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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 4, 2009, at 12:30 p.m.

Senate

FRIDAY, MAY 1, 2009

The Senate met at 9:30 a.m. and was called to order by the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia.

PRAYER

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

Let us pray.

Gracious God most holy, the source of our hope, our Senators need Your presence and help for the journey ahead. You promised that You will never fail or forsake them, so empower them to trust You, come what may. Give them patience and make them faithful as they wait in faith for the harvest of their stewardship. Allow them to minister to those on life's margins, continuing Your work of setting the captives free. Lord, give them wisdom and courage to serve their generation in a way that honors You. May they place their lives and this Nation's future into Your all-powerful hands. Cause them to be people of faith and integrity, that we may lead a quiet and peaceful life with godliness and honesty. We pray in the Redeemer's Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARK R. WARNER 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 assistant legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 1, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK R. WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 896, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 896) to prevent mortgage foreclosures and enhance mortgage credit availability.

Pending:

Dodd-Shelby amendment No. 1018, in the nature of a substitute.

Corker amendment No. 1019 (to amendment No. 1018), to address safe harbor for certain servicers.

Vitter amendment No. 1016 (to amendment No. 1018), to authorize and remove impediments to the repayment of funds received under the Troubled Asset Relief Program.

Vitter amendment No. 1017 (to amendment No. 1018), to provide that the primary and foundational responsibility of the Federal Housing Administration shall be to safeguard and preserve the solvency of the administration.

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

SCHEDULE

Mr. DODD. Mr. President, in the absence of the majority leader, who will be here a little later, I have been asked to say that following leader remarks, the Senate will resume consideration of S. 896, a bill to prevent mortgage foreclosures and enhance credit availability. We hope to reach an agreement today on a finite list of amendments—the leader does.

We have been working at that, I can say to the Presiding Officer, so we can complete the bill on Tuesday.

There will be no rollcall votes today. Senators should expect the first vote on Monday to begin at approximately 5:30 p.m. Senators should note we could have more than one vote Monday evening.

With that, I see my colleague from Oklahoma.

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

Mr. INHOFE. Mr. President, I ask unanimous consent to be considered speaking in morning business for as much time as I consume.

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

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

EPA'S ENDANGERMENT FINDING

Mr. INHOFE. Mr. President, I am on the floor to express some concerns I have concerning Guantanamo Bay and the efforts of some people, for no reason that I can understand, who want to close it. However, before doing that, another matter is happening right now.

On Friday of last week, the administration set in motion a ticking timebomb with its release of an endangerment finding for carbon dioxide and five other greenhouse gases. The ruling proposes that carbon dioxide is a dangerous pollutant that threatens the public health and welfare, and therefore must be regulated under the 1970 Clean Air Act.

This so-called endangerment finding sets the clock ticking on a vast array of regulations and taxes on small businesses throughout America that would be devastating. They claim, at least for now, to attempt to organize the chaos by limiting it to motor vehicles, which is a bad enough option considering the state of the auto industry to which we are all so sensitive with what is happening. Any attempt to stretch the Clean Air Act to regulate these gases illustrates a kind of game of Russian roulette this administration is playing with the American economy. We start with the auto industry. I can assure you, it is not going to end up there.

They are presenting policymakers with a false choice: Using an outdated, ill-equipped, economically disastrous option under the Clean Air Act or, to pick another bad option, cap and trade.

What they are saying is we are either going to find this endangerment finding, which will allow us to go ahead under the Clean Air Act provisions of 1970, or we are going to then start something that would be almost the same thing as cap and trade, except it will be done through the Executive and it will be done through the Clean Air Act amendments so we will have no control of it, in terms of doing it through legislation. As you know, there are several cap-and-trade schemes that are up there.

Last Friday, a week ago today, the Wall Street Journal, in an editorial, commented on this false choice. I agree with them. I will be quoting now from the Wall Street Journal, a week ago today. They said:

Still, why confine the rule only to cars and trucks? By the EPA's own logic, it shouldn't matter where carbon emissions come from. Carbon from a car's tailpipe is the same as carbon from a coal-fired power plant. And transportation is responsible for only 28 percent of U.S. emissions, versus 34 percent for electricity generation. Ms. Jackson is clearly trying to limit the immediate economic impact of her ruling, so as not to ignite too great a business or consumer backlash.

But her half-measure is also too clever by half. By finding carbon a public danger, she is inviting lawsuits from environmental lobbies demanding that EPA regulate all carbon sources. Massachusetts and two other states have already sued in federal court to force the EPA to create a NAAQS for CO_2.

We have gone through a NAAQS process with particulate matter and we know how that works.

For further background on this matter, let me explain. The history behind the EPA's endangerment finding dates back to 1999, when the International Center for Technology Assessment, joined by Greenpeace, the Green Party of Rhode Island, Earth Day Network, and 15 other organizations—far left-wing organizations, I might add—filed a petition with EPA, demanding it regulate greenhouse gas emissions from new motor vehicles. These groups urged the EPA Administrator to reduce the effects of global warming by regulating the emissions on greenhouse gases for ''new motor vehicles.''

In the landmark Supreme Court case of Massachusetts v. EPA, they successfully argued that auto emissions were causing global warming, which in turn was eroding the coastline of Massachusetts. The remedy, they said, was to control greenhouse gas emissions from cars. All this begs the obvious question: What effect would EPA regulation of tailpipe emissions actually have on global temperatures?

In recent testimony before the House Ways and Means Committee on the climate impacts of regulating carbon emissions, Dr. John Christy of the University of Alabama—that is at Huntsville—found that such regulations would be ''an undoubtedly expensive proposition'' and would have ''virtually no climate impact.'' Christy calculated this using the IPCC climate models. Let's keep in mind that is the United Nations Intergovernmental Panel on Climate Change, that has been very biased in this whole thing and actually started the whole issue, the concept that anthropogenic gases—CO_2, methane—are causing climate change or causing global warming.

Christy calculated, using the IPCC climate models, that even if the entire country adopts these rules, the necessary impact would be at most one-hundredth of 1 degree by the year 2100.

Further, he said:

Even if the entire world did the same, the effect would be less than 4/100 of a degree by 2100, an amount so tiny we can't even measure it. . . .

This is what Dr. John Christy has said. It is almost exactly the same thing as back during the Clinton administration, when we had Al Gore as Vice President. He called upon someone to put together—at that time we were coming this close to ratifying the Kyoto convention. He said: We want you to do a study and say if we were to ratify the Kyoto convention and all other countries that are developed nations would do the same thing, how much would it reduce the temperature in 50 years.

They did the study and found out it was 7/100 degrees Celsius. They tried to hide that thing, but we did find it. That is exactly the same thing Dr. Christy said here, what he discovered and testified to last week.

Once the EPA makes a finding that greenhouse gases endanger public health and welfare under the Clean Air Act, who specifically would be affected? As EPA's Advance Notice for Proposed Rulemaking makes clear—that is taking place right now—it makes it clear that an endangerment finding would lead to regulations covering nearly every facet of the American economy.

In reading through comments filed in the regulatory docket, one is struck by how broadly the Clean Air Act would apply once an endangerment finding is made—especially previous sources that have never come under control of the Act. EPA received thousands of public comments from various industries and groups that expressed concern and outright opposition—on issues of cost, competitiveness, jobs, and administrative complexity—to greenhouse gas regulation under the CAA.

The following excerpts, taken from comments filed by the ANPR—the American Association of Housing Services for the Aging—speak for themselves.

The members of AAHSA . . . help millions of individuals and their families every day through mission-driven, not-for-profit organizations dedicated to providing the services that people need, when they need them, in the place they call home. Our 5,700 member organizations, many of which have served their communities for generations, offer the continuum of aging services: adult day services, home health, community services, senior housing, assisted living residences, continuing care retirement communities and nursing homes.

AAHSA opposes regulation of greenhouse gases under the Clean Air Act. The Clean Air Act is not suited to regulate greenhouse gases, as the EPA administrator and several other federal agencies have opined. In addition, if the EPA regulates greenhouse gases under the Clean Air Act, many AAHSA members could be subject to costly and burdensome Clean Air Act programs. For example, health care facilities with 51,000 square feet or greater would be subject to the Prevention of Significant Deterioration (PSD) permitting requirements. This would require such facilities to get a PSD permit prior to new construction or modifications . . . Finally, there is also the possibility that health care facilities would need to obtain Title V operating permits from the EPA one year from when greenhouse gases become regulated, which would add to the already stressed budgets of nonprofit health care facilities.

Here is another one—Family Dairies USA. This is testimony just a week ago.

Family Dairies USA is a dairy cooperative with 3600 members located in a six state area in the Upper Midwest of the United States.

Our members are involved in production agriculture, meaning that a majority of them produce the corn that feeds the cows that produce the milk which feed the Nation. We are opposed to current regulations relating to greenhouse gases under the Clean Air Act as it relates to production agriculture.

Now, this would be of interest to any of the Members who are from agricultural States such as my State of Oklahoma. I am quoting now from this organization:

Title V requires that any entity emitting more than 100 tons per year of regulated pollutant must obtain a permit in order to continue to operate. EPA has no choice but to require those permits once an endangerment finding is made.

In other words, they have to do this. This is not something that is an option.

USDA, [the U.S. Department of Agriculture,] has stated that an operation with more than 25 dairy cows emits more than 100 tons of carbon and would have to obtain permits under Title V in order to continue to operate if greenhouse gasses are regulated.

Title V is administered by the States, and permit fees (tax) vary from state to state. EPA sets a ''presumptive minimum rate'' for permits, and that rate is $43.75 per ton for 2008–2009. For states charging $43.75 per ton, the cow fee (tax) for dairy would be $175 a cow.

The cow tax would impose a significant added cost for our dairy farmers that cannot easily be absorbed . . . Imposition of the tax will cause many operators to go out of business and would likely raise prices.

Obviously, it would. That is quoting from Family Dairies USA.

Mark Magney, president of Magney Construction:

We are a mid-sized construction firm—

This is testimony from last week—

we employ 30 full time staff and have been in business since 1994. We primarily engage in the construction of water and wastewater treatment facilities throughout the upper Midwest. We believe the Clean Air Act is ill-suited for regulating greenhouse gas emissions, and that the EPA should not move forward with the proposed rule or other regulation of greenhouse gas emissions under the Clean Air Act. Doing so could easily delay, if not halt, all future building and highway construction.

New construction and renovation are vital to our economy and to the future improvement of our environmental performance of our Nation's infrastructure and must be allowed to continue.

This is serious because right now we are looking at reauthorizing the Transportation bill. The last time we did it was 2005. That was a $287.4 billion bill for a 5-year reauthorization. Now we are up for reauthorization in 2009, and we are right now trying to figure out what to do about America's infrastructure. What we do not need is to have this additional regulation increase the cost of construction of the roads and the bridges that are so desperately needed.

According to Peter Glaser, a national legal expert on the Clean Air Act, an endangerment finding will lead to new EPA regulations covering virtually everything, including ''office buildings, apartment buildings, warehouse and storage buildings, educational buildings, health care buildings such as hospitals, and assisted living facilities, hotels, restaurants, religious worship buildings, public assembly buildings, supermarkets, retail malls, agricultural facilities, and many others.''

An array of new development projects could be delayed, perhaps for several years, causing ''an economic train wreck.'' This conclusion was supported recently by the Heritage Foundation's Center for Data Analysis, which found that EPA's new carbon regulations would destroy over 800,000 jobs and result in a cumulative GDP loss of some $7 trillion by 2029.

The administration and other groups have recently argued that these are only scare tactics and that no one is asking EPA to do this. They argue, in fact, that EPA has already figured out ways it can avoid sweeping in small sources of CO_2. That is what they always say. ''Well, this is just the big guys, not the little guys.'' I think we all know better.

However, when Republicans on the EPW Committee asked the administration's nominee who is set to head the office where the endangerment finding and regulations following it will be proposed, how they plan to manage this, we have not gotten a straight answer yet. I know this because I am the ranking member on the EPW Committee, and we are going through the nomination and the confirmation process.

I have been very cooperative. I certainly supported Lisa Jackson and others, even though I do not agree with them philosophically. But we are not getting straight answers because no one wants to get out on that limb. They do not want to admit we are going to regulate everything if this comes along.

Our reason to question is not based on scare tactics. Staff uncovered some comments in the proposed record that argued quite differently. The Conservation Law Foundation, in their comments on EPA's Advanced Notice of Proposed Rulemaking—that is what we are in the middle of now, on greenhouse gas regulation under the Clean Air Act—did ask EPA to regulate such sources. Moreover, both groups asserted that EPA is required by law—it is not optional but required by law—to apply the PSD program to sources emitting above 100 to 250 tons per year. No exceptions to that. Pretty scary.

The Center for Biological Diversity argued:

While it is uncontroversial that EPA should prioritize the largest pollution sources first, one of the reasons that the NSR program will be such an effective tool for reducing greenhouse gas emissions is that it applies to a wide variety of sources that will emit in excess of the applicable statutory threshold of 250 or 100 tons per year.

So they are admitting this is the case. They argued:

As a threshold matter, the asserted belief of EPA officials that the statutory requirements are burdensome or not ''efficient'' as they should be simply does not excuse the agency from following the law. The EPA has no authority to weaken the requirements of the statute simply because its political appointees do not like the law's requirements.

But can't EPA just invent new thresholds?

Several of the suggestions that EPA has advanced are outside the scope of its authority. The EPA has no authority to set higher greenhouse gas major source cutoffs and significance levels.

That is something that is pretty scary. I think what we need to understand is that we are looking at the United States of America. I have been on this floor now for 9 years, starting way back when we were considering ratification of the Kyoto Treaty. And I have to say, at that time I was the chairman of the Environment and Public Works Committee. Republicans were a majority and I was chairman. I assumed that manmade gases, anthropogenic gases, CO_2, methane, were causing global warming because that is what everybody said, until the Wharton School of Economics came out with the Wharton Econometric Survey.

In this survey they found—they answered the question: What would it cost if we in the United States signed the Kyoto Treaty and lived by its emissions requirements?

The range was between $300 and $330 billion a year. After all of these things our new President has been doing with the big spending and a $3.5 trillion budget and tripling the public debt in the next 10 years, we do not think about $300 billion being that much, but it really is. We are talking about $3,000 a family in my State of Oklahoma. Actually, it exceeds that.

So I thought at that time, if there is some doubt as to the science, we better find out about it because if we are going to sign that treaty, that is what it is going to cost people in America. We started checking. We found a lot. The whole thing started with the IPCC from the United Nations. They would love nothing more than to have some big global tax and not have to be accountable to individual countries. Maybe that was not their motive, I don't know.

I do know this: We started looking at the science only to find out many of the people who were the leaders in other countries—names come to my mind such as David Bellamy from the UK. He was with Al Gore 10 years ago marching up and down the streets saying: Global warming is going to kill everybody. Now he is one of the premiere scientists in the UK. He is now actually on my side in terms of being skeptical as to the science.

The same thing is true with Nir Shaviv in Israel, with Claude Allegre in France, a very well known socialist, one with whom I do not agree on anything except his new position which has now refuted this idea that greenhouse gases are caused—that global warming is caused by manmade gases. So with all of those changes, I suggest any of my colleagues here who would like to see documentation, I have my Web site inhofe.senate.gov. On this Web site we cite all of the over 700 scientists who were on the other side of this issue and have now joined the skeptics list.

The reason they are trying to regulate greenhouse gases under the Clean Air Act is because they know they cannot get it passed in this Chamber. In the House it probably would get passed.

The House has never had occasion to debate this issue. They have not had it. We have had it four times. We had it in the Kyoto Treaty, we had it in the McCain-Lieberman bill, the Warner-Lieberman bill, and we had it in the Sanders-Boxer bill.

If we stop and look at the trend, more and more of my colleagues are realizing now that the science is not there, but the economics is there. If we look at what happened back in 2005, 2005 I chaired the committee, so it was my responsibility to defeat it. That was the McCain-Lieberman bill. We had, at that time—it was going to be about a $340 billion tax increase for the American people, and we debated it for 5 days, 10 hours a day. I stood right here at this desk for 50 hours, and we could only get two or three Senators to come down and participate and help me on my side. But we defeated it because people did not want to have to go home and explain to people that on dubious science they are passing this huge tax increase.

Then we fast-forward to 2008. In 2008, it was totally different because that was the Warner-Lieberman bill that was even a more aggressive bill in terms of its emission requirements. MIT had a value of that somewhere around $366 billion a year. So that would be another huge tax increase.

What happened in that 3-year period? In 2008, it did not take 5 days to defeat it, it happened in 2 days. There were 23 Senators who came down and helped me on the Senate floor. Why are so many people concerned about this, so many Senators and House Members, about getting into this issue? They will vote right, but they do not want to talk about it because they have huge amounts of money—moveon.org, George Soros, Michael Moore, they put in—what I call the Hollywood elitists, they put in millions of dollars a year and consequently there are a lot of Members who are afraid of this issue.

But there are only 39 votes at most. They need 60 votes. It is not going to pass. Since this is not going to pass the Senate, they are going to try to do as much as they can under regulations and provisions of the Clean Air Act.

GUANTANAMO BAY

Mr. President, just briefly I want to share my findings. I only wish every Member of the Senate would take the time to go down to Guantanamo Bay and spend some time down there because if they do they would come back asking the question: Why in the world would we close this prison?

Even media that has been very unfriendly—the liberal media would like to close anything having to do with the military or having to do with prisons—came back and said: Wait a minute, there is a premiere facility down there. There has never been a documented case of any kind of waterboarding, any kind of torture. The conditions of the detainees down there are such that everyone down there understands they are being treated better than they should be treated.

Did you know we actually have one doctor or medical practitioner for each two detainees down there? Let's keep in mind who they are. These are detainees. They are not prisoners of war; they are terrorists. Many of them have killed a lot of Americans. They are down there right now.

Anticipating that there might be a problem keeping that facility open, we are down now to 245 detainees in Gitmo, 245. Of the 245—I believe this is about a week old, but I think it is still accurate—there are 170 of them who cannot be sent back to their countries because their countries would not repatriate them. They will not allow them to come back.

Of the 170, some 110 are rough, tough guys. We are talking about Khalid Mohammad, who is the instigator of 9/11. We are talking about some really bad guys. So the position that the Obama administration first took, and this came out during the inaugural address, and I agreed with him at that time, he said:

> Well, we would like to close it, but we want to wait and make sure we can take care of adjudicating and take care of these detainees in some other facility.

That was pretty responsible. I disagreed that we should close it because it is one of the few good things we have. We don't get many good deals in America. That has only cost us $4,000 a year since 1903. Name another bargain like that.

Now the alternatives are this: If they close it and don't do anything to handle how they will adjudicate these cases, they could end up in our court system. I am not a lawyer. I am one of the few nonlawyers in this Chamber. We know the rules of evidence are different in a tribunal than in a court case. Very likely, it would be almost impossible to get a conviction. Consequently, a lot of these guys could be turned loose.

Right now, half the States have passed something in their legislatures—my State of Oklahoma has—saying we don't want any terrorists loose in the United States. They even proposed that there are 17 areas in America where we could detain these people. One of them happens to be Fort Sill in Oklahoma. I went down to that facility. Sergeant Major Carter, a young lady who is in charge, was saying: I spent 2 years in Gitmo. Why in the world would we close that down? We can't handle that kind of thing. We don't have the same kind of facilities here.

The arguments are not real in terms of any kind of abuse. They have better medical care than they have ever had before. By their own statements, it is better food than they have ever had before. Besides, there is no place else. If we look at what they are doing and the alternatives, we really don't have a choice. If only people in this Chamber and likewise in the House would recognize that we are going to have to come up with some kind of an alternative before we close it down. We spent $12 million. It took 12 months to build. I can't remember the name, but it is a courthouse in Gitmo. That is where they handle the tribunals. The rules of evidence are such that they can't do it in our court system. They have already shut that down, so they are not trying these people now. They should be, but they are not. There is no place else. It is not just the 245 who are there, but, with the escalation of what we are doing in Afghanistan—I was there last week—I can assure my colleagues, there will be more detainees who will come in. We will have to figure out something to do with the rest of them. There is no place else.

I only wish that anyone who is supporting the position of closing Gitmo would answer two questions. First, why? What is the possible reason for closing it? No. 2, what are we going to do with the detainees if we do?

I yield the floor and express my appreciation to the Senator from Connecticut for giving me the time this morning.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. DODD. Mr. President, the pending business before the Senate is S. 896, the Helping Families Save Their Homes Act. I would like to take a few minutes and review the provisions of this bill that Senator SHELBY of Alabama and I have offered in the form of a substitute. It is similar to the original bill, but there are some changes. We have been told there are somewhere in the neighborhood of a dozen amendments, maybe a little less, that our colleagues have proposed. We are trying to work out a finite list of amendments, to consider them on Monday, with the hope of getting to conclusion of this bill either by Monday or Tuesday—Monday may be a little optimistic but by Tuesday to be able to complete work before moving on to other business.

This is a very important piece of legislation. Many of our residents and citizens are deeply concerned about the foreclosure problems. I have repeated the numbers over and over. I suspect many people are aware, but 10,000 people a day run the risk of losing their homes through default or the auction process. Those numbers have not been shrinking at all. In fact, there are estimates that the numbers may actually increase.

We have tried over the last 2 years any number of steps to reduce and mitigate the foreclosure problem, including inviting the major lending institutions to step up and voluntarily talk about mitigation. That process began as early as the late winter of 2007 and the spring of 2007. Regretfully, those institutions did little or nothing to try to mitigate this problem.

In fact, the previous administration refused to accept the magnitude of the problem, despite overwhelming evidence, even in early 2007, that the foreclosure issue was going to mushroom

far beyond early predictions. Of course, that is exactly what has happened.

Today, most analysts tell us that while there are a lot of elements that contributed to the present condition the economy is in, no one disagrees that a major source of economic hardship began with the residential real estate market. This problem will not be solved until we get to the bottom of it. While there are a lot of other issues to talk about, and we are doing that, until this issue of keeping people in their homes at rates and mortgages they can afford is resolved, this problem will persist.

The legislation Senator SHELBY and I offer, along with the support of committee members—and I note the Presiding Officer is a very distinguished member of the committee—is to try to offer some relief. I will explain briefly the provisions of the bill. I invite my colleagues to review it and, hopefully, be supportive on Monday or Tuesday when we try to reach final passage.

We expand the ability of the Federal Housing Administration and rural housing to modify loans. Servicers of the Federal Housing Administration and rural housing do not have the same ability to modify these Federal Housing Administration or USDA loans as they do for non-Government loans they service. Our legislation authorizes the Department of Housing and Urban Development and the U.S. Department of Agriculture to give these servicers the opportunity and incentive to participate in the Obama Loan Modification Program or to otherwise modify the loans in ways that are not presently available to distressed homeowners, including reducing interest rates, reducing principal, or stretching out the terms of these Government-insured loans. This is a major provision of the bill. To be able to provide the FHA and USDA with the authority to expand these opportunities can bring a tremendous amount of relief to people under those programs.

Secondly, we expand the access to the HOPE for Homeowners Act. This was legislation we adopted last summer. The legislation makes a number of changes to the HOPE for Homeowners Program to make it more user friendly and effective, including the option to lower fees, streamlining borrower certification requirements, giving the Secretary of Housing and Urban Development limited discretion to determine the amount and the distribution of future appreciation. It bans millionaires from the program and allows for incentive payments to servicers and originators who participate in the program.

The HOPE for Homeowners Act that passed overwhelmingly here, while the intentions for the bill were high, the reality is, the bill didn't even come close to achieving the goals those of us who crafted it thought it would. We have listened to a lot of people over the last number of months as to what could be done to make the proposal more effective and efficient to reach more people. The proposals I have mentioned were the ideas we have accumulated that we believe, and others believe, should make the program far more effective. It will not solve all the foreclosure problems, but it will be a major step in the right direction.

Thirdly, the bill creates more enforcement tools for the Federal Housing Administration to eliminate bad lenders. The bill empowers the Secretary of HUD to expeditiously drop lenders that break Federal Housing Administration rules, including, one, by authorizing the Department of Housing to go after lenders that break the rules but then withdraw from the program to avoid enforcement actions. We put a stop to that. We crack down on the misuse of FHA insurance issued on mortgages originated through unapproved third-party entities, and we authorize HUD to impose penalties on entities that misuse the Federal Housing Administration Ginnie Mae designations, another important housing program.

Fourth, this bill provides a safe harbor for servicers who modify a loan consistent with the Obama plan or refinance a borrower into a HOPE for Homeowners loan. This is a somewhat controversial provision because we end up having a contest between investors and bankers.

The problem is simply this: Even as more and more homeowners have fallen behind in their loans, the response of loan servicers has been inadequate to the issue. In part, their reason for not responding is because they fear they will be sued by investors or competing interests for doing so. The House of Representatives passed a very broad safe harbor provision, very similar to the one our colleague from Florida, Senator MARTINEZ, offered and passed by a voice vote in this body as part of the Senate-passed stimulus bill several months ago. The provision was dropped in conference. The safe harbor provision in this bill is much more narrowly drawn than was the proposal by Senator MARTINEZ. I thank him for it. He was very creative in offering the idea, but there were concerns raised that it was too broad, that we should make it more narrow in its application. So as to not disadvantage investors where they have a legitimate complaint and provide a safe harbor for those who don't deserve it, the safe harbor we crafted is much more narrowly drawn than the House provision or the one that passed the Senate in order to ensure that only servicers that provide modification consistent with the Obama plan get the benefit of the safe harbor.

In addition, this bill ensures that the HOPE for Homeowners refinances are covered as well. That will not satisfy all of the investor community, but it is far better than what was in the House bill or previously authored.

