of the American people and vent over judicial nominations, the Senate proceeded on schedule to confirm another five lifetime judicial appointments, including that of Catharina Haynes to fill the last vacancy on the Fifth Circuit. Similar to yesterday's progress with nominations to the Sixth Circuit, this stands in marked contrast to consideration of nominations to that court during the Clinton administration. At that time, the Republican-controlled Senate refused to consider nominees for the last 4 years of the Clinton administration, while the Chief Judge of the Fifth Circuit declared a circuit-wide emergency. Today, there are no vacancies on the Fifth Circuit.

I have said for 8 years that if the President is willing to work with us and consult in the constitutionally mandated process of advice and consent, we can make significant progress. When he does so, as he has recently with respect to Virginia and now Michigan, I have commended him. I do so again today.

It has taken years. It has taken effort. It has taken the steadfastness of Senators LEVIN and STABENOW. Today we can all take heart that we have broken through a decade's old impasse. Others have tried but been unsuccessful. I know that Senator HATCH tried and Senator SPECTER tried. We are succeeding. We are succeeding because we



have not been distracted by politically driven fights but stayed focus on making real progress. Even now, while others insist on fussing and fighting, I am working to continue to make progress where we can.

We have already cut the circuit court vacancies more than in half. Today circuit court vacancies stand at 12, the lowest number of such judicial vacancies in more than a decade, indeed since the Republican effort to stall President Clinton's nominees and increase circuit court vacancies. By the end of President Clinton's administration, the Republican majority in the Senate had expanded those vacancies from 12 to 26. When I began the consideration of President Bush's nominees in the summer of 2001, circuit court vacancies stood at 32 and overall vacancies topped 110. Yet we get no credit or even acknowledgement from the Republican side of the aisle for all our efforts and accomplishments in cutting those vacancies. In fact, we are being penalized for doing a good job early and not following their pattern of building up massive vacancies before allowing nominations to proceed.

While I continue to process nominations in the last year of this President's term, we have already lowered the vacancies in the Second Circuit, the Fifth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, the Tenth Circuit, the Eleventh Circuit, the DC Circuit, and the Federal Circuit. Both the Second and Fifth Circuits had circuit-wide emergencies due to the multiple simultaneous vacancies during the Clinton years with Republicans in control of the Senate, some numbering as high as five. Both the Second Circuit and the Fifth Circuit now are without a single vacancy after last week's confirmation of Judge Catharina Haynes. Circuits with no vacancies also include the Seventh Circuit, the Eighth Circuit, the Tenth Circuit, the Eleventh Circuit and the Federal Circuit. That is five circuits without a single vacancy due to our efforts. Indeed, the only circuit that has more vacancies than it did at the end of the Clinton administration is the First Circuit, which has gone from no vacancies to one. The other three circuits, the Third, the Fourth and the Seventh have the same number of vacancies today that they had at the end of the Clinton administration. When we take action on the Agee nomination from the Fourth Circuit, even that circuit will be in an improved posture.

I am trying to make significant progress. I have made sure that we did not act as Republicans did during the Clinton administration when they pocket filibustered more than 60 judicial nominations and voted lock step against the confirmation of Ronnie White. I am also mindful that their bad behavior not simply be forgotten, and thereby rewarded. They have yet to acknowledge responsibility and accept any accountability for their actions. We have not engaged in a tit-for-tat.

Rather, by cutting the vacancies as we have, we have taken a giant step toward resolving these problems, just as we are now on course to resolve the longstanding impasse in the Sixth Circuit. We have acted more fairly. I hope to be able to complete the restoration of the confirmation process during the next President's administration. We will then have overcome years of partisan rancor.

#### THE MATTHEW SHEPARD ACT OF 2007

Mr. SMITH. Madam President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would strengthen and add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

Early in the morning of September 9, 2007, a gay man was walking home when he was attacked near the Georgetown University campus. According to the victim, two men at a college party began following him while yelling homophobic slurs. As the victim turned a corner, one of the men began punching him in the head, resulting in cuts and bruises to his face, and a broken thumb. The victim immediately reported the incident to the Georgetown campus police. The attack was investigated as a bias-related crime based on the victim's sexual orientation and the circumstances of the attack. However, the Washington, DC, Metropolitan Police Department has charged Philip Cooney, a 19-year-old Georgetown sophomore, with simple assault.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. Federal laws intended to protect individuals from heinous and violent crimes motivated by hate are woefully inadequate. This legislation would better equip the Government to fulfill its most important obligation by protecting new groups of people as well as better protecting citizens already covered under deficient laws. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### FOREIGN POLICY VISION

Mr. CARPER. Madam President, I wish to bring to the attention of my colleagues a speech that my good friend and fellow Delawarean JOE BIDEN delivered yesterday at Georgetown University. In his remarks, Senator BIDEN eloquently laid out a foreign policy vision for Democrats and outlined what is at stake for our country in the years ahead. I urge my colleagues to read Senator BIDEN's speech, and I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

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

When people say "this is the most important election in my lifetime," they're right.

So much is at stake. The physical security of our children. The retirement security of our parents. The economic and health security of our families. And, above all else, the national security of our country, which is a President's first responsibility.

I start from a simple premise: we cannot afford another four years of Republican stewardship of our nation's security.

After eight years of the Bush Administration, our country is less secure and more isolated than it has been at any time in recent history. This administration has dug America into a very deep hole—with very few friends to help us climb out.

It doesn't have to be this way. The next President will have an awesome responsibility—but also the greatest opportunity since FDR—to change the direction of our country\* \* \* and the world.

It starts with a much clearer understanding of how the world has changed over the past two decades. As Yeats wrote in "Easter 1916," our world has "changed utterly, a terrible beauty has been born."

The emergence of China and India as major economic powers. The resurgence of Russia floating on a sea of oil. A unifying Europe. The spread of dangerous weapons and lethal diseases. The shortage of secure sources of energy, water and even food. The impact of climate change. Rising wealth and persistent poverty. A technological revolution that sends people, ideas and money hurtling around the planet at ever faster speeds. The challenge to nation states from ethnic and sectarian strife. The struggle between modernity and extremism.

That's a short list of the forces shaping the 21st century. No one country can control these forces, but more than any other country, we have an ability to affect them—if we use the totality of our strength.

Our military might and economic resources are necessary but not sufficient to lead us into this new century. It is our ideas and ideals that will allow us to exert the kind of leadership that persuades others to follow and to deal effectively with these forces of change.

Over the next few months, I'll speak in detail about how Democrats will exert that kind of leadership.

For today, I want to concentrate on this administration. It has squandered our ability to shape this new world. It has put virtually all of these issues on the back burner, failing to devote the intellectual capital and constant effort they require. It has destroyed faith in America's judgment. And it has devalued America's moral leadership in the world.

Instead, this administration has focused to the point of obsession on the so-called "war on terrorism" and produced a one-size-fits-all doctrine of military preemption and regime change ill suited to the challenges we face.

It has made fear the main driver of our foreign policy. It has turned a deadly serious but manageable threat—a small number of radical groups that hate America—into a ten-foot tall existential monster that dictates nearly every move we make.

Even if you look at the world through this administration's distorted lens, you see a failed policy. This failure flows from a dangerous combination of ideology and incompetence and a profound confusion about whom we're fighting.

It starts with the very language the President has tried to impose: "the global war on

terror." That is simply wrong. Terrorism is a means, not an end, and very different groups and countries are using it toward very different goals. If we can't even identify the enemy or describe the war we're fighting, it's difficult to see how we will win.

The most urgent threat is the intersection of the world's most radical groups—like Al Qaeda—with the world's most lethal weapons.

But we also must confront groups that use terror not to target us directly, but to advance their own nationalistic causes. We must deal with outlaw states that support them and otherwise flout the rules. We must face a civil war in Iraq, a renewed war for Afghanistan, and an ideological war for the future of Pakistan. We must help resolve a historic conflict between Arabs and Israelis.

And we must contend with Iran, especially its efforts to acquire the capacity to build a nuclear weapon.

This administration spent five years fixated on changing the Iranian regime. No one likes the regime, but think about the logic: renounce the bomb—and when you do, we're still going to take you down. The result is that Iran accelerated its efforts to produce fissile material and is closer now to the bomb than when Bush took office.

Instead of regime change, we should focus on conduct change. We should make it very clear to Iran what it risks in terms of isolation if it continues to pursue a dangerous nuclear program but also what it stands to gain if it does the right thing.

That will require keeping our allies in Europe, as well as Russia and China, on the same page as we ratchet up pressure. But it also means doing much more to reach out to Iran—including through direct talks—to exploit cracks within the ruling elite and between Iran's rulers and its people, who are struggling economically and stifled politically. The Iranian people need to know that their government, not the United States, is choosing confrontation over cooperation.

Saber rattling is the most self-defeating policy imaginable. It forces Iranians who despise the regime to rally behind their leaders and spurs instability in the Middle East, which adds to the price of oil, with the proceeds going right into Tehran's pockets. The worst nightmare for a regime that thrives on isolation and tension is an America ready, willing and able to engage. It's amazing how little faith this administration has in the power of America's ideas and ideals.

All these fronts throughout the Middle East and South Asia are connected. But this administration has wrongly conflated them under one label, and argued that success on one front ensures victory on the others. It has lumped together, as a single threat, extremist groups and states more at odds with each other than with us. It has picked the wrong fights at the wrong time, failing to finish a war of necessity in Afghanistan before starting a war of choice in Iraq.

The result is that, to quote the findings of the most recent National Intelligence Estimate on the Terrorist Threat: "Al Qaeda is better positioned to strike the West . . . [it has] regenerated . . . and remains determined to attack us at home."

Of course, we must destroy Al Qaeda.

But instead of rolling back the threat it poses, this administration's approach has helped produce a global breakout of extremism, which now threatens more people in more places than it did before 9-11.

So even on its own terms, the national security strategy of this administration has been a failure. We cannot afford four more years.

Last month, a man I greatly admire and consider a friend, Senator John McCain, set out his vision for our foreign policy.

To his credit, John repudiates some of the Bush Administration's approach to the world. He recognizes that the power of our example is as important as the example of our power . . . that allies we respect, not disdain, can advance our interests. He is especially eloquent about his abhorrence for war—as JOHN is uniquely placed to be.

But John McCain remains wedded to the Bush Administration's myopic view of a world defined by terrorism. He would continue to allow a tiny minority to set the agenda for the overwhelming majority.

It is time for a total change in Washington's world view. That will require more than a great soldier. It will require a wise leader.

Nowhere is this truer than in Iraq. The war dominates our national life. It stands like a boulder in the road between us and the credibility we need to lead in the world and the flexibility we require to meet our challenges at home.

When it comes to Iraq, there is no daylight between John McCain and George W. Bush. They are joined at the hip.

When it comes to Iraq, there will be no change with a McCain administration . . . and so there is a real and profound choice for Americans in November.

Like President Bush, Senator McCain likes to talk about the dire consequences of drawing down our forces in Iraq. He argues that Iraq is the meeting point for two of the greatest threats to America: Al Qaeda and Iran. It's an argument laden with irony. After all, who opened Iraq's door to Al Qaeda and Iran? The Bush Administration.

"Al Qaeda in Iraq" is a Bush-fulfilling prophecy: it wasn't there before the war, but it is there now. As to Iran, its influence in Iraq went from zero to sixty when we toppled Saddam's Sunni regime and gave Shi'ite religious parties inspired and nurtured by Iran a path to power.

No matter how we got to this point, President Bush and Senator McCain argue that if we start to leave, it will further empower Al Qaeda and Iran.

I believe they are exactly wrong. And so do a large number of very prominent retired military and national security experts who testified before the Foreign Relations Committee this month.

Would drawing down really strengthen "Al Qaeda in Iraq" and give it a launching pad to attack America? Or would it help eliminate what little indigenous Iraqi support "Al Qaeda in Iraq" retains?

Most Sunni Arabs have turned on "Al Qaeda in Iraq," alienated by their tactics and ideology. "Al Qaeda in Iraq" is down to about 2,000 Iraqis and a small number of foreigners whose almost exclusive focus is Iraq. When we draw down, the most likely result is that Iraqis of all confessions will stamp out its remnants—and we can retain a residual force in or near Iraq to help them finish the job.

Last week, I asked our ambassador to Iraq, Ryan Crocker, to tell us where al Qaeda poses a greater threat to America's security: in Iraq, or in Afghanistan and Pakistan. He said: Afghanistan and Pakistan.

So what about Al Qaeda in Pakistan and Afghanistan—the people who actually attacked us on 9-11? If we draw down, would they be emboldened?

Or, to paraphrase the National Intelligence Estimate on Terrorism, would they lose one of their most effective recruiting tools—the notion that we're in Iraq to stay, with permanent military bases and control over the oil? And would they finally risk the full measure of America's might?

Senator McCain has taken a lot of heat for saying he would not mind if American troops stay in Iraq for 100 years. The truth is, he

was trying to make an analogy to our long term presence in peaceful post-war Germany, post-armistice Korea and post-Dayton Bosnia.

But Germany, Korea or Bosnia after the peace are nothing like Iraq today—with thousands of bombs, hundreds of American injured and dozens of American killed every month—and there is little prospect Iraq will look like them anytime soon.

Worse, saying you're happy to stay in Iraq for 100 years fuels exactly the kind of dangerous conspiracy theories about America's intentions throughout the Arab and Muslim worlds that we should be working to dispel.

What about Iran? Would drawing down increase its already huge influence in Iraq? Or would it shift the burden of helping to stabilize Iraq from us to them and make our forces a much more credible deterrent to Iran's wider misbehavior?

The idea that we could or even should wipe out every vestige of Iran's influence in Iraq is a fantasy. Even with 160,000 American troops in Iraq, our ally in Baghdad greets Iran's leader with kisses. Like it or not, Iran is a major regional power and it shares a long border—and a long history—with Iraq.

Right now, Iran loves the status quo, with 140,000 Americans troops bogged down and bleeding, caught in a cross fire of intra Shi'a rivalry and Sunni-Shi'a civil war.

The challenge for us is not eliminating all Iranian influence in Iraq, but forcing Iran to confront the specter of a disintegrating Iraq or all-out war between different Shi'a factions.

By drawing down, we can take away Iran's ability to wage a proxy war against our troops and force Tehran to concentrate on avoiding turmoil inside Iraq's borders and instability beyond them.

Finally, would our responsible draw down accelerate sectarian chaos?

Or would it cause Iraq's leaders and Iraq's Sunni Arab neighbors to finally act responsibly? To date, both have used our large presence as a crutch or an excuse for inaction. When that stops, they will have to start to fill the vacuum or put their interests at much greater risk.

We should debate the consequences of drawing down in Iraq. But more importantly, we should talk about what both President Bush and Senator McCain refuse to acknowledge: the increasingly intolerable costs of staying.

The risks of drawing down are debatable. The costs of staying with 140,000 troops are knowable—and they get steeper every day: the continued loss of the lives and limbs of our soldiers; the emotional and economic strain on our troops and their families due to repeated, extended tours, as Army Chief of Staff General George Casey recently told Congress; the drain on our Treasury—\$12 billion every month; the impact on the readiness of our armed forces—tying down so many troops that, as Vice Chief of Staff of the Army Richard Cody said, we don't have any left over to deal with a new emergency; and the inability to send enough soldiers to the border between Afghanistan and Pakistan, where Al Qaeda has regrouped and is plotting new attacks.

When I visited Afghanistan in February, General McNeil, who commands the international force, told me that with two extra combat brigades—about 10,000 soldiers—he could turn around the security situation in the south, where the Taliban is on the move. But he can't get them because of Iraq.

Even when we do pull troops out of Iraq, the Chairman of the Joint Chiefs, Admiral Mullen, says he would want to send them home for a year to rest and retrain before sending them to Afghanistan.

The longer we stay in Iraq, the more we put off the day when we fully join the fight

against the real Al Qaeda threat and finally defeat those who attacked America 7 years ago.

It is long past time to clearly define our interests in Iraq. It is not in our interest to intervene in an internal power struggle among Shi'a factions. It is not in our interest to back one side or the other, or get caught in the cross fire of a Sunni-Shi'a civil war. It is in our interest to start to leave Iraq without leaving chaos behind.

Even if we could keep 140,000 troops in Iraq, they will not be the deciding factor in preventing chaos. Instead, we need to focus all our remaining energy and initiative on achieving what virtually everyone agrees is the key to stability in Iraq: a political power sharing agreement among its warring factions. I remain convinced that the only path to such a settlement is through a decentralized, federal Iraq that brings resources and responsibility down to the local and regional levels.

We need a diplomatic surge to get the world's major powers, Iraq's neighbors and Iraqis themselves invested in a sustainable political settlement.

Fifteen months into the surge that President Bush ordered and Senator McCain embraced, we've gone from drowning to treading water. We are no closer to the President's stated goal of an Iraq that can defend itself, govern itself and sustain itself in peace. We're still spending \$3 billion every week and losing 30 to 40 American lives every month.

We can't keep treading water without exhausting ourselves and doing great damage to our other vital interests around the world. That's exactly what both the President and Senator McCain are asking us to do.

They can't tell us when, or even if, Iraqis will come together politically, which was the purpose of the surge in the first place. They can't tell us when, or even if, we will draw down below pre-surge levels. They can't tell us when, or even if, Iraq will be able to stand on its own two feet. They can't tell us when, or even if, this war will end.

Most Americans want this war to end. They want us to come together around a plan to leave Iraq without leaving chaos behind.

They're not defeatists. They're patriots who understand the national interest—and the great things Americans can achieve if we responsibly end a war that we should not have started.

I believe it is fully within our power to do that. Then, with our credibility restored, our alliances repaired and our freedom renewed, we will once again lead the world. We will once again address the hopes, not play to the fears, of our fellow Americans.

That is my hope for next November—and for the country we all love.

May God bless America and protect our troops.

#### TAX REFORM

Mr. VOINOVICH. Madam President, the time for a honest, national discussion of fundamental tax reform is long overdue. Each year, April 15 looms on the calendar as a day of reckoning for American taxpayers facing a laborious and needlessly stressful process. Since enacting the Tax Reform Act of 1986—legislation intended to simplify the filing process for taxpayers—more than 15,000 provisions have been added to the Internal Revenue Code.

The irony of our complex Tax Code is that in order to take advantage of all

the benefits and deductions for which they qualify, Americans have to spend a significant amount of money to pay someone or something to do their taxes for them—thus decreasing the value of their return. According to the President's Advisory Panel on Federal Tax Reform, only 13 percent of taxpayers are able to file without the help of either a tax preparer or computer software.

The Tax Foundation estimates that in 2005, individuals, businesses, and nonprofits spent an estimated 6 billion hours complying with the Federal income tax code, with an estimated compliance cost of more than \$265 billion. This amounts to imposing a 22-cent tax compliance surcharge for every dollar the income tax system collects.

Tinkering with the current Tax Code won't get the job done. Tinkering is what got us into this mess in the first place. We must enact fundamental tax reform—a complete overhaul of the system that would make the Tax Code simple, fair, transparent, and conducive to economic growth and private savings.

Tax reform is not just a matter of simply saving taxpayers time and effort. This is about saving taxpayers real money. Comprehensive tax reform could save Americans the \$265 billion in compliance costs. Now, that would be a real tax reduction that wouldn't cost the Treasury one dime.

A new tax system is also vitally important to job creation and economic growth. In addition to simplification for average families, we must address one of the biggest problems with the current code: it rewards moving production activity—and the good-paying jobs that accompany such activity—overseas. It taxes domestically produced goods heavily and taxes foreign-made goods lightly. We have the second highest corporate tax rate in the developed world, but we are near the bottom in corporate tax collections as a share of the economy. Such a system sounds absolutely perverse, but that is what we have in the United States.

Some of my colleagues will suggest that we can just increase marginal rates to raise the revenue we need. But in a competitive global economy, I can't understand why we would choose such a self-defeating approach. Higher marginal rates on an already-broken tax system would only discourage economic ingenuity and reduce U.S. competitiveness. Recent economic research concludes that in a global economy workers bear the brunt of higher corporate tax rates, through lower wages and fewer jobs.

The bottom line is Congress needs to take tax reform seriously. I am actively evaluating proposals that would simplify the Tax Code, save taxpayers billions of dollars, expand the economy, and most importantly, protect American jobs. I have already discussed the need for such legislation with many of my colleagues, and I know there is bipartisan support in the

Chamber for comprehensive and timely action.

We can start the process by enacting legislation to create a bipartisan commission to propose tax and entitlement reform legislation that Congress must vote on under fast-track procedures, such as my SAFE Commission Act or the Bipartisan Task Force for Responsible Fiscal Action that has been proposed by Senate Budget Committee chairman KENT CONRAD and ranking Republican JUDD GREGG. With or without such a commission, Congress and the next President must move forward on comprehensive tax reform that simplifies the code and creates jobs in the United States.

#### SUPREME COURT CONFIRMATION PROCESS

Mr. KENNEDY. Madam President, an editorial in Monday's New York Times called attention to a new academic study on the Supreme Court confirmation process. The study, "An Empirical Analysis of the Confirmation Hearings of the Justices of the Rehnquist Natural Court," was conducted by Professors Jason Czarnecki of the Marquette Law School, William Ford of the John Marshall Law School, and Lori Ringhand of the University of Kentucky College of Law, and it was published in the Spring 2007 issue of Constitutional Commentary. The study compares the statements made by nine Supreme Court nominees—Justices Rehnquist, Stevens, O'Connor, Scalia, Kennedy, Souter, Thomas, Ginsburg, and Breyer—at their confirmation hearings with their subsequent rulings on the Court to determine whether their statements as nominees on stare decisis, originalism, legislative history, and the rights of criminal defendants were consistent with their rulings as Justices.

The authors found that a large gap often exists between what nominees told the Senate Judiciary Committee and how they later ruled from the bench. For example, in their confirmation hearings, Justices Scalia and Thomas indicated a stronger commitment to stare decisis than most of their colleagues did, yet on the Court they were the Justices most likely to vote to overturn precedents. On none of the subjects was the correlation very strong between the testimony by the nominees at the Senate hearings and their rulings on the Court. The authors conclude that Senators have a better chance at obtaining useful information in confirmation hearings if they "focus their questions on specific issue areas rather than 'big picture' issues involving interpretative methods."

As the authors state, their results are far from definitive and are meant only to start a conversation. The evidence is certainly suggestive, however, and is consistent with what legal scholars have been saying for many years. Supreme Court nominees reveal very little substantive information at their

confirmation hearings. As a result, it is difficult for the Senate and the American public to understand how these nominees will approach their role on the Court.

This trend was obvious in the confirmation hearings of Chief Justice John Roberts and Associate Justice Samuel Alito. Throughout their hearings, they offered only general platitudes, with little indication of how they would rule on the bench. They refused to answer specific questions or to say how they would have voted in past cases, on the ground that doing so might compromise their duty to decide every case with an open mind.

Legal scholars are increasingly in agreement that political convenience, not principle, has motivated much of this stonewalling. Since Supreme Court nominees all have years of legal experience and, if confirmed, have lifetime appointments to the Court, they can be candid about their views on many issues, including previously decided cases, without doing any damage to the judicial system or to the rights of future litigants.

Since Supreme Court confirmation hearings have become increasingly lacking in significant content, it is no surprise that researchers find weak correlations between what nominees say at the hearings and what they do on the Court, and that academic and popular support for a more serious confirmation process continues to grow. Of course, no Senator should try to undermine judicial independence by asking nominees to make "commitments" to rule a particular way in a future case, but all Senators should insist that nominees participate in a serious conversation about the pressing legal issues of our time. Hopefully, Senators on both sides of the aisle can agree that, at a minimum, nominees should give full and forthright responses when asked about their views on specific legal questions. It does not compromise the integrity or impartiality of the judiciary to require nominees to tell the Senate what they honestly think about such questions. Their failure to do so has real costs for our democracy.

Madam President, I believe that this article will be of interest to all of us in the Senate in exercising our constitutional responsibility of advice and consent on judicial nominees, especially nominees to the Supreme Court, and I ask unanimous consent that the New York Times editorial and the article's abstract be printed in the RECORD.

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

[From the New York Times, Apr. 14, 2008]

#### HOW TO JUDGE A WOULD-BE JUSTICE

It is hard to imagine a more solemn responsibility than confirming the nomination of a Supreme Court justice. And we have worried, especially in recent years, that nominees are far too carefully packaged and coached on how to duck all of the hard questions.

A new study supports our fears: Supreme Court nominees present themselves one way

at confirmation hearings but act differently on the court. That makes it difficult for senators to cast informed votes or for the public to play a meaningful role in the process.

The study—with the unwieldy title "An Empirical Analysis of the Confirmation Hearings of the Justices of the Rehnquist Natural Court"—published in Constitutional Commentary, looked at how nine long-serving justices answered Senate questions, and how they then voted on the court. While it does not say that any nominee was intentionally misleading, it still found a wide gap.

Justices Antonin Scalia and Clarence Thomas, for example, told the Senate that they had strong respect for Supreme Court precedents. On the court they were the justices most likely to vote to overturn those precedents. Justice David Souter deferred more to precedent than his Senate testimony suggested he would.

The authors examined one substantive area of the law: criminal defendants' rights. There what the nominees—both conservatives and liberals—told the Senate about their support for defendants' rights was reasonably well reflected in how they voted.

The study suggests that senators would be better off asking "very probing, specific questions," says Lori Ringhand, associate professor of law at the University of Kentucky and one of the paper's three authors.

As we see it, the study also delivers a larger lesson: Senators should examine a nominee's entire legal career and look for clear evidence that he or she is committed to fairness, equal justice and an unstinting view of constitutional rights.

The findings have particular resonance now because the next president could nominate three or more justices, shaping the law for decades to come. The Senate needs to upgrade the confirmation process so it can perform its vital advice-and-consent role more effectively.

[From Social Science Research Network]

#### AN EMPIRICAL ANALYSIS OF THE CONFIRMATION HEARINGS OF THE JUSTICES OF THE REHNQUIST NATURAL COURT

(By Jason J. Czarnecki, Marquette University; William K. Ford, John Marshall Law School; and Lori A. Ringhand, University of Kentucky)

Despite the high degree of interest generated by Supreme Court confirmation hearings, surprisingly little work has been done comparing the statements made by nominees at their confirmation hearings with their voting behavior once on the Supreme Court. This paper begins to explore this potentially rich area by examining confirmation statements made by nominees regarding three different methods of constitutional interpretation: stare decisis, originalism and the use of legislative history. We also look at nominees' statements about one specific area of law: protection of the rights of criminal defendants. We then compare the nominees' statements to decisions made by the Justices once confirmed. Our results indicate that confirmation hearings statements about a nominee's preferred interpretive methodologies provide very little information about future judicial behavior. Inquiries into specific issue areas—such as the rights of criminal defendants—may be slightly more informative. We emphasize, however, that this study is a preliminary look at this issue. As such, we hope this piece stimulates discussion regarding how to best use the wealth of information provided by confirmation hearings to facilitate a better understanding of the role those hearings do—or could—play in shaping the jurisprudence of the Supreme Court.

#### TRIBUTE TO MICHAEL A. HANNA

Mr. SPECTER. Madam President, I have sought recognition today to speak about Michael A. Hanna, who passed away on April 2, 2008.

Mr. Hanna was born July 1, 1952, in Oakland, MD to former county Democratic chairman and district attorney Michael A. Hanna and Eliza Jane Gibson Hanna of Monongahela. He spent time working on Capitol Hill and had the distinction of serving as the youngest U.S. House of Representatives page in the history of the program. He also served as a personal assistant to former Speaker of the House John W. McCormick.

An author and producer, Mr. Hanna graduated from Washington & Jefferson College and attended Duquesne Law School. Although perhaps best known for the animated series "Rockin' at the Rim" and authoring the book "Cuba: Fire Island," his professional experience extended a good deal further. He served as a special envoy to the country of Haiti and traveled extensively in various professional capacities throughout Europe and the Middle East.