The fifth provision of this bill authorizes an additional $130 million for foreclosure prevention activities. We owe a special thanks to the majority leader, Senator REID, for its inclusion. He has been consistent over the months that I have been involved in these issues since becoming chairman of the Banking Committee 2 years ago, along with Senator SCHUMER and others, about providing additional resources for counseling. This bill provides these additional moneys. We have found in the past that where consumers are aware of what is available to them and they get advice as to how to proceed, we are able to reduce the problems of people losing their homes. Once you are in the foreclosure legal web, it is very difficult to help people. Once you are in that court setting, it is hard. So the goal is to try to catch individuals who qualify for some assistance, who would qualify for some relief before they end up in the legal bureaucracy. That is why counseling services have been so valuable over the last number of months, because they have been overwhelmed by the amount of work.

I know in my case, the head of my office in Connecticut, who has been with me for many years, literally every morning he arrives at work, he has e-mails—30, 40, 50 a day—from constituents seeking help because they fear they are about to lose their homes. I know other congressional offices as well as, of course, counselors are also being inundated with requests for help. Obviously, getting good counseling, good solid advice, is important. Senator REID has provided a very valuable contribution to this legislation with this proposal.

The sixth provision of this bill extends the $250,000 deposit insurance level for 4 years. Presently, that level would expire at the end of this year under an agreement reached earlier with the Chairperson of the Federal Deposit Insurance Corporation. Most people are aware that normally deposits are insured up to $100,000 per account. However, the Emergency Economic Stabilization Act increased coverage through the end of this year. This legislation extends the higher deposit insurance limit for banks, thrifts, and credit unions to the year 2013.

Deposit insurance has been a stabilizing force in our banking system since its inception in 1933. It is worth noting that the Federal Deposit Insurance Corporation originated in the Depression years. There were three things done at that time that had as much to do with the 60 years of relative stability in our economy. One was the formation of the Securities Exchange Commission, which played a very valuable role in beginning to govern those markets and to prohibit or limit some of the wildcatting that went on that created in good part the Depression of the 1930s.

Secondly was Glass-Steagall, which has been controversial with the separation of commerce and banking. We have begun to blur those lines. I was

involved in that effort back a number of years ago when we dealt with the Community Reinvestment Act. Like everyone else in this Chamber, I suspect if we were all asked if we could have anything back and redo, I wish that was one we could go back and revisit. Candidly, it seemed reasonable at the time, the firewalls. But, frankly, I think we could have done a little more to protect and separate those activities.

Third, in addition to the SEC and Glass-Steagall was the FDIC, the Federal Deposit Insurance Corporation—the run on banks. The very day Franklin Roosevelt took office in March of 1933—do not hold me to this number, but something like 5,000 banks declared a holiday, and there was a substantial run. People were frightened they were going to lose the savings they had accumulated, the deposits they had invested or put in these banks.

The Federal Deposit Insurance Corporation, providing that insurance to people that their accounts would be protected in an economic difficulty, had as much to do, if anything, in providing the kind of stability we have seen over the years. But that level of $100,000 has been around for a while. I forget how long, but it goes back several decades—well, 1980. My good friend and colleague in the Chamber, Jonathan Miller, tells me it has probably been since the 1980s for the $100,000, maybe even earlier. So there has been a desire to move this level up with good cause, even in the absence of the predicaments we are in.

So for those reasons, we raised it. I, for one, would have preferred we almost make it permanent—the $250,000—but others wanted to restrain this by the amount of time, and I respect their judgment. So there was a debate whether it should be 1 year or permanent. We settled on 4 years. My sense is, we are not going to roll this back in 4 years; it is going to be at least $250,000.

So for those out there who are concerned about whether there is enough certainty in all of this, while I know they would have preferred a permanent increase, when you are serving with 99 other colleagues here and you are trying to get things done, you have to make some compromises. So the chairman would have liked it permanent, some of my good friends in this Chamber wanted far less than that, and we settled on 4 years. That is the reason that timeframe has come up.

This is going to be tremendously important. The significant extension of the increase in deposit insurance will be especially helpful to smaller financial institutions in our respective States that are worried there would be a run from these institutions, including community banks that derive 85 to 90 percent of their funding from deposits.

So to the community bankers across the country that rightly have been disappointed that every time we talk about banks, we fail to distinguish between the more conservative, responsible activities of our community bankers across the country and the activities of other financial institutions that have had far less than that level of responsibility—so to our friends in the community banking system across the United States: We heard you on this. Many of you would have preferred a permanent raising. I agree with you about that, but this is the best I could do with this bill. It will not roll back, in my view. Eventually, I think we will make this permanent. For the time being, it is 4 years.

By helping community banks protect and grow their deposit bases, this legislation contributes to the effort to improve the availability of capital for lending. That, of course, affects small businesses, microbusinesses, and our constituents across the country. So while this is seen as some security and stability, particularly in the community banking system, this also is very important to small businesses and investors and depositors as well. That is why this legislation needs to be seen in the full context of those who will benefit from it—not only those facing foreclosure but obviously businesses that need borrowing, need that capital to stay alive, let alone try to expand and grow during these difficult times.

The eighth provision of this bill increases the permanent borrowing authority for both the Federal Deposit Insurance Corporation and the National Credit Union Administration. The bill increases the permanent borrowing authority for the FDIC from $30 billion to $100 billion. It has been since the 1990s—I think 1991, if I am not mistaken, was the time we settled on the $30 billion. It has been since then that there has been—actually long before this economic crisis—a desire to raise that borrowing authority level. So in this bill, we raise the authority from $30 billion to $100 billion. In the credit unions, we raise it to $6 billion.

We establish temporary additional borrowing authority from the $100 billion to $500 billion in the case of the FDIC and from $6 billion to $30 billion in the case of the National Credit Union Administration, to which the regulators may gain access only with—by the way, you only get beyond that $100 billion with the FDIC or beyond the $6 billion if you are part of the National Credit Union Administration if you are able to get the following agreements: The regulators may gain access only with a two-thirds vote by the Federal Deposit Insurance Corporation or the National Credit Union Administration, a two-thirds vote by the Federal Reserve Board, and agreement by the Secretary of the Treasury, in consultation with the President of the United States. Again, you have to have a two-thirds vote by the Federal Reserve Board, a two-thirds vote by the FDIC or National Credit Union Administration, approval by the Secretary of the Treasury, in consultation with the President of the United States. I hope my colleagues would feel those are enough safeguards that you would not find regulators being able to raise those amounts without going through some significant hoops, and the circumstances would have to be such that these various offices would agree.

FDIC—Federal Deposit Insurance Corporation—Chairman Sheila Bair has said that the temporary authority would allow the FDIC to reduce the special assessments on banks by as much as 50 percent, increasing lending by as much as $75 billion.

Again, going back to our banking community and their concerns about assessments, the fact that we are doing it, reducing those assessments by as much as 50 percent, is no small achievement. Again, it is real relief. By doing so, there is the likelihood these institutions can provide additional lending because those assessments will not be too high, which helps small businesses and borrowers across the country. Again, it is not unlike raising insurance levels.

We think these provisions will also make a great contribution to getting lending going again. The one thing we all hear from our constituents over and over again is: We are having a hard time accessing capital. So we hope these provisions will provide some additional relief in that area.

The ninth provision of this bill stretches out the payment of assessments to rebuild the bank, thrift, and credit union deposit insurance funds to 8 years. This is a very important provision. Again, it goes and relates to the last two provisions I talked about because, again, while we think we are providing some relief in terms of the amount of assessments, over what period of time you have to pay them is also a critical issue for these smaller lending institutions. By doing what I have just suggested—stretching it out to 8 years—community banks and credit unions will be able to devote more of their resources to making loans in the communities they serve.

This provision is especially important for credit unions because of the way their deposit insurance system is structured; otherwise, these institutions would have to rebuild their fund in 1 year, which could lead to a severe reduction in lending. So it is a major provision for both community banks and credit unions but particularly in the case of credit unions.

The 10th provision of the bill improves the FDIC's systemic risk special assessment authority. Again, it is related to the last three provisions I have mentioned. The Government's recent use of its systemic risk authority benefited large bank holding companies and their nonbank affiliates, shareholders, and creditors as well. Yet to recover any losses from systemic risk, the FDIC may now only charge banks and thrifts themselves. Obviously, this would unfairly burden community and other traditional banks, particularly

those with few or no nonbank activities.

What we have done in this bill would allow the FDIC, with the Treasury Secretary's concurrence, to directly assess bank holding companies if they stand to benefit from the Government's actions and correspondingly to reduce the cost to our community banks. Again, this is a major provision. It is a technical one, maybe, to many, but again, since a lot of these institutions do not have any nonbanks—and therefore run the risk in the absence of this provision—they could end up being assessed for those charges. This would allow the Secretary of the Treasury and the regulators to seek those assessments for the institutions that ought to be assessed since they are the ones benefiting from that program.

So these provisions, while they are technical in nature, I say to my colleagues—and they are not the kinds of issues you can explain necessarily in a quick sentence before a townhall meeting—let me tell you, they are very important. Are they going to solve the economic crisis? Absolutely not. Are they going to make a difference? Absolutely. Absolutely. So while this bill does not get the same degree of notoriety that others have, it is a critical component to getting our economy moving again.

For those of you who have heard—as I have heard over and over—from our community bankers, our community small businesses: Where is the lending, we think this bill, while it is not going to cause a floodgate to open in terms of lending, it lifts a lot of those barriers and restraints that people have otherwise felt when it comes to lending practices.

So do some of these community banks and thrifts and credit unions benefit as a result of this? Yes, they do. But let me remind you, when they do, the borrowers, the homeowners, the small businesses who are desperate for that lending, that capital, or to mitigate foreclosure, are a direct beneficiary of this legislation. So this is a bill where literally both the lending institutions and the borrowers are direct beneficiaries, and one of the reasons I think it is so important we try to adopt this as quickly as we can.

My hope is that on Monday or Tuesday we will be able to handle a few of these amendments, some of which have nothing to do with this bill. We have to deal with the TARP money and others things, and I appreciate people's concerns about that issue. But let's not miss an opportunity now to get this right.

If this bill becomes loaded down with a lot of other amendments—and I am always hesitant to speak for the majority leader, but in my conversations with him, he has indicated he is not going to spend forever on this. We will come back to it—recognizing that at some point, whether it is later this summer or next fall or maybe next winter, we could come back to this, I think that would be a tragedy because I think we can get this done. Senator SHELBY and I have worked hard on a bipartisan basis to put this legislation together. We have a very good Banking Committee that has worked on this legislation as well. And I think we would miss an opportunity not to get this done.

So to my colleagues who would like to bring up a lot of other issues—and I do not question their motives or sincerity behind those ideas that have little or nothing to do with this—I would urge restraint or we may run the risk of losing an opportunity to get this bill done.

There are a lot of other matters before this body that the leader has to get up for consideration. He cares deeply about this issue, as I have evidenced by the fact that he has contributed directly to this bill. But he also has other matters that deserve our attention. He has provided me the opportunity, along with Senator SHELBY, to get this bill done. Let's not miss this opportunity.

People talk about bipartisanship, working together. That is exactly what Senator SHELBY and I have done with our respective staffs to produce this product. It is not exactly everything Senator SHELBY would agree on. It is not everything I would agree on. But together we feel this is a product that deserves the support of our colleagues.

Let me, lastly, if I can, suggest to you that there are a number of very diverse groups that support our efforts. The Center for Responsible Lending is a strong advocate of this bill. The Credit Union National Association supports this bill. The Independent Community Bankers Association strongly supports this bill. The National Consumer Law Center supports this legislation. The American Bankers Association, the National Association of Consumer Advocates supports this bill, the Financial Services Roundtable, and the Housing Policy Council. To those who think this is just another list of organizations, let my remind those who are not familiar with these organizations, that is a very diverse list. You do not normally find consumer groups and the American Bankers Association, community bankers and the Center for Responsible Lending all agreeing on a bill. Yet that is exactly what has occurred with this legislation. So if you have any doubts about the importance of it, I would invite my colleagues to contact any of these organizations and ask them how significant this bill is.

Technical, it may be, in nature, and yet it is these technical corrections and improvements which can make a difference in the lives of our fellow citizens who are anxious—to put it mildly—that we step up and get the job done, get our economy moving again, restore our optimism and confidence as a people, and provide the kinds of steps that will move us in that direction.

Mr. President, lastly, I ask unanimous consent that letters of endorsement from various organizations I have just recited be printed in the RECORD.

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

CREDIT UNION
NATIONAL ASSOCIATION,
Washington, DC, April 30, 2009.

MEMBERS OF THE UNITED STATES SENATE:

On behalf of the Credit Union National Association (CUNA), I am writing in support of the Dodd Substitute Amendment to S. 896. CUNA is the largest credit union trade association, representing nearly 90% of America's 8,000 state and federally chartered credit unions and their 92 million members.

CUNA strongly supports the Dodd amendment, which includes a number of provisions aimed at helping credit unions continue to help their members weather the financial crisis and maintain member confidence in credit unions. We appreciate Chairman Dodd's willingness to work with us to address credit unions' concerns. We encourage you to support the Dodd amendment when it is considered later this week. Credit unions consider this a critical vote.

The Dodd amendment would extend until the end of 2013 the increase in deposit insurance coverage ($250,000) for the National Credit Union Share Insurance Fund (NCUSIF) that Congress enacted on a temporary basis as part of the Emergency Economic Stabilization Act of 2008. This provision is an important step that will help maintain member confidence in credit unions.

The Dodd amendment also includes a number of provisions aimed at helping credit unions manage the impact of the financial crisis on the credit union system. Even though credit unions use strong underwriting standards to make loans to their members and keep most of their mortgages in portfolio, no financial institution is immune from the current economic situation. Corporate credit unions, which provide payment, settlement, investment and other services for natural person credit unions, have been particularly hard hit by the economic maelstrom.

On March 20, the National Credit Union Administration (NCUA) placed two corporate credit unions—U.S. Central and Western Corporate Federal Credit Union (Wescorp)—into conservatorship. The losses at the two corporate credit unions were created by declines in the value of mortgage-backed securities in which they invested. Although these securities were originally AAA-rated and appeared prudent when the investments were made, market developments proved to the contrary. Despite these investment losses, the payment and settlement services provided by these corporate credit unions continue to be offered on a very sound basis.

The credit union system itself is covering the losses on these corporate credit union investments by way of a significant NCUSIF insurance assessment on all federally insured natural person credit unions. Under current law, credit unions must replenish their NCUSIF deposits equal to 1% of their insured shares on an annual basis and are also subject to premium charges when the fund drops below a 1.2% equity ratio. While credit unions expect to pay for the corporate credit union problem themselves, they would like to spread the losses over time, as banks are permitted to do for their insurance costs under current law.

The Dodd amendment would increase NCUA's borrowing authority from Treasury from $100 million to $6 billion, with the ability to borrow as much as $30 billion in exigent circumstances through December 2010. The amendment also establishes a Temporary Corporate Stabilization Fund that

would also help NCUA to spread out credit unions' insurance costs over seven years. Spreading these costs over multiple years means that credit unions can use the funds, that otherwise would have been used to pay the assessment immediately, to make credit available to their members. CUNA strongly supports both the additional borrowing authority for NCUA as well as the establishment of the Temporary Corporate Stabilization fund.

Time is of the essence. We appreciate the Senate's timely consideration of the Dodd amendment and hope it will be enacted expeditiously.

On behalf of America's credit unions, thank you very much for your consideration. Please support the Dodd amendment.

Sincerely,

DANIEL A. MICA,
President & CEO.

APRIL 30, 2009.

Hon. CHRISTOPHER DODD, Chairman,
Hon. RICHARD SHELBY, Ranking Member,
Senate Committee on Banking, Housing and Urban Affairs, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: We write to express our support for two provisions of S. 896 that would remove significant obstacles to economically rational loan modifications. One would explicitly allow servicers to modify loans where the modification results in a net benefit to the investors as a whole. The other would make homeowners whose loans are insured or guaranteed by FHA, VA or USDA eligible for the same type of affordable loan modifications that other borrowers may receive under the Administration's modification program. The foreclosure problem is so severe that multiple responses are needed, including these two. These amendments are modest, tightly drawn provisions that provide the incentives or authority needed to avoid preventable foreclosures.

New projections of foreclosures on all types of mortgages during the next five years estimate 13 million defaults. Right now, more than one in ten homeowners is facing mortgage trouble. Nearly one in five homes is underwater. With the housing sector responsible for one in eight U.S. jobs, the flood of new foreclosures will contribute to the growing unemployment rates, further constrict consumer spending, and severely reduce tax revenues at all levels of government.

Servicer safe harbor. Currently, foreclosures continue to outpace the rate at which servicers are modifying loans, and affordable modifications are particularly scarce for loans that have been securitized. Servicers cite as one of the main reasons for the lack of affordable modifications their concern about being sued by investors if they modify too aggressively—both because of restrictions in their contracts with investors and because many modifications may advantage one tranche of investors over another, even when benefiting investors as a group. A ''safe harbor'' is needed to allow servicers attempting to do the right thing the cover to make economically rational modifications that benefit the investors as a whole.

The servicer safe harbor provision in S. 896 is narrowly drawn, addressing modifications alone, and not origination issues, fraud or any other issue. It provides a safe harbor only for modifications that are affordable in accordance with Treasury guidelines, and only those where the net present value of the modification exceeds recovery through foreclosure, according to Treasury's prescribed calculations. So its effect will be to prevent ''tranche warfare'' and other obstacles from standing in the way of sound, economically rational modifications.

Voluntary modifications on FHA/VA/USDA loans. A second needed provision addresses modifications of FHA, VA and USDA insured and guaranteed loans. While private label securities are at the heart of the foreclosure crisis, 10 percent of seriously delinquent loans are government loans. There are currently two significant obstacles to modifying these loans when homeowners can no longer afford monthly payments, often due to lost income in today's struggling economy. First, servicers bear all the cost of modifying these loans, which serves as a disincentive to modification. Second, servicers have no statutory authority to offer more aggressive modifications in line with the Administration's HAMP program. The relevant provisions would address both of these problems by offering servicers incentives to modify government loans and giving them the authority to place borrowers in the same types of affordable modifications available to homeowners whose loans aren't insured or guaranteed by FHA, VA or USDA.

Sincerely,

CENTER FOR RESPONSIBLE LENDING,
NATIONAL ASSOCIATION OF CONSUMER ADVOCATES,
NATIONAL CONSUMER LAW CENTER (ON BEHALF OF ITS LOW-INCOME CLIENTS).

NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS,
Arlington, Viginia, April 30, 2009.

Re Support Dodd-Shelby Substitute to S. 896.

Hon. CHRISTOPHER DODD,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.
Hon. RICHARD SHELBY,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND RANKING MEMBER SHELBY: on behalf of the National Association of Federal Credit Unions (NAFCU), the only trade association exclusively representing the interests of our nation's federal credit unions, I am writing in support of your proposed substitute amendment to S. 896, the ''Helping Families Save Their Homes Act of 2009.'' NAFCU welcomes this important piece of legislation and would like to offer a few comments regarding the bill.

NAFCU urges the adoption of the corporate credit union stabilization fund proposal recently released by the National Credit Union Administration and contained in the amendment. We also applaud the adoption of a longer time frame regarding the repayment of the National Credit Union Share Insurance Fund (NCUSIF). By lengthening the repayment terms to 8 years, Congress ensures credit unions will be able to focus more of their resources to making loans that will strengthen the economy, rather than having to divert resources to rebuild the NCUSIF. These changes will relieve pressure on natural-person credit unions from pending NCUSIF premiums and allow them to provide consumer and small business loans to help the economy. We would also support extending the repayment period for the corporate stabilization fund from the proposed seven years to eight years.

While NAFCU is pleased to see an increase in emergency borrowing authority for the NCUSIF to $30 billion, we would urge the Senate to adopt a higher initial borrowing authority of $10 billion. This change is long overdue, since the current level of $100 million was established in 1971, and has not been modified for the growth of credit unions and their member deposits over time. While NCUA's initial request for borrowing authority was only $6 billion, we believe more prudent action would be to enact an amount of $10 billion, since the $6 billion figure would only cover what is currently known to be needed for the present corporate credit union crisis, and does not cover additional amounts that may arise. This new amount of $10 billion would not preclude the NCUA from only borrowing $6 billion, but rather it would allow them the flexibility to deal with the current situation. The extended emergency borrowing authority of $30 billion will help ensure the NCUA has the tools it needs should a new crisis emerge in these difficult times and is an important addition to the legislation.

Finally, as part of the Emergency Economic Stabilization Act of 2008, Congress increased the coverage on FDIC and NCUSIF insured accounts to $250,000 through December 31, 2009. This change serves to maintain public confidence in insured depository institutions in the current economic environment. The proposed amendment would extend the higher insurance level for four more years to 2013. While this extension would ease confusion many credit unions and their members already have about the pending sunset on December 31st, we believe that this new level should be made permanent.

NAFCU thanks you for your time and consideration regarding these matters. Should you have any questions or require any additional information please do not hesitate to contact me or Brad Thaler, NAFCU's Director of Legislative Affairs, at 703–522–4770.

Sincerely,

FRED R. BECKER, Jr.,
President and CEO.

HOUSING POLICY COUNCIL,
THE FINANCIAL SERVICES ROUNDTABLE,
Washington, DC, April 30, 2009.

Re Support for S. 896.

Hon. CHRIS DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.
Hon. RICHARD SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR SHELBY: we are writing in support of your legislation, S. 896, the ''Helping Americans Save Their Homes'' Act. The Financial Services Roundtable and its Housing Policy Council believe this legislation will help at-risk homeowners stay in their homes and make government and private sector foreclosure prevention efforts more effective.

Mortgage servicers are working hard to assist troubled homeowners and prevent foreclosures whenever possible. Private sector efforts are providing 250,000 workouts for troubled homeowners each month. However, difficult conditions in the housing market and the overall economy are causing hardship for more homeowners. Additional support for loan modifications and other foreclosure prevention efforts are needed and this legislation will provide it.

The Helping Americans Save their Homes Act will provide additional tools to help at-risk homeowners. Two of the most important provisions in the bill are:

Expanding Access to the HOPE for Homeowners (H4H) Program. This legislation makes a number of needed changes to the Hope for Homeowners Program to make it more accessible and attractive for homeowners and lenders to utilize.

Providing a safe harbor for servicers that modify a loan consistent with the President's Making Home Affordable plan or refinance a borrower into a HOPE for Homeowners (H4H loan. This legislation will provide additional protection to mortgage servicers who provide loan modifications to

borrowers consistent with the standards in the President's Making Home Affordable loan modification program. This protection, consistent with the goal of protecting investors' interests will promote more streamlined loan modification efforts.

We also support the legislation's efforts to increase FHA's ability to eliminate bad lenders from the program. In addition, we support the authorization of additional funding for foreclosure prevention counseling and for advertising to educate borrowers and prevent mortgage scams. Counseling for homeowners and combating scams are critical part of the industry's HOPE NOW Alliance foreclosure prevention efforts and the provisions of this bill will provide more support to non-profit counselors to enable them to assist homeowners and to educate homeowners to help them resist mortgage rescue scams.

The Financial Services Roundtable and Housing Policy Council strongly support this important legislation and we urge the Senate to approve it. Thank you for considering our views.

With best wishes,

JOHN H. DALTON,
President.
STEVE BARTLETT,
President and CEO.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, April 30, 2009.

Hon. CHRIS DODD,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

Hon. RICHARD SHELBY,
Ranking Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR SHELBY: I am writing on behalf of the members of the American Bankers Association in strong support of your substitute amendment to S. 896, the Helping Families Save Their Homes Act of 2009, which will soon be considered by the Senate.

The substitute provides the Federal Deposit Insurance Corporation (FDIC) with a much needed increase in its borrowing authority, extends the period for the restoration of the FDIC's deposit insurance fund from five to eight years, and provides a temporary extension (through 2013) of the FDIC's $250,000 deposit insurance limit.

The amendment also will make it easier for servicers to modify loan agreements. It improves the Hope for Homeowners Program to make it more accessible for lenders and better able to help homeowners avoid foreclosures.

ABA urges the Senate to pass this important legislation without extraneous amendments, and we look forward to working with you to have it enacted into law as quickly as possible.

Sincerely,

FLOYD E. STONER,
Executive Vice President, Congressional Relations & Public Policy.

Mr. DODD. Mr. President, I thank the Presiding Officer, and I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. BROWN. 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. BROWN. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

HONORING FOREIGN SERVICE OFFICER BRIAN ADKINS

Mr. BROWN. Mr. President, today is Foreign Affairs Day. Each year, as part of this special day, the American Foreign Service Association and the Department of State honor Foreign Service personnel who have lost their lives while serving our Nation overseas in the line of duty or under heroic or other inspirational circumstances. This year's Memorial Plaque Ceremony honors the life and service of Brian Adkins from Whitehall, OH, a Foreign Service officer who died on January 31, 2009, while serving in Ethiopia.

Brian, who would have turned 26 on February 2, 2009, joined the State Department in 2007 after receiving multiple degrees from George Washington University. Brian was quickly recognized for his intelligence and linguistic skill in seven languages, and the State Department assigned Brian as a consular officer to Addis Ababa, Ethiopia, in the summer of 2008. Immersing himself in the language and culture of the region, Brian dedicated his time to building a greater understanding of American values in the region and to helping Americans abroad.

Outside of his service, Brian entertained his family, friends, and coworkers as an accomplished violinist and cook. He was also a devoted Catholic who spent much of his free time volunteering and giving his time to those in need.

It is with great pride that we honor Brian Adkins and his family today. We have lost a talented and committed civil servant whose exceptional life serves to remind us of the importance and meaning of public service.

HEALTH CARE REFORM

Mr. President, for the first time in a long time, there is clear and widespread consensus that to improve the health of Americans and the strength of our Nation, we must act quickly and responsibly to reform a health care system that has failed far too many of our citizens.

The millions of uninsured, 45 million or so, and the tens of millions more underinsured Americans and the thousands of businesses struggling to compete globally with rising health insurance costs expect us to find a path forward.

With our Nation spending in excess of $2 trillion annually on health care, with too much of our citizens only a hospital visit and a pink slip away from financial disaster, we cannot afford to squander this opportunity. We cannot settle for simply marginal improvements. Instead, we must fight in this Chamber for substantial reforms that will significantly improve our health care system.

That is why this week 15 of my colleagues and I sent a letter to Chairman KENNEDY of the HELP Committee and Chairman BAUCUS, the chairman of the Finance Committee, making the case for giving Americans a health insurance option not controlled by the health insurance industry.

We must preserve access to employer-sponsored coverage for those who want to keep their current plan, but that is clearly not enough. Again, we want to preserve access for those Americans who have their own employer-sponsored plan, if they decide to stay in that plan, giving Americans a choice to go outside that with a private or public health insurance plan and a good policy and good choices.

At a time when too many Americans are struggling to pay health care costs, a public plan option—it is only an option—will make health insurance more affordable.

The report released this week by Consumers Union found that 30 percent of the underinsured have out-of-pocket costs of $3,000 or more for a single year.

A Health Affairs study similarly found that one-quarter of underinsured people have deductibles of $1,000 or more. It is estimated that half of all personal bankruptcies are caused, at least in part, by unpaid medical bills or illnesses.

A public plan option would limit out-of-pocket costs such as high deductibles and large copayments and would not abandon people. At a time when too many of our rural citizens are struggling to find quality, affordable health insurance, a public plan option will ensure access in rural and underserved areas. Too often rural communities are largely ignored by the private insurance market that targets the much more profitable large metropolitan areas with more consumers.

Private plans too often neglect sparsely populated rural areas. Instead, a public plan would be consistently available in all markets, ensuring that rural areas and our rural people are not left stranded. At a time when too many Americans are losing their jobs—and therefore losing their employer-sponsored health insurance—a public plan option will ensure portability and ensure continuity of coverage.

A public plan would ensure that those facing employment changes: Loss of job, downsizing, plant closing, moving out of the country, whatever, that those facing unemployment changes, those people would have a choice to have quality, affordable coverage backed by the strength and the reliability of the Federal Government.

A public plan, therefore, would not disappear when an American loses their job or when a marriage ends or when a dependent becomes an adult. At a time when too many Americans simply do not have stable, reliable, adequate, affordable health insurance, a public plan option is vital to ensuring the consumers have another choice.

Americans should have the choice of a public health insurance plan which would work to close the gaps in our

patchwork health coverage system. There are many ways to design a public plan option for uninsured Americans and for underinsured Americans. I stand ready to work with Chairman BAUCUS and Chairman KENNEDY. I stand ready to work with Senate and House colleagues on how best to design this public plan option as part of our overall health reforms.

Health reform must include checks and balances, including private insurance and a public insurance option for the Americans we serve.

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. CASEY. 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. CASEY. Mr. President, I rise to speak about the Casey-Leahy-Specter-Gillibrand amendment to S. 896, the Helping Families Save Their Homes Act.

Last year, Congress included $4 billion in the Housing and Economic Recovery Act of 2008 for the redevelopment of abandoned and foreclosed homes and residential properties, which was a crucial step toward helping neighborhoods and communities recover from the devastating foreclosure crisis. In the American Recovery and Reinvestment Act, Congress again recognized the value of the neighborhood stabilization program and the grants that go with it, known by the shorthand NSP grants, by providing another $2 billion, this time in a competitive grant program. When a program has that much support and is so widely recognized as doing good, we want to make sure we give the beneficiaries of the program as much flexibility in using resources to help our constituents as we can. That is what this amendment is about, to provide that kind of flexibility.

The amendment allows grantees to use up to 10 percent of neighborhood stabilization program funds for foreclosure prevention activities. That is, of course, defined by the Secretary of Housing and Urban Development. Predatory lending and the subprime mortgage crisis created a wave of foreclosures that has swept the country since 2006. Many communities, however, fear a second wave that will result from the severe loss of jobs in the economic downturn and the loss of value in homes. Borrowers unable to make monthly payments due to unemployment will not be able to refinance their homes because they have plummeted in value as a result of the housing market meltdown. My amendment would offer more flexibility to grantees to use these funds for this purpose.

I urge my colleagues, as we consider housing legislation this week and next, to be mindful that the foreclosure crisis is not over. Foreclosure filings nationwide ballooned in March 2009, up 45 percent from a year ago, and in Pennsylvania we have had a total of 4,943 foreclosure filings in just the 1 month of March. The Durbin amendment that was voted on yesterday, which was unfortunately defeated, would have saved 1.7 million homes from foreclosure.

If we will not give borrowers the tools they need to save their homes, at least we can continue to provide resources to State and local governments, community organizations, housing counselors, and the thousands of attorneys who volunteer their time and expertise to helping homeowners and families in need.

I will continue to fight for funding for housing counseling and legal services to help families. I am grateful to Senators DODD and SHELBY for the underlying legislation which I believe is a step in the right direction.

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

The PRESIDING OFFICER (Mr. BEGICH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. 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 Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Senator HARKIN in pertaining to the introduction of S. 953 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ROXANA SABERI

Mr. DORGAN. Mr. President, I have come to speak about the subject of energy, but before I do that, I wish to speak about the issue of Roxana Saberi and the fact that she sits this morning in a 10-foot by 10-foot cell in Evin Prison just outside of Tehran, Iran.

Let me describe, as I have previously done so, this young woman. This is a picture of Roxana Saberi. She was born and raised and educated in Fargo, North Dakota. Her father came to this country from the country of Iran about 35 years ago. As a result, Roxana, born and raised in this country, is an American citizen. However, her father was an Iranian citizen and has Iranian citizenship. Thus, this young woman is considered an Iranian citizen as well.

Let me tell you a bit about her. She was an all-star scholar, an all-star athlete. She graduated from high school in Fargo, North Dakota. She got a bachelor's degree. She competed in the Miss North Dakota Pageant and was Miss North Dakota. She competed in the Miss America Pageant and was one of the 10 finalists in the pageant. She went to Northwestern University and got a master's degree at Northwestern University. She then went to Cambridge, England, and in Cambridge received a master's degree in international studies. She worked for a television station in North Dakota in the middle of all of that. Later, she went to Iran because she was very interested in her heritage. While in Iran, she reported for National Public Radio and BBC in England. She reported for those entities and many others.

At the end of January of this year, she was arrested by the Iranian authorities and put in prison. She was arrested, presumably for purchasing a bottle of wine. They threw her in prison. She was there incommunicado, unable to communicate with anyone for a good long while. She was later told her arrest was not for purchasing a bottle of wine but, rather, for reporting without a license—being a reporter and reporting without a license.

She was finally allowed about a 1-minute telephone call to her parents in the United States. Then she was allowed to see an attorney. Then they held a very brief, closed-door trial in Tehran, Iran and found her guilty, sentencing her to eight years in prison for espionage.

The Iranian Government went from purchasing a bottle of wine which justified her arrest and detention in prison, to reporting without a license, to espionage, and to an 8-year prison sentence. Today, Roxana Saberi sits in a 10-foot by 10-foot cell with two other women in that prison.

I visited this week with the Swiss Ambassador to Iran, who came to this country and stopped in to see me. The reason I mention the Swiss Ambassador is because we do not have an embassy in Iran nor do we have an ambassador there. We do not have diplomatic relations with this country, so the Swiss Embassy is our protectorate. So we have an intercessor. They have been working with us to talk with the Iranian officials.

This is an unbelievable miscarriage of justice and needs to be rectified. The fact is, the Iranian officials should understand that they have detained this young journalist and thrown her in prison. They have charged her with espionage and sentenced her to eight years in prison, thus the spotlight of the world is on them. Their credibility is at stake.

I hope the Iranian officials will do the right thing: release her from prison and allow her to leave the country of Iran. It is past time, long past the time for them to make the right judgment. They have made a number of wrong judgments in recent weeks and months. This young woman has been in prison since the end of January. It is a complete miscarriage of justice. For them

to charge her with being a spy and find her guilty of espionage is almost unbelievable. They know better than that. I call on the Iranian Government to release her from prison and allow her to leave the country of Iran.

Most governments in the world have now communicated with the country of Iran about this case. I hope we will not have to be talking about this case much longer. I hope the Iranian authorities and its Government will do the right thing.

Roxana Saberi should not be in prison. She is a very accomplished young woman who was in the country of Iran because she treasured her heritage. Because she was in Iran, she was apparently arrested on what I believe are trumped-up charges and has been sentenced in a way that completely defies any reasonable sense of justice.

Again, my hope is Iranian officials will begin to do the right thing and do it very soon. I call on them to release this young woman from prison and allow her to leave the country of Iran.

ENERGY POLICY

Mr. President, I wish to talk about energy policy. There are so many different issues we confront in this country, and we have been leapfrogging from one issue to another. We have a very serious financial crisis and financial collapse in this country. We have seen, month after month after month, 600,000, 650,000 people losing their jobs, in an economy that has substantially collapsed, and we are hoping now is at bottom. We are hoping we will begin to rebuild once again. But when we talk about 3.7 million people having lost their jobs just since this recession began. This is a very serious situation.

So the financial crisis that is one issue. On top of that, day after day we hear of other significant challenges—a crisis now that might turn out to be a pandemic dealing with swine flu, and requiring the U.S. Government to move very quickly to address that. I just described one issue in Iran. The reality is that we have a country that wishes to build a nuclear weapon and imprisons innocent young women. Further, there are concerns about North Korea and their actions in recent weeks. We have no end to challenges. We are trying to figure out what and where we go with respect to Afghanistan and Pakistan. What do we do about Iraq? How do we address the issue of terrorism? There is no end to the issues we face.

I have been in both Afghanistan and in Iraq and that region dealing with, not only the internal issues of both countries which are very difficult, but the issue of terrorism in the region is something very important to us.

My point is that we are working on many issues and all of them critically important. But let me describe one issue that, if something catastrophic happened some night about midnight, would put this country flat on its back. That concern is energy and our unbelievable dependence on foreign energy.

Let me put a chart up that shows oil consumption. This is a chart showing the top oil consumers in the world. At the top of the chart is the United States. The next largest is China and so forth. We put little straws in this planet and suck oil out. We suck 85 million barrels of oil every day out of the Earth—85 million barrels a day! One-fourth of it is needed for the United States. Think of that: One-fourth of everything that is taken out of this planet in the form of oil is needed in this country. We have an unbelievable appetite for oil to turn into energy.

Another statistic: Of the 21 million barrels a day that we use in the United States, nearly 70 percent comes from outside our country. We are 70 percent dependent on oil supplies from outside of our country. Another statistic: Nearly 70 percent of all the oil that we use is used in the transportation sector. We get behind a steering wheel, put the key in the ignition, get the seat real comfortable, put whatever we are going to put in the cup holder, and away we go using oil. As I said, 70 percent of that which we use is used in transportation, and nearly 70 percent of that which we use comes from outside our country.

Think through for a moment: If somehow terrorists interrupted the supply of oil to this country or were able to destroy one of the major supply lines or one of the major facilities in Saudi Arabia or elsewhere, then we would be in very significant difficulty. This demonstrates how we are unbelievably dependent on oil.

I think we are going to continue to use oil, natural gas and fossil fuels in our future for a long time. We are going to need to use them differently by decarbonizing them and have less CO_2 emitted, but the fact is we are going to continue to use fossil energy. Much more importantly, how do we, even as we continue to use that oil, make the U.S. less dependent on that oil which others produce? Well, the way we do that, it seems to me, is to define a different kind of energy future. To decide that, we are going to produce renewable energy and that we are going to do so by maximizing the production of renewable energy domestically. If we are producing a lot of energy from the wind and a lot of energy from the sun, or biomass or other alternatives, it means we need to import less oil. That is a fact.

We are going to have a lot of debates, and it wasn't too many months ago on the floor of the Senate that we had folks coming with big signs that said: Drill, baby, drill. Drill, baby, drill. The whole notion was you have to drill more. Well, you know what, I am for drilling more. It makes sense to me.

By the way, if you are going to drill more, the place you would go, it seems to me, is in the eastern Gulf of Mexico—where you have substantial opportunities to achieve more production. The only area that has been newly opened in the Gulf of Mexico in recent years is something called lease 181, which four of us, myself, Senator BINGAMAN, then-Senator Talent, and Senator Domenici introduced legislation to open. It got narrowed some, but we got it done, and that became law. They had a lease sale, and we now have the opportunity to get some energy from lease 181, which is a reasonably small area in the eastern gulf.

My point is: We should drill more. Let us drill where it makes sense and add to our stock. But the fact is, that in itself will not solve our problems. Senator VOINOVICH and I introduced legislation in recent weeks called the National Energy Security Act of 2009. It is bipartisan and addresses a wide range of issues of things we have to do to address this energy issue. Right now, in the authorization committee of the Energy and Natural Resources Committee, we are beginning to write a new energy bill as well, and I am pushing very hard to include those kinds of provisions in a new energy bill that will, I hope, come to the floor of the Senate reasonably soon.

Here are the kinds of things this represents—the achievements I think we have to strive for in a new energy bill. It is what we have included in the National Energy Security Act. Number 1, reduce our dependence on foreign oil; Number 2, increase domestic production—and that is not just oil but production of all sources of energy—Number 3, electrify and diversify our vehicle fleet because as I indicated, 70 percent of our energy is used in transportation; and by doing this we can move toward an electric drive future with respect to vehicles, and then even beyond that, hydrogen fuel cells with respect to the long-term future—Number 4, create a transmission superhighway; and, Number 5, train the energy workforce of tomorrow.

The transmission superhighway is a critical part of this because we don't have a transmission superhighway similar to the interstate highway system in this country. We have a transmission system that is kind of like an old inner tube with patches on it. Much of it is old, with some new, but it does not have a transmission capability that connects all of America. What we need to do is maximize the potential of renewable energy.

How do we do that? Well, the wind blows especially hard from Texas to North Dakota. What you need to do is to capture that wind energy and move it to where it is needed. For example in North Dakota, while it can produce a lot of wind energy—the Department of Energy calls it the Saudi Arabia of wind—North Dakota doesn't need the additional wind energy. But if it can produce it, it must move it to where it is needed. From Texas to California, in the heartland of our country, where you can produce a lot of energy from the wind, you need to have a modern grid that connects it to areas of the country that can use, and must have, the product of that wind energy.

I mean, this is simple. You take energy from the wind and, through a turbine, turn it into electricity. You can do a lot of things with it, but most notably you would put it on a grid and move it to where it is needed. Or you can, through electrolysis, separate hydrogen from water and store a hydrogen fuel from it.

This is an example of an interstate transmission system. We have all seen these. Actually, there are new technologies now that would allow it to be put underground and perhaps would be much more efficient and much less costly. But anyway, if you don't modernize the transmission grid and create a superhighway of transmission capability connecting all of America, you cannot possibly maximize wind energy or solar energy or biomass or others. You can't possibly do it. If we can get a bill to the floor of the Senate that is tepid or halting with respect to how we want to do this, or even whether we want to do it, we can talk until we are blue in the face. But we will not have done this country any favors in maximizing the production of renewable energy.

I mentioned a transmission system. The transmission system is necessary for wind and solar energy, and so on. Most of us now understand what this wind energy means. I know it was a fanciful idea not too many years ago to talk about getting energy from the wind, but with the new technology with respect to the turbines, you can put a big old tower up and some very large blades and you can grab energy from the wind and produce electricity. Once you put that tower up, you can make a few adjustments here or there, but for the next 30 years, you are going to be getting wind energy for virtually nothing. I understand we have to talk about maintenance, but understand that wind is free.

By the way, free energy comes from sun as well. As we know, the wind comes from different warming trends of the Earth, the sun shines all the time and has an unbelievable amount of energy that it focuses on the Earth, both in solar energy and wind energy. We need to harvest it and we need to take advantage of it with solar cells and a whole range of different approaches using solar and wind energy.

The only way it will work, however, is if we have, as I said, an interstate transmissions system. This system has three components to it that make it controversial: Who is going to plant it? Who is going to site it? And who is going to pay for it? Now, let me give a statistic. In the last 9 years, we have produced 11,000 miles of natural gas pipeline in this country, moving natural gas all around the country. During those 9 years, we have been able to build only 640 miles of high voltage transmission lines. Let me say that again. We have built 11,000 miles of natural gas pipeline, and during the same period we could only build 640 miles of high voltage transmission lines.

Why is that? It is because it is hard to build transmission lines. Nobody wants them to cross their interstate transmission lines. Talking about interstate now. They have proven very difficult to build because you have several different jurisdictions that have to give approval and a good many of them simply say, ''Not in my back yard. Take a hike.'' We have to address those issues. Is it controversial? Sure it is. But if we don't address it, I guarantee you this country can talk and talk and talk about moving toward more renewable energy, but we will never get there. We will not get there. Now, if we do that—move toward more renewable energy and put it on transmission lines to move it where it is needed—it will allow us to move toward an electric drive future for our vehicles, which I think is very important.

I have often mentioned my first vehicle as a young kid was an antique—a 1924 Model T Ford. It is interesting—I will not tell the whole story about my Model T Ford—but I restored it in 2 years as a young teenage kid. I loved to do that stuff. When I got it running again, got it painted and all fixed up, it was a car that was serviceable, right? It was running. The Model T ran. The interesting thing about vehicles is that everything—everything—in a vehicle has changed since they made a Model T—everything. It doesn't matter what you talk about—tires, the radiator, the spark plugs, you name it—it has all changed. There is now computer capability. But the one thing that hasn't changed is the gas tank. The gas tank on that car that was built nearly a century ago is the same as the gas tank on the current vehicle. You filled it the same way as you do now: You looked for a gas pump, drove up there, stuck a hose in the tank and started pumping.

Nothing has changed about the way we fuel vehicles. But we have to change that. If 70 percent of our oil is used in the vehicle fleet—in transportation in this country—then we have to decide if we are going to be less dependent on Saudi Arabia and Kuwait and Venezuela and Iraq and so on, and change the way we fuel vehicles.

Here is a picture of an electric drive vehicle. I don't quite know the form, but we have electric drive vehicles on the road today. There is much more sophistication in the development of these vehicles. In my subcommittee, I put in $2 billion in the economic recovery program for grants for battery technology because we want to lead the world in battery storage. That is part of the key to an electric drive future. We want to lead the world in storage capacity.

Some of the electric vehicles, perhaps—whether you have plug-in vehicles, plug-in hybrids, there are all kinds of different approaches—will run on batteries, and when the battery runs a bit low, there will be a tiny engine someplace that starts and provides some additional charging for the battery. There are all kinds of different approaches, but the fact is we need to move in this direction, and I believe we will. But it will happen only if we decide as a country to embrace the policies that allow us to do it, and that is substantial additional development of renewable energy—the capability of building an interstate transmission system and getting it done with high voltage wires. If we do all that, we can change our energy future. That is a fact.

I mentioned a few moments ago about drilling. The fact that I want to maximize renewable energy doesn't mean I don't want to produce what we need to produce, and that is additional oil and natural gas, and continue to use coal as we decarbonize the use of coal. But in the legislation Senator VOINOVICH and I have introduced, we open the entire eastern gulf for expansion of drilling. This is a very important area where there is substantial additional opportunity for drilling. It is now closed, by the way. This little area, lease 181, is the area we opened, the four of us, by legislation in recent years. That is the only area that has been opened. We need to do this, and we need to demonstrate we are serious about energy and all forms of energy.

I have talked a lot about production and then moving it to where it is needed. Conservation is critically important, and in the legislation we have introduced, we have substantial conservation capability as well. But the fact is, when you save a barrel of oil, it is the same as producing a barrel of oil. I believe we have great opportunity to conserve.

While I am speaking, there are a whole lot of folks who left their homes to go to work today. They have all kinds of appliances plugged in. It is true at this point that the toaster is not pushed down, toasting bread, you know. Many of the appliances are not actually triggered, but they are still using some energy because they are plugged into the wall. At midnight and 2 o'clock and 4 o'clock in the morning, almost every home is still heating water. You tell me the name of somebody who is going to shower at 3 a.m. The whole country is heating water at 2 a.m.—for what? The point is, we can do a lot more and do it a lot better through conservation. That deals with the issues of smart grid and smart metering and a whole range of issues of that type.

If someone wonders whether all of this is important, I want to show you this black spot on the map. This is a map of the United States of America, and the lights show where electricity is used at night. You can see the population centers. But over here, there is one big black hole. That is because it is August 14, 2003, and 50 million people lost their electricity. Do you see that? Ohio to New York, 50 million Americans discovered the switch they used to flick up doesn't yield any energy, the toaster they used to push down doesn't produce any energy; no energy at all,

and all of a sudden you have a huge dark spot for 50 million Americans. If you wonder about the importance of this, I am talking about the reliability of a system for something we take advantage of every single day.

We are drafting a bill right now in the Energy Committee, and there is a great deal of disagreement about a renewable energy standard requirement that at least 15 percent of electricity is produced from renewables. That should not be controversial at all. In fact, I think a couple dozen states have gone way beyond the Congress on this issue. That should be a slam dunk, but it is not.

Building a transmission system—we are going to have a lot of opposition. But no country gets where it wants to go unless it sets a course. There is an old saying: If you don't care where you are, you are never lost. This country has to set a course and say: Here is where America wants to head for a decade. If, at the end of that decade, we are not less dramatically dependent on foreign oil for this country's energy needs, we are going to be held hostage for a lot of interests around this country. We need to do this, we need to do it right, and we need to do it soon.

Mr. President, 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.

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alaska, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alaska, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate at 1:31 p.m., recessed subject to the call of the Chair and reassembled at 1:34 p.m., when called to order by the Presiding Officer (Mr. BEGICH).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Alaska, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant 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. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that other than the pending Dodd-Shelby substitute amendment, the following be the only first-degree amendments in order to S. 896, and that they be subject to second-degree amendments which would be relevant to the amendments to which offered, with a managers' amendment, which has been cleared by the managers and the leaders, in order, and that once it is offered, it be agreed to, and the motion to reconsider be laid on the table; that upon disposition of the listed amendments, the substitute amendment, as amended, if amended, be agreed to, the motion to reconsider be laid upon the table; that the bill, as amended, be read the third time, and the Senate proceed to vote on passage of the bill.

The list of amendments is as follows:

Vitter amendment No. 1016, pending; Vitter amendment No. 1017, pending; Corker amendment No. 1019, pending; Grassley amendment No. 1020; Grassley amendment No. 1021; Casey amendment No. 1033; Ensign amendment No. 1034; Kohl amendment No. 1037; Kerry amendment No. 1036; Thune amendment No. 1030; Boxer amendment No. 1035; DeMint amendment No. 1026; Isakson amendment 1027; Schumer amendment No. 1031; Reed amendment No. 1039; Feingold amendment 1032; Reed amendment No. 1040; Boxer amendment No. 1038.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that on Monday, May 4, at 5 p.m., there be 30 minutes of debate, equally divided and controlled between the Senators DODD and VITTER, or their designees, to debate concurrently the Vitter amendments Nos. 1016 and 1017; that at 5:30 p.m., the Senate proceed to vote in relation to the amendments in the order listed above; that no amendments be in order to either amendment prior to a vote in relation thereto, with 2 minutes of debate equally divided prior to each vote, with the second vote 10 minutes in duration.

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

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

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

IDAHOANS SPEAK OUT ON HIGH ENERGY PRICES

Mr. CRAPO. Mr. President, in mid-June, I asked Idahoans to share with me how high energy prices are affecting their lives, and they responded by the hundreds. The stories, numbering well over 1,200, are heartbreaking and touching. While energy prices have dropped in recent weeks, the concerns expressed remain very relevant. To respect the efforts of those who took the opportunity to share their thoughts, I am submitting every e-mail sent to me through an address set up specifically for this purpose to the CONGRESSIONAL RECORD. This is not an issue that will be easily resolved, but it is one that deserves immediate and serious attention, and Idahoans deserve to be heard. Their stories not only detail their struggles to meet everyday expenses, but also have suggestions and recommendations as to what Congress can do now to tackle this problem and find solutions that last beyond today. I ask unanimous consent to have today's letters printed in the RECORD.

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

As of late, the focus of our nation has been on the economy and, more specifically, the price of oil and gasoline and the effects it is having on normal Americans. Most media sources are running stories on the terrible effects of $4–5 a gallon of gas are having on the average American consumer and their widespread financial hardships.

My sincere belief is that $4 or $5 a gallon gas while putting a dent in the wallet is not causing widespread financial hardship on the overwhelming majority of U.S. citizens. The monthly increase for Joe Average is roughly in the $25–100 range. This amount should be easily absorbed by virtually everyone across the U.S. There are some people for whom an increase this minor would cause them to fall into bankruptcy, but they are the people who would most likely end up in this same situation for one reason or another and who have habits and a severe lack of financial and budgeting skills that need changed more than just a little cheaper gas.

I have worked my entire professional life in the banking industry and have had to foreclose on people who could not afford to have increases in their needed expenses such as utilities, transportation, healthcare or food during good times, economically speaking. These are the same people who could have absorbed these needed increases if they had merely given up cable TV or their $150 per month cell phone. This is the same issue we are facing today. Some sacrifices will need to be made by Joe Average but Joe ought to be able to cut back on non-necessities and absorb the extra costs. If Joe Average refuses to make the changes to his daily habits, then we should not bail him out of a situation that he put himself in and refuses to change his ways in order to get out of.

The belief I have is that $4–5 gas will actually be a major savior not only to the US but to the human race as a whole. The high prices will force us to innovate and bring technologies that have been available for years into the mainstream, to decrease our overall use of non-renewable energy and decrease our pollution levels. Even if one does not buy into the notion of global warming, we all know that breathing pollution is extremely harmful and expensive in terms of healthcare costs. Many pollution problems can be solved at the same time as our energy problems.