Mr. Hanna is survived by his mother and brother, Mark Hanna, as well as Mark's wife Ashley and their son Michael. On their behalf, I would like to recognize and honor Michael A. Hanna's life and work.

#### HEALTH CARE

Mr. WYDEN. Madam President, Dr. Ezekiel Emanuel and Dr. Victor Fuchs, physicians and distinguished scholars, have recently written a particularly important article that I wish to bring to the attention of the Senate.

These two gentlemen have a long and impressive track record on the issue of reforming our Nation's broken health system, and their recent article in the Journal of American Medicine (JAMA), "Who Really Pays for Health Care? The Myth of Shared Responsibility," is one that every Senator should reflect on.

Drs. Emanuel and Fuchs assert in their article that when millions of Americans say that financing health care is a "shared responsibility" between "employers, government, and individuals" they are incorrect. The authors say there is actually no such thing as "shared responsibility"—health costs in America come out of the hides of individuals and households. Emanuel-Fuchs point out, for example, that money employers spend on health care for their workers would otherwise go to workers' salaries and that Government cannot secure funds at all without reaching into our wallets for tax payments or money we lend to them.

The work of these two scholars is particularly relevant because recent public opinion polls show significant numbers of Americans would be content "to just keep the health care they have." This seems understandable. If

you are not a regular reader of JAMA, you are likely to miss Dr. Emanuel and Dr. Fuchs describe how your take-home pay is going to keep going down without health reform that makes health care more affordable.

If Americans are kept in the dark about how much of the money spent on employer-based health care produces little value, naturally, during these times of economic uncertainty, many will be glad to just keep the care they have got.

Senator BENNETT and I, along with six other Democrats and six other Republicans, believe it is time to modernize the employer-employee relationship in health care. If employers choose to offer health coverage in the future, and workers know how much money they are spending and can choose between the employer's health coverage and private sector alternatives, we are fine with that. Workers should, however, have the opportunity as Dr. Emanuel and Dr. Fuchs put it to "consider alternatives". Americans can get more value from the 2.3 trillion dollars being spent this year on their health care, and this article is an important part of the discussion as to how to bring that about.

Mr. President, I ask unanimous consent that the article by Drs. Emanuel and Fuchs be printed in the RECORD.

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

#### WHO REALLY PAYS FOR HEALTH CARE?

##### THE MYTH OF "SHARED RESPONSIBILITY"

(By Ezekiel J. Emanuel, M.D., Ph.D. and Victor R. Fuchs, Ph.D.)

When asked who pays for health care in the United States, the usual answer is "employers, government, and individuals." Most Americans believe that employers pay the bulk of workers' premiums and that governments pay for Medicare, Medicaid, the State Children's Health Insurance Program (CHIP), and other programs.

However, this is incorrect. Employers do not bear the cost of employment-based insurance; workers and households pay for health insurance through lower wages and higher prices. Moreover, government has no source of funds other than taxes or borrowing to pay for health care.

Failure to understand that individuals and households actually foot the entire health care bill perpetuates the idea that people can get great health benefits paid for by someone else. It leads to perverse and counterproductive ideas regarding health care reform.

##### THE MYTH OF SHARED RESPONSIBILITY

Many sources contribute to the misperception that employers and government bear significant shares of health care costs. For example, a report of the Centers for Medicare & Medicaid Services states that "the financial burden of health care costs resides with businesses, households, and governments that pay insurance premiums, out-of-pocket costs, or finance health care through dedicated taxes or general revenues." A New America Foundation report claims, "There is growing bipartisan support for a health system based on shared responsibility—with the individual, employers, and government all doing their fair share."

The notion of shared responsibility serves many interests. "Responsibility" is a pop-

ular catchword for those who believe everyone should pull their own weight, while "sharing" appeals to those who believe everyone should contribute to meeting common social goals. Politicians welcome the opportunity to boast that they are "giving" the people health benefits. Employers and union leaders alike want workers to believe that the employer is "giving" them health insurance. For example, Steve Burd, president and chief executive officer of Safeway, argued that decreasing health care costs is critical to his company's bottom line—as if costs come out of profits. A highly touted alliance between Wal-Mart and the Service Employees International Union for universal coverage pledged that "businesses, governments, and individuals all [must] contribute to managing and financing a new American health care system."

The Massachusetts health care reform plan is constructed around "shared responsibility." The rhetoric of health reform proposals offered by several presidential candidates helps propagate this idea. Hillary Clinton, for instance, claims that her American Health Choices plan "is based on the principle of shared responsibility. This plan ensures that all who benefit from the system contribute to its financing and management." It then lists how insurance and drug companies, individuals, clinicians, employers, and government must each contribute to the provision of improved health care.

With prominent politicians, business leaders, and experts supporting shared responsibility, it is hardly surprising that most Americans believe that employers really bear most of the cost of health insurance.

##### THE HEALTH CARE COST-WAGE TRADE-OFF

Shared responsibility is a myth. While employers do provide health insurance for the majority of Americans, that does not mean that they are paying the cost. Wages, health insurance, and other fringe benefits are simply components of overall worker compensation. When employers provide health insurance to their workers, they may define the benefits, select the health plan to manage the benefits, and collect the funds to pay the health plan, but they do not bear the ultimate cost. Employers' contribution to the health insurance premium is really workers' compensation in another form.

This is not a point merely of economic theory but of historical fact. Consider changes in health insurance premiums, wages, and corporate profits over the past 30 years. Premiums have increased by about 300% after adjustment for inflation. Corporate profits per employee have flourished, with inflation-adjusted increases of 150% before taxes and 200% after taxes. By contrast, average hourly earnings of workers in private non-agricultural industries have been stagnant, actually decreasing by 4% after adjustment for inflation. Rather than coming out of corporate profits, the increasing cost of health care has resulted in relatively flat real wages for 30 years. That is the health care cost-wage trade-off.

Even over shorter periods, workers' average hourly earnings fluctuate with changes in health care expenditures (adjusted for inflation). During periods when the real annual increases in health care costs are significant, as between 1987 and 1992 and again between 2001 and 2004, inflation-adjusted hourly earnings are flat or even declining in real value. For a variety of reasons, the decline in wages may lag a few years behind health care cost increases. Insurance premiums increase after costs increase. Employers may be in binding multiyear wage contracts that restrict their ability to change wages immediately. Conversely, when increases in health care costs are moderate, as between 1994 and 1999, in-

creases in productivity and other factors translate into higher wages rather than health care premiums.

The health care cost-wage trade-off is confirmed by many economic studies. State mandates for inclusion of certain health benefits in insurance packages resulted in essentially all the cost of the added services being borne by workers in terms of lower wages. Similarly, using the Consumer Expenditure Survey, Miller found that "the amount of earnings a worker must give up for gaining health insurance is roughly equal to the amount an employer must pay for such coverage." Baicker and Chandra reported that a 10% increase in state health insurance premiums generated a 2.3% decline in wages, "so that [workers] bear the full cost of the premium increase." Importantly, several studies show that when workers lose employer-provided health insurance, they actually receive pay increases equivalent to the insurance premium.

In a review of studies on the link between higher health care costs and wages, Gruber concluded, "The results [of studies] that attempt to control for worker selection, firm selection, or (ideally) both have produced a fairly uniform result: the costs of health insurance are fully shifted to wages."

##### THE COST—PUBLIC SERVICE TRADE-OFF

A large portion of health care coverage in the United States is provided by the government. But where does government's money for health care come from? Just as the ultimate cost of employer-provided health insurance falls to workers, the burden of government-provided health coverage falls on the average citizen. When government pays for increases in health care costs, it taxes current citizens, borrows from future taxpayers, or reduces other state services that benefit citizens: the health care cost—public service trade-off.

Health care costs are now the single largest part of state budgets, exceeding education. According to the National Governors Association, in 2006, health care expenditures accounted for an average of 32 percent of state budgets, while Medicaid alone accounted for 22 of spending. Between 2000 and 2004, health care expenditures increased substantially, more than 34 percent with Medicaid and SCHIP increasing more than 44 percent. These increases far exceeded the increase in state tax receipts. In response, some states raised taxes, others changed eligibility requirements for Medicaid and other programs, and still others reduced the fees and payments to physicians, hospitals, and other providers of health care services.

However, according to a Rockefeller Institute of Government study of how 10 representative states responded, probably the most common policy change was to cut other state programs, and "the program area that was most affected by state budget difficulties in 2004 was public higher education. . . . On average, the sample states projected spending 4.5 percent less on higher education in FY 2004 than in FY 2003 and raised tuition and fees by almost 14 percent on average. In other words, the increasing cost of Medicaid and other government health care programs are a primary reason for the substantial increase in tuition and fees for state colleges and universities. Middle-class families finding it more difficult to pay for their children's college are unwittingly falling victim to increasing state health care costs. Not an easy—but a necessary—connection to make.

##### POLICY IMPLICATIONS

The widespread failure to acknowledge these effects of increasing health care costs on wages and on government services such as education has important policy implications. The myth of shared responsibility perpetuates the belief that workers are getting

something while paying little or nothing. This undercuts the public's willingness to tax itself for the benefits it wants.

This myth of shared responsibility makes any reform that removes employers from health care much more difficult to enact. If workers and their families continue to believe that they can get a substantial fringe benefit like health insurance at no cost to themselves, they are less likely to consider alternatives. Unless this myth is dispelled, the centerpiece of reform is likely to be an employer mandate. This is regrettable and perpetuates the widely recognized historical mistake of tying health care coverage to employment. Furthermore, an employer mandate is an economically inefficient mechanism to finance health care. Keeping employers in health care, with their varied interests and competencies, impedes major changes necessary for insurance portability, cost control, efficient insurance exchanges, value-based coverage, delivery system reform, and many other essential reforms. Employers should be removed from health care except for enacting wellness programs that directly help maintain productivity and reduce absenteeism. Politicians' rhetoric about shared responsibility reinforces rather than rejects this misconception and inhibits rather than facilitates true health care reform.

Not only does third-party payment attenuate the incentive to compare costs and value, but the notion that someone else is paying for the insurance further reduces the incentive for cost control. Getting Americans invested in cost control will require that they realize they pay the price, not just for the deductibles and co-payments, but for the full insurance premiums too.

Sustainable increases in wages require less explosive growth in health care costs. Only then will increases in productivity show up in higher wages and lower prices, giving a boost to real incomes. Similarly, the only way for states to provide more support for education, environment, and infrastructure is for health care costs to be restrained. Unless the growth in Medicaid and SCHIP are limited to—or close to—revenue increases, they will continue to siphon money that could be spent elsewhere.

#### CONCLUSION

Discussions of health care financing in the United States are distorted by the widely embraced myth of shared responsibility. The common claim that employers, government, and households all pay for health care is false. Employers do not share fiscal responsibility and employers do not pay for health care—they pass it on in the form of lower wages or higher prices. It is essential for Americans to understand that while it looks like they can have a free lunch—having someone else pay for their health insurance—they cannot. The money comes from their own pockets. Understanding this is essential for any sustainable health care reform.

#### ADDITIONAL STATEMENTS

##### CONGRATULATING MRS. HOLLY COLLINSWORTH

• Mr. BUNNING. Madam President, I wish to congratulate Mrs. Holly Collinsworth of Ft. Thomas, KY, for being named one of the Cincinnati Enquirer's Women of the Year for her dedication and service to our community. This outstanding award is given annually to 10 women in the northern

Kentucky and Greater Cincinnati area for their hard work and commitment to making our communities a better place to live.

Mrs. Collinsworth, mother of four children, has begun a task never before imagined to help improve Fort Thomas schools. She is currently leading a fundraising campaign that has collected millions of dollars in private money to help renovate the 71-year-old Highlands High School, her alma mater. The school has not been refurbished since the 1960s. With her leadership, over \$7.4 million in private donations, State matching funds and grants has been raised to help with the repairs.

Mrs. Collinsworth's contributions to the Commonwealth do not stop there. She and husband Cris Collinsworth, former Cincinnati Bengal and current NFL broadcaster, are among the founders of UGive, a nonprofit that matches area students fulfilling their school community service requirements with charities in need of volunteers. The UGive program was started this year and will be up and running by August.

Mrs. Collinsworth also serves on the board of the Cris Collinsworth ProScan Fund and cochairs its Pink Ribbon Luncheons which have raised more than \$1 million for programs such as breast cancer education and mammograms for low-income uninsured women.

I thank Mrs. Collinsworth for her dedication and commitment to the community. She has made a tremendous impact on individuals across northern Kentucky and the Greater Cincinnati area. I appreciate all that she has done and will continue to do in the future. Mrs. Collinsworth is truly an inspiration to all Kentuckians.●

##### RECOGNIZING THE TOWN OF HEBRON

• Mr. DODD. Madam President, today I wish to recognize a significant milestone for one of the towns in my home State of Connecticut. This year, the town of Hebron is celebrating the 300th anniversary of its founding.

As recently as 1930, Hebron's population stood at only 879 people. Today, with an estimated population of 8,600 persons, Hebron continues to exemplify Connecticut's rich heritage. Throughout its history, it has been able to retain its small-town, rural charm that existed when it was first founded on May 26, 1708.

With its wide-open fields, mixture of colonial and contemporary architecture, and the annual Harvest Fair, Hebron provides an idyllic New England setting. Gay City State Park, the town's most widely known attraction, offers a glimpse into Connecticut's industrial roots with the opportunity to explore the ruins of an extinct mill town that existed until the time of the Civil War.

The residents of Hebron are rightfully proud of the town's rich cultural

and agricultural heritage and have scheduled a year's worth of activities to celebrate this momentous occasion. I ask my colleagues to join with me in congratulating my many friends among the good people of Hebron as they gather this year to celebrate their town's three centuries of history.●

##### TRIBUTE TO BARBARA J. EASTERLING

• Mr. LAUTENBERG. Madam President, I pay tribute to Barbara J. Easterling for her tireless dedication to workers' rights. Barbara is a true leader, and her commitment to the Communication Workers of America, CWA, is more than worthy of recognition.

Barbara is the first woman ever to serve as CWA's secretary-treasurer—its second-highest office—and she has held the position for the past 16 years. She supervises the budget, finances, and strategic planning of the organization, and is responsible for the union's retiree program. The 700,000 men and women of the CWA have consistently reelected Barbara by acclamation, most recently in 2005.

In addition, Barbara has worked to advance the rights of women in the workplace. She serves on the board of the Union Network International, UNI, a 17-million member labor organization, and is president of the UNI World Women's Committee. For her accomplishments, Barbara has received the Women's Equity Action League Award, the International Women's Democracy Center Global Democracy Award, the Midwest Labor Press Association's Eugene V. Debs Award, and the Ellis Island American Legend Award.

While Barbara has displayed impressive achievements as secretary-treasurer of CWA, she has also found time to contribute to several other worthy organizations. She is cochair of the National Alliance to End Homelessness, a member of the Spinal Bifida Foundation and the Elizabeth Glaser Pediatric AIDS Foundation, and serves on the board of directors of the National Democratic Institute for International Affairs and the Faith and Politics Institute. Barbara has displayed a commendable ability to advance the goals of each of these organizations and increase their impact.

Throughout her long and distinguished career, Barbara has worked to shatter the glass ceiling at the local, national, and international level. I am proud that she was honored last month before a record gathering of union women at the Women in Leadership Development Conference in East Brunswick, NJ. Whether striving to advance the rights of workers, serving as an advocate for women, or volunteering her time on behalf of countless organizations, Barbara has been a strong and effective leader. Barbara embodies the best of the union spirit and I thank her for her service and commitment to the CWA and workers across the country.●



## HONORING SIGCO, INC.

• Ms. SNOWE. Madam President, today I honor a small, privately owned manufacturing business from my home State of Maine with a remarkable dedication to serving the customer. SIGCO, Inc., of Westbrook is a glass and architectural metal fabricator and distributor that exemplifies Maine's stellar manufacturing leadership in this Nation.

As ranking member of the Senate Committee on Small Business and Entrepreneurship and cochair of the Senate Task Force on Manufacturing, I constantly see the vital impact that manufacturing has on the health of our Nation's economy. Small companies like SIGCO are absolutely crucial to our Nation's manufacturing sector competing in a global environment, as they account for roughly 99 percent of American manufacturers. This is why we must encourage and support the development of our Nation's small- and medium-sized manufacturers, and underscore the numerous accomplishments of SIGCO and similar firms.

Established in 1986, SIGCO inherited a proud tradition of craftwork from Soule Glass Industries, a firm that preceded SIGCO as the local leader in quality glass manufacturing and metal fabrication. SIGCO has demonstrated impressive growth in its operations throughout its history, and, in particular, over the past 4 years, by expanding from 55 employees to 85 and relocating to a newly opened 60,000 square-foot manufacturing facility. SIGCO produces and distributes architectural glass, frameless entrances, shower enclosures, aluminum entrances, acrylic, polycarbonate, and glazing supplies. The company also offers a 5-year warranty on all sealed insulating glass units. SIGCO's target clientele are contract glaziers, retail glass shops, and window manufacturers throughout New England who have come to trust SIGCO for its unrivaled craftsmanship and customer service.

SIGCO has demonstrated a consistency in both performance and financial strength, traits that have anchored the company in its achievement. Proof of SIGCO's accomplishments came when U.S. Glass magazine recognized the firm as one of the most influential companies in the glass and metal industry, followed up by the magazine naming company president David McElhinny as one of the trade's most influential people. Mr. McElhinny's leadership has contributed greatly to SIGCO's remarkable expansion, and his years of experience provide the company with a tremendously knowledgeable voice at the helm.

SIGCO is also known for its sophisticated production process. To promote efficiency, the company uses two industrial-type cutting lines in its plant. That said, SIGCO also offers individualized products upon customer requests. SIGCO notably uses an advanced edging process that creates clean, ground, or seamed edges for the appropriate type of glass. On top of the

cutting and edging processes, SIGCO uses new, state-of-the-art equipment to drill holes and mill cutouts and notches. Additionally, SIGCO uses a convection tempering oven to perfect their heat-treated products. Among a select number of licensees of the DecoTherm process, which allows companies to decorate glass without screen printing or sandblasting, SIGCO can customize designs on glass products to provide quality and unique products to each customer. Finally, SIGCO is one of only five U.S. distributors of Tubelite storefronts and entrances.

As former British Prime Minister Benjamin Disraeli poignantly observed, "The secret of success is constancy to purpose." SIGCO embodies Disraeli's definition of success by exhibiting a consistent dedication to its mission, as well as never sacrificing the excellence of its products as the company grows and expands. Proudly representing Maine's ongoing contribution to the manufacturing sector, SIGCO and its employees exemplify the hardwork and ingenuity for which Mainers are well-known. I wish David McElhinny and everyone at SIGCO the best, and look forward to their future endeavors.●

## RECOGNIZING JIM ADAMS

• Mr. SUNUNU. Madam President, today I recognize Jim Adams, a Pittsfield, NH, resident who recently retired from a 35-year career with the United States Postal Service.

After bravely serving his country for 4 years in the United States Navy, Mr. Adams began his postal career as a Manchester mail carrier in 1973. During his 10 years in this position, Jim personified the Postal Service maxim, "neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds," through many difficult New Hampshire winters, and unpredictable New England summers.

During this time, Jim took night classes and earned a degree in business management from New Hampshire College which, along with his dedicated work ethic, helped propel him through the ranks of the Postal Service.

After 3 years in the management ranks of local New Hampshire post offices, Jim spent time in both Syracuse, NY, and Washington, DC, learning the ins and outs of the Nation's second largest employer. In 1992, Jim was selected as the executive assistant to the Postmaster General, becoming the first person ever to rise all the way through the ranks from an entry level craft position to attain that post.

In 1997, Jim returned home to New Hampshire as the district manager for customer service and sales, and in 2003, when the New Hampshire and Vermont Districts merged, Jim assumed the responsibility for both States. During this time, he oversaw 7,000 employees as they worked to ensure more than 6 million pieces of mail arrived on time throughout both New Hampshire and

Vermont each day. In fact, over the last 4 years of his tenure, 98 percent of the mail in his district was delivered on time; and during the past 6 years, New Hampshire has earned the highest customer service ratings in the Nation. All the while, Jim improved the district's safety record from worst in the Nation to tenth best.

For all of Jim's success, his shining professional moment will be his leadership during the anthrax crisis that plagued the Nation shortly after September 11, 2001. His personal involvement in handling the crisis helped calm the fears of postal workers and citizens alike, and he helped us all get through the fear and distress that went hand-in-hand with this highly volatile bioterrorist attack.

Over the course of his career, Jim had the opportunity to meet five Presidents and play a role in the development of several well recognized commemorative stamps, including the World War II, Elvis, and POW/MIA stamps. From a local boy delivering mail with 3-cent stamps in 1973, to a district manager overseeing a \$500 million budget in 2008—I would say that is a career well done.

Jim's well rounded operations and managerial experience gave him a unique and comprehensive view of the organization, which he was able to put to work for the benefit of the millions of postal customers in his district.

I have known Jim and his wife Sandra for many years and am sure they are looking forward to many relaxing years together with their children and grandchildren. He has dedicated himself to public service staying true to the ideal of placing the needs of others before those of yourself. Now I join with so many others in extending warm wishes as they begin a well deserved retirement together.●

## MESSAGES FROM THE HOUSE

At 11:26 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5813. An act to amend Public Law 110-196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond April 18, 2008.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 71. Concurrent resolution authorizing the use of the rotunda of the Capitol for the presentation of the Congressional Gold Medal to Michael Ellis DeBakey, M.D.

At 1:48 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4056. An act to establish an awards mechanism to honor Federal law enforcement officers injured in the line of duty.

H.R. 5493. An act to provide that the usual day for paying salaries in or under the House of Representatives may be established by regulations of the Committee on House Administration.

H.R. 5517. An act to designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the "Texas Military Veterans Post Office".

H.R. 5570. An act to amend the Immigration and Nationality Act with respect to the special immigrant nonminister religious worker program, and for other purposes.

H.R. 5719. An act to amend the Internal Revenue Code of 1986 to conform return preparer penalty standards, delay implementation of withholding taxes on government contractors, enhance taxpayer protections, assist low-income taxpayers, and for other purposes.

### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4056. An act to establish an awards mechanism to honor Federal law enforcement officers injured in the line of duty; to the Committee on the Judiciary.

H.R. 5517. An act to designate the facility of the United States Postal Service located at 7231 FM 1960 in Humble, Texas, as the "Texas Military Veterans Post Office"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5719. An act to amend the Internal Revenue Code of 1986 to conform return preparer penalty standards, delay implementation of withholding taxes on government contractors, enhance taxpayer protections, assist low-income taxpayers, and for other purposes; to the Committee on Finance.

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-5799. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State and Zone Designations; Minnesota" (Docket No. APHIS-2008-0037) received on April 10, 2008; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5800. A communication from the Director of Selective Service, transmitting, pursuant to law, the report of two violations of the Antideficiency Act; to the Committee on Appropriations.

EC-5801. A communication from the Secretary of Defense, transmitting, a report on the approved retirement of Lieutenant General William E. Mortensen, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC-5802. A communication from the Under Secretary of Defense (Personnel and Readiness), transmitting a report on the approved retirement of Admiral William J. Fallon, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

EC-5803. A communication from the Principal Deputy, Office of the Under Secretary

of Defense (Personnel and Readiness), transmitting the report of (4) officers authorized to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-5804. A communication from the Director, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, a report relative to the details of the Office's compensation plan for fiscal year 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-5805. A communication from the Senior Vice President and Chief Financial Officer, Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's Annual Report for fiscal year 2007; to the Committee on Banking, Housing, and Urban Affairs.

EC-5806. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Suspension of Community Eligibility" (73 FR 14826) received on April 10, 2008; to the Committee on Banking, Housing, and Urban Affairs.

EC-5807. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; MT-Propeller Entwicklung GmbH Propellers" ((Docket No. 2004-NE-25)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5808. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 Airplanes" ((Docket No. 2007-NM-070)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5809. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney PW 4164, PW4168, and PW4168A Turbofan Engines" ((Docket No. 2007-NE-04)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5810. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Inter-technique Zodiac Aircraft Systems, Oxygen Reserve Cylinders" ((Docket No. 2007-SW-02)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5811. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Robinson Helicopter Company Models R22, R22 Alpha, R22 Beta, R22 Mariner, R44 and R44 I Helicopters" ((Docket No. 2007-SW-04)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5812. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Pratt and Whitney PW4164, PW4168, and PW4168A Turbofan Engines" ((Docket No. 2007-NE-04)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5813. A communication from the Program Analyst, Federal Aviation Administra-

tion, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; DG Flugzeugbau GmbH Model DG-500MB Gliders" ((Docket No. 2007-CE-065)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5814. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Model 680 Airplanes" ((Docket No. 2007-NM-331)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5815. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 Airplanes; and Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model C4-605R Variant F Airplanes" ((Docket No. 2006-NM-050)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5816. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400D, 747-400F, 747SR, and 747SP Series Airplanes" ((Docket No. 2007-NM-291)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5817. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes" ((Docket No. 2007-NM-091)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5818. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL-600-2B19 Airplanes" ((Docket No. 2007-NM-247)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5819. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A and Model SAAB 340B Airplanes" ((Docket No. 2007-NM-238)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5820. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A and SAAB 340B Airplanes" ((Docket No. 2007-NM-237)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5821. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.27 Mark 050 Airplanes" ((Docket No. 2007-NM-243)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5822. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter Deutschland GmbH Model EC135 Helicopters" ((Docket No. 2007-SW-76)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5823. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. Model EMB-135ER, -135KE, -135KL, and -135LR Airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes" ((Docket No. 2007-NM-127)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5824. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Cessna Aircraft Company Models 525, 525A, and 525B Airplanes" ((Docket No. 2007-CE-068)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5825. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-100, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400D, 747-400F, 747SR, and 747SP Series Airplanes; and Model 767-200 and -300 Series Airplanes; Equipped with Certain Goodrich Evaluation Systems" ((Docket No. 2005-NM-139)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5826. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; ATR Model ATR42-500 Airplanes" ((Docket No. 2007-NM-277)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5827. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB 2000 Airplanes" ((Docket No. 2007-NM-239)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5828. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Viking Air Limited Model DHC-4 and DHC-4A Airplanes" ((Docket No. 2007-NM-338)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5829. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Viking Air Limited Model DHC-4 and DHC-4A Airplanes; and Boeing Model 747-100, 747-100B, 747-100B SUD, 747-200B, 747-200C, 747-200F, 747-300, 747-400, 747-400D, 747-400F, 747SR, and 747SP Series Airplanes" ((Docket No. 2007-NM-338)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5830. A communication from the Program Analyst, Federal Aviation Administra-

tion, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, and A300-600 Series Airplanes" ((Docket No. 2007-NM-143)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5831. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce plc RB211 Series Turbofan Engines" ((Docket No. 2003-NE-12)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5832. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Alpha Aviation Design Limited Model R2160 Airplanes" ((Docket No. 2007-CE-088)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5833. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC-8-11, DC-8-12, DC-8-21, DC-8-31, DC-8-32, DC-8-33, DC-8-41, DC-8-42, and DC-8-43 Airplanes; Model DC-8F-54 and DC-8F-55 Airplanes; Model DC-8-50, -60, -60F, -70, and -70F Series Airplanes; Model DC-9-10, -20, -30, -40, and -50 Series Airplanes; Model DC-9-81, DC-9-82, DC-9-83, and DC-9-87 Airplanes; and Model MD-88 Airplanes" ((Docket No. 2006-NM-243)(RIN2120-AA64)) received on April 10, 2008; to the Committee on Commerce, Science, and Transportation.

EC-5834. A communication from the Acting Administrator, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report relative to the services provided during fiscal year 2007; to the Committee on Commerce, Science, and Transportation.

EC-5835. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to Federal actions during flood control operations at Grand Lake, Oklahoma; to the Committee on Environment and Public Works.