Significantly more money, in the multiple tens or hundreds of billions of dollars, needs to be spent on emerging energy-efficient technologies in order to secure a long term solution to energy and pollution problems; not to put a temporary band-aid on gas prices to win over a few votes. The peoples of the world look to the US to be a leader and innovator of new technologies and we have been sorely lacking for many years.

Most European countries and Japan are vastly further ahead both on efficiency and pollution control standards. We have many bright scientists, engineers and entrepreneurs in this country who have the ideas, goals and desires to accomplish this task; what they lack is the financial access to get the ideas into large-scale production. The U.S. vitally needs an effort on the scale of the Manhattan Project or the Apollo Program to get technology from its infancy and

early adopter stages into a mature industry. These changes will in no doubt be hard on the existing industries and infrastructures as they make the changes needed to accomplish this but the long term effects are going to be felt for many generations to come and deserve to be done right. This is not something that affects just the US, rich or poor or election results; these changes need to be made for the entire human race across the globe. The US has a chance to be the world leader once again. If you wish to see some of these technologies and how they can help people, pick up the July 2008 edition of Popular Science Magazine and see what is already being done and what can be done to ensure an energy independent, energy efficient and clean way of life.

In the short term, times will be tough for many Americans and many people across the world as fuel, food and needed goods prices increase. We are a tough people and we will make the changes in our daily lives in the short term to get by, most will have very little actual changes to our lifestyles. What the American people and all people need is a change in their way of life, change in transportation, our choice of energy and our way of thinking. A great deal of the needed technologies are already developed and merely need help getting into the mainstream while others desperately need funding and qualified help to transform ideas into products. This is where the government needs to step in and be a leader and savior by starting large scale programs tackling energy, efficiency and pollution problems not pumping more oil or subsidizing inefficient ethanol for a short term quick fix.

Please step forward not just as an Idahoan or an American but as a leader of all people who honestly wants to promote the greater good for all and get legislation moving to enact large scale technological programs and set aside large scale funding in the tens or hundreds of billions of dollars to help lead the American people and the rest of the world into a brighter new future.

MATT, *Boise.*

It is my opinion that we as a nation need to take our undying focus off of this petroleum problem and start shopping around for a better, clearer, abundant and renewable resource that can be used for fuel. It bothers me to see gas going up so fast and always asking myself ''when will it end?'' and know that so much of our tax money is [thrown] away on programs very few of us proffer from. I am not saying that all the nation's programs are pointless, but most can use a good trim. So please explain to me why you would rather fight Congress on the matter of lower fuel costs and not push alternative fuels that so many of our own citizens can grow? And what ever happened to hydrogen? Was that too obvious of a choice that it got pushed aside? Or is it because it is so abundant that no one could get rich off of it? It just makes me sick to see where we are headed. So I will pretend that you actually read this email and listened and you pretend to be keeping our best interests in mind.

A worried citizen of the richest Nation on Earth,

Daniel.

My son, with a family of seven, lives in Las Vegas and, because of high gas prices, is now biking the eight miles to work in over 100 degrees to save on gas. Their monthly fuel budget has skyrocketed to $400 per month. My daughter works 30 miles away from her home for an auto dealership. They have continually cut workers because people are not buying cars due to the gas prices. They have recently cut a skeleton staff down to four days a week to conserve on the gas expended.

My husband and I are retired and are planning no new future trips due to the expended fuel. I have never seen such an economy. We are told that milk (a staple food) will soon be $5 per gallon. How can growing families afford this? We will soon be down to bread and water with the skyrocketing prices. We are thoroughly fed up with both political parties for allowing the nation to come to such a state. There is trouble in every sector of the market but no one will do what is right for the nation at large. All I can see is a downward deep spiral of trouble ahead.

Thank you for listening.

RANDA, *Rigby.*

Here is what is going on here in Idaho and in other states as well. A lot of Americans live in rural areas. We have to get in our autos and drive rather it is to the work school groceries. As for me, I live behind the Pocatello airport, and drive 12 miles into the railroad depot to go to work. My wife teaches school in American Falls, which is 28 miles from home. Right now the summer school teachers are riding the school bus from Bannock Peak truck stop into American Falls, which really helps out. I live in eastern Power County, so back and forth [with] school activities etc.

With high gas prices, I can only see it getting worse. It is not like as in other countries [like] Europe, etc., where I can step out my front door and get on the bus. [If I could] ride my bike, I would; but we cannot so therefore I am trapped into paying high gas prices. If gas was to go to $10 a gallon, we would be down and out stuck! What is this country going to do? We have got some real energy problems in this country and it could take us down, recession or even depression. Even the Union Pacific is affected by it; they will not even let me out notch 5 on the throttle. Fuel, fuel, fuel and the cost of fuel.

MERLIN, *Pocatello.*

Energy prices are certainly affecting many far and wide in the U.S. Yet the writing is clearly on the wall and we, as a country, must act quickly to adapt to a new energy world.

We can no longer afford ''business as usual'' policies that heavily favor supply-side issues (extraction and generation). We must look upon the tried and true principles of saving (conservation) and diversification (alternative energies). Both these strategies must be wholly embraced by elected officials such as you if the country is to be lead out of a worsening energy crisis and on to a path toward prosperity.

While generating more traditional fuels (oil) can help, it is a short-term solution at best. Our 100+ year binge on fossil fuel is now coming to a close. We must choose how this transition will take place. It is clear that global demand is outpacing global supplies, given the best scientific (not political) assessments. While technology holds a great deal of promise, it is clear that no such magic tech bullet yet exists. We can no longer afford to stick our heads in the sand.

We need to grab this energy lever with both hands—one for conservation and one for clean alternative energy—and open the door to a new, more competitive America. Anything short of this exposed our country to great risk and makes a mockery of our independence, our innovation, our global leadership and our ability to recreate our future.

I hope you fully appreciate the decisions that face this country and will choose to take leadership role in ushering in a new day for America. The eyes of Idaho are upon you.

CRAIG, *Ketchum.*

As a small business owner in welding, the sharp rise in steel and gas have hit me hard. I have to use gas for my welder when in the field and electricity will be a problem in my small shop. I do not know if you are aware of the prices of steel, but all across the board I pay more than double for steel, welding rod and related items. Since my product is made of steel, it's putting a huge bite in my ability to make ends meet, let alone trying to get ahead. It is hitting me hard enough to make me wonder how long before I have to fold.

It is nonsense that we have all the resources in this great land to meet our needs without dependence on foreign supplies of oil, but we are forbidden by agencies that are run, it seems, by fanatics who have their own agenda and it is not the welfare of the people who keep this country going. Why are we not able to utilize our own oil fields and drill for oil when we know where it is. I do not understand. It is like watching a bunch of school kids fighting over who gets to kick the ball first and for how many times when I see all the nonsense going on in Washington.

Thanks for not being one of the spoiled brats in our nation's capital.

BRIAN.

Yes, gas prices have affected us dramatically. We are farmers and thus live in a rural environment. With the rising fuel prices, making a profit on our crops is extremely difficult. As diesel rises, so do fertilizers and herbicides and pesticides. They are three times more expensive than three years ago. Freight for hauling crops is way up, and so forth. Driving takes a huge bite out of our budget even though we have cut back as much as we can. Remember when America was first settled and they refused to buy from England so that they would start to be productive and self-reliant as a nation? Well, it worked did it not? We became the richest and most prosperous Nation on earth. We do not need other nations to survive. We can produce what we use ourselves. We have got ourselves into this mess and we can get out. Get Congress, the President and the Supreme Court to stick with the specific responsibilities assigned to them by the Constitution. Allow the free market to work as it should. (Read Adam Smith's Wealth of Nations. The Founding Fathers relied on this wisdom.) It would be sticky for a while but Americans have always been tough. If we want America to survive then we have to fix the problem. The Constitution has the answers. America will crumble if we do not take serious action. Thank you for your efforts!

MARYLYNNE.

I am writing this in response to your letter on energy. I live in a rural area, approximately 8 miles from the town of Preston. Because of the distances involved in daily commuting and other required driving, our fuel bill has more than doubled in the last two years. Last month it was in excess of $500.00. Gas has since risen more than .20 per gallon.

Income is not matching the rapid increase in cost of fuel and this has greatly reduced the amount of discretionary money that we have. Most of my neighbors have stated the same. Those that have the least amount to spare are the ones that are being hardest hit by the rising energy costs.

The federal government should allow and encourage all forms of energy production: drilling for oil in the Gulf and Alaska; relaxed regulations and tax breaks for new refineries; streamlined permit process for new nuclear power plants. The list is as endless as is the regulations that have been imposed on the energy companies.

Thank you for your time.

MIKE, *Preston.*

I receive an email stating that you would like to have Idahoans tell their stories about

rising oil prices. I am a single mother of three, working full-time as it is, but now thinking about taking on another job because of the cost of gas. Our family has tried to plan a week visit to the coast for the past few years, and the cost of gas has controlled our plans! This is taking a toll on my budget and our family, knowing that every month, there is never any extra. The other option for me is to turn to a welfare program. Which is more beneficial—more people on welfare or using our oil reserves? What makes it most frustrating is that the United States has the oil! Help us out. I would like to travel somewhere with my children before they are grown up and gone.

SOPHIA, *Pocatello*.

With regards to your recent query about the effect of the gas prices on our family: yes, the high prices have forced changes on our family. We now combine trips to save fuel, and I now commute to work by bicycle three times a week and am losing weight doing it. We are putting much more pressure on management to allow telecommuting.

Are these all bad things? Is this a drastic problem? No, actually this is most probably a good thing. For the first time in years we, as a nation, are using less gas. While it will definitely have an impact on our lifestyle, the problem can be mitigated by lifestyle changes (carpooling, mass transit, cycling, downsizing to smaller vehicles). There are many ways to do this and virtually every nation in the world besides the U.S. has done it.

The real concern is two-fold, both of which can be considered failures by our elected officials. First, the lack of affordable mass transit. For years, our leaders have refused to lead on this situation and instead buried their heads in the sand, preferring to believe that gas will always be at $1/gallon. Something like a 50c/gallon tax years ago would have provided for an efficient infrastructure, reduced the demand and possibly reduced the current price increases.

The second failure is the misguided use of ethanol in the attempt to pretend that we are actually doing something to reduce our emissions. This is in reality nothing more than a subsidy to agri-business at the cost of increased food prices. Corn ethanol is nothing but a smokescreen that is contributing to increased food prices. If we are serious about ethanol, then let us import sugar cane and make the ethanol from the cane, or, even better, let us create ethanol plants in the countries that grow the sugar cane. That way we would be helping these countries, most of which are dirt poor, provide employment and earn hard currency. In turn, we would reduce our emissions without adding to the food price increases.

Yes, I know that you wanted a lot of whine-a-grams so that you could parade them in front of Congress and try and open the Arctic Refuge to drilling to benefit the oil companies, even though they are making obscene profits, but maybe we should look at reality. Drilling offshore and in the Arctic will not reduce prices. Oil companies have found that people can afford $4/gallon gas and will manipulate the situation to keep gas prices high. The only real solution is to reduce our consumption. Let us provide business with incentives for telecommuting and usage of green energy. Let us provide communities with help and incentives for the creation of bike-paths as well as options like light rail etc.

This way we can provide for the future, reduce emissions, reduce demand for gas and in turn reduce oil and food prices. But in order to do this we need to look beyond the old mentality that got us here. Drill and consume, drill and consume is no longer going to work. It will provide nothing more than a short term minimal respite.

We look to you as one of our leaders to promote a long-term viable solution. Thank you for your time in considering this.

ROBERT.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. JOEL M. LEVY

• Mr. SCHUMER. Mr. President, I wish to pay tribute to a truly inspiratioal New York figure, Dr. Joel M. Levy, on the occasion of his retirement from the YAI/National Institute for People with Disabilities Network, NIPD, after 40 years of dedicated leadership of the organization.

Over this time, Dr. Levy has spearheaded the development of YAI/NIPD from a small and struggling agency into one of the Nation's leading providers of service for people of all ages with developmental and learning disibiities. In particular it is at the forefront of understanding and treatment of autism.

He has played a pivotal role in leading the social revolution which has transformed the landscape of the disabilities field and which has dramatically improved the lives of thousands upon thousands of individuals and families.

Dr. Levy's tireless efforts have created countless opportunities for those with developmental disabilities to experience greater independence, productivity, and joy through community living, meaningful employment, and volunteer activities. Furthermore, he has ensured that persons with disabilities have access to quality health care, in turn promoting their physical, mental and overall well-being.

And of great importance, Dr. Levy has positioned YAI/NIPD as an internationally acclaimed professional organization renowned for its conferences, training materials, research, and publications in this field.

In the course of his distinguished career he has clearly created a Place of Hope for all people with developmental and learning disabilities and their families.

I feel privileged on behalf of all New Yorkers to have this opportunity to salute and commend the outstanding achievements of Dr. Levy.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Banking, Housing, and Urban Affairs.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. DORGAN for the Committee on Indian Affairs.

*Yvette Roubideaux, of Arizona, to be Director of the Indian Health Service, Department of Health and Human Services, for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. NELSON of Florida (for himself, Mr. MARTINEZ, Mr. GREGG, Mr. LEAHY, Mr. INOUYE, Mr. VITTER, Mr. BROWN, Mr. KAUFMAN, and Mr. BINGAMAN):

S. 951. A bill to authorize the President, in conjunction with the 40th anniversary of the historic and first lunar landing by humans in 1969, to award gold medals on behalf of the United States Congress to Neil A. Armstrong, the first human to walk on the moon; Edwin E. ''Buzz'' Aldrin Jr. , the pilot of the lunar module and second person to walk on the moon; Michael Collins, the pilot of their Apollo 11 mission's command module; and, the first American to orbit the Earth, John Herschel Glenn Jr; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. CANTWELL, Mr. LEVIN, Mr. VITTER, Mr. CARDIN, Ms. LANDRIEU, and Mrs. BOXER):

S. 952. A bill to develop and promote a comprehensive plan for a national strategy to address harmful algal blooms and hypoxia through baseline research, forecasting and monitoring, and mitigation and control while helping communities detect, control, and mitigate coastal and Great Lakes harmful algal blooms and hypoxia events; to the Committee on Commerce, Science, and Transportation.

By Mr. HARKIN:

S. 953. A bill to provide for the establishment of programs and activities to increase influenza vaccination rates through the provision of free vaccines; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 954. A bill to authorize United States participation in the replenishment of resources of the International Development Association, and for other purposes; to the Committee on Foreign Relations.

By Mr. KERRY (for himself and Mr. LUGAR):

S. 955. A bill to authorize United States participation in, and appropriations for the United States contribution to, the African Development Fund and the Multilateral Debt Relief Initiative, to require budgetary disclosures by multilateral development banks, to encourage multilateral development banks to endorse the principles of the Extractive

Industries Transparency Initiative, and for other purposes; to the Committee on Foreign Relations.

By Mr. TESTER (for himself and Mr. ROBERTS):

S. 956. A bill to amend title XVIII of the Social Security Act to exempt unsanctioned State-licensed retail pharmacies from the surety bond requirement under the Medicare Program for suppliers of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS); to the Committee on Finance.

By Mr. DURBIN (for himself, Mr. BINGAMAN, Mr. CASEY, and Mr. FEINGOLD):

S. 957. A bill to amend the Public Health Service Act to ensure that victims of public health emergencies have meaningful and immediate access to medically necessary health care services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ROCKEFELLER (for himself, Mr. CASEY, and Mrs. GILLIBRAND):

S. 958. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2009; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 959. A bill to provide for the extension of a certain hydroelectric project located in the State of West Virginia; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER (for himself, Mr. BROWN, and Mr. CARDIN):

S. 960. A bill to amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to provide access to Medicare benefits for individuals ages 55 to 65, to amend the Internal Revenue Code of 1986 to allow a refundable and advanceable credit against income tax for payment of such premiums, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. THUNE, Mr. DORGAN, Mrs. BOXER, Mr. WHITEHOUSE, Mr. WARNER, Mr. KERRY, Mr. DURBIN, Mr. SPECTER, Mr. SCHUMER, Mr. BAYH, Mr. UDALL of New Mexico, Mr. BROWN, Mr. CARPER, and Mr. LIEBERMAN):

S. Res. 125. A resolution in support and recognition of National Train Day, May 9, 2009; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. KENNEDY, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 540, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to liability under State and local requirements respecting devices.

S. 614

At the request of Mrs. HUTCHISON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 614, a bill to award a Congressional Gold Medal to the Women Airforce Service Pilots (''WASP'').

S. 645

At the request of Mrs. LINCOLN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 645, a bill to amend title 32, United States Code, to modify the Department of Defense share of expenses under the National Guard Youth Challenge Program.

S. 738

At the request of Ms. LANDRIEU, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 738, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 790

At the request of Mr. BINGAMAN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 790, a bill to improve access to health care services in rural, frontier, and urban underserved areas in the United States by addressing the supply of health professionals and the distribution of health professionals to areas of need.

S. 909

At the request of Mr. KENNEDY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 909, a bill to provide Federal assistance to States, local jurisdictions, and Indian tribes to prosecute hate crimes, and for other purposes.

S. 944

At the request of Mr. FEINGOLD, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 944, a bill to amend title 10, United States Code, to require the Secretaries of the military departments to give wounded members of the reserve components of the Armed Forces the option of remaining on active duty during the transition process in order to continue to receive military pay and allowances, to authorize members to reside at their permanent places of residence during the process, and for other purposes.

S. 949

At the request of Mr. BINGAMAN, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 949, a bill to improve the loan guarantee program of the Department of Energy under title XVII of the Energy Policy Act of 2005, to provide additional options for deploying energy technologies, and for other purposes.

S. CON. RES. 16

At the request of Mr. MCCAIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution expressing the sense of the Senate that the President of the United States should exercise his constitutional authority to pardon posthumously John Arthur ''Jack'' Johnson for the racially motivated conviction in 1913 that diminished the athletic, cultural, and historic significance of Jack Johnson and unduly tarnished his reputation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. SNOWE (for herself, Mr. NELSON of Florida, Ms. CANTWELL, Mr. LEVIN, Mr. VITTER, Mr. CARDIN, Ms. LANDRIEU, and Mrs. BOXER):

S. 952. A bill to develop and promote a compressive plan for a national strategy to address harmful algal blooms and hypoxia through baseline research, forecasting and monitoring, and mitigation and control while helping communities detect, control, and mitigate coastal and Great Lakes harmful algal blooms and hypoxia events; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today to introduce the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2009. This bill would enhance the research programs established in the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998 and reauthorized in 2004, which have greatly enhanced our ability to predict outbreaks of harmful algal blooms and the extent of hypoxic zones. But knowing when outbreaks will occur is only half the battle. By funding additional research into mitigation and prevention of HABs and hypoxia, and by enabling communities to develop response strategies to more effectively reduce their effects on our coastal communities, this legislation would take the next critical steps to reducing the social and economic impacts of these potentially disastrous outbreaks.

I am proud to continue my leadership on this important issue and I particularly want to thank my counterpart on this key piece of legislation, Senator BILL NELSON. My partnership with Senator Breaux on the first two harmful algal bloom bills proved extremely fruitful, and I am pleased that Gulf of Mexico—whose coastal residents are severely impacted by both harmful algal blooms, also known as HABs, and hypoxia—will continue to be so well represented as this program moves into the future. I also want to thank the bill's additional co-sponsors, Senators CANTWELL, CARDIN, VITTER, LANDRIEU, BOXER and LEVIN for their vital contributions. We all represent coastal States directly affected by harmful algal blooms and hypoxia, and we see first hand the ecological and economic damage caused by these events.

In New England blooms of Alexandrium algae, more commonly known as ''red tide'' can cause shellfish to accumulate toxins that when consumed by humans lead to paralytic shellfish poisoning, PSP, a potentially fatal neurological disorder. Therefore, when levels of Alexandrium reach dangerous levels, our fishery managers are

forced to close shellfish beds that provide hundreds of jobs and add millions of dollars to our regional economy. Red tide outbreaks—which occur in various forms not just in the northeast, but along thousands of miles of U.S. coastline—have increased dramatically in the Gulf of Maine in the last 20 years, with major blooms occurring almost every year.

In 2005, the most severe red tide since 1972 blanketed the New England coast from Martha's Vineyard to Downeast Maine, resulting in extensive commercial and recreational shellfish harvesting closures lasting several months at the peak of the seafood harvesting season. In a peer-reviewed study, economists found that the 2005 event caused over $4.9 million in lost landings of shellfish in the State of Maine alone, and more than $20 million throughout New England.

Last year's outbreak of red tide tracked very closely the patter of the 2005 event in both location and severity, but unlike in 2005 when nearly the entire coasts of Maine and Massachusetts were closed, resource managers had improved testing capabilities in place that allowed many localized areas to remain open. Such procedures were a direct result of programs established by the Harmful Algal Blooms and Hypoxia Research and Control Acts of 1998 and 2004.

Most recently, on April 22, 2009 researchers at Woods Hole Oceanographic Institution and North Carolina State University announced the potential for ''red tide'' in the Gulf of Maine this season is expected to be ''moderately large'', based on a regional seafloor survey of Alexandrium abundance. This survey revealed that levels of Alexandrium are currently higher than those observed just prior to the 2005 red tide. Just a few days ago, officials from the Maine Department of Resources Marine Biotoxin Monitoring Program closed a large parcel of the Maine coast to the harvest of mussels, oysters, and carnivorous snails due to the presence of PSP. The current trend of increasing frequency and intensity of red tide events in new England waters is just one example of the need to further enhance our ability to provide detailed forecasting and testing measures. The quick response time these capabilities enable will greatly reduce the economic impact such outbreaks impose on our coastal communities.

While we have made great strides in bloom prediction and monitoring, it is clear that these problems have not gone away, but rather increased in magnitude. Harmful algal blooms remain prevalent nationwide, and areas of hypoxia, also known as ''dead zones'' are now occurring with increasing frequency. Within a dead zone, oxygen levels plummet to the point at which they can no longer sustain life, driving out animals that can move, and killing those that cannot. The most infamous dead zone occurs annually in the Gulf of Mexico, off the shores of Louisiana. In 2008, researchers determined that this dead zone extended over 12,875 square miles, making it the second largest since measurements began in 1985. Dead zones are also occurring with increasing frequency in more areas than ever before, including off the coasts of Oregon, the Chesapeake Bay and Texas.

The amendments contained in this legislation would enhance the Nation's ability to predict, monitor, and ultimately control harmful algal blooms and hypoxia. Understanding when these blooms will occur is vital, but the time has come to take this program to the next level—to determine not just when an outbreak will occur, but how to reduce its intensity or prevent its occurrence all together. This bill would build on NOAA's successes in research and forecasting by creating a program to mitigate and control HAB outbreaks.

This bill also recognizes the need to enhance coordination among state and local resource managers—those on the front lines who must make the decisions to close beaches or shellfish beds. Their decisions are critical to protecting human health, but can also impose significant economic impacts. The bill would mandate creation of Regional Research and Action Plans that would identify baseline research, possible State and local government actions to prepare for and mitigate the impacts of HABs, and establish outreach strategies to ensure the public is informed of the dangers these events can present. A regional focus on these issues will ensure a more effective and efficient response to future events. And finally, this bill would, for the first time, create a pilot program to examine harmful algal blooms and hypoxia in fresh water systems.

If enacted, this critical reauthorization would greatly enhance our Nation's ability to predict, monitor, mitigate, and control outbreaks of HABs and hypoxia. Over half the U.S. population resides in coastal regions, and we must do all in our power to safeguard their health and the health of the marine environment. The existing Harmful Algal Bloom and Hypoxia Program has done a laudable job to date, and this authorization will allow them to expand their scope and provide greater benefits to the Nation as a whole. I thank Senator Bill Nelson, and all of my cosponsors again for their efforts in developing this vital legislation.

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

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

S. 952

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2009''.

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

SEC. 2. AMENDMENT OF HARMFUL ALGAL BLOOM AND HYPOXIA RESEARCH AND CONTROL ACT OF 1998.

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 Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SEC. 3. FINDINGS.

Section 602 is amended to read as follows:

''SEC. 602. FINDINGS.

The Congress finds the following:

''(1) Harmful algal blooms and hypoxia are increasing in frequency and intensity in the Nation's coastal waters and Great Lakes and pose a threat to the health of coastal and Great Lakes ecosystems, are costly to coastal economies, and threaten the safety of seafood and human health.

''(2) Excessive nutrients in coastal waters have been linked to the increased intensity and frequency of hypoxia and some harmful algal blooms and there is a need to identify more workable and effective actions to reduce the negative impacts of harmful algal blooms and hypoxia on coastal waters.

''(3) The National Oceanic and Atmospheric Administration, through its ongoing research, monitoring, observing, education, grant, and coastal resource management programs and in collaboration with the other Federal agencies, on the Interagency Task Force, along with States, Indian tribes, and local governments, possesses a full range of capabilities necessary to support a near and long-term comprehensive effort to prevent, reduce, and control the human and environmental costs of harmful algal blooms and hypoxia.

''(4) Harmful algal blooms and hypoxia can be triggered and exacerbated by increases in nutrient loading from point and non-point sources, much of which originates in upland areas and is delivered to marine and freshwater bodies via river discharge, thereby requiring integrated and landscape-level research and control strategies.

''(5) Harmful algal blooms and hypoxia affect many sectors of the coastal economy, including tourism, public health, and recreational and commercial fisheries; and according to a recent report produced by NOAA, the United States seafood and tourism industries suffer annual losses of $82 million due to economic impacts of harmful algal blooms.

''(6) Global climate change and its effect on oceans and the Great Lakes may ultimately play a role in the increase or decrease of harmful algal bloom and hypoxic events.

''(7) Proliferations of harmful and nuisance algae can occur in all United States waters, including coastal areas and estuaries, the Great Lakes, and inland waterways, crossing political boundaries and necessitating regional coordination for research, monitoring, mitigation, response, and prevention efforts.