EC-5836. A communication from the Chair, Good Neighbor Environmental Board, transmitting, pursuant to law, the Board's Annual Report; to the Committee on Environment and Public Works.

EC-5837. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to budgeting for the Park River at Grafton, North Dakota; to the Committee on Environment and Public Works.

EC-5838. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled, "National Coverage Determinations"; to the Committee on Finance.

EC-5839. A communication from the Acting Chief, Trade and Commercial Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Entry of Softwood Lumber Products from Canada" (RIN1505-AB73) received on April 15, 2008; to the Committee on Finance.

EC-5840. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, an annual report relative to U.S. participation in the United Nations during fiscal year 2006; to the Committee on Foreign Relations.

EC-5841. A communication from the Deputy Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Premium Rates; Payment of Premiums; Variable-Rate Premium; Pension Protection Act of 2006" (RIN1212-AB11) received on April 10, 2008; to the Committee on Health, Education, Labor, and Pensions.

EC-5842. A communication from the Director, Office of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Annual Sunshine Report for 2007; to the Committee on Homeland Security and Governmental Affairs.

EC-5843. A communication from the Deputy Solicitor, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on April 10, 2008; to the Committee on Homeland Security and Governmental Affairs.

EC-5844. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, "Audit of Child and Family Services Agency's Congregate Care Contract Expenditures"; to the Committee on Homeland Security and Governmental Affairs.

EC-5845. A communication from the Chief, Administrative Law Division, Central Intelligence Agency, transmitting, pursuant to law, the report of discontinuation of service in an acting role for the position of General Counsel, received on April 10, 2008; to the Select Committee on Intelligence.

EC-5846. A communication from the Director of Legislative Affairs, Office of the Director of National Intelligence, transmitting, pursuant to law, the report of a nomination for the position of Director of the National Counterterrorism Center, received on April 10, 2008; to the Select Committee on Intelligence.

EC-5847. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, the Director's Annual Report for fiscal year 2007; to the Committee on the Judiciary.

EC-5848. A communication from the Director of Regulations Management, Office of Information Protection and Risk Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Data Breaches" (RIN2900-AM63) received on April 10, 2008; to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DORGAN, from the Committee on Indian Affairs, without amendment:

S. 2087. A bill to amend certain laws relating to Native Americans to make technical corrections, and for other purposes (Rept. No. 110-326).

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 999. A bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GREGG (for himself, Mr. ALEXANDER, Mr. HATCH, Mrs. DOLE, Mr. CORNYN, and Mr. SUNUNU):

S. 2868. A bill to amend title II of the Immigration and Nationality Act to replace the diversity visa lottery program with a program that issues visas to aliens with an advanced degree; to the Committee on the Judiciary.

By Mr. VITTER (for himself and Mrs. LINCOLN):

S. 2869. A bill to amend title 18 of the United States Code to clarify the scope of the child pornography laws and for other purposes; to the Committee on the Judiciary.

By Mr. BROWN:

S. 2870. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to carry out quality assurance activities with respect to the administration of disability compensation, and for other purposes; to the Committee on Veterans' Affairs.

By Mrs. LINCOLN (for herself, Mr. LEAHY, Mr. BAYH, Mr. KERRY, Mr. CRAPO, Ms. MIKULSKI, Mr. SALAZAR, Mr. CASEY, Mr. SMITH, Ms. KLOBUCHAR, and Mr. BROWN):

S. 2871. A bill to amend title 38, United States Code, to recodify as part of that title chapter 1607 of title 10, United States Code, to enhance the program of educational assistance under that chapter, and for other purposes; to the Committee on Armed Services.

By Mr. BROWN (for himself and Ms. SNOWE):

S. 2872. A bill to amend titles II and XVI of the Social Security Act to provide for treatment of disability rates and certified as total by reason of unemployability by the Secretary of Veterans Affairs as disability for purposes of such titles, and for other purposes; to the Committee on Finance.

By Mr. BARRASSO (for himself and Mr. ENZI):

S. 2873. A bill to amend the Federal Water Pollution Control Act to establish a Corps of Engineers Board of Appeals for permits for certain water storage projects, and for other purposes; to the Committee on Environment and Public Works.

By Mrs. FEINSTEIN (for herself, Mr. CHAMBLISS, Mr. KENNEDY, Mr. SCHUMER, and Mrs. BOXER):

S. 2874. A bill to amend titles 5, 10, 37, and 38, United States Code, to ensure the fair treatment of a member of the Armed Forces who is discharged from the Armed Forces, at the request of the member, pursuant to the Department of Defense policy permitting the early discharge of a member who is the only surviving child in a family in which the father or mother, or one or more siblings, served in the Armed Forces and, because of hazards incident to such service, was killed, died as a result of wounds, accident, or disease, is in a captured or missing in action status, or is permanently disabled, and for other purposes; to the Committee on Armed Services.

By Mr. TESTER (for himself and Mr. BARRASSO):

S. 2875. A bill to authorize the Secretary of the Interior to provide grants to designated States and tribes to carry out programs to reduce the risk of livestock loss due to predation by gray wolves and other predator species or to compensate landowners for livestock loss due to predation; to the Committee on Energy and Natural Resources.

By Mr. SALAZAR (for himself, Mr. COCHRAN, Mr. DODD, Mr. ALEXANDER, Mr. LEVIN, Mrs. LINCOLN, Mr. BROWN, Ms. LANDRIEU, Mr. KENNEDY, Mr. CASEY, Mrs. MURRAY, Mr. ROBERTS, and Mr. JOHNSON):

S. Res. 517. A resolution designating the week of April 13–19, 2008, as "Week of the Young Child"; considered and agreed to.

By Mr. DODD:

S. Res. 518. A resolution designating the third week of April 2008 as "National Shaken Baby Syndrome Awareness Week"; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 38

At the request of Mr. DOMENICI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 38, a bill to require the Secretary of Veterans Affairs to establish a program for the provision of readjustment and mental health services to veterans who served in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 358

At the request of Ms. SNOWE, the names of the Senator from Indiana (Mr. BAYH), the Senator from Massachusetts (Mr. KERRY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 358, a bill to prohibit discrimination on the basis of genetic information with respect to health insurance and employment.

S. 548

At the request of Mr. LEAHY, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 548, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 561

At the request of Mr. BUNNING, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 561, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 638

At the request of Mr. ROBERTS, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 691

At the request of Mr. CONRAD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 691, a bill to amend title XVIII of the Social Security Act to improve the benefits under the Medicare program for beneficiaries with kidney disease, and for other purposes.

S. 746

At the request of Mr. ALLARD, the name of the Senator from Mississippi

(Mr. WICKER) was added as a cosponsor of S. 746, a bill to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1019

At the request of Mr. COBURN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1019, a bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

S. 1070

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1070, a bill to amend the Social Security Act to enhance the social security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 1117

At the request of Mr. BOND, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 1117, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 1120

At the request of Mr. HARKIN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1120, a bill to amend the Public Health Service Act to provide grants for the training of graduate medical residents in preventive medicine and public health.

S. 1313

At the request of Mr. FEINGOLD, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1313, a bill to amend the Servicemembers Civil Relief Act to provide relief for servicemembers with respect to contracts for cellular phone service, and for other purposes.

S. 1437

At the request of Ms. STABENOW, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1437, a bill to require the Secretary of the Treasury to mint coins in commemoration of the semicentennial of the enactment of the Civil Rights Act of 1964.

S. 1588

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1588, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

S. 1661

At the request of Mr. DORGAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1661, a bill to communicate United States travel policies and improve marketing and other activities designed to increase travel in the United States from abroad.

S. 1738

At the request of Mr. BIDEN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1738, a bill to establish a Special Counsel for Child Exploitation Prevention and Interdiction within the Office of the Deputy Attorney General, to improve the Internet Crimes Against Children Task Force, to increase resources for regional computer forensic labs, and to make other improvements to increase the ability of law enforcement agencies to investigate and prosecute predators.

S. 1998

At the request of Mr. DURBIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1998, a bill to reduce child marriage, and for other purposes.

S. 2056

At the request of Mr. ROCKEFELLER, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2056, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 2183

At the request of Mr. SMITH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2183, a bill to amend the Public Health Service Act to provide grants for community-based mental health infrastructure improvement.

S. 2262

At the request of Mr. DOMENICI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2262, a bill to authorize the Preserve America Program and Save America's Treasures Program, and for other purposes.

S. 2347

At the request of Mr. REID, his name was added as a cosponsor of S. 2347, a bill to restore and protect access to discount drug prices for university-based and safety-net clinics.

S. 2369

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 2369, a bill to amend title 35, United States Code, to provide that certain tax planning inventions are not patentable, and for other purposes.

S. 2426

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 2426, a bill to provide for congressional oversight of United States agreements with the Government of Iraq.

S. 2498

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2498, a bill to authorize the minting of a coin to commemorate the 400th anniversary of the founding of Santa Fe, New Mexico, to occur in 2010.

S. 2507

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2507, a bill to address the digital television transition in border states.

S. 2510

At the request of Ms. LANDRIEU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2510, a bill to amend the Public Health Service Act to provide revised standards for quality assurance in screening and evaluation of gynecologic cytology preparations, and for other purposes.

S. 2555

At the request of Mrs. BOXER, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 2555, a bill to permit California and other States to effectively control greenhouse gas emissions from motor vehicles, and for other purposes.

S. 2614

At the request of Mr. BARRASSO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2614, a bill to facilitate the development, demonstration, and implementation of technology for the use in removing carbon dioxide and other greenhouse gases from the atmosphere.

S. 2667

At the request of Mr. MENENDEZ, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2667, a bill to direct the Attorney General to make an annual grant to the A Child Is Missing Alert and Recovery Center to assist law enforcement agencies in the rapid recovery of missing children, and for other purposes.

S. 2689

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 2689, a bill to amend section 411h of title 37, United States Code, to provide travel and transportation allowances for family members of members of the uniformed services with serious inpatient psychiatric conditions.

S. 2743

At the request of Mr. CASEY, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2743, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of financial security accounts for the care of family members with disabilities, and for other purposes.

S. 2758

At the request of Ms. MURKOWSKI, the name of the Senator from Georgia (Mr.

ISAKSON) was added as a cosponsor of S. 2758, a bill to authorize the exploration, leasing, development, production, and economically feasible and prudent transportation of oil and gas in and from the Coastal Plain in Alaska.

S. 2774

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2774, a bill to provide for the appointment of additional Federal circuit and district judges, and for other purposes.

S. 2799

At the request of Mrs. MURRAY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2799, a bill to amend title 38, United States Code, to expand and improve health care services available to women veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, from the Department of Veterans Affairs, and for other purposes.

S. 2819

At the request of Mr. ROCKEFELLER, the names of the Senator from Oregon (Mr. WYDEN), the Senator from Hawaii (Mr. INOUE) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2819, a bill to preserve access to Medicaid and the State Children's Health Insurance Program during an economic downturn, and for other purposes.

S. 2829

At the request of Mr. KENNEDY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2829, a bill to make technical corrections to section 1244 of the National Defense Authorization Act for Fiscal Year 2008, which provides special immigrant status for certain Iraqis, and for other purposes.

S. 2852

At the request of Mr. CORNYN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2852, a bill to provide increased accessibility to information on Federal spending, and for other purposes.

S. 2858

At the request of Ms. MIKULSKI, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2858, a bill to establish the Social Work Reinvestment Commission to provide independent counsel to Congress and the Secretary of Health and Human Services on policy issues associated with recruitment, retention, research, and reinvestment in the profession of social work, and for other purposes.

S. 2863

At the request of Mr. VITTER, the name of the Senator from Mississippi (Mr. WICKER) was added as a cosponsor of S. 2863, a bill to amend the Internal Revenue Code of 1986 to provide a Federal income tax credit for certain stem cell research expenditures.

S.J. RES. 28

At the request of Mr. DORGAN, the name of the Senator from Hawaii (Mr.

INOUE) was added as a cosponsor of S.J. Res. 28, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. CON. RES. 1

At the request of Mr. ALLARD, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Wyoming (Mr. BARRASSO) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. Con. Res. 1, a concurrent resolution expressing the sense of Congress that an artistic tribute to commemorate the speech given by President Ronald Reagan at the Brandenburg Gate on June 12, 1987, should be placed within the United States Capitol.

S. RES. 482

At the request of Mr. ENZI, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. Res. 482, a resolution designating July 26, 2008, as "National Day of the American Cowboy".

AMENDMENT NO. 4527

At the request of Mr. VITTER, his name was added as a cosponsor of amendment No. 4527 intended to be proposed to H.R. 1195, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TESTER (for himself and Mr. BARRASSO):

S. 2875. A bill to authorize the Secretary of the Interior to provide grants to designated States and tribes to carry out programs to reduce the risk of livestock loss due to predation by gray wolves and other predator species or to compensate landowners for livestock loss due to predation; to the Committee on Energy and Natural Resources.

Mr. TESTER. Mr. President, I rise today to talk about the Gray Wolf Livestock Loss Mitigation Act, which Senator BARRASSO and I are introducing today.

This program is a key step now that wolves will be delisted in Montana, Wyoming, and Idaho. The bill will help reduce livestock losses due to wolves and help our ranchers who bear the financial burden of losses due to wolves.

On March 28, the U.S. Fish and Wildlife Service removed the gray wolves in the northern Rockies from the endangered species list. Wolves have, over the last few years, experienced a remarkable recovery in the northern Rockies. They, in fact, have exceeded their population goals put in place when they were reintroduced.

I applaud the Fish and Wildlife Service for their decision to turn the management over to the States, such as Montana, because Montana is ready.

Each State in our region has developed its own management plan that

will treat wolves like other wildlife and keep their numbers at approved levels.

Today, tourists come to Yellowstone to see wolves. They are a symbol of the wildness of our region. But wolves also need to eat, and they kill animals in the process—some wild, some domestic. In the case of the domestic livestock, such as cattle and sheep, that costs producers time and money and reduces profitability.

Our States are taking action by initiating new programs that will try to prevent wolf kills by improved fencing, grazing practices, using guard dogs, and other means. They will also be compensating producers for the losses due to wolves.

Yesterday, Montana's program began accepting claims. Since the Federal Government reintroduced wolves to the northern Rockies, it only makes sense for the Fish and Wildlife Service to assist States in managing wolves even after the delisting.

Today, Senator BARRASSO and I are introducing the Gray Wolf Livestock Loss Mitigation Act to provide the assistance States need in managing wolves in the future.

This program strikes the balance the public demands. It accepts the presence of wolves, but it also supports our livestock industry which is affected by that reintroduction of the wolves.

If wolves are a public asset deserving of reintroduction, the Federal Government ought to be a player at the table to mitigate their costs.

I encourage my colleagues to take a look at this issue—it is an important one—particularly those colleagues from the Great Lakes region and the Southwest who face similar problems.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 517—DESIGNATING THE WEEK OF APRIL 13–19, 2008, AS "WEEK OF THE YOUNG CHILD"

Mr. SALAZAR (for himself, Mr. COCHRAN, Mr. DODD, Mr. ALEXANDER, Mr. LEVIN, Mrs. LINCOLN, Mr. BROWN, Ms. LANDRIEU, Mr. KENNEDY, Mr. CASEY, Mrs. MURRAY, Mr. ROBERTS, and Mr. JOHNSON) submitted the following resolution; which was considered and agreed to:

S. RES. 517

Whereas there are 20,000,000 children under the age of 5 in the United States;

Whereas numerous studies, including the Abecedarian Study, the Study of the Chicago Child-Parent Center, and the High/Scope Perry Preschool Study, indicate that low income children who have enrolled in quality, comprehensive early childhood education programs—

(1) improve their cognitive, language, physical, social, and emotional development; and

(2) are less likely to—

(A) be placed in special education;

(B) drop out of school; or

(C) engage in juvenile delinquency;

Whereas the enrollment rates of children under the age of 5 in early childhood education programs have steadily increased since 1965 with—

(1) the creation of the Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(2) the establishment of the Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(3) the enactment of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

Whereas many children eligible for, and in need of, quality early childhood education services are not served;

Whereas only about one-half of all preschoolers who are eligible to participate in Head Start programs have the opportunity to do so;

Whereas less than 5 percent of all eligible babies and toddlers in the United States receive the opportunity to participate in Early Head Start;

Whereas only about 1 out of every 7 eligible children receives assistance under section 658C of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858a) to—

(1) enable the parents of the child to continue working; and

(2) provide the child with safe and nurturing early childhood care and education;

Whereas, although State and local governments have responded to the numerous benefits of early childhood education by making significant investments in programs and classrooms, there remains—

(1) a large unmet need for those services; and

(2) a need to improve the quality of those programs;

Whereas, according to numerous studies on the impact of investments in high-quality early childhood education, the programs reduce—

(1) the occurrence of students failing to complete secondary school; and

(2) future costs relating to special education and juvenile crime; and

Whereas economist and Nobel Laureate, James Heckman, and Chairman of the Board of Governors of the Federal Reserve System, Ben S. Bernanke, have stated that investment in childhood education is of critical importance to the future of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of April 13–19, 2008, as "Week of the Young Child";

(2) encourages the citizens of the United States to celebrate—

(A) young children; and

(B) the citizens who provide care and early childhood education to the young children of the United States; and

(3) urges the citizens of the United States to recognize the importance of—

(A) quality, comprehensive early childhood education programs; and

(B) the value of those services for preparing children to—

(i) appreciate future educational experiences; and

(ii) enjoy lifelong success.

SENATE RESOLUTION 518—DESIGNATING THE THIRD WEEK OF APRIL 2008 AS "NATIONAL SHAKEN BABY SYNDROME AWARENESS WEEK"

Mr. DODD submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 518

Whereas the month of April has been designated "National Child Abuse Prevention



Month' as an annual tradition initiated in 1979 by President Jimmy Carter;

Whereas the National Child Abuse and Neglect Data System figures reveal that more than 900,000 children were victims of abuse and neglect in the United States in 2006, causing unspeakable pain and suffering for our most vulnerable citizens;

Whereas more than 4 children die as a result of abuse or neglect in the United States each day;

Whereas children younger than 1 year old accounted for approximately 44 percent of all child abuse and neglect fatalities in 2006, and children younger than 3 years old accounted for approximately 78 percent of all child abuse and neglect fatalities in 2006;

Whereas abusive head trauma, including the trauma known as Shaken Baby Syndrome, is recognized as the leading cause of death among physically abused children;

Whereas Shaken Baby Syndrome can result in loss of vision, brain damage, paralysis, seizures, or death;

Whereas 20 States have enacted statutes related to preventing and increasing awareness of Shaken Baby Syndrome;

Whereas medical professionals believe that thousands of additional cases of Shaken Baby Syndrome and other forms of abusive head trauma are being misdiagnosed or are undetected;

Whereas Shaken Baby Syndrome often results in permanent, irreparable brain damage or death of an infant and may result in extraordinary costs for medical care in only the first few years of the life of the child;

Whereas the most effective solution for preventing Shaken Baby Syndrome is to prevent the abuse, and it is clear that the minimal costs of education and prevention programs may prevent enormous medical and disability costs and immeasurable amounts of grief for many families;

Whereas prevention programs have demonstrated that educating new parents about the danger of shaking young children and how to protect their children from injury can significantly reduce the number of cases of Shaken Baby Syndrome;

Whereas education programs raise awareness and provide critically important information about Shaken Baby Syndrome to parents, caregivers, childcare providers, child protection employees, law enforcement personnel, health care professionals, and legal representatives;

Whereas National Shaken Baby Syndrome Awareness Week and efforts to prevent child abuse, including Shaken Baby Syndrome, are supported by groups across the United States, including groups formed by parents and relatives of children who have been killed or injured by shaking, whose mission is to educate the general public and professionals about Shaken Baby Syndrome and to increase support for victims and the families of the victims in the health care and criminal justice systems;

Whereas the Senate previously designated the third week of April 2007 as "National Shaken Baby Syndrome Awareness Week"; and

Whereas the Senate strongly supports efforts to protect children from abuse and neglect: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the third week of April 2008 as "National Shaken Baby Syndrome Awareness Week";

(2) commends hospitals, child care councils, schools, community groups, and other organizations that are—

(A) working to increase awareness of the danger of shaking young children;

(B) educating parents and caregivers on how they can help protect children from injuries caused by abusive shaking; and

(C) helping families cope effectively with the challenges of child-rearing and other stresses in their lives; and

(3) encourages the people of the United States—

(A) to remember the victims of Shaken Baby Syndrome; and

(B) to participate in educational programs to help prevent Shaken Baby Syndrome.

Mr. DODD. Mr. President, I rise today to introduce legislation with my colleague, Senator ALEXANDER, to proclaim the third week of April as "National Shaken Baby Syndrome Awareness Week."

First recognized by our late colleague, Senator Paul Wellstone, Shaken Baby Syndrome Awareness Week is one step the Senate can take each year to raise public awareness of Shaken Baby Syndrome, represents one of the most devastating forms of child abuse in this country. This form of abuse not only results in severe injury and lifelong disability in some cases, it results in the deaths of hundreds of children each year.

In recognition of the need to eliminate child abuse and to raise awareness about the issue, the month of April has been designated "National Child Abuse Prevention Month," an annual tradition that was initiated in 1979 by former President Jimmy Carter. As we focus more closely on the prevention of child abuse this month, awareness and prevention of Shaken Baby Syndrome should be an important component of these efforts.

The facts demonstrate the need for our efforts: Based on the most recent statistics available, about 1530 children died of abuse in 2006. While each of those deaths is a tragedy, it is estimated that 300 of those children were victims of an inflicted head injury. Nearly all of those children were under 5 years of age, and two-thirds had not reached their first birthday. The total annual cost of child abuse and neglect in the United States is estimated to be \$103.8 billion a year.

However, there is good news: Programs that educate new parents about the danger of shaking and how they can protect their child have been shown to be remarkably effective. Eleven years ago, a pilot project to educate parents before they left the hospital began in Buffalo, New York. Since that time, the incidence of inflicted head injury is 50 percent lower in the Buffalo area. Today, New York and eight other States require hospitals to provide parents with education that gives them the knowledge to keep their children safe, and regional and local programs have begun in other States. Since Texas began in 1998, several states now require that licensed child care providers be trained about the causes, consequence and prevention of Shaken Baby Syndrome, important knowledge when more than 8 million children under age 5 are in child care during the work week. In Wisconsin, Illinois and New York, education programs are being designed for middle-school and high-

school students: tomorrow's parents, tonight's babysitters.

While awareness of the vulnerability of young children to inflicted brain injuries is important, we are learning that effective education programs work best when they enlist the support of parents and other caregivers, and give them the knowledge and techniques they need to keep young children safe.

I, like many of my colleagues, am a parent. My children are still young and my parenting memories are perhaps more fresh than those of some other members. The overwhelming majority of my memories are ones I will cherish for a lifetime. But, I also recall exhaustion, anxiety and moments of frustration and anger. While national surveys show such moments are a normal part of being a parent, they are rarely spoken of.

Education and awareness can give every parent the opportunity to learn how to cope with frustrating moments, and to keep their children safe. Understanding this, last year I introduced the Shaken Baby Syndrome Awareness Act of 2007. This initiative provides for the creation of a public health campaign, including the development of a National Action Plan to identify effective, evidence-based strategies for prevention and awareness of Shaken Baby Syndrome, and establishment of a cross-disciplinary advisory council to help coordinate national efforts. Through this legislation I hope to reduce the number of children injured or killed by abusive head trauma, and ultimately eliminate Shaken Baby Syndrome.

With the support of the Centers for Disease Control, in 2008 Pennsylvania and North Carolina will begin statewide initiatives to support the efforts of hospitals to educate new parents. This builds on the program that began 11 years ago in Buffalo, New York and it builds on the efforts of doctors, nurses, educators, child care providers, prevention organizations and parent advocates across America who have been working to prevent Shaken Baby Syndrome and other inflicted abuse.

I would like to recognize those efforts, and the efforts of many others, including those formed by parents and relatives of children who have been killed or injured by shaking, who work to increase awareness of how parents can help protect their children from this devastating form of child abuse. Among those who are working toward the end of preventing the tragedy of child abuse and who are supportive of this resolution are: Association of University Centers on Disabilities, Brain Injury Association of America, Child Welfare League of America, Children's Healthcare is a Legal Duty, Children's Safety Network, Congress of Neurological Surgeons, Easter Seals, Hannah Rose Foundation, National Association of Child Care Resource & Referral Agencies, National Association of State Head Injury Administrators, National Center for Learning Disabilities,

National Child Abuse Coalition, National Exchange Club Foundation, Prevent Child Abuse America, Shaken Baby Prevention, Inc., Shaken Baby Syndrome Prevention Plus, The Arc of the United States, The Center for Child Protection and Family Support, The National Association of Children's Hospitals and Related Institutions, The National Shaken Baby Coalition, United Cerebral Palsy, Voices for America's Children, D.C. Children's Trust Fund, and National Family Partnership. I would like to thank Senators MENENDEZ, CASEY, BAYH, CLINTON, SCHUMER, HATCH, MURRAY for their support of this worthwhile initiative.

I urge the Senate to adopt this resolution designating the third week of April 2008 as "National Shaken Baby Syndrome Awareness Week," and I urge members who take part in the many local and national activities and events recognizing the month of April as National Child Abuse Prevention Month to take the opportunity to visit a local hospital, child care center or school, learn what they are doing to help parents protect their children from injury and recognize those efforts.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4529. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table.

SA 4530. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4531. Mr. WEBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4532. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4533. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4534. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4535. Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4536. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4537. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

SA 4538. Mr. COBURN (for himself, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. MCCAIN, Mr. OBAMA, Mrs. CLINTON, and Mrs. McCASKILL) proposed an amendment to amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, supra.

SA 4539. Mrs. BOXER (for herself, Mrs. CLINTON, Mr. OBAMA, and Mr. NELSON of

Florida) proposed an amendment to amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, supra.

SA 4540. Mr. COBURN proposed an amendment to amendment SA 4539 proposed by Mrs. BOXER (for herself, Mrs. CLINTON, Mr. OBAMA, and Mr. NELSON of Florida) to the amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, supra.

SA 4541. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1195, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 4529. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, after line 2, insert the following:

(s) PROJECT MODIFICATION.—Section 3044(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) is amended—

(1) by amending the description for item 160 to read as follows: "Nebraska Statewide Transit Bus, Bus Facilities and Related Equipment"; and

(2) by amending the description for item 586 to read as follows: "Nebraska Department of Roads/Bus, Bus Facilities and Related Equipment Statewide".

SA 4530. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, strike lines 3 and 4 and insert the following:

(386) in item number 4497 by inserting "including lighting, landscaping, and pedestrian enhancements from 18th Street to 20th Street and 29th Street to 30th Street" after "Cuming Street Transportation improvement project in Omaha";

(387) in project number 4506 by inserting "including Burt Street lighting, landscaping, and pedestrian enhancements (including burial of certain overhead utilities) from 30th Street to 20th Street" after "Cuming Street Transportation Improvement Project in Omaha"; and

(388) in item number 370 by striking the

On page 86, strike lines 11 and 12 and insert the following:

campus in New Rochelle";

(25) in item number 276 by inserting "including narrowing of 24th Street from Cuming Street to Cass Street and adjacent lighting, landscaping, and pedestrian safety enhancements" after "in Omaha"; and

(26) in item number 462 by striking the project

SA 4531. Mr. WEBB (for himself and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections,

and for other purposes; which was ordered to lie on the table; as follows:

On page 119, after line 2, insert the following:

(s) PROJECT MODIFICATION.—

(1) IN GENERAL.—Section 3044(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) is amended—

(A) by amending the description for item 232 to read as follows: "WMATA alternatives analysis, environmental assessment, preliminary engineering, design, and construction related to the transfer of WMATA buses from the Alexandria, Virginia Royal Street Bus Garage to an alternate WMATA facility"; and

(B) by amending the description for item 494 to read as follows: "WMATA alternatives analysis, environmental assessment, preliminary engineering, design, and construction related to the transfer of WMATA buses from the Alexandria, Virginia Royal Street Bus Garage to an alternate WMATA facility".

(2) AUTHORIZATION.—Amounts for the projects referred to in paragraph (1), as amended, shall remain available through fiscal year 2010.

SA 4532. Mr. WARNER (for himself and Mr. WEBB) submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 92, strike lines 15 and 16 and insert the following:

paving";

(3) in item number 72—

(A) in the column under the heading "Project description", by striking "Widen I-64 Bland Boulevard interchange" and inserting "Middle Ground Boulevard Extension Project"; and

(B) in the column under the heading "(Dollars in millions)", by striking "25.8375" and inserting "28.8375";

(4) by striking item number 1769; and

(5) in item number 614 by inserting "and for

SA 4533. Mrs. HUTCHISON (for herself and Mr. CORNYN) submitted an amendment intended to be proposed by her to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, strike line 3 and all that follows through line 8, and insert the following:

(386) in item number 370 by striking the project description and inserting "Pedestrian paths, stairs, seating, landscaping, lighting, and other transportation enhancement activities along Riverside Boulevard and at Riverside Park South"; and

(387) in item number 2406 by striking "in Fort Worth" and inserting "or Construct SH 199 (Henderson St.) through the Trinity Uptown Project between the West Fork and Clear Fork of the Trinity River, in Fort Worth".

SA 4534. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy

for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ ENFORCEMENT OF FEDERAL LAWS WITH RESPECT TO TRANSPORTATION OF HOUSEHOLD GOODS.**

Chapter 147 of title 49, United States Code, is amended by striking sections 14710 and 14711 and inserting the following:

**“§14710. Enforcement of Federal laws with respect to transportation of household goods**

“(a) STATE ENFORCEMENT AUTHORITY.—Except as provided under subsection (f), if the attorney general or enforcement official of a State has reason to believe that the interests of the residents of that State have been, or are being, threatened or adversely affected by a violation of any consumer protection provision under this title that apply to individual shippers (as determined by the Secretary) and are related to the delivery and transportation of household goods by a household goods motor carrier subject to jurisdiction under subchapter I of chapter 135 of this title, or regulations or orders issued by the Secretary or the Board under such provisions, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States to obtain injunctive relief as provided under this section.

“(b) NOTICE TO SECRETARY OR BOARD.—

“(1) IN GENERAL.—Except as provided under paragraph (2), not later than 60 days before initiating a civil action under subsection (a), the State shall submit, to the Secretary or the Board, written notice of such action that includes a copy of the complaint to be filed to initiate such action.

“(2) EXCEPTION.—If it is not feasible for the State to provide notice to the Secretary or the Board before the deadline under paragraph (1), the State shall provide such notice immediately upon instituting such civil action.

“(c) INTERVENTION.—Upon receiving the notice required under subsection (b), the Secretary or the Board—

“(1) may intervene in such civil action; and

“(2) upon intervening—

“(A) shall be heard on all matters arising in such civil action;

“(B) shall, upon motion, be substituted for the State in such civil action; and

“(C) may file petitions for appeal of a decision in such civil action.

“(d) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

“(1) the venue shall be a judicial district in which—

“(A) the carrier, foreign motor carrier, or broker operates;

“(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or

“(C) the defendant in the civil action is found;

“(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

“(3) a person who participated with the carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

“(e) FEDERAL PRIMARY RIGHT OF ENFORCEMENT.—If the Secretary or Board institutes a civil action or an administrative action under subsection (a), or under any other Act, regulation, or order for which the Secretary or the Board has enforcement authority, no

State attorney general, or other official or agency of a State, may bring an action under this section while such action is pending against any defendant named in the complaint of the Secretary or Board for any violation alleged in the complaint.

“(f) REASONABLE COSTS AND ATTORNEY FEES.—If a State prevails in any civil action under subsection (a) for a violation of section 13707, the State can recover reasonable costs and attorneys fees from the carrier or broker.

“(g) STATE COMPLIANCE ORDERS.—

“(1) IN GENERAL.—If an individual shipper fails to relinquish possession of household goods in violation of section 13707, a State may issue an order requiring the shipper to comply with such section.

“(2) ISSUANCE.—Any order issued under this subsection shall—

“(A) be delivered by personal service;

“(B) state with reasonable specificity—

“(i) the requirements of section 13707;

“(ii) the nature of the violation of such section; and

“(iii) the penalties available for such violation (as described by section 14915); and

“(C) shall specify a date by which the shipper shall comply with the order.

“(3) SAVINGS PROVISION.—Action taken by a State under this subsection shall not affect or limit the authority of the State under subsection (a).

“(h) NOTICE TO CARRIER OR BROKER.—

“(1) FAILURE TO RELINQUISH POSSESSION OF HOUSEHOLD GOODS.—

“(A) IN GENERAL.—Except as provided under subparagraph (C), if a civil action brought under subsection (a) is for a violation of section 13707, the State shall provide notice of the alleged violation to the carrier or broker as soon as the alleged violation becomes known to the State.

“(B) CONTENTS.—Notice provided under subparagraph (A)—

“(i) shall require that the carrier or broker cure any violation within 24 hours of receipt of the notice;

“(ii) may be made in writing or by telephone; and

“(iii) if provided by telephone, shall—

“(I) be actual notice; and

“(II) be followed by subsequent written notification not later than 48 hours after the initial notice.

“(C) COMPLIANCE ORDER.—The State is not required to provide notice under this paragraph if the State issues a compliance order under subsection (g).

“(2) OTHER VIOLATIONS.—

“(A) IN GENERAL.—If a civil action brought under subsection (a) is not for a violation of section 13707, the State shall provide written notice to the carrier or broker of any civil action under subsection (a) not later than 30 days before initiating such action.

“(B) CONTENTS.—Notice provided under subparagraph (A) shall—

“(i) include a copy of the complaint to be filed to initiate such civil action; and

“(ii) provide the carrier or broker with an opportunity to cure the reported violation by mutual agreement between the State and the carrier or broker.

“(3) CIVIL ACTION AUTHORIZED.—Regardless of whether a carrier or broker cures a violation about which it has received notification from a State under this subsection, the State may file a civil action against the carrier or broker under subsection (a) if the State has complied with the notification requirement under subsection (b).

“(i) CONSTRUCTION.—Nothing in this section may be construed to—

“(1) prevent the attorney general or enforcement official of a State from exercising the powers conferred on such officials by the laws of such State;

“(2) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation or order; or

“(3) prohibit the attorney general of a State, or other authorized State officer, from proceeding in State or Federal court on the basis of an alleged violation of any civil or criminal statute of such State.”.

**SA 4535.** Mr. LAUTENBERG (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, lines 24 and 25, strike “in Clifton”.

**SA 4536.** Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

In section 105(a), after paragraph (10), insert the following:

(11) in item number 334 by striking “at intersection of Clinton Street and Keith Avenue”;

**SA 4537.** Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, strike lines 8 through 11 and insert the following:

(250) in item number 3909 by striking the project description and inserting “S.R. 281, the Avalon Boulevard Expansion Project from Interstate 10 to U.S. Highway 90”;

**SA 4538.** Mr. COBURN (for himself, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. MCCAIN, Mr. OBAMA, Mrs. CLINTON, and Mrs. MCCASKILL) proposed an amendment to amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ COCONUT ROAD INVESTIGATION.**

(a) FINDINGS.—Congress makes the following findings:

(1) According to item number 462 of the table contained in section 1934 of the Conference Report on H.R. 3 (109th Congress), which was passed by the Senate and the House of Representatives on July 29, 2005, \$10,000,000 was allocated for “Widening and Improvements for I-75 in Collier and Lee County”.

(2) According to item number 462 of such table in the enrolled version of H.R. 3 (109th Congress), which was signed into law by the President on August 10, 2005, \$10,000,000 was allocated for “Coconut Rd. interchange I-75/ Lee County”.

(3) A December 3, 2007, article in the Naples Daily News noted, "Mysteriously, after Congress voted on the bill but before the president signed it into law, language in the earmark was changed to read: 'Coconut Rd. interchange I-75/Lee County.'".

(4) Page 824 of Riddick's Senate Procedure notes that "Concurrent resolutions are used to correct errors in bills when enrolled, or to correct errors by authorizing the re-enrollment of a specified bill with the designated changes to be made."

(5) The only concurrent resolution that Congress passed regarding the enrollment of H.R. 3 (H. Con. Res. 226) does not refer to the change made to item 462 of section 1934.

(6) The secret, unauthorized redirection of \$10,000,000 to the "Coconut Rd. interchange I-75/Lee County" calls into question the integrity of the Constitution and the legislative process.

(7) A full and open investigation into this improper change to congressionally-passed legislation is necessary to restore the integrity of the legislative process.

(b) **PRESERVATION OF DOCUMENTATION RELATING TO THE ENROLLMENT OF H.R. 3.**—Officers and employees of the Senate and the House of Representatives shall take whatever actions may be necessary to preserve all records, documents, e-mails, and phone records relating to the enrollment of H.R. 3 in the 109th Congress, including all documents relating to changes made to item 462 of the table contained in section 1934 of such Act, to allocate funding for the Coconut Road interchange in Lee County, Florida.

(c) **SPECIAL COMMITTEE ON ENROLLMENT IRREGULARITIES.**—

(1) **ESTABLISHMENT.**—There is established a select committee of Congress to be known as the Special Committee on Enrollment Irregularities (referred to in this subsection as the "Committee").

(2) **PURPOSES.**—The purposes of the Committee are to—

(A) investigate the improper insertion of substantive new matter into the table contained in section 1934(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) after the Act passed the Senate and the House of Representatives on July 29, 2005; and

(B) determine when, how, why, and by whom such improper revisions were made;

(3) **MEMBERSHIP.**—The Committee shall be comprised of 8 members, of which—

(A) 2 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 2 shall be appointed by the Speaker of the House of Representatives; and

(D) 2 shall be appointed by the minority leader of the House of Representatives.

(4) **AUTHORITY.**—The Committee, consistent with the applicable rules of the Senate or the House of Representatives, may—

(A) hold such hearings, take such testimony, and receive such documents as the Committee determines necessary to carry out the purposes described in paragraph (2); and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Committee determines necessary.

(5) **REPORTS.**—

(A) **INTERIM REPORT.**—Not later than August 1, 2008, the Committee shall prepare an interim report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(B) **FINAL REPORT.**—Not later than October 1, 2008, the Committee shall prepare a final report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(6) **USE OF INFORMATION.**—The Committee may share all findings, documents, and information gathered in an investigation under this subsection with—

(A) the Select Committee on Ethics of the Senate;

(B) the Committee on Standards of Official Conduct of the House of Representatives; and

(C) appropriate law enforcement authorities.

**SA 4539.** Mrs. BOXER (for herself, Mrs. CLINTON, Mr. OBAMA, and Mr. NELSON of Florida) proposed an amendment to amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; as follows:

At the end of the amendment, insert the following:

**SEC. . DEPARTMENT OF JUSTICE REVIEW.**

Consistent with applicable standards and procedures, the Department of Justice shall review allegations of impropriety regarding item 462 in section 1934(c) of Public Law 109-59 to ascertain if a violation of Federal criminal law has occurred.

**SA 4540.** Mr. COBURN proposed an amendment to amendment SA 4539 proposed by Mrs. BOXER (for herself, Mrs. CLINTON, Mr. OBAMA, and Mr. NELSON of Florida) to the amendment SA 4146 proposed by Mrs. BOXER to the bill H.R. 1195, to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. . COCONUT ROAD INVESTIGATION.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) According to item number 462 of the table contained in section 1934 of the Conference Report on H.R. 3 (109th Congress), which was passed by the Senate and the House of Representatives on July 29, 2005, \$10,000,000 was allocated for "Widening and Improvements for I-75 in Collier and Lee County".

(2) According to item number 462 of such table in the enrolled version of H.R. 3 (109th Congress), which was signed into law by the President on August 10, 2005, \$10,000,000 was allocated for "Coconut Rd. interchange I-75/Lee County".

(3) A December 3, 2007, article in the Naples Daily News noted, "Mysteriously, after Congress voted on the bill but before the president signed it into law, language in the earmark was changed to read: 'Coconut Rd. interchange I-75/Lee County.'".

(4) Page 824 of Riddick's Senate Procedure notes that "Concurrent resolutions are used to correct errors in bills when enrolled, or to correct errors by authorizing the re-enrollment of a specified bill with the designated changes to be made."

(5) The only concurrent resolution that Congress passed regarding the enrollment of H.R. 3 (H. Con. Res. 226) does not refer to the change made to item 462 of section 1934.

(6) The secret, unauthorized redirection of \$10,000,000 to the "Coconut Rd. interchange

I-75/Lee County" calls into question the integrity of the Constitution and the legislative process.

(7) A full and open investigation into this improper change to congressionally-passed legislation is necessary to restore the integrity of the legislative process.

(b) **PRESERVATION OF DOCUMENTATION RELATING TO THE ENROLLMENT OF H.R. 3.**—Officers and employees of the Senate and the House of Representatives shall take whatever actions may be necessary to preserve all records, documents, e-mails, and phone records relating to the enrollment of H.R. 3 in the 109th Congress, including all documents relating to changes made to item 462 of the table contained in section 1934 of such Act, to allocate funding for the Coconut Road interchange in Lee County, Florida.

(c) **SPECIAL COMMITTEE ON ENROLLMENT IRREGULARITIES.**—

(1) **ESTABLISHMENT.**—There is established a select committee of Congress to be known as the Special Committee on Enrollment Irregularities (referred to in this subsection as the "Committee").

(2) **PURPOSES.**—The purposes of the Committee are to—

(A) investigate the improper insertion of substantive new matter into the table contained in section 1934(c) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59) after the Act passed the Senate and the House of Representatives on July 29, 2005; and

(B) determine when, how, why, and by whom such improper revisions were made;

(3) **MEMBERSHIP.**—The Committee shall be comprised of 8 members, of which—

(A) 2 shall be appointed by the majority leader of the Senate;

(B) 2 shall be appointed by the minority leader of the Senate;

(C) 2 shall be appointed by the Speaker of the House of Representatives; and

(D) 2 shall be appointed by the minority leader of the House of Representatives.

(4) **AUTHORITY.**—The Committee, consistent with the applicable rules of the Senate or the House of Representatives, may—

(A) hold such hearings, take such testimony, and receive such documents as the Committee determines necessary to carry out the purposes described in paragraph (2); and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Committee determines necessary.

(5) **REPORTS.**—

(A) **INTERIM REPORT.**—Not later than August 2, 2008, the Committee shall prepare an interim report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(B) **FINAL REPORT.**—Not later than October 1, 2008, the Committee shall prepare a final report that details the Committee's findings and make such report available to the public in searchable form on the Internet.

(6) **USE OF INFORMATION.**—The Committee may share all findings, documents, and information gathered in an investigation under this subsection with—

(A) the Select Committee on Ethics of the Senate;

(B) the Committee on Standards of Official Conduct of the House of Representatives; and

(C) appropriate law enforcement authorities.

**SA 4541.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1195, to amend the

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; which was ordered to lie on the table; as follows:

On page 49, line 18, strike "160" and insert "169".

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 16, 2008, at 10 a.m., to conduct a committee hearing entitled "Turmoil in U.S. Credit Markets: Examining Proposals to Mitigate Foreclosures and Restore Liquidity to the Mortgage Markets."

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

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 16, 2008, at 2 p.m., to conduct a subcommittee hearing entitled "Affordable Housing Opportunities: Reforming the Housing Voucher Program."

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

##### COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 16, 2008, at 2:30 p.m. to hold a nomination hearing.

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

##### COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled "The Impact of the Credit Crunch on Small Business," on Wednesday, April 16, 2008, beginning at 2:30 p.m., in room 428A of the Russell Senate Office Building.

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

##### SPECIAL COMMITTEE ON AGING

Mrs. BOXER. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, Wednesday, April 16, 2008 from 3 p.m.-5 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

##### SUBCOMMITTEE ON CRIME AND DRUGS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary, Sub-

committee on Crime and Drugs, be authorized to meet during the session of the Senate, to conduct a hearing entitled "Challenges and Solutions for Protecting our Children from Violence and Exploitation in the 21st Century" on Wednesday, April 16, 2008, at 2 p.m., in room SD-226 of the Dirksen Senate Office Building.

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

##### SUBCOMMITTEE ON PERSONNEL

Mrs. BOXER. Mr. President, I ask unanimous consent that the Personnel Subcommittee of the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, April 16, 2008, at 2:30 p.m., in open session to receive testimony from military beneficiary organizations regarding the quality of life of active, reserve, and retired military personnel and their family members in review of the defense authorization request for fiscal year 2009 and the future years defense program.

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

##### SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works, Subcommittee on Transportation and Infrastructure be authorized to meet during the session of the Senate on Wednesday April 16, 2008 at 10 a.m. in Room 406 of the Dirksen Senate Office Building to hold a hearing entitled, "Surface Transportation and the Global Economy."

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

#### NEW DIRECTION FOR ENERGY INDEPENDENCE, NATIONAL SECURITY, AND CONSUMER PROTECTION ACT AND THE RENEWABLE ENERGY AND ENERGY CONSERVATION TAX ACT

On Thursday, April 10, 2008, the Senate passed H.R. 3221, as amended, as follows:

##### H.R. 3221

*Resolved*, That the bill from the House of Representatives (H.R. 3221) entitled "An Act moving the United States toward greater energy independence and security, developing innovative new technologies, reducing carbon emissions, creating green jobs, protecting consumers, increasing clean renewable energy production, and modernizing our energy infrastructure, and to amend the Internal Revenue Code of 1986 to provide tax incentives for the production of renewable energy and energy conservation," do pass with the following amendments:

Strike out all after the enacting clause and insert:

##### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE*.—This Act may be cited as the "Foreclosure Prevention Act of 2008".

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

Sec. 1. Short title; table of contents.

##### TITLE I—FHA MODERNIZATION ACT OF 2008

Sec. 101. Short title.

##### Subtitle A—Building American Homeownership

Sec. 111. Short title.

Sec. 112. Maximum principal loan obligation.

Sec. 113. Cash investment requirement and prohibition of seller-funded down-payment assistance.

Sec. 114. Mortgage insurance premiums.

Sec. 115. Rehabilitation loans.

Sec. 116. Discretionary action.

Sec. 117. Insurance of condominiums.

Sec. 118. Mutual Mortgage Insurance Fund.

Sec. 119. Hawaiian home lands and Indian reservations.

Sec. 120. Conforming and technical amendments.

Sec. 121. Insurance of mortgages.

Sec. 122. Home equity conversion mortgages.

Sec. 123. Energy efficient mortgages program.

Sec. 124. Pilot program for automated process for borrowers without sufficient credit history.

Sec. 125. Homeownership preservation.

Sec. 126. Use of FHA savings for improvements in FHA technologies, procedures, processes, program performance, staffing, and salaries.

Sec. 127. Post-purchase housing counseling eligibility improvements.

Sec. 128. Pre-purchase homeownership counseling demonstration.

Sec. 129. Fraud prevention.

Sec. 130. Limitation on mortgage insurance premium increases.

Sec. 131. Savings provision.

Sec. 132. Implementation.

Sec. 133. Moratorium on implementation of risk-based premiums.

##### Subtitle B—Manufactured Housing Loan Modernization

Sec. 141. Short title.

Sec. 142. Purposes.

Sec. 143. Exception to limitation on financial institution portfolio.

Sec. 144. Insurance benefits.

Sec. 145. Maximum loan limits.

Sec. 146. Insurance premiums.

Sec. 147. Technical corrections.

Sec. 148. Revision of underwriting criteria.

Sec. 149. Prohibition against kickbacks and unearned fees.

Sec. 150. Leasehold requirements.

##### TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS

Sec. 201. Temporary increase in maximum loan guaranty amount for certain housing loans guaranteed by the Secretary of Veterans Affairs.

Sec. 202. Counseling on mortgage foreclosures for members of the Armed Forces returning from service abroad.

Sec. 203. Enhancement of protections for servicemembers relating to mortgages and mortgage foreclosures.

##### TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES

Sec. 301. Emergency assistance for the redevelopment of abandoned and foreclosed homes.

Sec. 302. Nationwide distribution of resources.

Sec. 303. Limitation on use of funds with respect to eminent domain.

Sec. 304. Limitation on distribution of funds.

Sec. 305. Counseling intermediaries.

##### TITLE IV—HOUSING COUNSELING RESOURCES

Sec. 401. Housing counseling resources.

Sec. 402. Credit counseling.

##### TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT

Sec. 501. Short title.

Sec. 502. Enhanced mortgage loan disclosures.

Sec. 503. Community Development Investment Authority for depository institutions.

Sec. 504. Federal Home loan bank refinancing authority for certain residential mortgage loans.

#### TITLE VI—TAX-RELATED PROVISIONS

Sec. 601. Election for 4-year carryback of certain net operating losses and temporary suspension of 90 percent AMT limit.

Sec. 602. Modifications on use of qualified mortgage bonds; temporary increased volume cap for certain housing bonds.

Sec. 603. Credit for certain home purchases.

Sec. 604. Additional standard deduction for real property taxes for nonitemizers.

Sec. 605. Election to accelerate AMT and R and D credits in lieu of bonus depreciation.

Sec. 606. Use of amended income tax returns to take into account receipt of certain hurricane-related casualty loss grants by disallowing previously taken casualty loss deductions.

Sec. 607. Waiver of deadline on construction of GO Zone property eligible for bonus depreciation.

Sec. 608. Temporary tax relief for Kiowa County, Kansas and surrounding area.

#### TITLE VII—EMERGENCY DESIGNATION

Sec. 701. Emergency designation.

#### TITLE VIII—REIT INVESTMENT DIVERSIFICATION AND EMPOWERMENT

Sec. 801. Short title; amendment of 1986 Code.

##### Subtitle A—Taxable REIT Subsidiaries

Sec. 811. Conforming taxable REIT subsidiary asset test.

##### Subtitle B—Dealer Sales

Sec. 821. Holding period under safe harbor.

Sec. 822. Determining value of sales under safe harbor.

##### Subtitle C—Health Care REITs

Sec. 831. Conformity for health care facilities.

##### Subtitle D—Effective Dates and Sunset

Sec. 841. Effective dates and sunset.

#### TITLE IX—VETERANS HOUSING MATTERS

Sec. 901. Home improvements and structural alterations for totally disabled members of the Armed Forces before discharge or release from the Armed Forces.

Sec. 902. Eligibility for specially adapted housing benefits and assistance for members of the Armed Forces with service-connected disabilities and individuals residing outside the United States.

Sec. 903. Specially adapted housing assistance for individuals with severe burn injuries.

Sec. 904. Extension of assistance for individuals residing temporarily in housing owned by a family member.

Sec. 905. Increase in specially adapted housing benefits for disabled veterans.

Sec. 906. Report on specially adapted housing for disabled individuals.

Sec. 907. Report on specially adapted housing assistance for individuals who reside in housing owned by a family member on permanent basis.

Sec. 908. Definition of annual income for purposes of section 8 and other public housing programs.

Sec. 909. Payment of transportation of baggage and household effects for members of the Armed Forces who relocate due to foreclosure of leased housing.

#### TITLE X—CLEAN ENERGY TAX STIMULUS

Sec. 1001. Short title; etc.

##### Subtitle A—Extension of Clean Energy Production Incentives

Sec. 1011. Extension and modification of renewable energy production tax credit.

Sec. 1012. Extension and modification of solar energy and fuel cell investment tax credit.

Sec. 1013. Extension and modification of residential energy efficient property credit.

Sec. 1014. Extension and modification of credit for clean renewable energy bonds.

Sec. 1015. Extension of special rule to implement FERC restructuring policy.

##### Subtitle B—Extension of Incentives to Improve Energy Efficiency

Sec. 1021. Extension and modification of credit for energy efficiency improvements to existing homes.

Sec. 1022. Extension and modification of tax credit for energy efficient new homes.

Sec. 1023. Extension and modification of energy efficient commercial buildings deduction.

Sec. 1024. Modification and extension of energy efficient appliance credit for appliances produced after 2007.

#### TITLE XI—SENSE OF THE SENATE

Sec. 1101. Sense of the Senate.

#### TITLE I—FHA MODERNIZATION ACT OF 2008

##### SEC. 101. SHORT TITLE.

This title may be cited as the “FHA Modernization Act of 2008”.

##### Subtitle A—Building American Homeownership

##### SEC. 111. SHORT TITLE.

This subtitle may be cited as the “Building American Homeownership Act of 2008”.

##### SEC. 112. MAXIMUM PRINCIPAL LOAN OBLIGATION.

(a) IN GENERAL.—Paragraph (2) of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by amending subparagraphs (A) and (B) to read as follows:

“(A) not to exceed the lesser of—

“(i) in the case of a 1-family residence, 110 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation in effect for 2007 under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation in effect for 2007 under such section for a 1-family residence; or

“(ii) 132 percent of the dollar amount limitation in effect for 2007 under such section 305(a)(2) for a residence of the applicable size (without regard to any authority to increase such limitations with respect to properties located in Alaska, Guam, Hawaii, or the Virgin Islands), except that each such maximum dollar amount shall be adjusted effective January 1 of each year beginning with 2009, by adding to or subtracting from each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase or decrease, during the most recently completed 12-month or 4-quarter period ending before the time of determining such annual adjustment, in an housing price index developed or selected by the Secretary for purposes of adjustments under this clause;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation in effect for 2007 under such section 305(a)(2) for a residence of the applicable size, as such limitation is adjusted by any subsequent percentage adjustments determined under clause (ii) of this subparagraph; and

“(B) not to exceed 100 percent of the appraised value of the property.”; and

(2) in the matter following subparagraph (B), by striking the second sentence (relating to a definition of “average closing cost”) and all that follows through “section 3103A(d) of title 38, United States Code.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect upon the expiration of the date described in section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110-185).

##### SEC. 113. CASH INVESTMENT REQUIREMENT AND PROHIBITION OF SELLER-FUNDED DOWNPAYMENT ASSISTANCE.

Paragraph 9 of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended to read as follows:

“(9) CASH INVESTMENT REQUIREMENT.—

“(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

“(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

“(i) such lien shall be subordinate to the mortgage; and

“(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property.

“(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

“(i) The seller or any other person or entity that financially benefits from the transaction.

“(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).”.

##### SEC. 114. MORTGAGE INSURANCE PREMIUMS.

Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking “or of the General Insurance Fund” and all that follows through “section 234(c).,”; and

(2) in subparagraph (A)—

(A) by striking “2.25 percent” and inserting “3 percent”; and

(B) by striking “2.0 percent” and inserting “2.75 percent”.

##### SEC. 115. REHABILITATION LOANS.

Subsection (k) of section 203 of the National Housing Act (12 U.S.C. 1709(k)) is amended—

(1) in paragraph (1), by striking “on” and all that follows through “1978”; and

(2) in paragraph (5)—

(A) by striking “General Insurance Fund” the first place it appears and inserting “Mutual Mortgage Insurance Fund”; and

(B) in the second sentence, by striking the comma and all that follows through “General Insurance Fund”.

##### SEC. 116. DISCRETIONARY ACTION.

The National Housing Act is amended—

(1) in subsection (e) of section 202 (12 U.S.C. 1708(e))—

(A) in paragraph (3)(B), by striking “section 202(e) of the National Housing Act” and inserting “this subsection”; and

(B) by redesignating such subsection as subsection (f);

(2) by striking paragraph (4) of section 203(s) (12 U.S.C. 1709(s)(4)) and inserting the following new paragraph:

“(4) the Secretary of Agriculture;” and



(3) by transferring subsection (s) of section 203 (as amended by paragraph (2) of this section) to section 202, inserting such subsection after subsection (d) of section 202, and redesignating such subsection as subsection (e).

#### SEC. 117. INSURANCE OF CONDOMINIUMS.

(a) IN GENERAL.—Section 234 of the National Housing Act (12 U.S.C. 1715y) is amended—

(1) in subsection (c), in the first sentence—

(A) by striking “and” before “(2)”; and

(B) by inserting before the period at the end the following: “, and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)”; and

(2) in subsection (g), by striking “, except that” and all that follows and inserting a period.