''(8) Following passage of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, Federally-funded and other research has led to several technological advances, including remote sensing, molecular and optical tools, satellite imagery, and coastal and ocean observing systems, that provide data for forecast models, improve the monitoring and prediction of these events, and provide essential decision making tools for managers and stakeholders.''.

SEC. 4. PURPOSE.

The Act is amended by inserting after section 602 the following:

''SEC. 602A. PURPOSES.

''The purposes of this Act are—

''(1) to provide for the development and coordination of a comprehensive and integrated national program to address harmful algal blooms and hypoxia through baseline research, monitoring, prevention, mitigation, and control;

''(2) to provide for the assessment of environmental, socio-economic, and human health impacts of harmful algal blooms and hypoxia on a regional and national scale, and to integrate that assessment into marine and freshwater resource decisions; and

''(3) to facilitate regional, State, and local efforts to develop and implement appropriate harmful algal bloom and hypoxia response plans, strategies, and tools including outreach programs and information dissemination mechanisms.''.

SEC. 5. INTERAGENCY TASK FORCE ON HARMFUL ALGAL BLOOMS AND HYPOXIA.

(a) FEDERAL REPRESENTATIVES.—Section 603(a) is amended—

(1) by striking ''The Task Force shall consist of the following representatives from—'' and inserting ''The Task Force shall consist of representatives of the Office of the Secretary from each of the following departments and of the office of the head of each of the following Federal agencies:'';

(2) by striking ''the'' in paragraphs (1) through (11) and inserting ''The'';

(3) by striking the semicolon in paragraphs (1) through (10) and inserting a period.

(4) by striking ''Quality; and'' in paragraph (11) and inserting ''Quality.''; and

(5) by striking ''such other'' in paragraph (12) and inserting ''Other''.

(b) STATE REPRESENTATIVES.—Section 603 is amended—

(1) by striking subsections (b) through (i); and

(2) by inserting after subsection (a) the following:

''(b) STATE REPRESENTATIVES.—The Secretary shall establish criteria for determining appropriate States to serve on the Task Force and establish and implement a nominations process to select representatives from 2 appropriate States in different regions, on a rotating basis, to serve 2-year terms on the Task Force.''.

SEC. 6. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

The Act is amended by inserting after section 603 the following:

''SEC. 603A. NATIONAL HARMFUL ALGAL BLOOM AND HYPOXIA PROGRAM.

''(a) ESTABLISHMENT.—The President, acting through NOAA, shall establish and maintain a national program for integrating efforts to address harmful algal bloom and hypoxia research, monitoring, prediction, control, mitigation, prevention, and outreach.

''(b) TASK FORCE FUNCTIONS.—The Task Force shall be the oversight body for the development and implementation of the national harmful algal bloom and hypoxia program and shall—

''(1) coordinate interagency review of plans and policies of the Program;

''(2) assess interagency work and spending plans for implementing the activities of the Program;

''(3) review the Program's distribution of Federal grants and funding to address research priorities;

''(4) support implementation of the actions and strategies identified in the regional research and action plans under subsection (d);

''(5) support the development of institutional mechanisms and financial instruments to further the goals of the program;

''(6) expedite the interagency review process and ensure timely review and dispersal of required reports and assessments under this Act; and

''(7) promote the development of new technologies for predicting, monitoring, and mitigating harmful algal blooms and hypoxia conditions.

''(c) LEAD FEDERAL AGENCY.—NOAA shall be the lead Federal agency for implementing and administering the National Harmful Algal Bloom and Hypoxia Program.

''(d) RESPONSIBILITIES.—The Program shall—

''(1) promote a national strategy to help communities understand, detect, predict, control, and mitigate freshwater and marine harmful algal bloom and hypoxia events;

''(2) plan, coordinate, and implement the National Harmful Algal Bloom and Hypoxia Program; and

''(3) report to the Task Force via the Administrator.

''(e) DUTIES.—

''(1) ADMINISTRATIVE DUTIES.—The Program shall—

''(A) prepare work and spending plans for implementing the activities of the Program and developing and implementing the Regional Research and Action Plans;

''(B) administer merit-based, competitive grant funding to support the projects maintained and established by the Program, and to address the research and management needs and priorities identified in the Regional Research and Action Plans;

''(C) coordinate NOAA programs that address harmful algal blooms and hypoxia and other ocean and Great Lakes science and management programs and centers that address the chemical, biological, and physical components of harmful algal blooms and hypoxia;

''(D) coordinate and work cooperatively with other Federal, State, and local government agencies and programs that address harmful algal blooms and hypoxia;

''(E) coordinate with the State Department to support international efforts on harmful algal bloom and hypoxia information sharing, research, mitigation, and control.''.

''(F) coordinate an outreach, education, and training program that integrates and augments existing programs to improve public education about and awareness of the causes, impacts, and mitigation efforts for harmful algal blooms and hypoxia;

''(G) facilitate and provide resources for training of State and local coastal and water resource managers in the methods and technologies for monitoring, controlling, and mitigating harmful algal blooms and hypoxia;

''(H) support regional efforts to control and mitigate outbreaks through—

''(i) communication of the contents of the Regional Research and Action Plans and maintenance of online data portals for other information about harmful algal blooms and hypoxia to State and local stakeholders within the region for which each plan is developed; and

''(ii) overseeing the development, review, and periodic updating of Regional Research and Action Plans established under section 602C(b);

''(I) convene an annual meeting of the Task Force; and

''(J) perform such other tasks as may be delegated by the Task Force.

''(2) NOAA DUTIES.—NOAA shall maintain and enhance—

''(A) the Ecology and Oceanography of Harmful Algal Blooms Program;

''(B) the Monitoring and Event Response for Harmful Algal Blooms Program;

''(C) the Northern Gulf of Mexico Ecosystems and Hypoxia Assessment Program; and

''(D) the Coastal Hypoxia Research Program.

''(3) PROGRAM DUTIES.—The Program shall—

''(A) establish—

''(i) a Mitigation and Control of Harmful Algal Blooms Program—

''(I) to develop and promote strategies for the prevention, mitigation, and control of harmful algal blooms; and

''(II) to fund research that may facilitate the prevention, mitigation, and control of harmful algal blooms; and

''(III) to develop and demonstrate technology that may mitigate and control harmful algal blooms; and

''(ii) other programs as necessary; and

''(B) work cooperatively with other offices, centers, and programs within NOAA and other agencies represented on the Task Force, States, and nongovernmental organizations concerned with marine and aquatic issues to manage data, products, and infrastructure, including—

''(i) compiling, managing, and archiving data from relevant programs in Task Force member agencies;

''(ii) creating data portals for general education and data dissemination on centralized, publicly available databases; and

''(iii) establishing communication routes for data, predictions, and management tools both to and from the regions, states, and local communities.''.

SEC. 7. REGIONAL RESEARCH AND ACTION PLANS.

The Act, as amended by section 6, is amended by inserting after section 602A the following:

''SEC. 602B. REGIONAL RESEARCH AND ACTION PLANS.

''(a) IN GENERAL.—The Program shall—

''(1) oversee the development and implementation of Regional Research and Action Plans; and

''(2) identify appropriate regions and subregions to be addressed by each Regional Research and Action Plan.

''(b) REGIONAL PANELS OF EXPERTS.—

''(1) IN GENERAL.—In accordance with the schedule set forth in paragraph (2), the Program shall convene a panel of experts for each region identified under subsection (a)(2) from among—

''(A) State coastal management and planning officials;

''(B) water management and watershed officials from both coastal states and noncoastal states with water sources that drain into water bodies affected by harmful algal blooms and hypoxia;

''(C) public health officials;

''(D) emergency management officials;

''(E) nongovernmental organizations concerned with marine and aquatic issues;

''(F) science and technology development institutions;

''(G) economists;

''(H) industries and businesses affected by coastal and freshwater harmful algal blooms and hypoxia;

''(I) scientists, with expertise concerning harmful algal blooms or hypoxia, from academic or research institutions; and

''(J) other stakeholders as appropriate.

''(2) SCHEDULE.—The Program shall—

''(A) convene panels in at least ⅓ of the regions within 9 months after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2009;

''(B) convene panels in at least ⅔ of the regions within 21 months after such date; and

''(C) convene panels in the remaining regions within 33 months after such date; and

''(D) reconvene each panel at least every 5 years after the date on which it was initially convened.

''(c) PLAN DEVELOPMENT.—Each regional panel of experts shall develop a Regional Research and Action Plan for its respective region and submit it to the Program for approval and to the Task Force. The Plan shall identify appropriate elements for the region, including—

''(1) baseline ecological, social, and economic research needed to understand the biological, physical, and chemical conditions that cause, exacerbate, and result from harmful algal blooms and hypoxia;

''(2) regional priorities for ecological and socio-economic research on issues related to, and impacts of, harmful algal blooms and hypoxia;

''(3) research needed to develop and advance technologies for improving capabilities to predict, monitor, prevent, control, and mitigate harmful algal blooms and hypoxia;

''(4) State and local government actions that may be implemented—

''(A) to support long-term monitoring efforts and emergency monitoring as needed;

''(B) to minimize the occurrence of harmful algal blooms and hypoxia;

''(C) to reduce the duration and intensity of harmful algal blooms and hypoxia in times of emergency;

''(D) to address human health dimensions of harmful algal blooms and hypoxia; and

''(E) to identify and protect vulnerable ecosystems that could be, or have been, affected by harmful algal blooms and hypoxia;

''(5) mechanisms by which data and products are transferred between the Program and State and local governments and research entities;

''(6) communication, outreach and information dissemination efforts that State and local governments and nongovernmental organizations can undertake to educate and inform the public concerning harmful algal blooms and hypoxia and alternative coastal resource-utilization opportunities that are available; and

''(7) pilot projects, if appropriate, that may be implemented on local, State, and regional scales to address the research priorities and response actions identified in the Plan.

''(d) PLAN TIMELINES; UPDATES.—The Program shall ensure that Regional Research and Action Plans developed under this section are—

''(1) completed and approved by the Program within 12 months after the date on which a regional panel is convened or reconvened under subsection (b)(2); and

''(2) updated no less frequently than once every 5 years.

''(e) FUNDING.—

''(1) IN GENERAL.—Subject to available appropriations, the Program shall make funding available to eligible organizations to implement the research, monitoring, forecasting, modeling, and response actions included under each approved Regional Research and Action Plan. The Program shall select recipients through a merit-based, competitive process and seek to fund research proposals that most effectively align with the research priorities identified in the relevant Regional Research and Action Plan.

''(2) APPLICATION; ASSURANCES.—Any organization seeking funding under this subsection shall submit an application to the Program at such time, in such form and manner, and containing such information and assurances as the Program may require. The Program shall require any organization receiving funds under this subsection to utilize the mechanisms described in subsection (c)(5) to ensure the transfer of data and products developed under the Plan.

''(3) ELIGIBLE ORGANIZATION.—In this subsection, the term 'eligible organization' means—

''(A) a nongovernmental researcher or organization; or

''(B) any other entity that applies for funding to implement the State, local, and nongovernmental control, mitigation, and prevention strategies identified in the relevant Regional Research and Action Plan.

''(f) INTERMEDIATE REVIEWS.—If the Program determines that an intermediate review is necessary to address emergent needs in harmful algal blooms and hypoxia under a Regional Research and Action Plan, it shall notify the Task Force and reconvene the relevant regional panel of experts for the purpose of revising the Regional Research and Action Plan so as to address the emergent threat or need.''.

SEC. 8. REPORTING.

Section 603, as amended by section 5, is amended by adding at the end thereof the following:

''(c) BIENNIAL REPORTS.—Every 2 years the Program shall prepare a report for the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Natural Resources that describe—

''(1) activities, budgets, and progress on implementing the national harmful algal bloom and hypoxia program;

''(2) the proceedings of the annual Task Force meetings; and

''(3) the status, activities, and funding for implementation of the Regional Research and Action Plans, including a description of research funded under the program and actions and outcomes of Plan response strategies carried out by States.

''(d) QUINQUENNIAL REPORTS.—Not less than once every 5 years after the date of enactment of the Harmful Algal Blooms and Hypoxia Research and Control Amendments Act of 2009, the Task Force shall complete and submit a report on harmful algal blooms and hypoxia in marine and freshwater systems to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committees on Science and Technology and on Natural Resources. The report shall—

''(1) evaluate the state of scientific knowledge of harmful algal blooms and hypoxia in marine and freshwater systems, including their causes and ecological consequences;

''(2) evaluate the social and economic impacts of harmful algal blooms and hypoxia, including their impacts on coastal communities, and review those communities' efforts and associated economic costs related to event forecasting, planning, mitigation, response, and public outreach and education;

''(3) examine and evaluate the human health impacts of harmful algal blooms and hypoxia, including any gaps in existing research;

''(4) describe advances in capabilities for monitoring, forecasting, modeling, control, mitigation, and prevention of harmful algal blooms and hypoxia, including techniques for, integrating landscape- and watershed-level water quality information into marine and freshwater harmful algal bloom and hypoxia prevention and mitigation strategies at Federal and regional levels;

''(5) evaluate progress made by, and the needs of, Federal, regional, State, and local policies and strategies for forecasting, planning, mitigating, preventing, and responding to harmful algal blooms and hypoxia, including the economic costs and benefits of such policies and strategies;

''(6) make recommendations for integrating, improving, and funding future Federal, regional, State, and local policies and strategies for preventing and mitigating the occurrence and impacts of harmful algal blooms and hypoxia; and

''(7) describe communication, outreach, and education efforts to raise public awareness of harmful algal blooms and hypoxia, their impacts, and the methods for mitigation and prevention.''.

SEC. 9. NORTHERN GULF OF MEXICO HYPOXIA.

Section 604 is amended to read as follows:

''SEC. 604. NORTHERN GULF OF MEXICO HYPOXIA.

(a) TASK FORCE ANNUAL PROGRESS REPORTS.—For each of the years from 2009 through 2013, the Mississippi River/Gulf of Mexico Watershed Nutrient Task Force shall complete and submit to the Congress and the President an annual report on the progress made by Task Force-directed activities toward attainment of the Coastal Goal of the Gulf Hypoxia Action Plan 2008.

(b) TASK FORCE 5-YEAR PROGRESS REPORT.—In 2013, that Task Force shall complete and submit to Congress and the President a 5-Year report on the progress made by Task Force-directed activities toward attainment of the Coastal Goal of the Gulf Hypoxia Action Plan 2008. The report shall assess progress made toward nutrient load reductions, the response of the hypoxic zone and water quality throughout the Mississippi/Atchafalaya River Basin, and the economic and social effects. The report shall include an evaluation of how current policies and programs affect management decisions, including those made by municipalities and industrial and agricultural producers, evaluate lessons learned, and recommend appropriate actions to continue to implement or, if necessary, revise this strategy.

SEC. 10. PILOT PROGRAM FOR FRESHWATER HARMFUL ALGAL BLOOMS AND HYPOXIA.

The Act, as amended by section 7, is amended by inserting after section 603B the following:

''SEC. 603C. PILOT PROGRAM FOR FRESHWATER HARMFUL ALGAL BLOOMS AND HYPOXIA.

''(a) PILOT PROGRAM.—The Secretary shall establish a collaborative pilot program with the Environmental Protection Agency and other appropriate Federal agencies to examine harmful algal blooms and hypoxia occurring in freshwater systems, including the Great Lakes. The pilot program shall—

''(1) assess the issues associated with, and impacts of, harmful algal blooms and hypoxia in freshwater ecosystems;

''(2) research the efficacy of mitigation measures, including measures to reduce nutrient loading; and

''(3) recommend potential management solutions.

''(b) REPORT.—The Secretary of Commerce, in consultation with other participating Federal agencies, shall conduct an assessment of the effectiveness of the pilot program in improving freshwater habitat quality and publish a report, available to the public, of the results of the assessment.''.

SEC. 11. INTERAGENCY FINANCING.

The Act is amended by inserting after section 604 the following:

''SEC. 604A. INTERAGENCY FINANCING.

''The departments and agencies represented on the Task Force are authorized to participate in interagency financing and share, transfer, receive, obligate, and expend funds appropriated to any member of the Task Force for the purposes of carrying out any administrative or programmatic project or activity under this Act, including support for the Program, a common infrastructure, information sharing, and system integration for harmful algal bloom and hypoxia research, monitoring, forecasting, prevention, and control. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Task Force member and the costs of the same.''.

SEC. 12. APPLICATION WITH OTHER LAWS.

The Act is amended by inserting after section 606 the following:

''SEC. 607. EFFECT ON OTHER FEDERAL AUTHORITY.

''Nothing in this title supersedes or limits the authority of any agency to carry out its responsibilities and missions under other laws.''.

SEC. 13. DEFINITIONS.

(a) IN GENERAL.—The Act is amended by inserting after section 605 the following:

''SEC. 605A. DEFINITIONS.

''In this Act:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the NOAA.

''(2) HARMFUL ALGAL BLOOM.—The term 'harmful algal bloom' means marine and freshwater phytoplankton that proliferate to high concentrations, resulting in nuisance conditions or harmful impacts on marine and aquatic ecosystems, coastal communities, and human health through the production of toxic compounds or other biological, chemical, and physical impacts of the algae outbreak.

''(3) HYPOXIA.—The term 'hypoxia' means a condition where low dissolved oxygen in aquatic systems causes stress or death to resident organisms.

''(4) NOAA.—The term 'NOAA' means the National Oceanic and Atmospheric Administration.

''(5) PROGRAM.—The term 'Program' means the Integrated Harmful Algal Bloom and Hypoxia Program established under section 603A.

''(6) REGIONAL RESEARCH AND ACTION PLAN.—The term 'Regional Research and Action Plan' means a plan established under section 602B.

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Commerce, acting through NOAA.''.

''(8) TASK FORCE.—The term 'Task Force' means the Interagency Task Force established by section 603(a).

''(9) UNITED STATES COASTAL WATERS.—The term 'United States coastal waters' includes the Great Lakes.''.

(b) CONFORMING AMENDMENT.—Section 603(a) is amended by striking ''Hypoxia (hereinafter referred to as the 'Task force').'' and inserting ''Hypoxia.''.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 605 is amended to read as follows:—

''SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to NOAA to implement the Program under this title $40,000,000 for each of fiscal years 2010 through 2014, of which up to $10,000,000 shall be allocated each fiscal year to the creation of Regional Research and Action Plans required by section 602B.

''(b) EXTRAMURAL RESEARCH ACTIVITIES.—The Secretary shall ensure that a substantial portion of funds appropriated pursuant to subsection (a) that are used for research purposes are allocated to extramural research activities.

''(c) PILOT PROGRAM.—In addition to any amounts appropriated pursuant to subsection (a), there are authorized to be appropriated to NOAA such sums as may be necessary to carry out the pilot program established under section 603C.''.

Mr. NELSON of Florida. Mr. President, I rise today to introduce legislation that will address an ongoing problem that adversely affects local communities and coastal areas around my home State of Florida and across coastal and Great Lakes States.

Today, Senator SNOWE and I, along with Senators BOXER, CANTWELL, CARDIN, LANDRIEU, LEVIN and VITTER. introduced a bill that would reauthorize and enhance the Harmful Algal Bloom and Hypoxia Research and Control Act, HABHRCA, which was enacted in 1998 and reauthorized 5 years ago. This act enabled critical monitoring, forecasting, and research activities that have greatly improved our understanding and prediction of harmful algal blooms, nuisance blooms like red drift, and low-oxygen or hypoxia events that plague our estuaries and coastal waters.

We have made great strides through HABHRCA to address this problem, but there is more yet to do. Reports of harmful algal blooms in U.S. waters and around the world have drastically increased over the past 3 decades.

Harmful algae can produce potent toxins causing illness and death in humans, fish, seabirds, marine mammals like manatees and dolphins, and other oceanic life. Other harmful algae are non-toxic to humans, but can still cause damage to ecosystems, corals, fisheries resources, and recreational facilities. Harmful algae also have a significant economic impact. A 2006 study conservatively estimated that coastal harmful algal blooms cost more than $82 million per year on average in the U.S., with the majority of impacts in the public health and commercial fisheries sectors.

Virtually every coastal state in the country is affected by harmful algal blooms. For instance, toxins from harmful algae found in razor clams along the Pacific Coast eventually shut down Washington's clam fishery in 2002. This event resulted in $10–12 million in lost revenue. In 2005, a red tide event in New England caused closures of shellfish harvesting to prevent paralytic shellfish poisoning in humans. These closures resulted in approximately $18 million in lost shellfish sales in Massachusetts and $4.9 million in Maine. In Hawaii, macroalgal blooms, which impact coral reefs and local aesthetics, result in more than $20 million in lost revenue every year due to reductions in real estate value, lost hotel business, and increased clean-up costs.

A particularly devastating and intense red tide struck the Gulf Coast of my home State of Florida in the summer of 2005, causing widespread animal deaths as well as public health and economic problems. The St. Petersburg/Clearwater Area Convention and Visitors Bureau estimated upwards of $240 million in losses for the Tampa region as a result of this bloom.

Scientists have told us that red tides are a lot like hurricanes—complex but natural phenomena that can have profound impacts on our environment and society. Although we may not be able to stop this natural process, we can do more to predict it and take actions to minimize its impacts on our citizens and natural resources.

In April 2008, researchers predicted a severe outbreak of New England Red Tide, Alexandrium fundyense, which produces potent neurotoxins that are filtered by shellfish. When humans consume contaminated shellfish they become extremely ill and can die without immediate medical treatment. This was the first time that researchers could issue a prediction of this kind several weeks in advance. The 2008 prediction was derived from a model based on 10 years of ecosystem research in the Gulf of Maine. The prediction was remarkably accurate, and it allowed State managers and the shellfish aquaculture industry to plan for a difficult season. By showing the news media and the public that the event was expected and that state managers were prepared, the prediction may have also reduced the ''halo'' effect in which shellfish harvesting closures in one area reduce shellfish and fish sales from areas unaffected by toxicity. This prediction was made possible from research funded under programs authorized by HABARCA.

It is clear that harmful algal blooms and hypoxia events can have devastating impacts on water and air quality, aquatic species, wildlife, and beach conditions, which in turn affect public health, commercial and recreational fishing, tourism, and related businesses in our coastal communities. The question becomes, what can we do to stop this? If we can't stop these events, how can we better plan for them and take steps to minimize the impacts?

We have learned from scientists and researchers that some harmful algal blooms and red drift events can be triggered by excess nutrients from upland areas that wash into rivers and are delivered to the coast. Because this problem often crosses political and geographic boundaries, we must pursue solutions that are regional in nature and bring together expertise from all levels of government, from academia, and from other outside groups who have a stake in keeping our coastal waters healthy, clean, and productive.

Senator SNOWE and I have worked together to craft a bill that will not only continue critical research on harmful algal blooms and hypoxia, but will help address some of these pressing needs that exist on every coast—from the Atlantic and Gulf of Mexico, to the Pacific and the Great Lakes. Our bill will

help to integrate and improve coordination among the government's programs that study and monitor these events. The bill also would improve how regional, state, and local needs are considered when prioritizing research grants and developing related products. Most importantly, this bill would focus new resources on translating research results into tools and products that state and local governments can use to help prevent, respond to, and mitigate the impacts of these events.

Although we have made significant progress in identifying some of the causes and consequences of harmful algal blooms and hypoxia since 1998, much work remains to find solutions that minimize the occurrence of these events and enable our coastal communities to become resilient to the impacts. This legislation to amend and reauthorize the Harmful Algal Blooms and Hypoxia Act represents an important step toward realizing those goals.

In closing, I would like to recognize Senator SNOWE for her leadership on this issue. As the sponsor of both the original legislation in 1998 and the 2004 amendments, her expertise on harmful algal blooms and the impacts of these events on her constituents has proved invaluable as we developed the measure before us today. I look forward to working with Senator SNOWE, in her role as ranking member of the Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee of the Commerce, Science, and Transportation Committee, as well as with Chairman CANTWELL and the other members of the subcommittee, to debate this important legislation.

By Mr. HARKIN:

S. 953. A bill to provide for the establishment of programs and activities to increase influenza vaccination rates through the provision of free vaccines; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am introducing the Seasonal Influenza and Pandemic Preparation Act of 2009. The bill was given the number S. 953. This bill would establish a nationwide free, voluntary influenza vaccination program, under which any individual in this country may receive an annual influenza vaccine shot free of charge.

I offered this bill 3 years ago because at that time we started the process of building up our vaccine capacity. I will have more to say about that. What is happening currently with H1N1 being almost at a pandemic stage now, it brings home again what we need to do in this country to be prepared, and that is what this bill is about. Offering free flu shots to everyone in the United States is a good idea in and of itself.

The Centers for Disease Control and Prevention says an average of more than 40,000 Americans die each year from flu-related diseases and causes. Think about that: 40,000 Americans die every year due to flu-related causes. Seasonal flu is responsible for more than 31 million outpatient visits and more than 3 million days annually in the hospital. Seasonal flu costs the U.S. economy nearly $90 billion annually, including $10 billion in direct medical costs—$10 billion a year just in direct medical costs. Think about that: 40,000 people dying every year, $10 billion in direct medical costs, $90 billion annually in lost productivity to our economy, over 3 million days in the hospital every year, and this is seasonal flu.

We can significantly reduce all those numbers. In addition, there is some evidence that people who are vaccinated each year against seasonal flu viruses actually build up a limited degree of resistance to pandemic viruses. So strictly as a matter of prudent prevention, it is desirable to maximize the number of Americans who are vaccinated against flu each year. By offering the vaccinations for free and making them conveniently available, we would remove major barriers to more widespread participation.

There is precedence for this. Medicare, right now, will pay for one seasonal flu shot for everybody on Medicare every year. So we already have that out there. We just need to get it to the rest of the population.

There are other compelling reasons for establishing a nationwide voluntary free flu vaccination program. Let me explain.