(b) DEFINITION OF MORTGAGE.—Section 201(a) of the National Housing Act (12 U.S.C. 1707(a)) is amended—

(1) before “a first mortgage” insert “(A)”; and

(2) by striking “or on a leasehold (1)” and inserting “(B) a first mortgage on a leasehold on real estate (i)”; and

(3) by striking “or (2)” and inserting “, or (ii)”; and

(4) by inserting before the semicolon the following: “, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project”.

(c) DEFINITION OF REAL ESTATE.—Section 201 of the National Housing Act (12 U.S.C. 1707) is amended by adding at the end the following new subsection:

“(g) The term ‘real estate’ means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this title, that such land or property be treated as real estate for purposes of State taxation.”.

#### SEC. 118. MUTUAL MORTGAGE INSURANCE FUND.

(a) IN GENERAL.—Subsection (a) of section 202 of the National Housing Act (12 U.S.C. 1708(a)) is amended to read as follows:

“(a) MUTUAL MORTGAGE INSURANCE FUND.—

“(1) ESTABLISHMENT.—Subject to the provisions of the Federal Credit Reform Act of 1990, there is hereby created a Mutual Mortgage Insurance Fund (in this title referred to as the ‘Fund’), which shall be used by the Secretary to carry out the provisions of this title with respect to mortgages insured under section 203. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

“(2) LIMIT ON LOAN GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

“(3) FIDUCIARY RESPONSIBILITY.—The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

“(4) ANNUAL INDEPENDENT ACTUARIAL STUDY.—The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums,

if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

“(5) QUARTERLY REPORTS.—During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

“(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

“(B) the types of loans insured, categorized by risk;

“(C) any significant changes between actual and projected claim and prepayment activity;

“(D) projected versus actual loss rates; and

“(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following the enactment of the Building American Homeownership Act of 2008, whichever is later.

“(6) ADJUSTMENT OF PREMIUMS.—If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this title as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

“(7) OPERATIONAL GOALS.—The operational goals for the Fund are—

“(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after the date of enactment of the Building American Homeownership Act of 2008; and

“(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this title is designed to serve.”.

(b) OBLIGATIONS OF FUND.—The National Housing Act is amended as follows:

(1) HOMEOWNERSHIP VOUCHER PROGRAM MORTGAGES.—In section 203(v) (12 U.S.C. 1709(v))—

(A) by striking “Notwithstanding section 202 of this title, the” and inserting “The”; and

(B) by striking “General Insurance Fund” the first place such term appears and all that follows through the end of the subsection and inserting “Mutual Mortgage Insurance Fund”.

(2) HOME EQUITY CONVERSION MORTGAGES.—Section 255(i)(2)(A) of the National Housing Act (12 U.S.C. 1715z–20(i)(2)(A)) is amended by striking “General Insurance Fund” and inserting “Mutual Mortgage Insurance Fund”.

(c) CONFORMING AMENDMENTS.—The National Housing Act is amended—

(1) in section 205 (12 U.S.C. 1711), by striking subsections (g) and (h); and

(2) in section 519(e) (12 U.S.C. 1735c(e)), by striking “203(b)” and all that follows through “203(i)” and inserting “203, except as determined by the Secretary”.

#### SEC. 119. HAWAIIAN HOME LANDS AND INDIAN RESERVATIONS.

(a) HAWAIIAN HOME LANDS.—Section 247(c) of the National Housing Act (12 U.S.C. 1715z–12(c)) is amended—

(1) by striking “General Insurance Fund established in section 519” and inserting “Mutual Mortgage Insurance Fund”; and

(2) in the second sentence, by striking “(1) all references” and all that follows through “and (2)”; and

(b) INDIAN RESERVATIONS.—Section 248(f) of the National Housing Act (12 U.S.C. 1715z–13(f)) is amended—

(1) by striking “General Insurance Fund” the first place it appears through “519” and inserting “Mutual Mortgage Insurance Fund”; and

(2) in the second sentence, by striking “(1) all references” and all that follows through “and (2)”; and

#### SEC. 120. CONFORMING AND TECHNICAL AMENDMENTS.

(a) REPEALS.—The following provisions of the National Housing Act are repealed:

(1) Subsection (i) of section 203 (12 U.S.C. 1709(i)).

(2) Subsection (o) of section 203 (12 U.S.C. 1709(o)).

(3) Subsection (p) of section 203 (12 U.S.C. 1709(p)).

(4) Subsection (q) of section 203 (12 U.S.C. 1709(q)).

(5) Section 222 (12 U.S.C. 1715m).

(6) Section 237 (12 U.S.C. 1715z–2).

(7) Section 245 (12 U.S.C. 1715z–10).

(b) DEFINITION OF AREA.—Section 203(u)(2)(A) of the National Housing Act (12 U.S.C. 1709(u)(2)(A)) is amended by striking “shall” and all that follows and inserting “means a metropolitan statistical area as established by the Office of Management and Budget;”.

(c) DEFINITION OF STATE.—Section 201(d) of the National Housing Act (12 U.S.C. 1707(d)) is amended by striking “the Trust Territory of the Pacific Islands” and inserting “the Commonwealth of the Northern Mariana Islands”.

#### SEC. 121. INSURANCE OF MORTGAGES.

Subsection (n)(2) of section 203 of the National Housing Act (12 U.S.C. 1709(n)(2)) is amended—

(1) in subparagraph (A), by inserting “or subordinate mortgage or” before “lien given”; and

(2) in subparagraph (C), by inserting “or subordinate mortgage or” before “lien”.

#### SEC. 122. HOME EQUITY CONVERSION MORTGAGES.

(a) IN GENERAL.—Section 255 of the National Housing Act (12 U.S.C. 1715z–20) is amended—

(1) in subsection (b)(2), insert “‘real estate,’” after “mortgagor”; and

(2) by amending subsection (d)(1) to read as follows:

“(1) have been originated by a mortgagee approved by the Secretary;”;

(3) by amending subsection (d)(2)(B) to read as follows:

“(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

“(i) originating or servicing the mortgage;

“(ii) funding the loan underlying the mortgage; or

“(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;”;

(4) in subsection (f)—

(A) by striking “(f) INFORMATION SERVICES FOR MORTGAGORS.” and inserting “(f) COUNSELING SERVICES AND INFORMATION FOR MORTGAGORS.”; and

(B) by amending the matter preceding paragraph (1) to read as follows: “The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Reverse Mortgage Proceeds Protection Act. The protocols shall require a qualified

counselor to discuss with each mortgagor information which shall include—”

(5) in subsection (g), by striking “established under section 203(b)(2)” and all that follows through “located” and inserting “limitation established under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence”;

(6) in subsection (i)(1)(C), by striking “limitations” and inserting “limitation”;

(7) by striking subsection (l);

(8) by redesignating subsection (m) as subsection (l);

(9) by amending subsection (l), as so redesignated, to read as follows:

“(l) **FUNDING FOR COUNSELING.**—The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.”; and

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

“(m) **AUTHORITY TO INSURE HOME PURCHASE MORTGAGE.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

“(2) **LIMITATION ON PRINCIPAL OBLIGATION.**—A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a 1-family residence.

“(n) **REQUIREMENTS ON MORTGAGE ORIGINATORS.**—

“(1) **IN GENERAL.**—The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

“(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

“(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

“(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

“(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

“(2) **APPROVAL OF OTHER PARTIES.**—All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

“(o) **PROHIBITION AGAINST REQUIREMENTS TO PURCHASE ADDITIONAL PRODUCTS.**—The mortgagee or any other party shall not be required by the mortgagor or any other party to purchase an insurance, annuity, or other additional product as a requirement or condition of eligibility for a mortgage authorized under subsection (c).

“(p) **STUDY TO DETERMINE CONSUMER PROTECTIONS AND UNDERWRITING STANDARDS.**—The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the pur-

chase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.”.

(b) **MORTGAGES FOR COOPERATIVES.**—Subsection (b) of section 255 of the National Housing Act (12 U.S.C. 1715z–20(b)) is amended—

(1) in paragraph (4)—

(A) by inserting “a first or subordinate mortgage or lien” before “on all stock”;

(B) by inserting “unit” after “dwelling”; and

(C) by inserting “a first mortgage or first lien” before “on a leasehold”; and

(2) in paragraph (5), by inserting “a first or subordinate lien on” before “all stock”.

(c) **LIMITATION ON ORIGATION FEES.**—Section 255 of the National Housing Act (12 U.S.C. 1715z–20), as amended by the preceding provisions of this section, is further amended by adding at the end the following new subsection:

“(r) **LIMITATION ON ORIGATION FEES.**—The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

“(1) equal 1.5 percent of the maximum claim amount of the mortgage unless adjusted thereafter on the basis of—

“(A) the costs to the mortgagor; and

“(B) the impact of such fees on the reverse mortgage market;

“(2) be subject to a minimum allowable amount;

“(3) provide that the origination fee may be fully financed with the mortgage;

“(4) include any fees paid to correspondent mortgagees approved by the Secretary; and

“(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation.”.

(d) **STUDY REGARDING PROGRAM COSTS AND CREDIT AVAILABILITY.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study regarding the costs and availability of credit under the home equity conversion mortgages for elderly homeowners program under section 255 of the National Housing Act (12 U.S.C. 1715z–20) (in this subsection referred to as the “program”).

(2) **PURPOSE.**—The purpose of the study required under paragraph (1) is to help Congress analyze and determine the effects of limiting the amounts of the costs or fees under the program from the amounts charged under the program as of the date of the enactment of this title.

(3) **CONTENT OF REPORT.**—The study required under paragraph (1) should focus on—

(A) the cost to mortgagors of participating in the program;

(B) the financial soundness of the program;

(C) the availability of credit under the program; and

(D) the costs to elderly homeowners participating in the program, including—

(i) mortgage insurance premiums charged under the program;

(ii) up-front fees charged under the program; and

(iii) margin rates charged under the program.

(4) **TIMING OF REPORT.**—Not later than 12 months after the date of the enactment of this title, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives setting forth the results and conclusions of the study required under paragraph (1).

**SEC. 123. ENERGY EFFICIENT MORTGAGES PROGRAM.**

Section 106(a)(2) of the Energy Policy Act of 1992 (42 U.S.C. 12712 note) is amended—

(1) by amending subparagraph (C) to read as follows:

“(C) **COSTS OF IMPROVEMENTS.**—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

“(i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A)); or

“(ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act.”; and

(2) by adding at the end the following:

“(D) **LIMITATION.**—In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.”.

**SEC. 124. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.**

(a) **ESTABLISHMENT.**—Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

“**SEC. 257. PILOT PROGRAM FOR AUTOMATED PROCESS FOR BORROWERS WITHOUT SUFFICIENT CREDIT HISTORY.**

“(a) **ESTABLISHMENT.**—The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this title who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

“(b) **SCOPE.**—The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

“(c) **LIMITATION.**—In any fiscal year, the aggregate number of mortgages insured pursuant to the automated process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this title during the preceding fiscal year.

“(d) **SUNSET.**—After the expiration of the 5-year period beginning on the date of the enactment of the Building American Homeownership Act of 2008, the Secretary may not enter into any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.”.

(b) **GAO REPORT.**—Not later than the expiration of the two-year period beginning on the date of the enactment of this subtitle, the Comptroller General of the United States shall submit to the Congress a report identifying the number of additional mortgagors served using the automated process established pursuant to section 257 of the National Housing Act (as added by the amendment made by subsection (a) of this section) and the impact of such process and the insurance of mortgages pursuant to such process on the safety and soundness of the insurance funds under the National Housing Act of which such mortgages are obligations.

**SEC. 125. HOMEOWNERSHIP PRESERVATION.**

The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

(1) develop and implement a plan to improve the Federal Housing Administration's loss mitigation process; and

(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

**SEC. 126. USE OF FHA SAVINGS FOR IMPROVEMENTS IN FHA TECHNOLOGIES, PROCEDURES, PROCESSES, PROGRAM PERFORMANCE, STAFFING, AND SALARIES.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for each of fiscal years 2009 through 2013, \$25,000,000, from negative credit subsidy for the mortgage insurance programs under title II of the National Housing Act, to the Secretary of Housing and Urban Development for increasing funding for the purpose of improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing in connection with the mortgage insurance programs under title II of the National Housing Act.

(b) **CERTIFICATION.**—The authorization under subsection (a) shall not be effective for a fiscal year unless the Secretary of Housing and Urban Development has, by rulemaking in accordance with section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(3), and (d)(3) of such section), made a determination that—

(1) premiums being, or to be, charged during such fiscal year for mortgage insurance under title II of the National Housing Act are established at the minimum amount sufficient to—

(A) comply with the requirements of section 205(f) of such Act (relating to required capital ratio for the Mutual Mortgage Insurance Fund); and

(B) ensure the safety and soundness of the other mortgage insurance funds under such Act; and

(2) any negative credit subsidy for such fiscal year resulting from such mortgage insurance programs adequately ensures the efficient delivery and availability of such programs.

(c) **STUDY AND REPORT.**—The Secretary of Housing and Urban Development shall conduct a study to obtain recommendations from participants in the private residential (both single family and multifamily) mortgage lending business and the secondary market for such mortgages on how best to update and upgrade processes and technologies for the mortgage insurance programs under title II of the National Housing Act so that the procedures for originating, insuring, and servicing of such mortgages conform with those customarily used by secondary market purchasers of residential mortgage loans. Not later than the expiration of the 12-month period beginning on the date of the enactment of this title, the Secretary shall submit a report to the Congress describing the progress made and to be made toward updating and upgrading such processes and technology, and providing appropriate staffing for such mortgage insurance programs.

**SEC. 127. POST-PURCHASE HOUSING COUNSELING ELIGIBILITY IMPROVEMENTS.**

Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended:

(1) in subparagraph (C)—

(A) in clause (i), by striking “; or” and inserting a semicolon;

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(iii) a significant reduction in the income of the household due to divorce or death; or

“(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

“(I) an unexpected or significant increase in medical expenses;

“(II) a divorce;

“(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

“(IV) a large property-tax increase; or”;

(2) by striking the matter that follows subparagraph (C); and

(3) by adding at the end the following:

“(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.”.

**SEC. 128. PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION.**

(a) **ESTABLISHMENT OF PROGRAM.**—For the period beginning on the date of enactment of this title and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homeowners.

(b) **FORMS OF COUNSELING.**—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

(1) telephone counseling;

(2) individualized in-person counseling;

(3) web-based counseling;

(4) counseling classes; or

(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

(c) **SIZE OF PROGRAM.**—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

(d) **INCENTIVE TO PARTICIPATE.**—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

(e) **ELIGIBLE HOMEBUYER DEFINED.**—For purposes of this section an “eligible homebuyer” means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

(f) **REPORT TO CONGRESS.**—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

(2) for the period beginning on the date of enactment of this title and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program.

**SEC. 129. FRAUD PREVENTION.**

Section 1014 of title 18, United States Code, is amended in the first sentence—

(1) by inserting “the Federal Housing Administration” before “the Farm Credit Administration”; and

(2) by striking “commitment, or loan” and inserting “commitment, loan, or insurance agreement or application for insurance or a guarantee”.

**SEC. 130. LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, including any provision of this title and any amendment made by this title—

(1) for the period beginning on the date of the enactment of this title and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines

that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990, require the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a) of such insurance; and

(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to such increase taking effect, the Secretary of Housing and Urban Development—

(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and

(B) publishes notice of such increase in the Federal Register.

(b) **WAIVER.**—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act.

**SEC. 131. SAVINGS PROVISION.**

Any mortgage insured under title II of the National Housing Act before the date of enactment of this subtitle shall continue to be governed by the laws, regulations, orders, and terms and conditions to which it was subject on the day before the date of the enactment of this subtitle.

**SEC. 132. IMPLEMENTATION.**

The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this subtitle. The notice shall take effect upon issuance.

**SEC. 133. MORATORIUM ON IMPLEMENTATION OF RISK-BASED PREMIUMS.**

For the 12-month period beginning on the date of enactment of this title, the Secretary of Housing and Urban Development shall not enact, execute, or take any action to make effective the planned implementation of risk-based premiums, which are designed for mortgage lenders to offer borrowers an FHA-insured product that provides a range of mortgage insurance premium pricing, based on the risk the insurance contract represents, as such planned implementation was set forth in the Notice published in the Federal Register on September 20, 2007 (Vol. 72, No. 182, Page 53872).

**Subtitle B—Manufactured Housing Loan Modernization**

**SEC. 141. SHORT TITLE.**

This subtitle may be cited as the “FHA Manufactured Housing Loan Modernization Act of 2008”.

**SEC. 142. PURPOSES.**

The purposes of this subtitle are—

(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

(2) to modernize the FHA title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation.

**SEC. 143. EXCEPTION TO LIMITATION ON FINANCIAL INSTITUTION PORTFOLIO.**

The second sentence of section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking “In no case” and inserting “Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case”; and

(2) by striking “; Provided, That with” and inserting “. With”.

**SEC. 144. INSURANCE BENEFITS.**

(a) **IN GENERAL.**—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), is

amended by adding at the end the following new paragraph:

“(8) **INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.**—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this title after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008 by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall only apply to loans that are registered or endorsed for insurance after the date of the enactment of this title.

#### SEC. 145. MAXIMUM LOAN LIMITS.

(a) **DOLLAR AMOUNTS.**—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) in clause (ii) of subparagraph (A), by striking “\$17,500” and inserting “\$25,090”;

(2) in subparagraph (C) by striking “\$48,600” and inserting “\$69,678”;

(3) in subparagraph (D) by striking “\$64,800” and inserting “\$92,904”;

(4) in subparagraph (E) by striking “\$16,200” and inserting “\$23,226”;

(5) by realigning subparagraphs (C), (D), and (E) 2 ems to the left so that the left margins of such subparagraphs are aligned with the margins of subparagraphs (A) and (B).

(b) **ANNUAL INDEXING.**—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

“(9) **ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.**—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after the date of the enactment of the FHA Manufactured Housing Loan Modernization Act of 2008.”

(c) **TECHNICAL AND CONFORMING CHANGES.**—Paragraph (1) of section 2(b) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking “No” and inserting “Except as provided in the last sentence of this paragraph, no”;

(2) by adding after and below subparagraph (G) the following:

“The Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).”.

#### SEC. 146. INSURANCE PREMIUMS.

Subsection (f) of section 2 of the National Housing Act (12 U.S.C. 1703(f)) is amended—

(1) by inserting “(1) **PREMIUM CHARGES.**—” after “(f)”;

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

“(2) **MANUFACTURED HOME LOANS.**—Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under the loan or advance of credit, as follows:

“(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

“(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

“(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

“(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).”.

#### SEC. 147. TECHNICAL CORRECTIONS.

(a) **DATES.**—Subsection (a) of section 2 of the National Housing Act (12 U.S.C. 1703(a)) is amended—

(1) by striking “on and after July 1, 1939,” each place such term appears; and

(2) by striking “made after the effective date of the Housing Act of 1954”.

(b) **AUTHORITY OF SECRETARY.**—Subsection (c) of section 2 of the National Housing Act (12 U.S.C. 1703(c)) is amended to read as follows:

“(c) **HANDLING AND DISPOSAL OF PROPERTY.**—

“(1) **AUTHORITY OF SECRETARY.**—Notwithstanding any other provision of law, the Secretary may—

“(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or private sale, or otherwise dispose of, for cash or credit in the Secretary’s discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this title, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

“(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this title.

“(2) **ADVERTISEMENTS FOR PROPOSALS.**—Section 3709 of the Revised Statutes shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$25,000.

“(3) **DELEGATION OF AUTHORITY.**—The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this title may be exercised by an officer appointed by the Secretary without the execution of any express delegation of power or power of attorney. Nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary’s discretion, to any officer or agent the Secretary may appoint.”.

#### SEC. 148. REVISION OF UNDERWRITING CRITERIA.

(a) **IN GENERAL.**—Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as

amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

“(10) **FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.**—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this title for insurance for financial institutions against losses from such loans, advances of credit, and purchases is financially sound.”.

(b) **TIMING.**—Not later than the expiration of the 6-month period beginning on the date of the enactment of this title, the Secretary of Housing and Urban Development shall revise the existing underwriting criteria for the program referred to in paragraph (10) of section 2(b) of the National Housing Act (as added by subsection (a) of this section) in accordance with the requirements of such paragraph.

#### SEC. 149. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.

Title I of the National Housing Act is amended by adding at the end of section 9 the following new section:

#### “SEC. 10. PROHIBITION AGAINST KICKBACKS AND UNEARNED FEES.

“(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

“(b) **AUTHORITY OF THE SECRETARY.**—The Secretary is authorized to determine the manner and extent to which the provisions of sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

“(c) **DEFINITIONS.**—For purposes of this section—

“(1) the term ‘federally related mortgage loan’ as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

“(2) the term ‘real estate settlement service’ as used in sections 3, 8, 16, 17, 18, and 19 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

“(d) **UNFAIR AND DECEPTIVE PRACTICES.**—In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this title, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.”.

#### SEC. 150. LEASEHOLD REQUIREMENTS.

Subsection (b) of section 2 of the National Housing Act (12 U.S.C. 1703(b)), as amended by the preceding provisions of this title, is further amended by adding at the end the following new paragraph:

“(11) **LEASEHOLD REQUIREMENTS.**—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home

which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

“(A) expires not less than 3 years after the origination date of the obligation;

“(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

“(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.”.

## **TITLE II—MORTGAGE FORECLOSURE PROTECTIONS FOR SERVICEMEMBERS**

### **SEC. 201. TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY THE SECRETARY OF VETERANS AFFAIRS.**

Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the term “maximum guaranty amount” shall mean an amount equal to 25 percent of the higher of—

(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.

### **SEC. 202. COUNSELING ON MORTGAGE FORECLOSURES FOR MEMBERS OF THE ARMED FORCES RETURNING FROM SERVICE ABROAD.**

(a) **IN GENERAL.**—The Secretary of Defense shall develop and implement a program to advise members of the Armed Forces (including members of the National Guard and Reserve) who are returning from service on active duty abroad (including service in Operation Iraqi Freedom and Operation Enduring Freedom) on actions to be taken by such members to prevent or forestall mortgage foreclosures.

(b) **ELEMENTS.**—The program required by subsection (a) shall include the following:

(1) Credit counseling.

(2) Home mortgage counseling.

(3) Such other counseling and information as the Secretary considers appropriate for purposes of the program.

(c) **TIMING OF PROVISION OF COUNSELING.**—Counseling and other information under the program required by subsection (a) shall be provided to a member of the Armed Forces covered by the program as soon as practicable after the return of the member from service as described in subsection (a).

### **SEC. 203. ENHANCEMENT OF PROTECTIONS FOR SERVICEMEMBERS RELATING TO MORTGAGES AND MORTGAGE FORECLOSURES.**

(a) **EXTENSION OF PERIOD OF PROTECTIONS AGAINST MORTGAGE FORECLOSURES.**—

(1) **EXTENSION OF PROTECTION PERIOD.**—Subsection (c) of section 303 of the Servicemembers Civil Relief Act (50 U.S.C. App. 533) is amended by striking “90 days” and inserting “9 months”.

(2) **EXTENSION OF STAY OF PROCEEDINGS PERIOD.**—Subsection (b) of such section is amended by striking “90 days” and inserting “9 months”.

(b) **TREATMENT OF MORTGAGES AS OBLIGATIONS SUBJECT TO INTEREST RATE LIMITATION.**—Section 207 of the Servicemembers Civil Relief Act (50 U.S.C. App. 527) is amended—

(1) in subsection (a)(1), by striking “in excess of 6 percent” the second place it appears and all that follows and inserting “in excess of 6 percent—

“(A) during the period of military service and one year thereafter, in the case of an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage; or

“(B) during the period of military service, in the case of any other obligation or liability.”; and

(2) by striking subsection (d) and inserting the following new subsection:

“(d) **DEFINITIONS.**—In this section:

“(1) **INTEREST.**—The term ‘interest’ includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to an obligation or liability.

“(2) **OBLIGATION OR LIABILITY.**—The term ‘obligation or liability’ includes an obligation or liability consisting of a mortgage, trust deed, or other security in the nature of a mortgage.”.

(c) **EFFECTIVE DATE; SUNSET.**—

(1) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) **SUNSET.**—The amendments made by subsection (a) shall expire on December 31, 2010. Effective January 1, 2011, the provisions of subsections (b) and (c) of section 303 of the Servicemembers Civil Relief Act, as in effect on the day before the date of the enactment of this Act, are hereby revived.

## **TITLE III—EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES**

### **SEC. 301. EMERGENCY ASSISTANCE FOR THE REDEVELOPMENT OF ABANDONED AND FORECLOSED HOMES.**

(a) **DIRECT APPROPRIATIONS.**—There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, \$4,000,000,000, to remain available until expended, for assistance to States and units of general local government (as such terms are defined in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302)) for the redevelopment of abandoned and foreclosed upon homes and residential properties.

(b) **ALLOCATION OF APPROPRIATED AMOUNTS.**—

(1) **IN GENERAL.**—The amounts appropriated or otherwise made available to States and units of general local government under this section shall be allocated based on a funding formula established by the Secretary of Housing and Urban Development (in this title referred to as the “Secretary”).

(2) **FORMULA TO BE DEvised SWIFTLY.**—The funding formula required under paragraph (1) shall be established not later than 60 days after the date of enactment of this section.

(3) **CRITERIA.**—The funding formula required under paragraph (1) shall ensure that any amounts appropriated or otherwise made available under this section are allocated to States and units of general local government with the greatest need, as such need is determined in the discretion of the Secretary based on—

(A) the number and percentage of home foreclosures in each State or unit of general local government;

(B) the number and percentage of homes financed by a subprime mortgage related loan in each State or unit of general local government; and

(C) the number and percentage of homes in default or delinquency in each State or unit of general local government.

(4) **DISTRIBUTION.**—Amounts appropriated or otherwise made available under this section shall be distributed according to the funding formula established by the Secretary under paragraph (1) not later than 30 days after the establishment of such formula.

(c) **USE OF FUNDS.**—

(1) **IN GENERAL.**—Any State or unit of general local government that receives amounts pursu-

ant to this section shall, not later than 18 months after the receipt of such amounts, use such amounts to purchase and redevelop abandoned and foreclosed homes and residential properties.

(2) **PRIORITY.**—Any State or unit of general local government that receives amounts pursuant to this section shall in distributing such amounts give priority emphasis and consideration to those metropolitan areas, metropolitan cities, urban areas, rural areas, low- and moderate-income areas, and other areas with the greatest need, including those—

(A) with the greatest percentage of home foreclosures;

(B) with the highest percentage of homes financed by a subprime mortgage related loan; and

(C) identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

(3) **ELIGIBLE USES.**—Amounts made available under this section may be used to—

(A) establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers;

(B) purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties;

(C) establish land banks for homes that have been foreclosed upon; and

(D) demolish blighted structures.

(d) **LIMITATIONS.**—

(1) **ON PURCHASES.**—Any purchase of a foreclosed upon home or residential property under this section shall be at a discount from the current market appraised value of the home or property, taking into account its current condition, and such discount shall ensure that purchasers are paying below-market value for the home or property.

(2) **SALE OF HOMES.**—If an abandoned or foreclosed upon home or residential property is purchased, redeveloped, or otherwise sold to an individual as a primary residence, then such sale shall be in an amount equal to or less than the cost to acquire and redevelop or rehabilitate such home or property up to a decent, safe, and habitable condition.

(3) **REINVESTMENT OF PROFITS.**—

(A) **PROFITS FROM SALES, RENTALS, AND REDEVELOPMENT.**—

(i) **5-YEAR REINVESTMENT PERIOD.**—During the 5-year period following the date of enactment of this Act, any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

(ii) **DEPOSITS IN THE TREASURY.**—

(I) **PROFITS.**—Upon the expiration of the 5-year period set forth under clause (i), any revenue generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use that is in excess of the cost to acquire and redevelop (including reasonable development fees) or rehabilitate an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts, unless the Secretary approves a request to use the funds for purposes under this Act.