As chairman of the appropriations subcommittee that funds health programs, I have taken the lead in the past in providing funding to prepare for a future flu pandemic. Since 2006, my subcommittee has provided more than $6 billion to these activities.

As a consequence, while public health authorities in the United States may have been surprised by the H1N1 virus outbreak, they have not been caught unprepared. To the contrary, since 2006 we have undertaken very robust measures to prepare for exactly this kind of outbreak and potential pandemic.

First, we have made major investments in antivirals that can be given to a person once exposed and shows signs of the illness. We have made major investments in medical equipment, which are right now, as we speak, being distributed nationally to our local public health authorities across the country. Many of them are now in place. Many started going out earlier this week. I daresay that probably most, if not all, of them are probably out there right now—from the stockpiles that we built up. There are over 50 million doses of Tamiflu and Relenza that we built up in our stockpile. Well, not all of that, but most of it, has gone out around the country to be prepared.

Second, we have stepped up our public health and surveillance activities, which helped us to detect the H1N1 virus earlier than we otherwise might have.

Third, we have increased the capacity of the Centers for Disease Control and Prevention to identify viruses and respond aggressively and very immediately, including producing what is called a ''seed'' virus, necessary for the development of a vaccine. That is being done right now.

Fourth, we have also made major investments in building up our vaccine production capacity in the United States. Mr. President, when we started on this in 2005, there was at that time only one plant in the entire United States of America that could produce flu vaccines—one. I believe it is located in Pennsylvania, and that was making vaccines based upon an old methodology of using eggs. We had to use millions of eggs every year to produce that vaccine, and that takes a long time.

There have been, in the research and development, processes by which we can make cell-based vaccines. We can shorten the timeframe. That is nice, but we don't have any cell-based plants in the United States. In the fiscal 2006 bill, we put over $3 billion out there to build these plants. They are being built now. So we are building up our vaccine production capacity and doing it in a way in which we can get the vaccines produced more rapidly.

Fifth, we have funded research into adjuvants. These are agents that increase the vaccine's effectiveness. Let me put it this way. If we have one dose of a vaccine, we might actually be able to cut that dose down and give that one dose to four or five people by adding the adjuvant to it.

Lastly, we have worked with State and local public health agencies to boost their capacity to respond to a flu pandemic. We have done that, but because of the economic downturn many of our State budgets have been slashed. In our States around the country, we were told at our hearing the other day, over 60,000 people have been laid off from our public health agencies. That makes it more difficult to get the antivirals out to people who may come down with H1N1 or any other kind of flu virus.

Because of all these things we did, I think I can safely say there is no reason for anyone anywhere in the United States to panic because of the H1N1 flu virus. As I said, one of the most important things we have done is to build up our vaccine manufacturing capacity.

Here is the problem. This really is the crux of this bill I have introduced today. Say we build up the vaccine manufacturing capacity and we build these plants that can respond aggressively and immediately to a pandemic outbreak. What happens the rest of the time? What happens? Do they sit there idle, not being utilized? We cannot have that.

What we need to do is to use these plants, then, to make more of the seasonal flu vaccines every year. Well, if we have the plants out there, and they make more of the seasonal flu viruses but not everybody is using them, what do we do, just throw it away? We want the plant capacity to prepare for any

pandemic in the future, but they need to be active and they need to produce annually. If they are going to produce annually, then we have to find something to do with these vaccines.

By offering annual free vaccines to every single person in America, we will keep our vaccine production capacity up and running. It will be ready to shift at a moment's notice, when necessary, from producing seasonal flu vaccines to a mass production of vaccines to fight any future outbreak or pandemic.

There is another reason for this bill. If we are faced with a flu virus pandemic, we are going to have to mobilize people. We are going to have to get the vaccines out in a hurry and get the vaccines right down to the individual people all over this country—people in small towns and communities, in rural areas, and in cities. Well, by having an annual free flu vaccination, we will give public health agencies across America valuable experience in administering vaccines to masses of people, local agencies that will have a reason to develop trained cadres of people who are capable of administering vaccines.

We will also develop an established network of sites that might include grocery stores, shopping malls, schools, places of worship, and senior centers where people can conveniently go to get vaccinated in case of an outbreak. These annual activities will significantly increase State and local public health readiness to fight a pandemic. Not all these people are going to be employed by the Government. These will be volunteers, but they will be trained. They will know where to go and how to administer a vaccine because they will be doing it on an annual basis, free of charge, to people. We will build up a network of sites and a cadre of people who can be relied upon in case we face a pandemic.

On Tuesday, in response to the H1N1 outbreak, I chaired an emergency hearing on the Health Appropriations Subcommittee. We heard assessments of the outbreak from top medical experts, including Dr. Anthony Fauci, the renowned and remarkable Director of the National Institute of Allergy and Infectious Diseases at NIH.

Years ago, when we first started this, back in 2005, Dr. Fauci warned us that it is not a matter of ''whether'' there will be a flu pandemic but rather ''when'' it will happen. It is not a matter of whether but when.

When the Senate drafted its version of the American Recovery and Reinvestment Act this year—the stimulus bill—I included an additional $870 million for pandemic preparedness. Most of that funding was to be used to complete the work of building up our vaccine production capacity; in other words, to get these plants built more rapidly. Unfortunately, it was taken out in the final bill. Again, what we are trying to do is shift from egg-based production to cell-based production, so we can get these vaccines developed more rapidly. Taking it out of the stimulus bill was the typical shortsighted resistance that I have often encountered when I talk about this.

Some accused me a couple years ago of crying wolf. The wolf is here. One day in the future we can encounter an even worse wolf, such as the flu pandemic of 1918, which was the Spanish flu. It infected one out of three people worldwide and killed more than 50 million people. It would be the height of folly not to do what we can to prepare for such a possibility. The harsh reality is that we have repeatedly experienced flu pandemics. I mentioned the one of 1918 and 1919.

There was the Asian flu pandemic of 1957 and 1958 that killed over 1.5 million people.

The Hong Kong flu pandemic of 1968 and 1969 killed over 1 million people. Not only did it kill over 1 million people, it caused hundreds of millions of illnesses and hospital stays all across the globe.

We cannot predict the future course or severity of the current H1N1 outbreak, but clearly it is one more wake-up call.

Again, I am reintroducing the Seasonal Influenza and Pandemic Preparation Act today as a stand-alone bill. I first introduced it in 2005, as I said. It is now a stand-alone bill. We either pass it that way or, if not, I plan to incorporate it into the prevention and public health title of comprehensive health reform legislation that we will hopefully pass this year. A program offering annual free flu shots to every American is exactly the kind of smart, cost-effective, prevention-focused public health that must be at the center of our reformed health care system in America. It will save lives and money. When—when not whether—a pandemic flu strikes the U.S. in the future, we will be ready.

I encourage Senators to cosponsor the legislation. I think this is one more wake-up call and we have to move ahead aggressively in preparing for these pandemics. As Dr. Fauci said, it is not a question of whether, it is only a question of when and how severe it will be. We don't know.

I remind people that a few years ago when we started this, back in 2005, we were confronting the possible pandemic of an avian flu or H5N1 flu, which started in Southeast Asia. Thanks to surveillance, to the CDC, and to a lot of people working on it, we were able to contain it. That H5N1 avian flu is one of the most deadly we have confronted, with over a 50-percent mortality. One out of every two persons who contracted it died. Now we have contained it and tamped it down. That H5N1 virus is still out there and, periodically, we pick it up in places such as Southeast Asia.

There was a thought that because of migratory birds, it may be spread to other places, but we don't know that.

But because it has reared its ugly head, because we know that virus is out here someplace, it behooves us to do everything we can to protect the people of this country and in doing so to prepare. I hope it doesn't happen. I hope when there is a pandemic flu, it will be just a mild one and will not kill people. But we don't know. The best way to prepare for it is to build up our vaccine-manufacturing capacity as rapidly as possible; secondly, make sure our public health agencies on the State and local levels are ready to go, that they are trained, that they are equipped; and thirdly, that we have some experience, that we know how to do this.

One of the best ways is to give everyone a free flu shot every year—everyone, a voluntary free flu shot every year. To me, that will set us up well to prepare for and to protect the American people against any flu pandemic that may come our way in the future.

By Mr. DURBIN (for himself, Mr. BINGAMAN, Mr. CASEY, and Mr. FEINGOLD):

S. 957. A bill to amend the Public Health Service Act to ensure that victims of public health emergencies have meaningful and immediate access to medically necessary health care services; to the Committee on Health, Education, Labor, and Pensions.

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

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

S. 957

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Public Health Emergency Response Act of 2009''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Since 2000, the Secretary of Health and Human Services has declared that a public health emergency existed nationwide in response to the attacks of September 11th and in response to Hurricanes Katrina and Rita.

(2) In the event of a public health emergency, compliance with recommendations to seek immediate care may be critical to containing the spread of an infectious disease outbreak or responding to a bioterror attack.

(3) Nearly 16 percent of Americans lack health insurance coverage.

(4) Fears of out-of-pocket expenses may cause individuals to delay seeking medical attention during a public health emergency.

(5) A public health emergency may disrupt health care assistance programs for individuals with chronic conditions, exacerbating the costs and risks to their health.

(6) The uninsured could place great financial strain on health care providers during a public health emergency.

(7) The Department of Health and Human Services Pandemic Influenza Plan projects that a pandemic influenza outbreak could result in 45,000,000 additional outpatient visits, with 865,000 to 9,900,000 individuals requiring hospitalization, depending upon the severity of the pandemic.

(8) Hospitals in the United States could lose as much as $3,900,000,000 in uncompensated care and cash flow losses in the event of a severe pandemic.

(9) Under current statute, no dedicated mechanism exists to reimburse providers for uncompensated care during a public health emergency.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide temporary emergency health care coverage for uninsured and certain otherwise qualified individuals in the event of a public health emergency declared by the Secretary of Health and Human Services;

(2) to ensure that health care providers remain fiscally solvent and are not overburdened by the cost of uncompensated care during a public health emergency;

(3) to eliminate a primary disincentive for uninsured and certain otherwise qualified individuals to promptly seek medical care during a public health emergency; and

(4) to minimize delays in the provision of emergency health care coverage by clarifying eligibility requirements and the scope of such coverage and identifying the funding mechanisms for emergency health care services.

SEC. 3. EMERGENCY HEALTH CARE COVERAGE.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 319K the following new section:

"SEC. 319K–1. EMERGENCY HEALTH CARE COVERAGE.

''(a) ACTIVATION AND TERMINATION OF EMERGENCY HEALTH CARE COVERAGE.—

''(1) BASED ON PUBLIC HEALTH EMERGENCY.—

''(A) IN GENERAL.—The Secretary may activate the coverage of emergency health care services under this section only if the Secretary determines that there is a public health emergency.

''(B) DETERMINATION OF PUBLIC HEALTH EMERGENCY.—For purposes of this section, there is a 'public health emergency' only if a public health emergency exists under section 319.

''(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Secretary shall consider a range of factors including the following:

''(A) The degree to which the emergency is likely to overwhelm health care providers in the region.

''(B) The opportunity to minimize morbidity and mortality through intervention under this section.

''(C) The estimated number of direct casualties of the emergency.

''(D) The potential number of casualties in the absence of intervention under this section (such as in the case of infectious disease).

''(E) The potential adverse financial impacts on local health care providers in the absence of activation of this section.

''(F) Whether the need for health care services is of sufficient severity and magnitude to warrant major assistance under this section above and beyond the emergency services otherwise available from the Federal Government.

''(G) Such other factors as the Secretary may deem appropriate.

''(3) TERMINATION AND EXTENSION.—

''(A) IN GENERAL.—Coverage of emergency health care services under this section shall terminate, subject to subsection (c)(2), upon the earlier of the following:

''(i) The Secretary's determination that a public health emergency no longer exists.

''(ii) Subject to subparagraph (B), 90 days after the initiation of coverage of emergency health care services.

''(B) EXTENSION AUTHORITY.—The Secretary may extend a public health emergency for a second 90-day period, but only if a report to Congress is made under paragraph (4) in conjunction with making such extension.

''(4) REPORT.—

''(A) IN GENERAL.—Prior to making an extension under paragraph (3)(B), the Secretary shall transmit a report to Congress that includes information on the nature of the public health emergency and the expected duration of the emergency. The Secretary shall include in such report recommendations, if deemed appropriate, that Congress provide a further extension of the public health emergency period beyond the second 90-day period.

''(B) REPORT CONTENTS.—A report under subparagraph (A) shall include a discussion of the health care needs of emergency victims and affected individuals including the likely need for follow-up care over a 2-year period.

''(5) COORDINATION.—The Secretary shall ensure that the activation, implementation, and termination of emergency health care services under this section in response to a public health emergency is coordinated with all functions, personnel, and assets of the Federal, State, local, and tribal responses to the emergency.

''(6) MEDICAL MONITORING PROGRAM.—The Secretary shall establish a medical monitoring program for monitoring and reporting on health care needs of the affected population over time. At least annually during the 5-year period following the date of a public health emergency, the Secretary shall report to Congress on any continuing health care needs of the affected population related to the public health emergency. Such reports shall include recommendations on how to ensure that emergency victims and affected individuals have access to needed health care services.

''(b) ELIGIBILITY FOR COVERAGE OF EMERGENCY HEALTH CARE SERVICES.—

''(1) LIMITED ELIGIBILITY.—

''(A) IN GENERAL.—Eligibility for coverage of emergency health care services under this section for a public health emergency is limited to individuals who—

''(i) are emergency victims who are uninsured or otherwise qualified; or

''(ii) are affected individuals who are uninsured.

''(B) DEFINITIONS.—For purposes of this section with respect to a public health emergency:

''(i) INSURED.—An individual is 'insured' if the individual has group or individual health insurance coverage or publicly financed health insurance (as defined by the Secretary).

''(ii) OTHERWISE QUALIFIED.—An individual is ''otherwise qualified'' if the individual is insured but the Secretary determines that the individual's health care insurance coverage is not at least actuarially-equivalent to benchmark coverage. In establishing such benchmark coverage, the Secretary shall consider the standard Blue Cross/Blue Shield preferred provider option service benefit plan described in and offered under section 8903(1) of title 5, United States Code.

''(iii) UNINSURED.—An individual is 'uninsured' if the individual is not insured.

''(iv) EMERGENCY VICTIM.—An individual is an 'emergency victim' with respect to a public health emergency if the individual needs health care services due to injuries or disease resulting from the public health emergency.

''(v) AFFECTED INDIVIDUAL.—An individual is an 'affected individual' with respect to a public health emergency if—

''(I) the individual—

''(aa) resides in an assistance area designated for the emergency (or whose residence was displaced by the emergency); or

''(bb) in the case of such an emergency constituting a pandemic flu or other infectious disease outbreak, resides in the area affected by the outbreak (or whose residence was displaced by the emergency); and

''(II) the individual's ability to access care or medicine is disrupted as a result of the emergency.

''(2) PROCESS.—The Secretary shall establish a streamlined process for determining eligibility for emergency health care services under this section. In establishing such process—

''(A) the Secretary shall recognize that in the context of a public health emergency, individuals may be unable to provide identification cards, health care insurance information, or other documentation; and

''(B) the primary method for determining eligibility for such services shall be an attestation provided to the health care provider by the recipient of the services that the recipient meets the eligibility criteria established under paragraph (1)(A), with a standard alternative for unattended minors and adults without the capacity to sign such an attestation form.

''(3) SERVICE DELIVERY.—Providers may commence provision of emergency health care services for an individual in the absence of any centralized enrollment process, if the provider has collected basic information, specified by the Secretary, including the individual's name, address, social security number, and existing health insurance coverage (if any), that establishes a prima facie basis for eligibility, except that such information shall not be required in cases where the individual is unable to provide the information due to disability or incapacitation.

''(c) EMERGENCY HEALTH CARE SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'emergency health care services'—

''(A) means items and services for which payment may be made under parts A and B of the Medicare program;

''(B) includes prescription drugs (not covered under such part B) specified by the Secretary under subsection (g), based on the formularies of the two or more prescription drug plans under part D of the Medicare program with the largest enrollment;

''(C) may include drugs, devices, biological products, and other health care products, if such products are authorized for use by the Food and Drug Administration pursuant to an alternate authority, including the emergency use authority under section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3); and

''(D) for an affected individual, is limited to those items and services described under subparagraphs (A), (B) or (C) that a third-party payor, such as a government program or charitable organization, reimbursed or otherwise provided to an affected individual during the 90 days prior to the declaration of the public health emergency.

''(2) NOT MEDICARE, MEDICAID, OR SCHIP BENEFITS.—The emergency health care services provided under this section are not benefits under Medicare, Medicaid or SCHIP. Nothing in this section shall be interpreted as altering or otherwise conflicting with titles XVIII, XIX, or XXI of the Social Security Act.

''(3) COMPLETION OF TREATMENT FOR EMERGENCY VICTIMS.—Notwithstanding termination of the coverage of emergency health care services pursuant to subsection (a)(3), the Secretary may identify a subgroup of emergency victims on a case-by-case basis or otherwise to continue receiving coverage of emergency health care services for up to an additional 60 days. Such emergency health care services provided after the termination date shall be limited to services and items

that are medically necessary to treat an injury or disease resulting directly from the public health emergency involved.

''(d) COVERED PROVIDERS.—

''(1) IN GENERAL.—Subject to paragraph (2), health care services are not covered under this section unless they are furnished by a health care provider that—

''(A) has a valid provider number under the Medicare program, the Medicaid program, or SCHIP;

''(B) is in good standing with such program; and

''(C) is not excluded from participation in a Federal health care program (as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a–7b(f))).

''(2) WAIVER AUTHORITY.—

''(A) IN GENERAL.—The Secretary may by regulation waive certain requirements for provider enrollment that otherwise apply under the Medicare or Medicaid program or under SCHIP to ensure an adequate supply of health care providers (such as nurses and other health care providers who do not typically participate in the Medicare or Medicaid program or SCHIP) and services in the case of a public health emergency. Such requirements may include the requirement that a licensed physician or other health care professional holds a license in the State in which the professional provides services or is otherwise authorized under State law to provide the services involved.

''(B) REPORT ON EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF VOLUNTEER HEALTH PROFESSIONALS (ESAR–VHP).—Not later than 180 days after the date of the enactment of this section, the Secretary shall submit to Congress a report on the number of volunteers, by profession and credential level, enrolled in the Emergency System for Advance Registration of Volunteer Health Professionals (ESAR–VHP) that will be available to each State in the event of a public health emergency. The Secretary shall determine if the number of such volunteers is adequate for interstate deployment in response to regional requests for volunteers and, if not, shall include in the report recommendations for actions to ensure an adequate surge capacity for public health emergencies in defined geographic areas.

''(3) MEDICARE AND MEDICAID PROGRAMS AND SCHIP DEFINED.—For purposes of this section:

''(A) The term 'Medicare program' means the program under parts A, B, and D of title XVIII of the Social Security Act.

''(B) The term 'Medicaid program' means the program of medical assistance under title XIX of such Act.

''(C) The term 'SCHIP' means the State children's health insurance program under title XXI of such Act.

''(e) PAYMENTS AND CLAIMS ADMINISTRATION.—

''(1) PAYMENT AMOUNT.—The amount of payment under this section to a provider for emergency health care services shall be equal to 100 percent of the payment rate for the corresponding service under part A or B of the Medicare program, or, in the case of prescription drugs and other items and services not covered under either such part, such amount as the Secretary may specify by rule. Such a provider shall not be permitted to impose any cost-sharing or to balance bill for services furnished under this section.

''(2) USE OF MEDICARE CONTRACTORS.—The Secretary shall enter into arrangements with Medicare administrative contractors under which such contractors process claims for emergency health care services under this section using the claim forms, codes, and nomenclature in effect under the Medicare program.

''(3) APPLICATION OF SECONDARY PAYER RULES.—In the case of payment under this section for emergency health care services for otherwise qualified individuals who have some health insurance coverage with respect to such services, the administrative contractors under paragraph (2) shall submit a claim to the entity offering such coverage to recoup all or some of such payment, reflecting whatever amount the entity would normally reimburse for each covered service. The provisions of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) shall apply to benefits provided under this section in the same manner as they apply to benefits provided under the Medicare program.

''(4) PAYMENTS FOR EMERGENCY HEALTH CARE SERVICES AND RELATED COSTS.—Payments to provide, and costs to administer, emergency health care services under this section shall be made from the Public Health Emergency Fund, as provided under subsection (f)(1).

''(5) ATTESTATION REQUIREMENT.—No payment shall be made under this section to a provider for emergency health care services unless the provider has executed an attestation that—

''(A) the provider has notified the administrative contractor of any third-party payment received or claims pending for such services;

''(B) the recipient of the services has executed an attestation or otherwise satisfies the eligibility criteria established under subsection (b); and

''(C) the services were medically necessary.

''(f) PUBLIC HEALTH EMERGENCY FUND; FRAUD AND ABUSE PROVISIONS.—

''(1) THE PUBLIC HEALTH EMERGENCY FUND.—There is authorized to be appropriated to the Public Health Emergency Fund (established under section 319(b)) such sums as may be necessary under this section for payments to provide emergency health care services and costs to administer the services during a public health emergency.

''(2) NO USE OF MEDICARE FUNDS.—No funds under the Medicare program shall be made available or used to make payments under this section.

''(3) FRAUD AND ABUSE PROVISIONS.—Providers and recipients of emergency health care services under this section shall be subject to the Federal fraud and abuse protections that apply to Federal health care programs as defined in section 1128B(f) of the Social Security Act (42 U.S.C. 1320a-7b(f)).

''(g) RULEMAKING.—The Secretary may issue regulations to carry out this section and shall use a negotiated rulemaking process to advise the Secretary on key issues regarding the implementation of this section.

''(h) PUBLIC HEALTH EMERGENCY PLANNING AND THE EDUCATION OF HEALTH CARE PROVIDERS AND THE GENERAL POPULATION.—

''(1) PLANNING FOR COVERAGE OF EMERGENCY HEALTH CARE SERVICES IN PUBLIC HEALTH EMERGENCIES.—The Secretary shall, not later than 90 days after the date of the enactment of this section, initiate planning to carry out this section, including planning relating to implementation of the payments and claims administration under subsection (e), in the event of activation of emergency health care coverage.

''(2) OUTREACH AND PUBLIC EDUCATION CAMPAIGN.—The Secretary shall conduct an outreach and public education campaign to inform health care providers and the general public about the availability of emergency health care coverage under this section during the period of the emergency. Such campaign shall include—

''(A) an explanation of the emergency health care coverage program under this section;

''(B) claim forms and instructions for health care providers to use when providing covered services during the emergency period; and

''(C) special outreach initiatives to vulnerable and hard-to-reach populations.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year (beginning with fiscal year 2009) $7,000,000 to carry out paragraphs (1) and (2) during the fiscal year.

''(i) APPLICATION OF POLICIES UNDER OTHER FEDERAL HEALTH CARE PROGRAMS.—As specified in subsections (c) through (e), the Secretary may adopt in whole or in part the coverage, reimbursement, provider enrollment, and other policies used under the Medicare program and other Federal health care programs in administering emergency health care services under this section to the extent consistent with this section.''.

(b) APPLICATION OF PUBLIC HEALTH EMERGENCY FUND.—Section 319(b)(1) of such Act (42 U.S.C. 247d(b)(1)) is amended—

(1) by inserting ''and section 319K–1'' after ''subsection (a)''; and

(2) by striking ''such subsection'' and inserting ''subsection (a)''.

By Mr. ROCKEFELLER (for himself, Mr. CASEY, and Mrs. GILLIBRAND):

S. 958. A bill to amend the Social Security Act to guarantee comprehensive health care coverage for all children born after 2009; to the Committee on Finance.

Mr. ROCKEFELLER, Mr. President, I rise today, with my colleagues, Senator GILLIBRAND and Senator CASEY, to reintroduce an important piece of legislation—the MediKids Health Insurance Act of 2009. This legislation will finish the job we started with CHIP reauthorization by providing health care coverage for every child in the U.S. by 2015, regardless of family income.

Congressman STARK and I have introduced our MediKids legislation in each of the last five Congresses because we know how vital health insurance is to a child. Year after year, study after study has shown that uninsured children are more likely to have unmet health care needs. Without adequate health care, childhood illnesses are more likely to turn into chronic conditions in adulthood with debilitating effects. Even something as simple as an ear infection, if left untreated, can cause hearing loss, which can hinder a child's speech and language development. Furthermore, children with unmet health care needs often underperform in the classroom and miss more days of school. Less time in school means students can struggle to develop the skills necessary to become productive members of society.

Despite the well-documented benefits of providing health insurance coverage for children, according to the Kaiser Family Foundation, there were over 9 million uninsured children in America in 2007. A significant step forward in providing health insurance for our uninsured children was the reauthorization of the Children's Health Insurance Program, a bill I coauthored. Expansions in Medicaid and the Children's Health Insurance Program have helped reduce the percentage of low-income children that are uninsured from 28

percent to 15 percent since 1997, with another significant reduction probable after the 2009 CHIP reauthorization legislation is fully implemented. As pleased as I was with the reauthorization of this vital program, it is estimated that millions of children will still remain uninsured. This is unacceptable. We must provide universal coverage for children.

Children are entirely reliant on others to care for them. They cannot go out and purchase their own health insurance. Just as Congress provides for the care of the other segment of our population that is heavily reliant on others, the elderly through Medicare, the time has come to make certain that all children also have access to comprehensive health care. Healthy, well educated children are the key to the future success of our country and we cannot allow them to continue to fall through the cracks. Now, more than ever, it is time to finally pass the MediKids Health Insurance Act.

This legislation is a clear investment in our future—our children. Every child would be automatically enrolled at birth into a new, comprehensive, Federal safety net health insurance program beginning in 2010 and would be eligible up to age 23. The benefits would be tailored to meet the needs of children and would be similar to those currently available to children through the Medicaid Early and Periodic Screening, Diagnosis, and Treatment, EPSDT, program.