(II) **OTHER AMOUNTS.**—Upon the expiration of the 5-year period set forth under clause (i), any other revenue not described under subclause (I) generated from the sale, rental, redevelopment, rehabilitation, or any other eligible use of an abandoned or foreclosed upon home or residential property shall be deposited in the Treasury of the United States as miscellaneous receipts.

(B) OTHER REVENUES.—Any revenue generated under subparagraphs (A), (C) or (D) of subsection (c)(3) shall be provided to and used by the State or unit of general local government in accordance with, and in furtherance of, the intent and provisions of this section.

(e) RULES OF CONSTRUCTION.—

(1) IN GENERAL.—Except as otherwise provided by this section, amounts appropriated, revenues generated, or amounts otherwise made available to States and units of general local government under this section shall be treated as though such funds were community development block grant funds under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(2) NO MATCH.—No matching funds shall be required in order for a State or unit of general local government to receive any amounts under this section.

(f) AUTHORITY TO SPECIFY ALTERNATIVE REQUIREMENTS.—

(1) IN GENERAL.—In administering any amounts appropriated or otherwise made available under this section, the Secretary may specify alternative requirements to any provision under title I of the Housing and Community Development Act of 1974 (except for those related to fair housing, nondiscrimination, labor standards, and the environment) in accordance with the terms of this section and for the sole purpose of expediting the use of such funds.

(2) NOTICE.—The Secretary shall provide written notice of its intent to exercise the authority to specify alternative requirements under paragraph (1) to the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 10 business days before such exercise of authority is to occur.

(3) LOW AND MODERATE INCOME REQUIREMENT.—

(A) IN GENERAL.—Notwithstanding the authority of the Secretary under paragraph (1) —

(i) all of the funds appropriated or otherwise made available under this section shall be used with respect to individuals and families whose income does not exceed 120 percent of area median income; and

(ii) not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed upon homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.

(B) RECURRENT REQUIREMENT.—The Secretary shall, by rule or order, ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental, or redevelopment of abandoned and foreclosed upon homes and residential properties under this section remain affordable to individuals or families described in subparagraph (A).

(g) PERIODIC AUDITS.—In consultation with the Secretary of Housing and Urban Development, the Comptroller General of the United States shall conduct periodic audits to ensure that funds appropriated, made available, or otherwise distributed under this section are being used in a manner consistent with the criteria provided in this section.

**SEC. 302. NATIONWIDE DISTRIBUTION OF RESOURCES.**

Notwithstanding any other provision of this Act or the amendments made by this Act, each State shall receive not less than 0.5 percent of funds made available under section 301 (relating to emergency assistance for the redevelopment of abandoned and foreclosed homes).

**SEC. 303. LIMITATION ON USE OF FUNDS WITH RESPECT TO EMINENT DOMAIN.**

No State or unit of general local government may use any amounts received pursuant to section 301 to fund any project that seeks to use the power of eminent domain, unless eminent domain is employed only for a public use: Pro-

vided, That for purposes of this section, public use shall not be construed to include economic development that primarily benefits private entities.

**SEC. 304. LIMITATION ON DISTRIBUTION OF FUNDS.**

(a) IN GENERAL.—None of the funds made available under this title or title IV shall be distributed to—

(1) an organization which has been indicted for a violation under Federal law relating to an election for Federal office; or

(2) an organization which employs applicable individuals.

(b) APPLICABLE INDIVIDUALS DEFINED.—In this section, the term “applicable individual” means an individual who—

(1) is—

(A) employed by the organization in a permanent or temporary capacity;

(B) contracted or retained by the organization; or

(C) acting on behalf of, or with the express or apparent authority of, the organization; and

(2) has been indicted for a violation under Federal law relating to an election for Federal office.

**SEC. 305. COUNSELING INTERMEDIARIES.**

Notwithstanding any other provision of this Act, the amount appropriated under section 301(a) of this Act shall be \$3,920,000,000 and the amount appropriated under section 401 of this Act shall be \$180,000,000: Provided, That of amounts appropriated under such section 401 \$30,000,000 shall be used by the Neighborhood Reinvestment Corporation (referred to in this section as the “NRC”) to make grants to counseling intermediaries approved by the Department of Housing and Urban Development or the NRC to hire attorneys to assist homeowners who have legal issues directly related to the homeowner’s foreclosure, delinquency or short sale. Such attorneys shall be capable of assisting homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure and who have legal issues that cannot be handled by counselors already employed by such intermediaries: Provided, That of the amounts provided for in the prior provisos the NRC shall give priority consideration to counseling intermediaries and legal organizations that (1) provide legal assistance in the 100 metropolitan statistical areas (as defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates, and (2) have the capacity to begin using the financial assistance within 90 days after receipt of the assistance: Provided further, That no funds provided under this Act shall be used to provide, obtain, or arrange on behalf of a homeowner, legal representation involving or for the purposes of civil litigation.

**TITLE IV—HOUSING COUNSELING RESOURCES**

**SEC. 401. HOUSING COUNSELING RESOURCES.**

There are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year 2008, for an additional amount for the “Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation” \$100,000,000, to remain available until September 30, 2008, for foreclosure mitigation activities under the terms and conditions contained in the second undesignated paragraph (beginning with the phrase “For an additional amount”) under the heading “Neighborhood Reinvestment Corporation—Payment to the Neighborhood Reinvestment Corporation” of Public Law 110–161.

**SEC. 402. CREDIT COUNSELING.**

(a) IN GENERAL.—Entities approved by the Neighborhood Reinvestment Corporation or the Secretary and State housing finance entities receiving funds under this title shall work to identify and coordinate with non-profit organizations operating national or statewide toll-free

foreclosure prevention hotlines, including those that—

(1) serve as a consumer referral source and data repository for borrowers experiencing some form of delinquency or foreclosure;

(2) connect callers with local housing counseling agencies approved by the Neighborhood Reinvestment Corporation or the Secretary to assist with working out a positive resolution to their mortgage delinquency or foreclosure; or

(3) facilitate or offer free assistance to help homeowners to understand their options, negotiate solutions, and find the best resolution for their particular circumstances.

**TITLE V—MORTGAGE DISCLOSURE IMPROVEMENT ACT**

**SEC. 501. SHORT TITLE.**

This title may be cited as the “Mortgage Disclosure Improvement Act of 2008”.

**SEC. 502. ENHANCED MORTGAGE LOAN DISCLOSURES.**

(a) TRUTH IN LENDING ACT DISCLOSURES.—Section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)) is amended—

(1) by inserting “(A)” before “In the”;

(2) by striking “a residential mortgage transaction, as defined in section 103(w)” and inserting “any extension of credit that is secured by the dwelling of a consumer”;

(3) by striking “before the credit is extended, or”;

(4) by inserting “, which shall be at least 7 business days before consummation of the transaction” after “written application”;

(5) by striking “, whichever is earlier”;

(6) by striking “If the” and all that follows through the end of the paragraph and inserting the following:

“(B) In the case of an extension of credit that is secured by the dwelling of a consumer, the disclosures provided under subparagraph (A), shall be in addition to the other disclosures required by subsection (a), and shall—

“(i) state in conspicuous type size and format, the following: ‘You are not required to complete this agreement merely because you have received these disclosures or signed a loan application.’; and

“(ii) be provided in the form of final disclosures at the time of consummation of the transaction, in the form and manner prescribed by this section.

“(C) In the case of an extension of credit that is secured by the dwelling of a consumer, under which the annual rate of interest is variable, or with respect to which the regular payments may otherwise be variable, in addition to the other disclosures required by subsection (a), the disclosures provided under this subsection shall do the following:

“(i) Label the payment schedule as follows: ‘Payment Schedule: Payments Will Vary Based on Interest Rate Changes’.

“(ii) State in conspicuous type size and format examples of adjustments to the regular required payment on the extension of credit based on the change in the interest rates specified by the contract for such extension of credit. Among the examples required to be provided under this clause is an example that reflects the maximum payment amount of the regular required payments on the extension of credit, based on the maximum interest rate allowed under the contract, in accordance with the rules of the Board. Prior to issuing any rules pursuant to this clause, the Board shall conduct consumer testing to determine the appropriate format for providing the disclosures required under this subparagraph to consumers so that such disclosures can be easily understood.

“(D) In any case in which the disclosure statement under subparagraph (A) contains an annual percentage rate of interest that is no longer accurate, as determined under section 107(c), the creditor shall furnish an additional, corrected statement to the borrower, not later than 3 business days before the date of consummation of the transaction.



“(E) The consumer shall receive the disclosures required under this paragraph before paying any fee to the creditor or other person in connection with the consumer’s application for an extension of credit that is secured by the dwelling of a consumer. If the disclosures are mailed to the consumer, the consumer is considered to have received them 3 business days after they are mailed. A creditor or other person may impose a fee for obtaining the consumer’s credit report before the consumer has received the disclosures under this paragraph, provided the fee is bona fide and reasonable in amount.

“(F) WAIVER OF TIMELINESS OF DISCLOSURES.—To expedite consummation of a transaction, if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency, the consumer may waive or modify the timing requirements for disclosures under subparagraph (A), provided that—

“(i) the term ‘bona fide personal emergency’ may be further defined in regulations issued by the Board;

“(ii) the consumer provides to the creditor a dated, written statement describing the emergency and specifically waiving or modifying those timing requirements, which statement shall bear the signature of all consumers entitled to receive the disclosures required by this paragraph; and

“(iii) the creditor provides to the consumers at or before the time of such waiver or modification, the final disclosures required by paragraph (1).

“(G) The requirements of subparagraphs (B), (C), (D) and (E) shall not apply to extensions of credit relating to plans described in section 101(53D) of title 11, United States Code.”.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) in paragraph (2)(A)(iii), by striking “not less than \$200 or greater than \$2,000” and inserting “not less than \$400 or greater than \$4,000”; and

(2) in the penultimate sentence of the undesignated matter following paragraph (4)—

(A) by inserting “or section 128(b)(2)(C)(ii),” after “128(a),”; and

(B) by inserting “or section 128(b)(2)(C)(ii)” before the period.

(c) EFFECTIVE DATES.—

(1) GENERAL DISCLOSURES.—Except as provided in paragraph (2), the amendments made by subsection (a) shall become effective 12 months after the date of enactment of this Act.

(2) VARIABLE INTEREST RATES.—Subparagraph (C) of section 128(b)(2) of the Truth in Lending Act (15 U.S.C. 1638(b)(2)(C)), as added by subsection (a) of this section, shall become effective on the earlier of—

(A) the compliance date established by the Board for such purpose, by regulation; or

(B) 30 months after the date of enactment of this Act.

#### SEC. 503. COMMUNITY DEVELOPMENT INVESTMENT AUTHORITY FOR DEPOSITORY INSTITUTIONS.

(a) DEPOSITORY INSTITUTION COMMUNITY DEVELOPMENT INVESTMENTS.—

(1) NATIONAL BANKS.—The first sentence of the paragraph designated as the “Eleventh” of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) (as amended by section 305(a) of the Financial Services Regulatory Relief Act of 2006) is amended by striking “promotes the public welfare by benefitting primarily” and inserting “is designed primarily to promote the public welfare, including the welfare of”.

(2) STATE MEMBER BANKS.—The first sentence of the 23rd paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended by striking “promotes the public welfare by benefitting primarily” and inserting “is designed primarily to promote the public welfare, including the welfare of”.

#### SEC. 504. FEDERAL HOME LOAN BANK REFINANCING AUTHORITY FOR CERTAIN RESIDENTIAL MORTGAGE LOANS.

Section 10(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(j)(2)) is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(C) during the 2-year period beginning on the date of enactment of this subparagraph, refinancing loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.”.

#### TITLE VI—TAX-RELATED PROVISIONS

#### SEC. 601. ELECTION FOR 4-YEAR CARRYBACK OF CERTAIN NET OPERATING LOSSES AND TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.

(a) IN GENERAL.—

(1) 4-YEAR CARRYBACK OF CERTAIN LOSSES.—Subparagraph (H) of section 172(b)(1) of the Internal Revenue Code of 1986 (relating to years to which loss may be carried) is amended to read as follows:

“(H) ADDITIONAL CARRYBACK OF CERTAIN LOSSES.—

“(i) TAXABLE YEARS ENDING DURING 2001 AND 2002.—In the case of a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting ‘5’ for ‘2’ and subparagraph (F) shall not apply.

“(ii) TAXABLE YEARS ENDING DURING 2008 AND 2009.—In the case of a net operating loss with respect to any eligible taxpayer (within the meaning of section 168(k)(4)) for any taxable year ending during 2008 or 2009—

“(I) subparagraph (A)(i) shall be applied by substituting ‘4’ for ‘2’;

“(II) subparagraph (E)(ii) shall be applied by substituting ‘3’ for ‘2’; and

“(III) subparagraph (F) shall not apply.”.

(2) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYBACKS AND CARRYOVERS.—

(A) IN GENERAL.—Section 56(d) of the Internal Revenue Code of 1986 (relating to definition of alternative tax net operating loss deduction) is amended by adding at the end the following new paragraph:

“(3) ADDITIONAL ADJUSTMENTS.—For purposes of paragraph (1)(A), in the case of an eligible taxpayer (within the meaning of section 168(k)(4)), the amount described in subclause (I) of paragraph (1)(A)(ii) shall be increased by the amount of the net operating loss deduction allowable for the taxable year under section 172 attributable to the sum of—

“(A) carrybacks of net operating losses from taxable years ending during 2008 and 2009, and

“(B) carryovers of net operating losses to taxable years ending during 2008 or 2009.”.

(B) CONFORMING AMENDMENT.—Subclause (I) of section 56(d)(1)(A)(i) of such Code is amended by inserting “amount of such” before “deduction described in clause (ii)(I)”.

(3) EFFECTIVE DATES.—

(A) NET OPERATING LOSSES.—The amendments made by paragraph (1) shall apply to net operating losses arising in taxable years ending in 2008 or 2009.

(B) SUSPENSION OF AMT LIMITATION.—The amendments made by paragraph (2) shall apply to taxable years ending after December 31, 1997.

(4) ANTI-ABUSE RULES.—The Secretary of Treasury or the Secretary’s designee shall prescribe such rules as are necessary to prevent the abuse of the purposes of the amendments made by this subsection, including anti-stuffing rules, anti-churning rules (including rules relating to sale-leasebacks), and rules similar to the rules under section 1091 of the Internal Revenue Code of 1986 relating to losses from wash sales.

(b) ELECTION AMONG STIMULUS INCENTIVES.—

(1) IN GENERAL.—

(A) BONUS DEPRECIATION.—Section 168(k) of the Internal Revenue Code of 1986 (relating to special allowance for certain property acquired after December 31, 2007, and before January 1, 2009), as amended by the Economic Stimulus Act of 2008, is amended—

(i) in paragraph (1), by inserting “placed in service by an eligible taxpayer” after “any qualified property”; and

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

“(4) ELIGIBLE TAXPAYER.—

“(A) IN GENERAL.—At such time and in such manner as the Secretary shall prescribe, each taxpayer may elect to be an eligible taxpayer with respect to 1 (and only 1) of the following:

“(i) This subsection and section 179(b)(7).

“(ii) The application of section 56(d)(1)(A)(ii)(I) and section 172(b)(1)(H)(ii) in connection with net operating losses relating to taxable years ending during 2008 and 2009.

“(B) ELIGIBLE TAXPAYER.—For purposes of each of the provisions described in subparagraph (A), a taxpayer shall only be treated as an eligible taxpayer with respect to the provision with respect to which the taxpayer made the election under subparagraph (A).

“(C) ELECTION IRREVOCABLE.—An election under subparagraph (A) may not be revoked except with the consent of the Secretary.”.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall take effect as if included in section 103 of the Economic Stimulus Act of 2008.

(2) ELECTION FOR INCREASED EXPENSING.—

(A) IN GENERAL.—Paragraph (7) of section 179(b) of the Internal Revenue Code of 1986 (relating to limitations), as added by the Economic Stimulus Act of 2008, is amended to read as follows:

“(7) SPECIAL RULE FOR ELIGIBLE TAXPAYERS IN 2008.—In the case of any taxable year of any eligible taxpayer (within the meaning of section 168(k)(4)) beginning in 2008—

“(A) the dollar limitation under paragraph (1) shall be \$250,000,

“(B) the dollar limitation under paragraph (2) shall be \$800,000, and

“(C) the amounts described in subparagraphs (A) and (B) shall not be adjusted under paragraph (5).”.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect as if included in section 102 of the Economic Stimulus Act of 2008.

#### SEC. 602. MODIFICATIONS ON USE OF QUALIFIED MORTGAGE BONDS; TEMPORARY INCREASED VOLUME CAP FOR CERTAIN HOUSING BONDS.

(a) USE OF QUALIFIED MORTGAGE BONDS PROCEEDS FOR SUBPRIME REFINANCING LOANS.—Section 143(k) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(12) SPECIAL RULES FOR SUBPRIME REFINANCINGS.—

“(A) IN GENERAL.—Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

“(B) SPECIAL RULES.—In applying this paragraph to any case in which the proceeds of a qualified mortgage issue are used for any refinancing described in subparagraph (A)—

“(i) subsection (a)(2)(D)(i) (relating to proceeds must be used within 42 months of date of issuance) shall be applied by substituting ‘12-month period’ for ‘42-month period’ each place it appears,

“(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

“(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

“(C) **QUALIFIED SUBPRIME LOAN.**—The term ‘qualified subprime loan’ means an adjustable rate single-family residential mortgage loan originated after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

“(D) **TERMINATION.**—This paragraph shall not apply to any bonds issued after December 31, 2010.”.

(b) **INCREASED VOLUME CAP FOR CERTAIN BONDS.**—

(1) **IN GENERAL.**—Subsection (d) of section 146 of the Internal Revenue Code of 1986 (relating to State ceiling) is amended by adding at the end the following new paragraph:

“(5) **INCREASE AND SET ASIDE FOR HOUSING BONDS FOR 2008.**—

“(A) **INCREASE FOR 2008.**—In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to the greater of—

“(i) \$10,000,000,000 multiplied by a fraction—

“(I) the numerator of which is the population of such State, and

“(II) the denominator of which is the total population of all States, or

“(ii) the amount determined under subparagraph (B).

“(B) **MINIMUM AMOUNT.**—The amount determined under this subparagraph is—

“(i) in the case of a State (other than a possession), \$90,300,606, and

“(ii) in the case of a possession of the United States with a population less than the least populous State (other than a possession), the product of—

“(I) a fraction the numerator of which is \$90,300,606 and the denominator of which is population of the least populous State (other than a possession), and

“(II) the population of such possession.

In the case of any possession of the United States not described in clause (ii), the amount determined under this subparagraph shall be zero.

“(C) **SET ASIDE.**—

“(i) **IN GENERAL.**—Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified purposes.

“(ii) **QUALIFIED PURPOSE.**—For purposes of this paragraph, the term ‘qualified purpose’ means—

“(I) the issuance of exempt facility bonds used solely to provide qualified residential rental projects, or

“(II) a qualified mortgage issue (determined by substituting ‘12-month period’ for ‘42-month period’ each place it appears in section 143(a)(2)(D)(i)).”.

(2) **CARRYFORWARD OF UNUSED LIMITATIONS.**—Subsection (f) of section 146 of such Code (relating to elective carryforward of unused limitation for specified purpose) is amended by adding at the end the following new paragraph:

“(6) **SPECIAL RULES FOR INCREASED VOLUME CAP UNDER SUBSECTION (d)(5).**—

“(A) **IN GENERAL.**—No amount which is attributable to the increase under subsection (d)(5) may be used—

“(i) for a carryforward purpose other than a qualified purpose (as defined in subsection (d)(5)), and

“(ii) to issue any bond after calendar year 2010.

“(B) **ORDERING RULES.**—For purposes of subparagraph (A), any carryforward of an issuing authority’s volume cap for calendar year 2008 shall be treated as attributable to such increase to the extent of such increase.”.

(c) **ALTERNATIVE MINIMUM TAX EXEMPTION FOR QUALIFIED MORTGAGE BONDS, QUALIFIED VETERANS’ MORTGAGE BONDS, AND BONDS FOR QUALIFIED RESIDENTIAL RENTAL PROJECTS.**—

(1) **IN GENERAL.**—Clause (ii) of section 57(a)(5)(C) of the Internal Revenue Code of 1986

(relating to specified private activity bonds) is amended by striking “shall not include” and all that follows and inserting “shall not include—

“(I) any qualified 501(c)(3) bond (as defined in section 145), or

“(II) any qualified mortgage bond (as defined in section 143(a)), any qualified veterans’ mortgage bond (as defined in section 143(b)), or any exempt facility bond (as defined in section 142(a)) issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)), but only if such bond is issued after the date of the enactment of this subclause and before January 1, 2011.

Subclause (II) shall not apply to a refunding bond unless such subclause applied to the refunded bond (or in the case of a series of refundings, the original bond).”.

(2) **CONFORMING AMENDMENT.**—The heading for section 57(a)(5)(C)(ii) of such Code is amended by striking “QUALIFIED 501(c)(3) BONDS” and inserting “CERTAIN BONDS”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

#### **SEC. 603. CREDIT FOR CERTAIN HOME PURCHASES.**

(a) **ALLOWANCE OF CREDIT.**—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to non-refundable personal credits) is amended by inserting after section 25D the following new section:

#### **“SEC. 25E. CREDIT FOR CERTAIN HOME PURCHASES.**

“(a) **ALLOWANCE OF CREDIT.**—

“(1) **IN GENERAL.**—In the case of an individual who is a purchaser of a qualified principal residence during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to so much of the purchase price of the residence as does not exceed \$7,000.

“(2) **ALLOCATION OF CREDIT AMOUNT.**—The amount of the credit allowed under paragraph (1) shall be equally divided among the 2 taxable years beginning with the taxable year in which the purchase of the qualified principal residence is made.

“(b) **LIMITATIONS.**—

“(1) **DATE OF PURCHASE.**—The credit allowed under subsection (a) shall be allowed only with respect to purchases made—

“(A) after the date of the enactment of this section, and

“(B) before the date that is 12 months after such date.

“(2) **LIMITATION BASED ON AMOUNT OF TAX.**—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section and section 23) for the taxable year.

“(3) **ONE-TIME ONLY.**—

“(A) **IN GENERAL.**—If a credit is allowed under this section in the case of any individual (and such individual’s spouse, if married) with respect to the purchase of any qualified principal residence, no credit shall be allowed under this section in any taxable year with respect to the purchase of any other qualified principal residence by such individual or a spouse of such individual.

“(B) **JOINT PURCHASE.**—In the case of a purchase of a qualified principal residence by 2 or more unmarried individuals or by 2 married individuals filing separately, no credit shall be allowed under this section if a credit under this section has been allowed to any of such individuals in any taxable year with respect to the purchase of any other qualified principal residence.

“(c) **QUALIFIED PRINCIPAL RESIDENCE.**—For purposes of this section—

“(1) **IN GENERAL.**—The term ‘qualified principal residence’ means an eligible single-family residence that is purchased to be the principal residence of the purchaser.

“(2) **ELIGIBLE SINGLE-FAMILY RESIDENCE.**—

“(A) **IN GENERAL.**—The term ‘eligible single-family residence’ means a single-family structure that is a residence—

“(i) upon which foreclosure has been filed pursuant to the laws of the State in which the residence is located, and

“(ii) which—

“(I) is a new previously unoccupied residence for which a building permit was issued and construction began on or before September 1, 2007, or

“(II) was occupied as a principal residence by the mortgagor for at least 1 year prior to the foreclosure filing.

“(B) **CERTIFICATION.**—In the case of an eligible single-family residence described in subparagraph (A)(ii)(I), no credit shall be allowed under this section unless the purchaser submits a certification by the seller of such residence that such residence meets the requirements of such subparagraph.

“(3) **PRINCIPAL RESIDENCE.**—The term ‘principal residence’ has the same meaning as when used in section 121.

“(d) **DENIAL OF DOUBLE BENEFIT.**—No credit shall be allowed under this section for any purchase for which a credit is allowed under section 1400C.

“(e) **RECAPTURE IN THE CASE OF CERTAIN DISPOSITIONS.**—In the event that a taxpayer—

“(1) disposes of the qualified principal residence with respect to which a credit is allowed under subsection (a), or

“(2) fails to occupy such residence as the taxpayer’s principal residence,

at any time within 24 months after the date on which the taxpayer purchased such residence, then the remaining portion of the credit allowed under subsection (a) shall be disallowed in the taxable year during which such disposition occurred or in which the taxpayer failed to occupy the residence as a principal residence, and in any subsequent taxable year in which the remaining portion of the credit would, but for this subsection, have been allowed.

“(f) **SPECIAL RULES.**—

“(1) **JOINT PURCHASE.**—

“(A) **MARRIED INDIVIDUALS FILING SEPARATELY.**—In the case of 2 married individuals filing separately, subsection (a) shall be applied to each such individual by substituting ‘\$3,500’ for ‘\$7,000’ in paragraph (1) thereof.

“(B) **UNMARRIED INDIVIDUALS.**—If 2 or more individuals who are not married purchase a qualified principal residence, the amount of the credit allowed under subsection (a) shall be allocated among such individuals in such manner as the Secretary may prescribe, except that the total amount of the credits allowed to all such individuals shall not exceed \$7,000.

“(2) **PURCHASE; PURCHASE PRICE.**—Rules similar to the rules of paragraphs (2) and (3) of section 1400C(e) (as in effect on the date of the enactment of this section) shall apply for purposes of this section.

“(3) **REPORTING REQUIREMENT.**—Rules similar to the rules of section 1400C(f) (as so in effect) shall apply for purposes of this section.

“(g) **BASIS ADJUSTMENT.**—For purposes of this subtitle, if a credit is allowed under this section with respect to the purchase of any residence, the basis of such residence shall be reduced by the amount of the credit so allowed.”.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 24(b)(3)(B) of the Internal Revenue Code of 1986 is amended by striking “and 25B” and inserting “, 25B, and 25E”.

(2) Section 25(e)(1)(C)(ii) of such Code is amended by inserting “25E,” after “25D,”.

(3) Section 25B(g)(2) of such Code is amended by striking “section 23” and inserting “sections 23 and 25E”.

(4) Section 25D(c)(2) of such Code is amended by striking “and 25B” and inserting “25B, and 25E”.

(5) Section 26(a)(1) of such Code is amended by striking “and 25B” and inserting “25B, and 25E”.

(6) Section 904(i) of such Code is amended by striking “and 25B” and inserting “25B, and 25E”.

(7) Subsection (a) of section 1016 of such Code is amended by striking “and” at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting “, and”, and by adding at the end the following new paragraph: “(38) to the extent provided in section 25E(g).”.

(8) Section 1400C(d)(2) of such Code is amended by striking “and 25D” and inserting “25D, and 25E”.

(c) **CLERICAL AMENDMENT.**—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item: “Sec. 25E. Credit for certain home purchases.”.

(d) **EFFECTIVE DATE.**—The amendments made by this section shall apply to purchases in taxable years ending after the date of the enactment of this Act.

(e) **APPLICATION OF EGTRRA SUNSET.**—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendment relates.

**SEC. 604. ADDITIONAL STANDARD DEDUCTION FOR REAL PROPERTY TAXES FOR NONITEMIZERS.**

(a) **IN GENERAL.**—Section 63(c)(1) of the Internal Revenue Code of 1986 (defining standard deduction) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) in the case of any taxable year beginning in 2008, the real property tax deduction.”.