Families below 150 percent of poverty would pay no premiums or co-payments, while those between 150 and 300 percent of poverty would pay graduated premiums up to 5 percent of income and a graduated refundable tax credit for cost-sharing. Families above 300 percent of poverty would pay a small premium equivalent to one fourth of the average annual cost per child. There would be no cost sharing for preventive or well-child visits for any child.

MediKids children would remain enrolled in the program throughout childhood. When families move to another state, MediKids would be available until parents enroll their children in a new insurance program. Between jobs or during family crises, MediKids would offer extra security and ensure continuous health coverage to our nation's children. During the critical period when a family climbs out of poverty and out of the eligibility range for means-tested assistance programs, MediKids would fill in the gaps as parents move into jobs that provide reliable health insurance coverage. Our program rests on the premise that whenever other sources of health insurance fail, MediKids would stand ready to cover the health needs of our next generation. Ultimately, every child in America would grow up with consistent, continuous health insurance coverage.

Congress cannot rest on the success we achieved by reauthorizing the Children's Health Insurance Program. Although CHIP was a remarkable step toward reducing the ranks of uninsured children, there is still much more work to be done. The MediKids Health Insurance Act is a comprehensive approach toward eliminating the damaging lack of health insurance for so many children in our country, and I urge my colleagues to support this legislation.

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

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

S. 958

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''MediKids Health Insurance Act of 2009''.

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

(c) FINDINGS.—Congress finds the following:

(1) More than 9 million American children are uninsured.

(2) Children who are uninsured receive less medical care and less preventive care and have a poorer level of health, which result in lifetime costs to themselves and to the entire American economy.

(3) Although CHIP and Medicaid are successfully extending a health coverage safety net to a growing portion of the vulnerable low-income population of uninsured children, they alone cannot achieve 100 percent health insurance coverage for our nation's children due to inevitable gaps during outreach and enrollment, fluctuations in eligibility, variations in access to private insurance at all income levels, and variations in States' ability to provide required matching funds.

(4) As all segments of society continue to become more transient, with many changes in employment over the working lifetime of parents, the need for a reliable safety net of health insurance which follows children across State lines, already a major problem for the children of migrant and seasonal farmworkers, will become a major concern for all families in the United States.

(5) The medicare program has successfully evolved over the years to provide a stable, universal source of health insurance for the nation's disabled and those over age 65, and provides a tested model for designing a program to reach out to America's children.

(6) The problem of insuring 100 percent of all American children could be gradually solved by automatically enrolling all children born after December 31, 2009, in a program modeled after Medicare (and to be known as ''MediKids''), and allowing those children to be transferred into other equivalent or better insurance programs, including either private insurance, CHIP, or Medicaid, if they are eligible to do so, but maintaining the child's default enrollment in MediKids for any times when the child's access to other sources of insurance is lost.

(7) A family's freedom of choice to use other insurers to cover children would not be interfered with in any way, and children eligible for CHIP and Medicaid would continue to be enrolled in those programs, but the underlying safety net of MediKids would always be available to cover any gaps in insurance due to changes in medical condition, employment, income, or marital status, or other changes affecting a child's access to alternate forms of insurance.

(8) The MediKids program can be administered without impacting the finances or status of the existing Medicare program.

(9) The MediKids benefit package can be tailored to the special needs of children and updated over time.

(10) The financing of the program can be administered without difficulty by a yearly payment of affordable premiums through a family's tax filing (or adjustment of a family's earned income tax credit).

(11) The cost of the program will gradually rise as the number of children using MediKids as the insurer of last resort increases, and a future Congress always can accelerate or slow down the enrollment process as desired, while the societal costs for emergency room usage, lost productivity and work days, and poor health status for the next generation of Americans will decline.

(12) Over time 100 percent of American children will always have basic health insurance, and we can therefore expect a healthier, more equitable, and more productive society.

SEC. 2. BENEFITS FOR ALL CHILDREN BORN AFTER 2009.

(a) IN GENERAL.—The Social Security Act is amended by adding at the end the following new title:

''TITLE XXII—MEDIKIDS PROGRAM

''SEC. 2201. ELIGIBILITY.

''(a) ELIGIBILITY OF INDIVIDUALS BORN AFTER DECEMBER 31, 2009; ALL CHILDREN UNDER 23 YEARS OF AGE IN FIFTH YEAR.—An individual who meets the following requirements with respect to a month is eligible to enroll under this title with respect to such month:

''(1) AGE.—

''(A) FIRST YEAR.—As of the first day of the first year in which this title is effective, the individual has not attained 6 years of age.

''(B) SECOND YEAR.—As of the first day of the second year in which this title is effective, the individual has not attained 11 years of age.

''(C) THIRD YEAR.—As of the first day of the third year in which this title is effective, the individual has not attained 16 years of age.

''(D) FOURTH YEAR.—As of the first day of the fourth year in which this title is effective, the individual has not attained 21 years of age.

''(E) FIFTH AND SUBSEQUENT YEARS.—As of the first day of the fifth year in which this title is effective and each subsequent year, the individual has not attained 23 years of age.

''(2) CITIZENSHIP.—The individual is a citizen or national of the United States or is permanently residing in the United States under color of law.

''(b) ENROLLMENT PROCESS.—An individual may enroll in the program established under this title only in such manner and form as may be prescribed by regulations, and only

during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

''(1) individuals who are born in the United States after December 31, 2009, are deemed to be enrolled at the time of birth and a parent or guardian of such an individual is permitted to pre-enroll in the month prior to the expected month of birth;

''(2) individuals who are born outside the United States after such date and who become eligible to enroll by virtue of immigration into (or an adjustment of immigration status in) the United States are deemed enrolled at the time of entry or adjustment of status;

''(3) eligible individuals may otherwise be enrolled at such other times and manner as the Secretary shall specify, including the use of outstationed eligibility sites as described in section 1902(a)(55)(A) and the use of presumptive eligibility provisions like those described in section 1920A; and

''(4) at the time of automatic enrollment of a child, the Secretary provides for issuance to a parent or custodian of the individual a card evidencing coverage under this title and for a description of such coverage.

The provisions of section 1837(h) apply with respect to enrollment under this title in the same manner as they apply to enrollment under part B of title XVIII. An individual who is enrolled under this title is not eligible to be enrolled under an MA or MA–PD plan under part C of title XVIII.

''(c) DATE COVERAGE BEGINS.—

''(1) IN GENERAL.—The period during which an individual is entitled to benefits under this title shall begin as follows, but in no case earlier than January 1, 2010:

''(A) In the case of an individual who is enrolled under paragraph (1) or (2) of subsection (b), the date of birth or date of obtaining appropriate citizenship or immigration status, as the case may be.

''(B) In the case of another individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under subsection (a), the first day of such month of eligibility.

''(C) In the case of another individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such subsection, the first day of the following month.

''(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

''(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this title unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

''(d) EXPIRATION OF ELIGIBILITY.—An individual's coverage period under this section shall continue until the individual's enrollment has been terminated because the individual no longer meets the requirements of subsection (a) (whether because of age or change in immigration status).

''(e) ENTITLEMENT TO MEDIKIDS BENEFITS FOR ENROLLED INDIVIDUALS.—An individual enrolled under this title is entitled to the benefits described in section 2202.

''(f) LOW-INCOME INFORMATION.—

''(1) INQUIRY OF INCOME.—At the time of enrollment of a child under this title, the Secretary shall make an inquiry as to whether the family income (as determined for purposes of section 1905(p)) of the family that includes the child is within any of the following income ranges:

''(A) UP TO 150 PERCENT OF POVERTY.—The income of the family does not exceed 150 percent of the poverty line for a family of the size involved.

''(B) BETWEEN 150 AND 200 PERCENT OF POVERTY.—The income of the family exceeds 150 percent, but does not exceed 200 percent, of such poverty line.

''(C) BETWEEN 200 AND 300 PERCENT OF POVERTY.—The income of the family exceeds 200 percent, but does not exceed 300 percent, of such poverty line.

''(2) CODING.—If the family income is within a range described in paragraph (1), the Secretary shall encode in the identification card issued in connection with eligibility under this title a code indicating the range applicable to the family of the child involved.

''(3) PROVIDER VERIFICATION THROUGH ELECTRONIC SYSTEM.—The Secretary also shall provide for an electronic system through which providers may verify which income range described in paragraph (1), if any, is applicable to the family of the child involved.

''(g) CONSTRUCTION.—Nothing in this title shall be construed as requiring (or preventing) an individual who is enrolled under this title from seeking medical assistance under a State medicaid plan under title XIX or child health assistance under a State child health plan under title XXI.

''SEC. 2202. BENEFITS.

''(a) SECRETARIAL SPECIFICATION OF BENEFIT PACKAGE.—

''(1) IN GENERAL.—The Secretary shall specify the benefits to be made available under this title consistent with the provisions of this section and in a manner designed to meet the health needs of enrollees.

''(2) UPDATING.—The Secretary shall update the specification of benefits over time to ensure the inclusion of age-appropriate benefits to reflect the enrollee population.

''(3) ANNUAL UPDATING.—The Secretary shall establish procedures for the annual review and updating of such benefits to account for changes in medical practice, new information from medical research, and other relevant developments in health science.

''(4) INPUT.—The Secretary shall seek the input of the pediatric community in specifying and updating such benefits.

''(5) LIMITATION ON UPDATING.—In no case shall updating of benefits under this subsection result in a failure to provide benefits required under subsection (b).

''(b) INCLUSION OF CERTAIN BENEFITS.—

''(1) MEDICARE CORE BENEFITS.—Such benefits shall include (to the extent consistent with other provisions of this section) at least the same benefits (including coverage, access, availability, duration, and beneficiary rights) that are available under parts A and B of title XVIII.

''(2) ALL REQUIRED MEDICAID BENEFITS.—Such benefits shall also include all items and services for which medical assistance is required to be provided under section 1902(a)(10)(A) to individuals described in such section, including early and periodic screening, diagnostic services, and treatment services.

''(3) INCLUSION OF PRESCRIPTION DRUGS.—Such benefits also shall include (as specified by the Secretary) benefits for prescription drugs and biologicals which are not less than the benefits for such drugs and biologicals under the standard option for the service benefit plan described in section 8903(1) of title 5, United States Code, offered during 2008.

''(4) COST-SHARING.—

''(A) IN GENERAL.—Subject to subparagraph (B), such benefits also shall include the cost-sharing (in the form of deductibles, coinsurance, and copayments) which is substantially similar to such cost-sharing under the health benefits coverage in any of the four largest health benefits plans (determined by enrollment) offered under chapter 89 of title 5, United States Code, and including an out-of-pocket limit for catastrophic expenditures for covered benefits, except that no cost-sharing shall be imposed with respect to early and periodic screening and diagnostic services included under paragraph (2).

''(B) REDUCED COST-SHARING FOR LOW INCOME CHILDREN.—Such benefits shall provide that—

''(i) there shall be no cost-sharing for children in families the income of which is within the range described in section 2201(f)(1)(A);

''(ii) the cost-sharing otherwise applicable shall be reduced by 75 percent for children in families the income of which is within the range described in section 2201(f)(1)(B); or

''(iii) the cost-sharing otherwise applicable shall be reduced by 50 percent for children in families the income of which is within the range described in section 2201(f)(1)(C).

''(C) CATASTROPHIC LIMIT ON COST-SHARING.—For a refundable credit for cost-sharing in the case of cost-sharing in excess of a percentage of the individual's adjusted gross income, see section 36 of the Internal Revenue Code of 1986.

''(c) PAYMENT SCHEDULE.—The Secretary, with the assistance of the Medicare Payment Advisory Commission, shall develop and implement a payment schedule for benefits covered under this title. To the extent feasible, such payment schedule shall be consistent with comparable payment schedules and reimbursement methodologies applied under parts A and B of title XVIII.

''(d) INPUT.—The Secretary shall specify such benefits and payment schedules only after obtaining input from appropriate child health providers and experts.

''(e) ENROLLMENT IN HEALTH PLANS.—The Secretary shall provide for the offering of benefits under this title through enrollment in a health benefit plan that meets the same (or similar) requirements as the requirements that apply to Medicare Advantage plans under part C of title XVIII (other than any such requirements that relate to part D of such title). In the case of individuals enrolled under this title in such a plan, the payment rate shall be based on payment rates provided for under section 1853(c) in effect before the date of the enactment of the Medicare Prescription Drug, Modernization, and Improvement Act of 2003 (Public Law 108–173), except that such payment rates shall be adjusted in an appropriate manner to reflect differences between the population served under this title and the population under title XVIII.

''SEC. 2203. PREMIUMS.

''(a) AMOUNT OF MONTHLY PREMIUMS.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning with 2009), establish a monthly MediKids premium for the following year. Subject to paragraph (2), the monthly MediKids premium for a year is equal to 1/12 of the annual premium rate computed under subsection (b).

''(2) ELIMINATION OF MONTHLY PREMIUM FOR DEMONSTRATION OF EQUIVALENT COVERAGE (INCLUDING COVERAGE UNDER LOW-INCOME PROGRAMS).—The amount of the monthly premium imposed under this section for an individual for a month shall be zero in the case of an individual who demonstrates to the satisfaction of the Secretary that the individual has basic health insurance coverage for that month. For purposes of the previous sentence enrollment in a medicaid plan under title XIX, a State child health insurance plan under title XXI, or under the medicare program under title XVIII is deemed to

constitute basic health insurance coverage described in such sentence.

''(b) ANNUAL PREMIUM.—

''(1) NATIONAL PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 2201(a)(1) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

''(2) ANNUAL PREMIUM.—Subject to subsection (d), the annual premium under this subsection for months in a year is equal to 25 percent of the average, annual per capita amount estimated under paragraph (1) for the year.

''(c) PAYMENT OF MONTHLY PREMIUM.—

''(1) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, subject to subsection (d), the monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

''(2) COLLECTION THROUGH TAX RETURN.—For provisions providing for the payment of monthly premiums under this subsection, see section 59B of the Internal Revenue Code of 1986.

''(3) PROTECTIONS AGAINST FRAUD AND ABUSE.—The Secretary shall develop, in coordination with States and other health insurance issuers, administrative systems to ensure that claims which are submitted to more than one payor are coordinated and duplicate payments are not made.

''(d) REDUCTION IN PREMIUM FOR CERTAIN LOW-INCOME FAMILIES.—For provisions reducing the premium under this section for certain low-income families, see section 59B(d) of the Internal Revenue Code of 1986.

''SEC. 2204. MEDIKIDS TRUST FUND.

''(a) ESTABLISHMENT OF TRUST FUND.—

''(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'MediKids Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

''(2) PREMIUMS.—Premiums collected under section 59B of the Internal Revenue Code of 1986 shall be periodically transferred to the Trust Fund.

''(3) TRANSITIONAL FUNDING BEFORE RECEIPT OF PREMIUMS.—In order to provide for funds in the Trust Fund to cover expenditures from the fund in advance of receipt of premiums under section 2203, there are transferred to the Trust Fund from the general fund of the United States Treasury such amounts as may be necessary.

''(b) INCORPORATION OF PROVISIONS.—

''(1) IN GENERAL.—Subject to paragraph (2), subsection (b) (other than the last sentence) and subsections (c) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

''(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

''(A) any reference in such section to 'this part' is construed to refer to title XXII;

''(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this title;

''(C) payments may be made under section 1841(g) to the Trust Funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this title; and

''(D) the Board of Trustees of the MediKids Trust Fund shall be the same as the Board of Trustees of the Federal Supplementary Medical Insurance Trust Fund.

''SEC. 2205. OVERSIGHT AND ACCOUNTABILITY.

''(a) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the operation of the program under this title, including on the financing of coverage provided under this title.

''(b) PERIODIC MACPAC REPORTS.—The Medicaid and CHIP Payment and Access Commission shall periodically report to Congress concerning the program under this title.

''SEC. 2206. INCLUSION OF CARE COORDINATION SERVICES.

''(a) IN GENERAL.—

''(1) PROGRAM AUTHORITY.—The Secretary, beginning in 2010, may implement a care coordination services program in accordance with the provisions of this section under which, in appropriate circumstances, eligible individuals under section 2201 may elect to have health care services covered under this title managed and coordinated by a designated care coordinator.

''(2) ADMINISTRATION BY CONTRACT.—The Secretary may administer the program under this section through a contract with an appropriate program administrator.

''(3) COVERAGE.—Care coordination services furnished in accordance with this section shall be treated under this title as if they were included in the definition of medical and other health services under section 1861(s) and benefits shall be available under this title with respect to such services without the application of any deductible or coinsurance.

''(b) ELIGIBILITY CRITERIA; IDENTIFICATION AND NOTIFICATION OF ELIGIBLE INDIVIDUALS.—

''(1) INDIVIDUAL ELIGIBILITY CRITERIA.—The Secretary shall specify criteria to be used in making a determination as to whether an individual may appropriately be enrolled in the care coordination services program under this section, which shall include at least a finding by the Secretary that for cohorts of individuals with characteristics identified by the Secretary, professional management and coordination of care can reasonably be expected to improve processes or outcomes of health care and to reduce aggregate costs to the programs under this title.

''(2) PROCEDURES TO FACILITATE ENROLLMENT.—The Secretary shall develop and implement procedures designed to facilitate enrollment of eligible individuals in the program under this section.

''(c) ENROLLMENT OF INDIVIDUALS.—

''(1) SECRETARY'S DETERMINATION OF ELIGIBILITY.—The Secretary shall determine the eligibility for services under this section of individuals who are enrolled in the program under this section and who make application for such services in such form and manner as the Secretary may prescribe.

''(2) ENROLLMENT PERIOD.—

''(A) EFFECTIVE DATE AND DURATION.—Enrollment of an individual in the program under this section shall be effective as of the first day of the month following the month in which the Secretary approves the individual's application under paragraph (1), shall remain in effect for one month (or such longer period as the Secretary may specify), and shall be automatically renewed for additional periods, unless terminated in accordance with such procedures as the Secretary shall establish by regulation. Such procedures shall permit an individual to disenroll for cause at any time and without cause at re-enrollment intervals.

''(B) LIMITATION ON REENROLLMENT.—The Secretary may establish limits on an individual's eligibility to reenroll in the program under this section if the individual has disenrolled from the program more than once during a specified time period.

''(d) PROGRAM.—The care coordination services program under this section shall include the following elements:

''(1) BASIC CARE COORDINATION SERVICES.—

''(A) IN GENERAL.—Subject to the cost-effectiveness criteria specified in subsection (b)(1), except as otherwise provided in this section, enrolled individuals shall receive services described in section 1905(t)(1) and may receive additional items and services as described in subparagraph (B).

''(B) ADDITIONAL BENEFITS.—The Secretary may specify additional benefits for which payment would not otherwise be made under this title that may be available to individuals enrolled in the program under this section (subject to an assessment by the care coordinator of an individual's circumstance and need for such benefits) in order to encourage enrollment in, or to improve the effectiveness of, such program.

''(2) CARE COORDINATION REQUIREMENT.—Notwithstanding any other provision of this title, the Secretary may provide that an individual enrolled in the program under this section may be entitled to payment under this title for any specified health care items or services only if the items or services have been furnished by the care coordinator, or coordinated through the care coordination services program. Under such provision, the Secretary shall prescribe exceptions for emergency medical services as described in section 1852(d)(3), and other exceptions determined by the Secretary for the delivery of timely and needed care.

''(e) CARE COORDINATORS.—

''(1) CONDITIONS OF PARTICIPATION.—In order to be qualified to furnish care coordination services under this section, an individual or entity shall—

''(A) be a health care professional or entity (which may include physicians, physician group practices, or other health care professionals or entities the Secretary may find appropriate) meeting such conditions as the Secretary may specify;

''(B) have entered into a care coordination agreement; and

''(C) meet such criteria as the Secretary may establish (which may include experience in the provision of care coordination or primary care physician's services).

''(2) AGREEMENT TERM; PAYMENT.—

''(A) DURATION AND RENEWAL.—A care coordination agreement under this subsection shall be for one year and may be renewed if the Secretary is satisfied that the care coordinator continues to meet the conditions of participation specified in paragraph (1).

''(B) PAYMENT FOR SERVICES.—The Secretary may negotiate or otherwise establish payment terms and rates for services described in subsection (d)(1).

''(C) LIABILITY.—Care coordinators shall be subject to liability for actual health damages which may be suffered by recipients as a result of the care coordinator's decisions, failure or delay in making decisions, or other actions as a care coordinator.

''(D) TERMS.—In addition to such other terms as the Secretary may require, an agreement under this section shall include the terms specified in subparagraphs (A) through (C) of section 1905(t)(3).

''SEC. 2207. ADMINISTRATION AND MISCELLANEOUS.

''(a) IN GENERAL.—Except as otherwise provided in this title—

''(1) the Secretary shall enter into appropriate contracts with providers of services, other health care providers, carriers, and fiscal intermediaries, taking into account the types of contracts used under title XVIII with respect to such entities, to administer the program under this title;

''(2) beneficiary protections for individuals enrolled under this title shall not be less than the beneficiary protections (including limits on balance billing) provided medicare beneficiaries under title XVIII;

''(3) benefits described in section 2202 that are payable under this title to such individuals shall be paid in a manner specified by the Secretary (taking into account, and based to the greatest extent practicable upon, the manner in which they are provided under title XVIII); and

''(4) provider participation agreements under title XVIII shall apply to enrollees and benefits under this title in the same manner as they apply to enrollees and benefits under title XVIII.

''(b) COORDINATION WITH MEDICAID AND CHIP.—Notwithstanding any other provision of law, individuals entitled to benefits for items and services under this title who also qualify for benefits under title XIX or XXI or any other Federally funded health care program that provides basic health insurance coverage described in section 2203(a)(2) may continue to qualify and obtain benefits under such other title or program, and in such case such an individual shall elect either—

''(1) such other title or program to be primary payor to benefits under this title, in which case no benefits shall be payable under this title and the monthly premium under section 2203 shall be zero; or

''(2) benefits under this title shall be primary payor to benefits provided under such title or program, in which case the Secretary shall enter into agreements with States as may be appropriate to provide that, in the case of such individuals, the benefits under titles XIX and XXI or such other program (including reduction of cost-sharing) are provided on a 'wrap-around' basis to the benefits under this title.''.

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking ''or the Federal Supplementary Medical Insurance Trust Fund'' and inserting ''the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund''.

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking ''and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII'' and inserting '', the Federal Supplementary Medical Insurance Trust Fund, and the MediKids Trust Fund established by title XVIII''.

(c) MAINTENANCE OF MEDICAID ELIGIBILITY AND BENEFITS FOR CHILDREN.—

(1) IN GENERAL.—In order for a State to continue to be eligible for payments under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a))—

(A) the State may not reduce standards of eligibility, or benefits, provided under its State medicaid plan under title XIX of the Social Security Act or under its State child health plan under title XXI of such Act for individuals under 23 years of age below such standards of eligibility, and benefits, in effect on the date of the enactment of this Act; and

(B) the State shall demonstrate to the satisfaction of the Secretary of Health and Human Services that any savings in State expenditures under title XIX or XXI of the Social Security Act that results from children enrolling under title XXII of such Act shall be used in a manner that improves services to beneficiaries under title XIX of such Act, such as through expansion of eligibility, improved nurse and nurse aide staffing and improved inspections of nursing facilities, and coverage of additional services.

(2) MEDIKIDS AS PRIMARY PAYOR.—In applying title XIX of the Social Security Act, the MediKids program under title XXII of such Act shall be treated as a primary payor in cases in which the election described in section 2207(b)(2) of such Act, as added by subsection (a), has been made.

(d) EXPANSION OF MACPAC DUTIES.—Section 1900 of the Social Security Act (42 U.S.C. 1396) is amended—

(1) in subsection (b)(1)(A)—

(A) by striking ''and the State'' and inserting '', the State''; and

(B) by inserting ''and the MediKids program established under title XXII (in this section referred to as 'MediKids')'' before ''affecting''; and

(2) by striking ''and CHIP'' each place it appears (other than in subsection (a)) and inserting '', CHIP, and MediKids''.

SEC. 3. MEDIKIDS PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end the following new part:

''PART VIII—MEDIKIDS PREMIUM

''Sec. 59B. MediKids premium.

''SEC. 59B. MEDIKIDS PREMIUM.

''(a) IMPOSITION OF TAX.—In the case of a taxpayer to whom this section applies, there is hereby imposed (in addition to any other tax imposed by this subtitle) a MediKids premium for the taxable year.

''(b) INDIVIDUALS SUBJECT TO PREMIUM.—

''(1) IN GENERAL.—This section shall apply to a taxpayer if a MediKid is a dependent of the taxpayer for the taxable year.

''(2) MEDIKID.—For purposes of this section, the term 'MediKid' means any individual enrolled in the MediKids program under title XXII of the Social Security Act.

''(c) AMOUNT OF PREMIUM.—For purposes of this section, the MediKids premium for a taxable year is the sum of the monthly premiums (for months in the taxable year) determined under section 2203 of the Social Security Act with respect to each MediKid who is a dependent of the taxpayer for the taxable year.

''(d) EXCEPTIONS BASED ON ADJUSTED GROSS INCOME.—

''(1) EXEMPTION FOR VERY LOW-INCOME TAXPAYERS.—

''(A) IN GENERAL.—No premium shall be imposed by this section on any taxpayer having an adjusted gross income not in excess of the exemption amount.

''(B) EXEMPTION AMOUNT.—For purposes of this paragraph, the exemption amount is—

''(i) $20,535 in the case of a taxpayer having 1 MediKid,

''(ii) $25,755 in the case of a taxpayer having 2 MediKids,

''(iii) $30,975 in the case of a taxpayer having 3 MediKids, and

''(iv) $35,195 in the case of a taxpayer having 4 or more MediKids.