(b) **DEFINITION.**—Section 63(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(8) **REAL PROPERTY TAX DEDUCTION.**—

“(A) **IN GENERAL.**—For purposes of paragraph (1), the real property tax deduction is so much of the amount of the eligible State and local real property taxes paid or accrued by the taxpayer during the taxable year which do not exceed \$500 (\$1,000 in the case of a joint return).

“(B) **ELIGIBLE STATE AND LOCAL REAL PROPERTY TAXES.**—For purposes of subparagraph (A), the term ‘eligible State and local real property taxes’ means State and local real property taxes (within the meaning of section 164), but only if the rate of tax for all residential real property taxes in the jurisdiction has not been increased at any time after April 2, 2008, and before January 1, 2009.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 605. ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.**

(a) **IN GENERAL.**—Section 168(k), as amended by this Act, is amended by adding at the end the following new paragraph:

“(5) **ELECTION TO ACCELERATE AMT AND R AND D CREDITS IN LIEU OF BONUS DEPRECIATION.**—

“(A) **IN GENERAL.**—If a corporation which is an eligible taxpayer (within the meaning of paragraph (4)) for purposes of this subsection elects to have this paragraph apply—

“(i) no additional depreciation shall be allowed under paragraph (1) for any qualified property placed in service during any taxable year to which paragraph (1) would otherwise apply, and

“(ii) the limitations described in subparagraph (B) for such taxable year shall be increased by

an aggregate amount not in excess of the bonus depreciation amount for such taxable year.

“(B) **LIMITATIONS TO BE INCREASED.**—The limitations described in this subparagraph are—

“(i) the limitation under section 38(c), and

“(ii) the limitation under section 53(c).”.

“(C) **BONUS DEPRECIATION AMOUNT.**—For purposes of this paragraph—

“(i) **IN GENERAL.**—The bonus depreciation amount for any applicable taxable year is an amount equal to the product of 20 percent and the excess (if any) of—

“(I) the aggregate amount of depreciation which would be determined under this section for property placed in service during the taxable year if no election under this paragraph were made, over

“(II) the aggregate amount of depreciation allowable under this section for property placed in service during the taxable year.

In the case of property which is a passenger aircraft, the amount determined under subclause (I) shall be calculated without regard to the written binding contract limitation under paragraph (2)(A)(iii)(I).

“(ii) **ELIGIBLE QUALIFIED PROPERTY.**—For purposes of clause (i), the term ‘eligible qualified property’ means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this clause—

“(I) ‘March 31, 2008’ shall be substituted for ‘December 31, 2007’ each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

“(II) only adjusted basis attributable to manufacture, construction, or production after March 31, 2008, and before January 1, 2009, shall be taken into account under subparagraph (B)(ii) thereof, and

“(III) in the case of property which is a passenger aircraft, the written binding contract limitation under subparagraph (A)(iii)(I) thereof shall not apply.

“(iii) **MAXIMUM AMOUNT.**—The bonus depreciation amount for any applicable taxable year shall not exceed the applicable limitation under clause (iv), reduced (but not below zero) by the bonus depreciation amount for any preceding taxable year.

“(iv) **APPLICABLE LIMITATION.**—For purposes of clause (iii), the term ‘applicable limitation’ means, with respect to any eligible taxpayer, the lesser of—

“(I) \$40,000,000, or

“(II) 10 percent of the sum of the amounts determined with respect to the eligible taxpayer under clauses (ii) and (iii) of subparagraph (D).

“(v) **AGGREGATION RULE.**—All corporations which are treated as a single employer under section 52(a) shall be treated as 1 taxpayer for purposes of applying the limitation under this subparagraph and determining the applicable limitation under clause (iv).

“(D) **ALLOCATION OF BONUS DEPRECIATION AMOUNTS.**—

“(i) **IN GENERAL.**—Subject to clauses (ii) and (iii), the taxpayer shall, at such time and in such manner as the Secretary may prescribe, specify the portion (if any) of the bonus depreciation amount which is to be allocated to each of the limitations described in subparagraph (B).

“(ii) **BUSINESS CREDIT LIMITATION.**—The portion of the bonus depreciation amount allocated to the limitation described in subparagraph (B)(i) shall not exceed an amount equal to the portion of the credit allowable under section 38 for the taxable year which is allocable to business credit carryforwards to such taxable year which are—

“(I) from taxable years beginning before January 1, 2006, and

“(II) properly allocable (determined under the rules of section 38(d)) to the research credit determined under section 41(a).

“(iii) **ALTERNATIVE MINIMUM TAX CREDIT LIMITATION.**—The portion of the bonus depreciation

amount allocated to the limitation described in subparagraph (B)(ii) shall not exceed an amount equal to the portion of the minimum tax credit allowable under section 53 for the taxable year which is allocable to the adjusted minimum tax imposed for taxable years beginning before January 1, 2006.

“(E) **CREDIT REFUNDABLE.**—Any aggregate increases in the credits allowed under section 38 or 53 by reason of this paragraph shall, for purposes of this title, be treated as a credit allowed to the taxpayer under subpart C of part IV of subchapter A.

“(F) **OTHER RULES.**—

“(i) **ELECTION.**—Any election under this paragraph (including any allocation under subparagraph (D)) may be revoked only with the consent of the Secretary.

“(ii) **DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.**—Notwithstanding this paragraph, paragraph (2)(G) shall apply with respect to the deduction computed under this section (after application of this paragraph) with respect to property placed in service during any applicable taxable year.”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after December 31, 2007, in taxable years ending after such date.

**SEC. 606. USE OF AMENDED INCOME TAX RETURNS TO TAKE INTO ACCOUNT RECEIPT OF CERTAIN HURRICANE-RELATED CASUALTY LOSS GRANTS BY DISALLOWING PREVIOUSLY TAKEN CASUALTY LOSS DEDUCTIONS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of the Internal Revenue Code of 1986, if a taxpayer claims a deduction for any taxable year with respect to a casualty loss to a personal residence (within the meaning of section 121 of such Code) resulting from Hurricane Katrina, Hurricane Rita, or Hurricane Wilma and in a subsequent taxable year receives a grant under Public Law 109-148, 109-234, or 110-116 as reimbursement for such loss, such taxpayer may elect to file an amended income tax return for the taxable year in which such deduction was allowed and disallow such deduction. If elected, such amended return must be filed not later than the due date for filing the tax return for the taxable year in which the taxpayer receives such reimbursement or the date that is 4 months after the date of the enactment of this Act, whichever is later. Any increase in Federal income tax resulting from such disallowance if such amended return is filed—

(1) shall be subject to interest on the underpaid tax for one year at the underpayment rate determined under section 6621(a)(2) of such Code; and

(2) shall not be subject to any penalty under such Code.

(b) **EMERGENCY DESIGNATION.**—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

**SEC. 607. WAIVER OF DEADLINE ON CONSTRUCTION OF GO ZONE PROPERTY ELIGIBLE FOR BONUS DEPRECIATION.**

(a) **IN GENERAL.**—Subparagraph (B) of section 1400N(d)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) without regard to ‘and before January 1, 2009’ in clause (i) thereof.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to property placed in service after December 31, 2007.

(c) **EMERGENCY DESIGNATION.**—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

**SEC. 608. TEMPORARY TAX RELIEF FOR KIOWA COUNTY, KANSAS AND SURROUNDING AREA.**

(a) *IN GENERAL.*—The following provisions of or relating to the Internal Revenue Code of 1986 shall apply, in addition to the areas described in such provisions, to an area with respect to which a major disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (FEMA-1699-DR, as in effect on the date of the enactment of this Act) by reason of severe storms and tornados beginning on May 4, 2007, and determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act with respect to damages attributed to such storms and tornados:

(1) *SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.*—Section 1400S(b)(1) of the Internal Revenue Code of 1986, by substituting “May 4, 2007” for “August 25, 2005”.

(2) *EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.*—Section 405 of the Katrina Emergency Tax Relief Act of 2005, by substituting “on or after May 4, 2007, by reason of the May 4, 2007, storms and tornados” for “on or after August 25, 2005, by reason of Hurricane Katrina”.

(3) *EMPLOYEE RETENTION CREDIT FOR EMPLOYERS AFFECTED BY MAY 4 STORMS AND TORNADOS.*—Section 1400R(a) of the Internal Revenue Code of 1986—

(A) by substituting “May 4, 2007” for “August 28, 2005” each place it appears,

(B) by substituting “January 1, 2008” for “January 1, 2006” both places it appears, and

(C) only with respect to eligible employers who employed an average of not more than 200 employees on business days during the taxable year before May 4, 2007.

(4) *SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED ON OR AFTER MAY 5, 2007.*—Section 1400N(d) of such Code—

(A) by substituting “qualified Recovery Assistance property” for “qualified Gulf Opportunity Zone property” each place it appears,

(B) by substituting “May 5, 2007” for “August 28, 2005” each place it appears,

(C) by substituting “December 31, 2008” for “December 31, 2007” in paragraph (2)(A)(v),

(D) by substituting “December 31, 2009” for “December 31, 2008” in paragraph (2)(A)(v),

(E) by substituting “May 4, 2007” for “August 27, 2005” in paragraph (3)(A),

(F) by substituting “January 1, 2009” for “January 1, 2008” in paragraph (3)(B), and

(G) determined without regard to paragraph (6) thereof.

(5) *INCREASE IN EXPENSING UNDER SECTION 179.*—Section 1400N(e) of such Code, by substituting “qualified section 179 Recovery Assistance property” for “qualified section 179 Gulf Opportunity Zone property” each place it appears.

(6) *EXPENSING FOR CERTAIN DEMOLITION AND CLEAN-UP COSTS.*—Section 1400N(f) of such Code—

(A) by substituting “qualified Recovery Assistance clean-up cost” for “qualified Gulf Opportunity Zone clean-up cost” each place it appears, and

(B) by substituting “beginning on May 4, 2007, and ending on December 31, 2009” for “beginning on August 28, 2005, and ending on December 31, 2007” in paragraph (2) thereof.

(7) *TREATMENT OF PUBLIC UTILITY PROPERTY DISASTER LOSSES.*—Section 1400N(o) of such Code.

(8) *TREATMENT OF NET OPERATING LOSSES ATTRIBUTABLE TO STORM LOSSES.*—Section 1400N(k) of such Code—

(A) by substituting “qualified Recovery Assistance loss” for “qualified Gulf Opportunity Zone loss” each place it appears,

(B) by substituting “after May 3, 2007, and before on January 1, 2010” for “after August 27,

2005, and before January 1, 2008” each place it appears,

(C) by substituting “May 4, 2007” for “August 28, 2005” in paragraph (2)(B)(ii)(I) thereof,

(D) by substituting “qualified Recovery Assistance property” for “qualified Gulf Opportunity Zone property” in paragraph (2)(B)(iv) thereof, and

(E) by substituting “qualified Recovery Assistance casualty loss” for “qualified Gulf Opportunity Zone casualty loss” each place it appears.

(9) *TREATMENT OF REPRESENTATIONS REGARDING INCOME ELIGIBILITY FOR PURPOSES OF QUALIFIED RENTAL PROJECT REQUIREMENTS.*—Section 1400N(n) of such Code.

(10) *SPECIAL RULES FOR USE OF RETIREMENT FUNDS.*—Section 1400Q of such Code—

(A) by substituting “qualified Recovery Assistance distribution” for “qualified hurricane distribution” each place it appears,

(B) by substituting “on or after May 4, 2007, and before January 1, 2009” for “on or after August 25, 2005, and before January 1, 2007” in subsection (a)(4)(A)(i),

(C) by substituting “qualified storm distribution” for “qualified Katrina distribution” each place it appears,

(D) by substituting “after November 4, 2006, and before May 5, 2007” for “after February 28, 2005, and before August 29, 2005” in subsection (b)(2)(B)(ii),

(E) by substituting “beginning on May 4, 2007, and ending on November 5, 2007” for “beginning on August 25, 2005, and ending on February 28, 2006” in subsection (b)(3)(A),

(F) by substituting “qualified storm individual” for “qualified Hurricane Katrina individual” each place it appears,

(G) by substituting “December 31, 2007” for “December 31, 2006” in subsection (c)(2)(A),

(H) by substituting “beginning on June 4, 2007, and ending on December 31, 2007” for “beginning on September 24, 2005, and ending on December 31, 2006” in subsection (c)(4)(A)(i),

(I) by substituting “May 4, 2007” for “August 25, 2005” in subsection (c)(4)(A)(ii), and

(J) by substituting “January 1, 2008” for “January 1, 2007” in subsection (d)(2)(A)(ii).

(b) *EMERGENCY DESIGNATION.*—For purposes of Senate enforcement, all provisions of this section are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

**TITLE VII—EMERGENCY DESIGNATION**

**SEC. 701. EMERGENCY DESIGNATION.**

For purposes of Senate enforcement, all provisions of this Act are designated as emergency requirements and necessary to meet emergency needs pursuant to section 204 of S. Con. Res. 21 (110th Congress), the concurrent resolution on the budget for fiscal year 2008.

**TITLE VIII—REIT INVESTMENT**

**DIVERSIFICATION AND EMPOWERMENT**

**SEC. 801. SHORT TITLE; AMENDMENT OF 1986 CODE.**

(a) *SHORT TITLE.*—This title may be cited as the “REIT Investment Diversification and Empowerment Act of 2008”.

(b) *AMENDMENT OF 1986 CODE.*—Except as otherwise expressly provided, whenever in this title 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.

**Subtitle A—Taxable REIT Subsidiaries**

**SEC. 811. CONFORMING TAXABLE REIT SUBSIDIARY ASSET TEST.**

Section 856(c)(4)(B)(ii) is amended by striking “20 percent” and inserting “25 percent”.

**Subtitle B—Dealer Sales**

**SEC. 821. HOLDING PERIOD UNDER SAFE HARBOR.**

Section 857(b)(6) (relating to income from prohibited transactions) is amended—

(1) by striking “4 years” in subparagraphs (C)(i), (C)(iv), and (D)(i) and inserting “2 years”;

(2) by striking “4-year period” in subparagraphs (C)(ii), (D)(ii), and (D)(iii) and inserting “2-year period”; and

(3) by striking “real estate asset” and all that follows through “if” in the matter preceding clause (i) of subparagraphs (C) and (D), respectively, and inserting “real estate asset (as defined in section 856(c)(5)(B)) and which is described in section 1221(a)(1) if”.

**SEC. 822. DETERMINING VALUE OF SALES UNDER SAFE HARBOR.**

Section 857(b)(6) is amended—

(1) by striking the semicolon at the end of subparagraph (C)(iii) and inserting “, or (III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year”; and

(2) by adding “or” at the end of subclause (II) of subparagraph (D)(iv) and by adding at the end of such subparagraph the following new subclause:

“(III) the fair market value of property (other than sales of foreclosure property or sales to which section 1033 applies) sold during the taxable year does not exceed 10 percent of the fair market value of all of the assets of the trust as of the beginning of the taxable year.”.

**Subtitle C—Health Care REITs**

**SEC. 831. CONFORMITY FOR HEALTH CARE FACILITIES.**

(a) *RELATED PARTY RENTALS.*—Subparagraph (B) of section 856(d)(8) (relating to special rule for taxable REIT subsidiaries) is amended to read as follows:

“(B) *EXCEPTION FOR CERTAIN LODGING FACILITIES AND HEALTH CARE PROPERTY.*—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility (as defined in paragraph (9)(D)) or a qualified health care property (as defined in subsection (e)(6)(D)(i)) leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor. For purposes of this section, a taxable REIT subsidiary is not considered to be operating or managing a qualified health care property or qualified lodging facility solely because it—

“(i) directly or indirectly possesses a license, permit, or similar instrument enabling it to do so, or

“(ii) employs individuals working at such property or facility located outside the United States, but only if an eligible independent contractor is responsible for the daily supervision and direction of such individuals on behalf of the taxable REIT subsidiary pursuant to a management agreement or similar service contract.”.

(b) *ELIGIBLE INDEPENDENT CONTRACTOR.*—Subparagraphs (A) and (B) of section 856(d)(9) (relating to eligible independent contractor) are amended to read as follows:

“(A) *IN GENERAL.*—The term ‘eligible independent contractor’ means, with respect to any qualified lodging facility or qualified health care property (as defined in subsection (e)(6)(D)(i)), any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate such qualified lodging facility or qualified health care property, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities or qualified health care properties, respectively, for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

“(B) *SPECIAL RULES.*—Solely for purposes of this paragraph and paragraph (8)(B), a person

shall not fail to be treated as an independent contractor with respect to any qualified lodging facility or qualified health care property (as so defined) by reason of the following:

“(i) The taxable REIT subsidiary bears the expenses for the operation of such qualified lodging facility or qualified health care property pursuant to the management agreement or other similar service contract.

“(ii) The taxable REIT subsidiary receives the revenues from the operation of such qualified lodging facility or qualified health care property, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

“(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

“(I) January 1, 1999, or

“(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility or qualified health care property.”

(c) **TAXABLE REIT SUBSIDIARIES.**—The last sentence of section 856(l)(3) is amended—

(1) by inserting “or a health care facility” after “a lodging facility”, and

(2) by inserting “or health care facility” after “such lodging facility”.

#### Subtitle D—Effective Dates and Sunset

##### SEC. 841 EFFECTIVE DATES AND SUNSET.

(a) **IN GENERAL.**—Except as otherwise provided in this section, the amendments made by this title shall apply to taxable years beginning after the date of the enactment of this Act.

(b) **REIT INCOME TESTS.**—

(1) The amendment made by section 801(a) and (b) shall apply to gains and items of income recognized after the date of the enactment of this Act.

(2) The amendment made by section 801(c) shall apply to transactions entered into after the date of the enactment of this Act.

(3) The amendment made by section 801(d) shall apply after the date of the enactment of this Act.

(c) **CONFORMING FOREIGN CURRENCY REVISIONS.**—

(1) The amendment made by section 803(a) shall apply to gains recognized after the date of the enactment of this Act.

(2) The amendment made by section 803(b) shall apply to gains and deductions recognized after the date of the enactment of this Act.

(d) **DEALER SALES.**—The amendments made by subtitle C shall apply to sales made after the date of the enactment of this Act.

(e) **SUNSET.**—All amendments made by this title shall not apply to taxable years beginning after the date which is 5 years after the date of the enactment of this Act. The Internal Revenue Code of 1986 shall be applied and administered to taxable years described in the preceding sentence as if the amendments so described had never been enacted.

#### TITLE IX—VETERANS HOUSING MATTERS

##### SEC. 901. HOME IMPROVEMENTS AND STRUCTURAL ALTERATIONS FOR TOTALLY DISABLED MEMBERS OF THE ARMED FORCES BEFORE DISCHARGE OR RELEASE FROM THE ARMED FORCES.

Section 1717 of title 38, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or aggravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient

medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

“(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.”

##### SEC. 902. ELIGIBILITY FOR SPECIALLY ADAPTED HOUSING BENEFITS AND ASSISTANCE FOR MEMBERS OF THE ARMED FORCES WITH SERVICE-CONNECTED DISABILITIES AND INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.

(a) **ELIGIBILITY.**—Chapter 21 of title 38, United States Code, is amended by inserting after section 2101 the following new section:

##### “§2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States

“(a) **MEMBERS WITH SERVICE-CONNECTED DISABILITIES.**—(1) The Secretary may provide assistance under this chapter to a member of the Armed Forces serving on active duty who is suffering from a disability that meets applicable criteria for benefits under this chapter if the disability is incurred or aggravated in line of duty in the active military, naval, or air service. Such assistance shall be provided to the same extent as assistance is provided under this chapter to veterans eligible for assistance under this chapter and subject to the same requirements as veterans under this chapter.

“(2) For purposes of this chapter, any reference to a veteran or eligible individual shall be treated as a reference to a member of the Armed Forces described in subsection (a) who is similarly situated to the veteran or other eligible individual so referred to.

“(b) **BENEFITS AND ASSISTANCE FOR INDIVIDUALS RESIDING OUTSIDE THE UNITED STATES.**—(1) Subject to paragraph (2), the Secretary may, at the Secretary's discretion, provide benefits and assistance under this chapter (other than benefits under section 2106 of this title) to any individual otherwise eligible for such benefits and assistance who resides outside the United States.

“(2) The Secretary may provide benefits and assistance to an individual under paragraph (1) only if—

“(A) the country or political subdivision in which the housing or residence involved is or will be located permits the individual to have or acquire a beneficial property interest (as determined by the Secretary) in such housing or residence; and

“(B) the individual has or will acquire a beneficial property interest (as so determined) in such housing or residence.

“(c) **REGULATIONS.**—Benefits and assistance under this chapter by reason of this section shall be provided in accordance with such regulations as the Secretary may prescribe.”

(b) **CONFORMING AMENDMENTS.**—

(1) **REPEAL OF SUPERSEDED AUTHORITY.**—Section 2101 of such title is amended—

(A) by striking subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(2) **LIMITATIONS ON ASSISTANCE.**—Section 2102 of such title is amended—

(A) in subsection (a)—

(i) by striking “veteran” each place it appears and inserting “individual”; and

(ii) in paragraph (3), by striking “veteran's” and inserting “individual's”; ,

(B) in subsection (b)(1), by striking “a veteran” and inserting “an individual”; and

(C) in subsection (c)—

(i) by striking “a veteran” and inserting “an individual”; and

(ii) by striking “the veteran” each place it appears and inserting “the individual”; and

(D) in subsection (d), by striking “a veteran” each place it appears and inserting “an individual”.

(3) **ASSISTANCE FOR INDIVIDUALS TEMPORARILY RESIDING IN HOUSING OF FAMILY MEMBER.**—Section 2102A of such title is amended—

(A) by striking “veteran” each place it appears (other than in subsection (b)) and inserting “individual”; and

(B) in subsection (a), by striking “veteran's” each place it appears and inserting “individual's”; and

(C) in subsection (b), by striking “a veteran” each place it appears and inserting “an individual”.

(4) **FURNISHING OF PLANS AND SPECIFICATIONS.**—Section 2103 of such title is amended by striking “veterans” both places it appears and inserting “individuals”.

(5) **CONSTRUCTION OF BENEFITS.**—Section 2104 of such title is amended—

(A) in subsection (a), by striking “veteran” each place it appears and inserting “individual”; and

(B) in subsection (b)—

(i) in the first sentence, by striking “A veteran” and inserting “An individual”; and

(ii) in the second sentence, by striking “a veteran” and inserting “an individual”; and

(iii) by striking “such veteran” each place it appears and inserting “such individual”.

(6) **VETERANS' MORTGAGE LIFE INSURANCE.**—Section 2106 of such title is amended—

(A) in subsection (a)—

(i) by striking “any eligible veteran” and inserting “any eligible individual”; and

(ii) by striking “the veterans” and inserting “the individual's”; and

(B) in subsection (b), by striking “an eligible veteran” and inserting “an eligible individual”; and

(C) in subsection (e), by striking “an eligible veteran” and inserting “an individual”; and

(D) in subsection (h), by striking “each veteran” and inserting “each individual”; and

(E) in subsection (i), by striking “the veteran's” each place it appears and inserting “the individual's”; and

(F) by striking “the veteran” each place it appears and inserting “the individual”; and

(G) by striking “a veteran” each place it appears and inserting “an individual”.

(7) **HEADING AMENDMENTS.**—(A) The heading of section 2101 of such title is amended to read as follows:

“§2101. Acquisition and adaptation of housing: eligible veterans”.

(B) The heading of section 2102A of such title is amended to read as follows:

“§2102A. Assistance for individuals residing temporarily in housing owned by a family member”.

(8) **CLERICAL AMENDMENTS.**—The table of sections at the beginning of chapter 21 of such title is amended—

(A) by striking the item relating to section 2101 and inserting the following new item:

“2101. Acquisition and adaptation of housing: eligible veterans.”;

(B) by inserting after the item relating to section 2101, as so amended, the following new item:

“2101A. Eligibility for benefits and assistance: members of the Armed Forces with service-connected disabilities; individuals residing outside the United States.”;

and

(C) by striking the item relating to section 2102A and inserting the following new item:

“2102A. Assistance for individuals residing temporarily in housing owned by a family member.”.

##### SEC. 903. SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WITH SEVERE BURN INJURIES.

Section 2101 of title 38, United States Code, is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraph:

“(E) The disability is due to a severe burn injury (as determined pursuant to regulations prescribed by the Secretary).”; and

(2) in subsection (b)(2)—

(A) by striking “either” and inserting “any”; and

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

“(C) The disability is due to a severe burn injury (as so determined).”.

**SEC. 904. EXTENSION OF ASSISTANCE FOR INDIVIDUALS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.**

Section 2102A(e) of title 38, United States Code, is amended by striking “after the end of the five-year period that begins on the date of the enactment of the Veterans’ Housing Opportunity and Benefits Improvement Act of 2006” and inserting “after December 31, 2011”.

**SEC. 905. INCREASE IN SPECIALLY ADAPTED HOUSING BENEFITS FOR DISABLED VETERANS.**

(a) IN GENERAL.—Section 2102 of title 38, United States Code, is amended—

(1) in subsection (b)(2), by striking “\$10,000” and inserting “\$12,000”; and

(2) in subsection (d)—

(A) in paragraph (1), by striking “\$50,000” and inserting “\$60,000”; and

(B) in paragraph (2), by striking “\$10,000” and inserting “\$12,000”; and

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

“(e)(1) Effective on October 1 of each year (beginning in 2009), the Secretary shall increase the amounts described in subsection (b)(2) and paragraphs (1) and (2) of subsection (d) in accordance with this subsection.

“(2) The increase in amounts under paragraph (1) to take effect on October 1 of a year shall be by an amount of such amounts equal to the percentage by which—

“(A) the residential home cost-of-construction index for the preceding calendar year, exceeds

“(B) the residential home cost-of-construction index for the year preceding the year described in subparagraph (A).

“(3) The Secretary shall establish a residential home cost-of-construction index for the purposes of this subsection. The index shall reflect a uniform, national average change in the cost of residential home construction, determined on a calendar year basis. The Secretary may use an index developed in the private sector that the Secretary determines is appropriate for purposes of this subsection.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, and shall apply with respect to payments made in accordance with section 2102 of title 38, United States Code, on or after that date.

**SEC. 906. REPORT ON SPECIALLY ADAPTED HOUSING FOR DISABLED INDIVIDUALS.**

(a) IN GENERAL.—Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report that contains an assessment of the adequacy of the authorities available to the Secretary under law to assist eligible disabled individuals in acquiring—

(1) suitable housing units with special fixtures or movable facilities required for their disabilities, and necessary land therefor;

(2) such adaptations to their residences as are reasonably necessary because of their disabilities; and

(3) residences already adapted with special features determined by the Secretary to be reasonably necessary as a result of their disabilities.

(b) FOCUS ON PARTICULAR DISABILITIES.—The report required by subsection (a) shall set forth a specific assessment of the needs of—

(1) veterans who have disabilities that are not described in subsections (a)(2) and (b)(2) of section 2101 of title 38, United States Code; and

(2) other disabled individuals eligible for specially adapted housing under chapter 21 of such title by reason of section 2101A of such title (as added by section 902(a) of this Act) who have disabilities that are not described in such subsections.

**SEC. 907. REPORT ON SPECIALLY ADAPTED HOUSING ASSISTANCE FOR INDIVIDUALS WHO RESIDE IN HOUSING OWNED BY A FAMILY MEMBER ON PERMANENT BASIS.**

Not later than December 31, 2008, the Secretary of Veterans Affairs shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the advisability of providing assistance under section 2102A of title 38, United States Code, to veterans described in subsection (a) of such section, and to members of the Armed Forces covered by such section 2102A by reason of section 2101A of title 38, United States Code (as added by section 902(a) of this Act), who reside with family members on a permanent basis.

**SEC. 908. DEFINITION OF ANNUAL INCOME FOR PURPOSES OF SECTION 8 AND OTHER PUBLIC HOUSING PROGRAMS.**

Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(3)(b)(4)) is amended by inserting “or any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts” before “may not be considered”.

**SEC. 909. PAYMENT OF TRANSPORTATION OF BAGGAGE AND HOUSEHOLD EFFECTS FOR MEMBERS OF THE ARMED FORCES WHO RELOCATE DUE TO FORECLOSURE OF LEASED HOUSING.**

Section 406 of title 37, United States Code, is amended—

(1) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following new subsection (k):

“(k) A member of the armed forces who relocates from leased or rental housing by reason of the foreclosure of such housing is entitled to transportation of baggage and household effects under subsection (b)(1) in the same manner, and subject to the same conditions and limitations, as similarly circumstanced members entitled to transportation of baggage and household effects under that subsection.”.

**TITLE X—CLEAN ENERGY TAX STIMULUS**

**SEC. 1001. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This title may be cited as the “Clean Energy Tax Stimulus Act of 2008”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title 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.

**Subtitle A—Extension of Clean Energy Production Incentives**

**SEC. 1011. EXTENSION AND MODIFICATION OF RENEWABLE ENERGY PRODUCTION TAX CREDIT.**

(a) EXTENSION OF CREDIT.—Each of the following provisions of section 45(d) (relating to qualified facilities) is amended by striking “January 1, 2009” and inserting “January 1, 2010”:

(1) Paragraph (1).

(2) Clauses (i) and (ii) of paragraph (2)(A).

(3) Clauses (i)(1) and (ii) of paragraph (3)(A).

(4) Paragraph (4).

(5) Paragraph (5).

(6) Paragraph (6).

(7) Paragraph (7).

(8) Paragraph (8).

(9) Subparagraphs (A) and (B) of paragraph (9).

**(b) PRODUCTION CREDIT FOR ELECTRICITY PRODUCED FROM MARINE RENEWABLES.—**

(1) IN GENERAL.—Paragraph (1) of section 45(c) (relating to resources) is amended by striking “and” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, and”, and by adding at the end the following new subparagraph:

“(I) marine and hydrokinetic renewable energy.”.

(2) MARINE RENEWABLES.—Subsection (c) of section 45 is amended by adding at the end the following new paragraph:

“(10) MARINE AND HYDROKINETIC RENEWABLE ENERGY.—

“(A) IN GENERAL.—The term ‘marine and hydrokinetic renewable energy’ means energy derived from—

“(i) waves, tides, and currents in oceans, estuaries, and tidal areas,

“(ii) free flowing water in rivers, lakes, and streams,

“(iii) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes, or

“(iv) differentials in ocean temperature (ocean thermal energy conversion).”.

“(B) EXCEPTIONS.—Such term shall not include any energy which is derived from any source which utilizes a dam, diversionary structure (except as provided in subparagraph (A)(iii)), or impoundment for electric power production purposes.”.

(3) DEFINITION OF FACILITY.—Subsection (d) of section 45 is amended by adding at the end the following new paragraph:

“(11) MARINE AND HYDROKINETIC RENEWABLE ENERGY FACILITIES.—In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term ‘qualified facility’ means any facility owned by the taxpayer—

“(A) which has a nameplate capacity rating of at least 150 kilowatts, and

“(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2010.”.

(4) CREDIT RATE.—Subparagraph (A) of section 45(b)(4) is amended by striking “or (9)” and inserting “(9), or (11)”.

(5) COORDINATION WITH SMALL IRRIGATION POWER.—Paragraph (5) of section 45(d), as amended by subsection (a), is amended by striking “January 1, 2010” and inserting “the date of the enactment of paragraph (11)”.

(c) SALES OF ELECTRICITY TO REGULATED PUBLIC UTILITIES TREATED AS SALES TO UNRELATED PERSONS.—Section 45(e)(4) (relating to related persons) is amended by adding at the end the following new sentence: “A taxpayer shall be treated as selling electricity to an unrelated person if such electricity is sold to a regulated public utility (as defined in section 7701(a)(33)).”.

(d) TRASH FACILITY CLARIFICATION.—Paragraph (7) of section 45(d) is amended—

(1) by striking “facility which burns” and inserting “facility (other than a facility described in paragraph (6)) which uses”, and

(2) by striking “COMBUSTION”.

(e) EFFECTIVE DATES.—

(1) EXTENSION.—The amendments made by subsection (a) shall apply to property originally placed in service after December 31, 2008.

(2) MODIFICATIONS.—The amendments made by subsections (b) and (c) shall apply to electricity produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

(3) TRASH FACILITY CLARIFICATION.—The amendments made by subsection (d) shall apply to electricity produced and sold before, on, or after December 31, 2007.

**SEC. 1012. EXTENSION AND MODIFICATION OF SOLAR ENERGY AND FUEL CELL INVESTMENT TAX CREDIT.**

(a) EXTENSION OF CREDIT.—



(1) **SOLAR ENERGY PROPERTY.**—Paragraphs (2)(A)(i)(II) and (3)(A)(ii) of section 48(a) (relating to energy credit) are each amended by striking “January 1, 2009” and inserting “January 1, 2017”.

(2) **FUEL CELL PROPERTY.**—Subparagraph (E) of section 48(c)(1) (relating to qualified fuel cell property) is amended by striking “December 31, 2008” and inserting “December 31, 2017”.

(3) **QUALIFIED MICROTURBINE PROPERTY.**—Subparagraph (E) of section 48(c)(2) (relating to qualified microturbine property) is amended by striking “December 31, 2008” and inserting “December 31, 2017”.

(b) **ALLOWANCE OF ENERGY CREDIT AGAINST ALTERNATIVE MINIMUM TAX.**—Subparagraph (B) of section 38(c)(4) (relating to specified credits) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following new clause:

“(v) the credit determined under section 46 to the extent that such credit is attributable to the energy credit determined under section 48.”.

(c) **REPEAL OF DOLLAR PER KILOWATT LIMITATION FOR FUEL CELL PROPERTY.**—

(1) **IN GENERAL.**—Section 48(c)(1) (relating to qualified fuel cell), as amended by subsection (a)(2), is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(2) **CONFORMING AMENDMENT.**—Section 48(a)(1) is amended by striking “paragraphs (1)(B) and (2)(B) of subsection (c)” and inserting “subsection (c)(2)(B)”.

(d) **PUBLIC ELECTRIC UTILITY PROPERTY TAKEN INTO ACCOUNT.**—

(1) **IN GENERAL.**—Paragraph (3) of section 48(a) is amended by striking the second sentence thereof.

(2) **CONFORMING AMENDMENTS.**—

(A) Paragraph (1) of section 48(c), as amended by this section, is amended by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(B) Paragraph (2) of section 48(c), as amended by subsection (a)(3), is amended by striking subparagraph (D) and redesignating subparagraph (E) as subparagraph (D).

(e) **EFFECTIVE DATES.**—

(1) **EXTENSION.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) **ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.**—The amendments made by subsection (b) shall apply to credits determined under section 46 of the Internal Revenue Code of 1986 in taxable years beginning after the date of the enactment of this Act and to carrybacks of such credits.

(3) **FUEL CELL PROPERTY AND PUBLIC ELECTRIC UTILITY PROPERTY.**—The amendments made by subsections (c) and (d) shall apply to periods after the date of the enactment of this Act, in taxable years ending after such date, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

#### **SEC. 1013. EXTENSION AND MODIFICATION OF RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT.**

(a) **EXTENSION.**—Section 25D(g) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) **NO DOLLAR LIMITATION FOR CREDIT FOR SOLAR ELECTRIC PROPERTY.**—

(1) **IN GENERAL.**—Section 25D(b)(1) (relating to maximum credit) is amended by striking subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(2) **CONFORMING AMENDMENTS.**—Section 25D(e)(4) is amended—

(A) by striking clause (i) in subparagraph (A),

(B) by redesignating clauses (ii) and (iii) in subparagraph (A) as clauses (i) and (ii), respectively, and

(C) by striking “, (2),” in subparagraph (C).

(c) **CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.**—

(1) **IN GENERAL.**—Subsection (c) of section 25D is amended to read as follows:

“(c) **LIMITATION BASED ON AMOUNT OF TAX; CARRYFORWARD OF UNUSED CREDIT.**—

“(1) **LIMITATION BASED ON AMOUNT OF TAX.**—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

“(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

“(2) **CARRYFORWARD OF UNUSED CREDIT.**—

“(A) **RULE FOR YEARS IN WHICH ALL PERSONAL CREDITS ALLOWED AGAINST REGULAR AND ALTERNATIVE MINIMUM TAX.**—In the case of a taxable year to which section 26(a)(2) applies, if the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a)(2) 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.

“(B) **RULE FOR OTHER YEARS.**—In the case of a taxable year to which section 26(a)(2) does not apply, if the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.”.

(2) **CONFORMING AMENDMENTS.**—

(A) Section 23(b)(4)(B) is amended by inserting “and section 25D” after “this section”.

(B) Section 24(b)(3)(B) is amended by striking “and 25B” and inserting “, 25B, and 25D”.

(C) Section 25B(g)(2) is amended by striking “section 23” and inserting “sections 23 and 25D”.

(D) Section 26(a)(1) is amended by striking “and 25B” and inserting “25B, and 25D”.

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

(2) **APPLICATION OF EGTRRA SUNSET.**—The amendments made by subparagraphs (A) and (B) of subsection (c)(2) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provisions of such Act to which such amendments relate.

#### **SEC. 1014. EXTENSION AND MODIFICATION OF CREDIT FOR CLEAN RENEWABLE ENERGY BONDS.**

(a) **EXTENSION.**—Section 54(m) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) **INCREASE IN NATIONAL LIMITATION.**—Section 54(f) (relating to limitation on amount of bonds designated) is amended—

(1) by inserting “, and for the period beginning after the date of the enactment of the Clean Energy Tax Stimulus Act of 2008 and ending before January 1, 2010, \$400,000,000” after “\$1,200,000,000” in paragraph (1),

(2) by striking “\$750,000,000 of the” in paragraph (2) and inserting “\$750,000,000 of the \$1,200,000,000”, and

(3) by striking “bodies” in paragraph (2) and inserting “bodies, and except that the Secretary may not allocate more than 1/5 of the \$400,000,000 national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are public power providers nor more than 1/5 of such limitation to finance qualified projects of qualified borrowers which are mutual or cooperative electric companies described in section 501(c)(12) or section 1381(a)(2)(C)”.

(c) **PUBLIC POWER PROVIDERS DEFINED.**—Section 54(j) is amended—

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

“(6) **PUBLIC POWER PROVIDER.**—The term ‘public power provider’ means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).”, and

(2) by inserting “; PUBLIC POWER PROVIDER” before the period at the end of the heading.

(d) **TECHNICAL AMENDMENT.**—The third sentence of section 54(e)(2) is amended by striking “subsection (1)(6)” and inserting “subsection (1)(5)”.

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

#### **SEC. 1015. EXTENSION OF SPECIAL RULE TO IMPLEMENT FERC RESTRUCTURING POLICY.**

(a) **QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.**—

(1) **IN GENERAL.**—Section 451(i)(3) (defining qualifying electric transmission transaction) is amended by striking “January 1, 2008” and inserting “January 1, 2010”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to transactions after December 31, 2007.

(b) **INDEPENDENT TRANSMISSION COMPANY.**—

(1) **IN GENERAL.**—Section 451(i)(4)(B)(ii) (defining independent transmission company) is amended by striking “December 31, 2007” and inserting “the date which is 2 years after the date of such transaction”.

(2) **EFFECTIVE DATE.**—The amendment made by this subsection shall take effect as if included in the amendments made by section 909 of the American Jobs Creation Act of 2004.

#### **Subtitle B—Extension of Incentives to Improve Energy Efficiency**

#### **SEC. 1021. EXTENSION AND MODIFICATION OF CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

(a) **EXTENSION OF CREDIT.**—Section 25C(g) (relating to termination) is amended by striking “December 31, 2007” and inserting “December 31, 2009”.

(b) **QUALIFIED BIOMASS FUEL PROPERTY.**—

(1) **IN GENERAL.**—Section 25C(d)(3) is amended—

(A) by striking “and” at the end of subparagraph (D),

(B) by striking the period at the end of subparagraph (E) and inserting “, and”, and

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

“(F) a stove which uses the burning of biomass fuel to heat a dwelling unit located in the United States and used as a residence by the taxpayer, or to heat water for use in such a dwelling unit, and which has a thermal efficiency rating of at least 75 percent.”.

(2) **BIOMASS FUEL.**—Section 25C(d) (relating to residential energy property expenditures) is amended by adding at the end the following new paragraph:

“(6) **BIOMASS FUEL.**—The term ‘biomass fuel’ means any plant-derived fuel available on a renewable or recurring basis, including agricultural crops and trees, wood and wood waste and residues (including wood pellets), plants (including aquatic plants), grasses, residues, and fibers.”.

(c) **MODIFICATIONS OF STANDARDS FOR ENERGY-EFFICIENT BUILDING PROPERTY.**—

(1) **ELECTRIC HEAT PUMPS.**—Subparagraph (B) of section 25C(d)(3) is amended to read as follows:

“(A) an electric heat pump which achieves the highest efficiency tier established by the Consortium for Energy Efficiency, as in effect on January 1, 2008.”.

(2) **CENTRAL AIR CONDITIONERS.**—Section 25C(d)(3)(D) is amended by striking “2006” and inserting “2008”.

(3) **WATER HEATERS.**—Subparagraph (E) of section 25C(d) is amended to read as follows:

“(E) a natural gas, propane, or oil water heater which has either an energy factor of at least 0.80 or a thermal efficiency of at least 90 percent.”.

(4) **OIL FURNACES AND HOT WATER BOILERS.**—Paragraph (4) of section 25C(d) is amended to read as follows:

“(4) **QUALIFIED NATURAL GAS, PROPANE, AND OIL FURNACES AND HOT WATER BOILERS.**—

“(A) **QUALIFIED NATURAL GAS FURNACE.**—The term ‘qualified natural gas furnace’ means any natural gas furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

“(B) **QUALIFIED NATURAL GAS HOT WATER BOILER.**—The term ‘qualified natural gas hot water boiler’ means any natural gas hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

“(C) **QUALIFIED PROPANE FURNACE.**—The term ‘qualified propane furnace’ means any propane furnace which achieves an annual fuel utilization efficiency rate of not less than 95.

“(D) **QUALIFIED PROPANE HOT WATER BOILER.**—The term ‘qualified propane hot water boiler’ means any propane hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.

“(E) **QUALIFIED OIL FURNACES.**—The term ‘qualified oil furnace’ means any oil furnace which achieves an annual fuel utilization efficiency rate of not less than 90.

“(F) **QUALIFIED OIL HOT WATER BOILER.**—The term ‘qualified oil hot water boiler’ means any oil hot water boiler which achieves an annual fuel utilization efficiency rate of not less than 90.”.

(d) **EFFECTIVE DATE.**—The amendments made this section shall apply to expenditures made after December 31, 2007.

#### **SEC. 1022. EXTENSION AND MODIFICATION OF TAX CREDIT FOR ENERGY EFFICIENT NEW HOMES.**

(a) **EXTENSION OF CREDIT.**—Subsection (g) of section 45L (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2010”.

(b) **ALLOWANCE FOR CONTRACTOR'S PERSONAL RESIDENCE.**—Subparagraph (B) of section 45L(a)(1) is amended to read as follows:

“(B)(i) acquired by a person from such eligible contractor and used by any person as a residence during the taxable year, or

“(ii) used by such eligible contractor as a residence during the taxable year.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to homes acquired after December 31, 2008.

#### **SEC. 1023. EXTENSION AND MODIFICATION OF ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

(a) **EXTENSION.**—Section 179D(h) (relating to termination) is amended by striking “December 31, 2008” and inserting “December 31, 2009”.

(b) **ADJUSTMENT OF MAXIMUM DEDUCTION AMOUNT.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 179D(b)(1) (relating to maximum amount of deduction) is amended by striking “\$1.80” and inserting “\$2.25”.

(2) **PARTIAL ALLOWANCE.**—Paragraph (1) of section 179D(d) is amended—

(A) by striking “\$.60” and inserting “\$.75”, and

(B) by striking “\$1.80” and inserting “\$2.25”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

#### **SEC. 1024. MODIFICATION AND EXTENSION OF ENERGY EFFICIENT APPLIANCE CREDIT FOR APPLIANCES PRODUCED AFTER 2007.**

(a) **IN GENERAL.**—Subsection (b) of section 45M (relating to applicable amount) is amended to read as follows:

“(b) **APPLICABLE AMOUNT.**—For purposes of subsection (a)—

“(1) **DISHWASHERS.**—The applicable amount is—

“(A) \$45 in the case of a dishwasher which is manufactured in calendar year 2008 or 2009 and which uses no more than 324 kilowatt hours per year and 5.8 gallons per cycle, and

“(B) \$75 in the case of a dishwasher which is manufactured in calendar year 2008, 2009, or 2010 and which uses no more than 307 kilowatt hours per year and 5.0 gallons per cycle (5.5 gallons per cycle for dishwashers designed for greater than 12 place settings).

“(2) **CLOTHES WASHERS.**—The applicable amount is—

“(A) \$75 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 which meets or exceeds a 1.72 modified energy factor and does not exceed a 8.0 water consumption factor,

“(B) \$125 in the case of a residential top-loading clothes washer manufactured in calendar year 2008 or 2009 which meets or exceeds a 1.8 modified energy factor and does not exceed a 7.5 water consumption factor,

“(C) \$150 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.0 modified energy factor and does not exceed a 6.0 water consumption factor, and

“(D) \$250 in the case of a residential or commercial clothes washer manufactured in calendar year 2008, 2009, or 2010 which meets or exceeds 2.2 modified energy factor and does not exceed a 4.5 water consumption factor.

“(3) **REFRIGERATORS.**—The applicable amount is—

“(A) \$50 in the case of a refrigerator which is manufactured in calendar year 2008, and consumes at least 20 percent but not more than 22.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

“(B) \$75 in the case of a refrigerator which is manufactured in calendar year 2008 or 2009, and consumes at least 23 percent but no more than 24.9 percent less kilowatt hours per year than the 2001 energy conservation standards,

“(C) \$100 in the case of a refrigerator which is manufactured in calendar year 2008, 2009, or 2010, and consumes at least 25 percent but not more than 29.9 percent less kilowatt hours per year than the 2001 energy conservation standards, and

“(D) \$200 in the case of a refrigerator manufactured in calendar year 2008, 2009, or 2010 and which consumes at least 30 percent less energy than the 2001 energy conservation standards.”.

(b) **ELIGIBLE PRODUCTION.**—

(1) **SIMILAR TREATMENT FOR ALL APPLIANCES.**—Subsection (c) of section 45M (relating to eligible production) is amended—

(A) by striking paragraph (2),

(B) by striking “(1) IN GENERAL” and all that follows through “the eligible” and inserting “The eligible”, and

(C) by moving the text of such subsection in line with the subsection heading and redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(2) **MODIFICATION OF BASE PERIOD.**—Paragraph (2) of section 45M(c), as amended by paragraph (1) of this section, is amended by striking “3-calendar year” and inserting “2-calendar year”.

(c) **TYPES OF ENERGY EFFICIENT APPLIANCES.**—Subsection (d) of section 45M (defining types of energy efficient appliances) is amended to read as follows:

“(d) **TYPES OF ENERGY EFFICIENT APPLIANCE.**—For purposes of this section, the types of energy efficient appliances are—

“(1) dishwashers described in subsection (b)(1),

“(2) clothes washers described in subsection (b)(2), and

“(3) refrigerators described in subsection (b)(3).”.

(d) **AGGREGATE CREDIT AMOUNT ALLOWED.**—

(1) **INCREASE IN LIMIT.**—Paragraph (1) of section 45M(e) (relating to aggregate credit amount allowed) is amended to read as follows:

“(1) **AGGREGATE CREDIT AMOUNT ALLOWED.**—The aggregate amount of credit allowed under subsection (a) with respect to a taxpayer for any taxable year shall not exceed \$75,000,000 reduced by the amount of the credit allowed under subsection (a) to the taxpayer (or any predecessor) for all prior taxable years beginning after December 31, 2007.”.

(2) **EXCEPTION FOR CERTAIN REFRIGERATOR AND CLOTHES WASHERS.**—Paragraph (2) of section 45M(e) is amended to read as follows:

“(2) **AMOUNT ALLOWED FOR CERTAIN REFRIGERATORS AND CLOTHES WASHERS.**—Refrigerators described in subsection (b)(3)(D) and clothes washers described in subsection (b)(2)(D) shall not be taken into account under paragraph (1).”.

(e) **QUALIFIED ENERGY EFFICIENT APPLIANCES.**—

(1) **IN GENERAL.**—Paragraph (1) of section 45M(f) (defining qualified energy efficient appliance) is amended to read as follows:

“(1) **QUALIFIED ENERGY EFFICIENT APPLIANCE.**—The term ‘qualified energy efficient appliance’ means—

“(A) any dishwasher described in subsection (b)(1),

“(B) any clothes washer described in subsection (b)(2), and

“(C) any refrigerator described in subsection (b)(3).”.

(2) **CLOTHES WASHER.**—Section 45M(f)(3) (defining clothes washer) is amended by inserting “commercial” before “residential” the second place it appears.

(3) **TOP-LOADING CLOTHES WASHER.**—Subsection (f) of section 45M (relating to definitions) is amended by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively, and by inserting after paragraph (3) the following new paragraph:

“(4) **TOP-LOADING CLOTHES WASHER.**—The term ‘top-loading clothes washer’ means a clothes washer which has the clothes container compartment access located on the top of the machine and which operates on a vertical axis.”.

(4) **REPLACEMENT OF ENERGY FACTOR.**—Section 45M(f)(6), as redesignated by paragraph (3), is amended to read as follows:

“(6) **MODIFIED ENERGY FACTOR.**—The term ‘modified energy factor’ means the modified energy factor established by the Department of Energy for compliance with the Federal energy conservation standard.”.

(5) **GALLONS PER CYCLE; WATER CONSUMPTION FACTOR.**—Section 45M(f) (relating to definitions), as amended by paragraph (3), is amended by adding at the end the following:

“(9) **GALLONS PER CYCLE.**—The term ‘gallons per cycle’ means, with respect to a dishwasher, the amount of water, expressed in gallons, required to complete a normal cycle of a dishwasher.

“(10) **WATER CONSUMPTION FACTOR.**—The term ‘water consumption factor’ means, with respect to a clothes washer, the quotient of the total weighted per-cycle water consumption divided by the cubic foot (or liter) capacity of the clothes washer.”.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall apply to appliances produced after December 31, 2007.

### **TITLE XI—SENSE OF THE SENATE**

#### **SEC. 1101. SENSE OF THE SENATE.**

It is the sense of the Senate that in implementing or carrying out any provision of this Act, or any amendment made by this Act, the Senate supports a policy of noninterference regarding local government requirements that the holder of a foreclosed property maintain that property.

Amend the title so as to read: “An Act to provide needed housing reform and for other purposes.”.

## WEEK OF THE YOUNG CHILD

Mrs. BOXER. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 517 submitted earlier today by Senator SALAZAR.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 517) designating the week of April 13-19, 2008, as "Week of the Young Child."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DODD. Madam President, I rise today to recognize the "Week of the Young Child." With 20 million children under the age of 5 in this country, these children are our country's future, and we must support and invest in our future. Providing children with access to quality early education programs will help to ensure that all children are not only ready for school, but ready to succeed and reach their full potential.

In Connecticut, early care and education centers were established to provide quality early education to children of low- and moderate-income families. These centers, which are in communities all over the State, would not exist without a combination of State and Federal funds. Connecticut's centers are accredited by the National Association for the Education of Young Children and seek to support and promote the cognitive, physical, social, and emotional development of children.

The Children's Center of New Milford, CT, is one of these funded early care and education centers. The center offers quality care on a sliding-fee scale to approximately 80 families. In addition to providing educational and social opportunities, the center also provides 80 percent of a child's daily nutritional needs including breakfast, a hot lunch, and an afternoon snack.

Many of the parents helped by the center provide the workforce for small and large companies. They are employed by fast food stores, department stores, grocery stores, local restaurants, and nursing homes. Without the funded centers, these parents would not be able to afford childcare, and their children would not be able to benefit from the various educational, social, and emotional supports the centers provide.

One Connecticut parent wrote to me about how a quality pre-K program has changed her child's life saying: "My three year old loves books. My three year old interacts well with others. My three year old knows how to express himself without anger. My three year old will grow up to be a good citizen. My three year old is a product of good parenting and a quality pre-K program. As a single working parent, I rely on a pre-K program to fill the gaps when I am unavailable to nurture and teach my child."

I also heard from an elementary school Spanish teacher who discussed

the benefits he has seen when children who come from non-English speaking families attend quality pre-K programs saying: "The ability to learn with peers and children who do speak English at home helps these children so that they are not further behind their peers when they start kindergarten."

Funding quality early education programs such as these is essential to support the children, parents, communities, and future of our Nation. I thank Senators SALAZAR and COCHRAN for their leadership with regard to the resolution designating the "Week of the Young Child" and proudly support them in their valuable efforts.

Mrs. BOXER. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 517) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

## S. RES. 517

Whereas there are 20,000,000 children under the age of 5 in the United States;

Whereas numerous studies, including the Abecedarian Study, the Study of the Chicago Child-Parent Center, and the High/Scope Perry Preschool Study, indicate that low income children who have enrolled in quality, comprehensive early childhood education programs—

(1) improve their cognitive, language, physical, social, and emotional development; and

(2) are less likely to—

(A) be placed in special education;

(B) drop out of school; or

(C) engage in juvenile delinquency;

Whereas the enrollment rates of children under the age of 5 in early childhood education programs have steadily increased since 1965 with—

(1) the creation of the Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.);

(2) the establishment of the Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

(3) the enactment of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

Whereas many children eligible for, and in need of, quality early childhood education services are not served;

Whereas only about one-half of all preschoolers who are eligible to participate in Head Start programs have the opportunity to do so;

Whereas less than 5 percent of all eligible babies and toddlers in the United States receive the opportunity to participate in Early Head Start;

Whereas only about 1 out of every 7 eligible children receives assistance under section 658C of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858a) to—

(1) enable the parents of the child to continue working; and

(2) provide the child with safe and nurturing early childhood care and education;

Whereas, although State and local governments have responded to the numerous benefits of early childhood education by making

significant investments in programs and classrooms, there remains—

(1) a large unmet need for those services; and

(2) a need to improve the quality of those programs;

Whereas, according to numerous studies on the impact of investments in high-quality early childhood education, the programs reduce—

(1) the occurrence of students failing to complete secondary school; and

(2) future costs relating to special education and juvenile crime; and

Whereas economist and Nobel Laureate, James Heckman, and Chairman of the Board of Governors of the Federal Reserve System, Ben S. Bernanke, have stated that investment in childhood education is of critical importance to the future of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the week of April 13-19, 2008, as "Week of the Young Child";

(2) encourages the citizens of the United States to celebrate—

(A) young children; and

(B) the citizens who provide care and early childhood education to the young children of the United States; and

(3) urges the citizens of the United States to recognize the importance of—

(A) quality, comprehensive early childhood education programs; and

(B) the value of those services for preparing children to—

(i) appreciate future educational experiences; and

(ii) enjoy lifelong success.

## ORDERS FOR THURSDAY, APRIL 17, 2007

Mrs. BOXER. I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 12:45 p.m. tomorrow, Thursday, April 17; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for use later in the day, and the Senate then resume consideration of H.R. 1195, the highway technical corrections bill.

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

## PROGRAM

Mrs. BOXER. For the information of all Senators, we are working on an agreement to have votes in relation to amendments tomorrow. Those votes could be as early as 1:45 p.m.

As a reminder, today cloture was filed on the Boxer substitute No. 4146 and H.R. 1195. Under the rule, the filing deadline for first-degree amendments is 1 p.m. tomorrow, Thursday, April 17.

## ADJOURNMENT UNTIL 12:45 P.M. TOMORROW

Mrs. BOXER. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:32 p.m., adjourned until Thursday, April 17, 2008, at 12:45 p.m.