''(C) PHASEOUT OF EXEMPTION.—In the case of a taxpayer having an adjusted gross income which exceeds the exemption amount but does not exceed twice the exemption amount, the premium shall be the amount which bears the same ratio to the premium which would (but for this subparagraph) apply to the taxpayer as such excess bears to the exemption amount.

''(D) INFLATION ADJUSTMENT OF EXEMPTION AMOUNTS.—In the case of any taxable year beginning in a calendar year after 2010, each dollar amount contained in subparagraph (C) shall be increased by an amount equal to the product of—

''(i) such dollar amount, and

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2009' for 'calendar year 1992' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the nearest multiple of $50.

''(2) PREMIUM LIMITED TO 5 PERCENT OF ADJUSTED GROSS INCOME.—In no event shall any taxpayer be required to pay a premium under this section in excess of an amount equal to 5 percent of the taxpayer's adjusted gross income.

''(e) COORDINATION WITH OTHER PROVISIONS.—

''(1) NOT TREATED AS MEDICAL EXPENSE.—For purposes of this chapter, any premium paid under this section shall not be treated as expense for medical care.

''(2) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The premium paid under this section shall not be treated as a tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the minimum tax imposed by section 55.

''(3) TREATMENT UNDER SUBTITLE F.—For purposes of subtitle F, the premium paid under this section shall be treated as if it were a tax imposed by section 1.''.

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6012 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (9) the following new paragraph:

''(10) Every individual liable for a premium under section 59B.''.

(2) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''PART VIII. MEDIKIDS PREMIUM''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after December 2009, in taxable years ending after such date.

SEC. 4. REFUNDABLE CREDIT FOR CERTAIN COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by inserting after section 36A the following new section:

''SEC. 36B. CATASTROPHIC LIMIT ON COST-SHARING EXPENSES UNDER MEDIKIDS PROGRAM.

''(a) IN GENERAL.—In the case of a taxpayer who has a MediKid (as defined in section 59B) at any time during the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the excess of—

''(1) the amount paid by the taxpayer during the taxable year as cost-sharing under section 2202(b)(4) of the Social Security Act, over

''(2) 5 percent of the taxpayer's adjusted gross income for the taxable year.

''(b) COORDINATION WITH OTHER PROVISIONS.—The excess described in subsection (a) shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a).''.

(b) TECHNICAL AMENDMENTS.—

(1) The table of sections for subpart C 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 36A the following new item:

''Sec. 36B. Catastrophic limit on cost-sharing expenses under MediKids program.''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''36B,'' after ''36A,''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 5. REPORT ON LONG-TERM REVENUES.

Within one year after the date of the enactment of this Act, the Secretary of the Treasury shall propose a gradual schedule of progressive tax changes to fund the program under title XXII of the Social Security Act, as the number of enrollees grows in the outyears.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 125—IN SUPPORT AND RECOGNITION OF NATIONAL TRAIN DAY, MAY 9, 2009

Mr. LAUTENBERG (for himself, Mr. ROCKEFELLER, Mrs. HUTCHISON, Mr. THUNE, Mr. DORGAN, Mrs. BOXER, Mr. WHITEHOUSE, Mr. WARNER, Mr. KERRY, Mr. DURBIN, Mr. SPECTER, Mr. SCHUMER, Mr. BAYH, Mr. UDALL, of New Mexico; Mr. BROWN, Mr. CARPER, and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 125

Whereas, in May 1869 the ''golden spike'' was driven into the final tie at Promontory Summit, Utah to join the Central Pacific and the Union Pacific Railroads, ceremonially completing the first transcontinental railroad and therefore connecting both coasts of the United States;

Whereas, Amtrak trains and infrastructure carry commuters to and from work in congested metropolitan areas providing a reliable rail option and reducing congestion on roads and in the skies;

Whereas, for many rural Americans, Amtrak represents the only major intercity transportation link to the rest of the country;

Whereas, passenger trains provide a more fuel-efficient transportation system thereby providing cleaner transportation alternatives and energy security;

Whereas, intercity passenger rail was 18 percent more energy efficient than airplanes and 25 percent more energy efficient than automobiles on a per-passenger-mile basis in 2006;

Whereas, Amtrak annually provides intercity passenger rail travel to over 28 million Americans residing in 46 states;

Whereas, an increasing number of people are using trains for travel purposes beyond commuting to and from work; and

Whereas, community railroad stations are a source of civic pride, a gateway to over 500 of our nation's communities, and a tool for economic growth: Now, therefore, be it

Resolved, That the Senate supports the goals and ideals of National Train Day, as designated by Amtrak.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1030. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table.

SA 1031. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr . SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1032. Mr. FEINGOLD (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 896, supra; which was ordered to lie on the table.

SA 1033. Mr. CASEY (for himself, Mr. LEAHY, Mr. SPECTER, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1034. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1035. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1036. Mr. KERRY (for himself, Mrs. GILLIBRAND, Mr. REID, Mr. DODD, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1037. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1038. Mrs. BOXER (for herself and Mr. REID) submitted an amendment intended to be proposed by her to the bill S. 896, supra; which was ordered to lie on the table.

SA 1039. Mr. REED (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1040. Mr. REED (for himself and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

SA 1041. Mr. REED submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1030. Mr. THUNE submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE V—TARP REDUCTION PRIORITY ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''TARP Reduction Priority Act''.

SEC. 502. FINDINGS.

Congress finds the following:

(1) On October 7, 2008, Congress established the Troubled Assets Relief Program (TARP) as part of the Emergency Economic Stabilization Act (Public 110-343; 122 Stat. 3765) and allocated $700,000,000,000 for the purchase of toxic assets from banks with the goal of restoring liquidity to the financial sector and restarting the flow of credit in our markets.

(2) The Department of Treasury, without consultation with Congress, changed the purpose of TARP and began injecting capital into financial institutions through a program called the Capital Purchase Program (CPP) rather than purchasing toxic assets.

(3) Lending by financial institutions was not noticeably increased with the implementation of the CPP and the expenditure of $218,000,000,000 of TARP funds, despite the goal of the program.

(4) The recipients of amounts under the CPP are now faced with additional restrictions related to accepting those funds.

(5) A number of community banks and large financial institutions have expressed their desire to return their CPP funds to the Department of Treasury and the Department has begun the process of accepting receipt of such funds.

(6) The Department of the Treasury should not reuse returned funds for additional lending for financial assistance.

(7) The United States Constitution provided Congress with the power of the purse hence any future spending of TARP funds, or other financial assistance, should be determined by Congress.

SEC. 503. TARP AUTHORIZATION REDUCTION.

Section 115(a)(3) the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by inserting ''minus any amounts received by the Secretary for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any program enacted by the Secretary under the authorities granted to the Secretary under this Act,'' before ''outstanding at any one time.''

SA 1031. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

SEC. 105. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.

Title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) is amended by adding at the end the following:

''SEC. 137. MULTIFAMILY MORTGAGE RESOLUTION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary of the Treasury, in consultation with the Secretary of Housing and Urban Development, shall develop a program to stabilize multifamily properties which are delinquent, at risk of default or disinvestment, or in foreclosure.

''(b) FOCUS OF PROGRAM.—The program developed under this section shall be used to ensure the protection of current and future tenants of at risk multifamily properties by—

''(1) creating sustainable financing of such properties that is based on—

''(A) the current rental income generated by such properties; and

''(B) the preservation of adequate operating reserves;

''(2) maintaining the level of Federal, State, and city subsidies in effect as of the date of enactment of this section; and

''(3) facilitating the transfer, when necessary, of such properties to new owners, provided that the Secretary of the Treasury determines such new owner to be responsible.

''(c) COORDINATION.—The Secretary of the Treasury shall in carrying out the program developed under this section coordinate with the Secretary of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, and any other Federal Government agency that the Secretary considers appropriate.

''(d) DEFINITION.—For purposes of this section, the term 'multifamily properties' means a residential structure that consists of 5 or more dwelling units.''.

SA 1032. Mr. FEINGOLD (for himself and Mrs. GILLIBRAND) submitted an amendment intended to be proposed by him to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FARM LOAN RESTRUCTURING

SEC. _01. FARM LOAN RESTRUCTURING.

(a) DEFINITIONS.—In this section:

(1) FARM LOAN.—The term ''farm loan'' means a loan, including a loan guaranteed by the Farm Service Agency, made by a lender for any of the purposes described in—

(A) section 303(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923(a)(1));

(B) section 312(a) of that Act (7 U.S.C. 1942(a)); or

(C) section 323 of that Act (7 U.S.C. 1963).

(2) LENDER.—The term ''lender'' means a bank or financial institution, including any subsidiary or branch of a bank or financial institution, that receives financial assistance under the Troubled Asset Relief Program established under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.).

(b) OFFER TO RESTRUCTURE REQUIRED.—

(1) IN GENERAL.—Except as otherwise provided in this section, each lender shall be required to offer to borrowers to whom the lender made a farm loan a restructuring program comparable to terms and conditions of the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) and in accordance with this subsection.

(2) REPURCHASING REQUIREMENT.—If a lender sells a farm loan in a secondary market but retains the right to repurchase all or part of the farm loan, the lender shall repurchase the farm loan if necessary to complete the restructuring required under this subsection.

(3) RECAPTURE PERIOD.—Beginning on the date of enactment of this title, the recapture period for any shared appreciation agreement required as part of a debt write-down under the loan restructuring program of a lender shall not exceed 5 years from the date of the write-down.

(4) BORROWER FUTURE ELIGIBILITY.—The receipt by a borrower of a debt write-down under the loan restructuring program of a lender shall not prevent the borrower from establishing eligibility for future loans from the lender.

(5) PRINCIPAL RESIDENCE.—In a case in which a borrower has given a lender a security interest in the principal residence of the borrower to secure a farm loan and the borrower is at least 60 days past due on any farm loan made by the lender, the lender shall offer restructuring for all farm loans made by the lender to the borrower, regardless of whether the farm loan secured by the principal residence of the borrower is 60 days past due.

(6) ABILITY TO MAKE PAYMENTS.—If a borrower demonstrates an ability to make payments on a restructured farm loan that has a net present value that is at least equal to what the lender would receive in case of foreclosure, the lender shall restructure the farm loan.

(c) FUTURE ELIGIBILITY.—Except as otherwise provided in this section, a lender that received financial assistance described in subsection (a)(2) prior to the date of enactment of this title shall be ineligible to receive additional financial assistance under the program specified in that paragraph or any other Federal financial assistance, including through loan guarantee programs, until the lender offers to borrowers a restructuring program described in subsection (b), or begins the process to implement such a program, for farm loans made by the lender before, on, or after the date of enactment of this Act.

(d) APPLICABILITY.—

(1) IN GENERAL.—This section applies to any lender that receives financial assistance described in paragraph (2) or modifies the terms of assistance described in that paragraph on or after the date of enactment of this title.

(2) TARP TERMINATION.—In the case of a lender that received assistance under the Troubled Asset Relief Program established under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.), the farm loan restructuring requirements under subsection (b) shall not apply to the lender effective beginning on the date on which the lender completes repayment of that assistance, as determined by the Secretary of the Treasury.

(3) TEMPORARY WAIVER.—

(A) IN GENERAL.—The Secretary of the Treasury may temporarily waive the requirement for an individual lender to offer restructuring under this section if the lender demonstrates to the satisfaction of the Secretary that the requirement—

(i) significantly impacts the ability of the lender to provide farm loans; or

(ii) significantly worsens the financial stress test assessment of the lender.

(B) TERM.—The term of a waiver under subparagraph (A) may not exceed 30 days but may be renewed.

(C) NOTICE.—The Secretary of the Treasury shall provide notice to Congress and the public of any waivers made under this paragraph.

SA 1033. Mr. CASEY (for himself, Mr. LEAHY, Mr. SPECTER, and Mrs. GILLIBRAND) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

SEC. 105. NEIGHBORHOOD STABILIZATION PROGRAM REFINEMENTS.

(a) IN GENERAL.—Section 2301 of the Foreclosure Prevention Act of 2008 (42 U.S.C. 5301 note) is amended—

(1) in subsection (b), by adding at the end the following:

''(5) DISTRIBUTION OF FUNDS IN CERTAIN STATES; COMPETITION FOR FUNDS.—Each State that receives the minimum allocation of amounts pursuant to the requirement under section 2302 shall be permitted to use such amounts to address statewide concerns, provided that such amounts are made available for an eligible use described under paragraphs (3) and (4) of subsection (c).''; and

(2) in subsection (c), by adding at the end the following:

''(4) FORECLOSURE PREVENTION AND MITIGATION.—

''(A) IN GENERAL.—Each State and unit of general local government that receives an allocation of any covered amounts, as such amounts are distributed pursuant to section 2302, may use up to 10 percent of such amounts for foreclosure prevention programs, activities, and services, foreclosure mitigation programs, activities, and services, or both, as such programs, activities, and services are defined by the Secretary.

''(B) DEFINITION OF COVERED AMOUNTS.—For purposes of this paragraph, the term 'covered amount' means any amounts appropriated—

''(i) under this section as in effect on the date of enactment of this section; and

''(ii) under the heading 'Community Development Fund' of title XII of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5; 123 Stat. 217).''.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on the date of enactment of the Foreclosure Prevention Act of 2008 (Public Law 110–289).

SA 1034. Mr. ENSIGN submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

On page 64, after line 16, add the following:

TITLE V—PUBLIC-PRIVATE INVESTMENT PROGRAMS

SEC. 501 PUBLIC-PRIVATE INVESTMENT PROGRAMS.

(a) IN GENERAL.—Subsection (b) shall apply to any program established by the Secretary of the Treasury or the Board of Directors of the Federal Deposit Insurance Corporation that—

(1) creates a public-private investment fund;

(2) makes available any funds from the Troubled Asset Relief Program established under title I of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211 et seq.) or the Federal Deposit Insurance Corporation for—

(A) a public-private investment fund; or

(B) a loan to a private investor to fund the purchase of a mortgage-backed security or an asset-backed security;

(3) employs or contracts with a private sector partner to manage assets for a public-private investment program; or

(4) guarantees any debt or asset for purposes of a public-private investment program.

(b) REQUIREMENTS.—Any program described in subsection (a) shall—

(1) impose strict conflict of interest rules on managers of public-private investment funds that—

(A) specifically describe the extent, if any, to which such managers may—

(i) invest the assets of a public-private investment fund in assets that are held or managed by such managers or the clients of such managers; and

(ii) conduct transactions involving a public-private investment fund and an entity in which such manager or a client of such manager has invested;

(B) take into consideration that there is a trade-off between hiring a manager having significant experience as an asset manager that has complex conflicts of interest, and hiring a manager having less expertise that has no conflicts of interest; and

(C) acknowledge that the types of entities that are permitted to make investment decisions for a public-private investment fund may need to be limited to mitigate conflicts of interest;

(2) require the disclosure of information regarding participation in and management of public-private investment funds, including any transaction undertaken in a public-private investment fund;

(3) require each public-private investment fund to make a certified report to the Secretary of the Treasury that describes each transaction of such fund and the current value of any assets held by such fund, which report shall be publicly disclosed by the Secretary of the Treasury;

(4) require each manager of a public-private investment fund to report to the Secretary of the Treasury any holding or transaction by such manager or a client of such manager in the same type of asset that is held by the public-private investment fund;

(5) allow the Special Inspector General of the Troubled Asset Relief Program, access to all books and records of a public-private investment fund;

(6) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(7) allow the Special Inspector General of the Troubled Asset Relief Program, the Secretary of the Treasury, and any other Federal agency having oversight responsibilities with respect to a public-private investment fund access to—

(A) the books, documents, records, and employees of each manager of a public-private investment fund; and

(B) the books, documents, and records of each private investor in a public-private investment fund that relate to the public-private investment fund;

(8) require each manager of a public-private investment fund to give such public-private investment fund terms that are at least as favorable as those given to any other person for whom such manager manages a fund;

(9) require each manager of a public-private investment fund to acknowledge a fiduciary duty to the public and private investors in such fund;

(10) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(11) require stringent investor screening procedures for public-private investment funds that include ''know your customer'' requirements that are at least as rigorous as those of a commercial bank or retail brokerage operation;

(12) require each manager of a public-private investment fund to identify for the Secretary of the Treasury each beneficial owner of a private interest in such fund; and

(13) require the Secretary of the Treasury to ensure that all investors in a public-private investment fund are legitimate.

(c) REPORT.—Not later than 45 days after the date of the establishment of a program described in subsection (a), the Special Inspector General of the Troubled Asset Relief Program shall submit to Congress a report on the implementation of this section.

(d) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

SA 1035. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NOTIFICATION OF SALE OR TRANSFER OF MORTGAGE LOANS.

(a) IN GENERAL.—Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended by adding at the end the following:

''(g) NOTICE OF NEW CREDITOR.—

''(1) IN GENERAL.—In addition to other disclosures required by this title, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

''(A) the identity, address, telephone number of the new creditor;

''(B) the date of transfer;

''(C) how to reach an agent or party having authority to act on behalf of the new creditor;

''(D) the location of the place where transfer of ownership of the debt is recorded; and

''(E) any other relevant information regarding the new creditor.

''(2) DEFINITION.—As used in this subsection, the term 'mortgage loan' means any consumer credit transaction that is secured by the principal dwelling of a consumer.''.

(b) PRIVATE RIGHT OF ACTION.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended by inserting ''subsection (f) or (g) of section 131,'' after ''section 125,''.

SA 1036. Mr. KERRY (for himself, Mrs. GILLIBRAND, Mr. REID, Mr. DODD, and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE V—PROTECTING TENANTS AT FORECLOSURE ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''Protecting Tenants at Foreclosure Act of 2009''.

SEC. 502. EFFECT OF FORECLOSURE ON PRE-EXISTING TENANCY.

(a) IN GENERAL.—In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure pursuant to the foreclosure shall assume such interest subject to—

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant, as of the date of such notice of foreclosure—

(A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1), except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) BONA FIDE LEASE OR TENANCY.—For purposes of this section, a lease or tenancy shall be considered bona fide only if—

(1) the mortgagor under the contract is not the tenant;

(2) the lease or tenancy was the result of an arms-length transaction; or

(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property.

(c) DEFINITION.—For purposes of this section, the term ''federally-related mortgage loan'' has the same meaning as in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602).

SEC. 503. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting before the semi-colon in subparagraph (C) the following: ''and in the case of an owner who is an immediate successor in interest pursuant to foreclosure—

''(i) during the initial term of the lease vacating the property prior to sale shall not constitute other good cause; and

''(ii) in subsequent lease terms, vacating the property prior to sale may constitute good cause if the property is unmarketable while occupied, or if such owner will occupy the unit as a primary residence''; and

(2) by inserting at the end of subparagraph (F) the following: ''In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.''.

SEC. 504. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2012.

SA 1037. Mr. KOHL submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I of the amendment, add the following:

SEC. 105. WARNINGS TO HOMEOWNERS OF FINANCIAL SCAMS.

(a) IN GENERAL.—In connection with a foreclosure proceeding on a residential mortgage loan initiated by a lender, the loan servicer of such loan shall, at the time of initiation of the proceeding, notify the homeowner of such loan of the dangers of fraudulent activities associated with foreclosure.

(b) NOTICE REQUIREMENTS.—Each notice provided under subsection (a) shall—

(1) be in writing;

(2) have the heading ''Notice Required by Federal Law'' in a 14-point boldface type in English and Spanish at the top of such notice; and

(3) contain the following statement in English and Spanish: ''Mortgage foreclosure is a complex process. Some people may approach you about saving your home. You should be careful about any such promises. There are government and nonprofit agencies you may contact for helpful information about the foreclosure process. Contact your lender immediately at [_____], call the Department of Housing and Urban Development Housing Counseling Line at (800) 569–4287 to find a housing counseling agency certified by the Department to assist you in avoiding foreclosure, or visit the Department's Tips for Avoiding Foreclosure website at http://www.hud.gov/foreclosure for additional assistance.'' (the blank space to be filled in by the loan servicer and successor telephone numbers and Uniform Resource Locators (URLs) for the Department of Housing and Urban Development Housing Counseling Line and Tips for Avoiding Foreclosure website, respectively.).

(c) LOAN SERVICER.—As used in this section, the term ''loan servicer'' has the same meaning as the term ''servicer'' in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605(i)(2)).

(d) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A failure to comply with any provision of this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice promulgated under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) ACTIONS BY THE FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall enforce the provisions of this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made part of this section.

SA 1038. Mrs. BOXER (for herself and Mr. REID) submitted an amendment intended to be proposed by her to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PUBLIC-PRIVATE INVESTMENT PROGRAM; ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM.

(a) PUBLIC-PRIVATE INVESTMENT PROGRAM.—

(1) IN GENERAL.—Any program established by the Federal Government to create a public-private investment fund shall—

(A) in consultation with the Special Inspector General of the Trouble Asset Relief Program, impose strict conflict of interest rules on managers of public-private investment funds that specifically describe the extent, if any, to which such managers may conduct transactions involving public-private investment funds that affect the value of assets—

(i) that are not part of such public-private investment funds; and

(ii) in which managers or significant investors in such funds have a direct or indirect financial interest;

(B) require each public-private investment fund to make a quarterly report to the Secretary of the Treasury that discloses the 10 largest positions of such fund;

(C) require each manager of a public-private investment fund to report to the Secretary of the Treasury any holding or transaction by such manager or a client of such manager in the same type of asset that is held by the public-private investment fund;

(D) allow the Special Inspector General of the Troubled Asset Relief Program, access to all books and records of a public-private investment fund, including all records of financial transactions in machine readable form;

(E) require each manager of a public-private investment fund to retain all books, documents, and records relating to such public-private investment fund, including electronic messages;

(F) require each manager of a public-private investment fund to acknowledge a fiduciary duty to both the public and private investors in such fund;

(G) require each manager of a public-private investment fund to develop a robust ethics policy that includes methods to ensure compliance with such policy;

(H) require investor screening procedures for public-private investment funds that include ''know your customer'' requirements at least as rigorous as those of a commercial bank or retail brokerage operation; and

(I) require each manager of a public-private investment fund to identify for the Secretary of the Treasury each investor whose interest in the fund totals at least 10 percent, in the aggregate;

(2) REPORT.—Not later than 45 days after the date of the establishment of a program described in paragraph (1), the Special Inspector General of the Troubled Asset Relief Program shall submit to Congress a report on the implementation of this section.

(b) ADDITIONAL APPROPRIATIONS FOR THE SPECIAL INSPECTOR GENERAL OF THE TROUBLED ASSET RELIEF PROGRAM.—

(1) IN GENERAL.—Of amounts made available under section 115(a) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343), $15,000,000 shall be made available to the Special Inspector General of the Troubled Asset Relief Program (in this section referred to as the ''Special Inspector General''), which shall be in addition to amounts otherwise made available to the Special Inspector General.

(2) PRIORITIES.—In utilizing funds made available under this section, the Special Inspector General shall prioritize the performance of audits or investigations of recipients of non-recourse Federal loans made under the Public Private Investment Program established by the Secretary of the Treasury or the Term Asset Loan Facility established by the Board of Governors of the Federal Reserve System (including any successor thereto or any other similar program established by the Secretary or the Board), to the extent that such priority is consistent with other aspects of the mission of the Special Inspector General. Such audits or investigations shall determine the existence of any collusion between the loan recipient and the seller or originator of the asset used as loan collateral, or any other conflict of interest that may have led the loan recipient to deliberately overstate the value of the asset used as loan collateral.

(c) DEFINITION.—In this section, the term ''public-private investment fund'' means a financial vehicle that is—

(1) established by the Federal Government to purchase pools of loans, securities, or assets from a financial institution described in section 101(a)(1) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a)(1)); and

(2) funded by a combination of cash or equity from private investors and funds provided by the Secretary of the Treasury, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System.

SA 1039. Mr. REED (for himself and Mr. VITTER) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of title I, add the following:

SEC. 126. REMOVAL OF REQUIREMENT TO LIQUIDATE WARRANTS UNDER THE TARP.

Section 111(g) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221(g)) is amended by striking '', and when'' and all that follows through the end of the subsection and inserting a period.

SA 1040. Mr. REED (for himself and Mr. BOND) submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION B—HOMELESSNESS REFORM

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009''.

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

SEC. 1002. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a lack of affordable housing and limited scale of housing assistance programs are the primary causes of homelessness; and

(2) homelessness affects all types of communities in the United States, including rural, urban, and suburban areas.

(b) PURPOSES.—The purposes of this division are—

(1) to consolidate the separate homeless assistance programs carried out under title IV of the McKinney-Vento Homeless Assistance Act (consisting of the supportive housing program and related innovative programs, the safe havens program, the section 8 assistance program for single-room occupancy dwellings, and the shelter plus care program) into a single program with specific eligible activities;

(2) to codify in Federal law the continuum of care planning process as a required and integral local function necessary to generate the local strategies for ending homelessness; and

(3) to establish a Federal goal of ensuring that individuals and families who become homeless return to permanent housing within 30 days.

SEC. 1003. DEFINITION OF HOMELESSNESS.

(a) IN GENERAL.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d); and

(2) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—For purposes of this Act, the terms 'homeless', 'homeless individual', and 'homeless person' means—

''(1) an individual or family who lacks a fixed, regular, and adequate nighttime residence;

''(2) an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

''(3) an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);

''(4) an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;

''(5) an individual or family who—

''(A) will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by—

''(i) a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;

''(ii) the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or

''(iii) credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;

''(B) has no subsequent residence identified; and

''(C) lacks the resources or support networks needed to obtain other permanent housing; and

''(6) unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who—

''(A) have experienced a long term period without living independently in permanent housing,

''(B) have experienced persistent instability as measured by frequent moves over such period, and

''(C) can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

''(b) DOMESTIC VIOLENCE AND OTHER DANGEROUS OR LIFE-THREATENING CONDITIONS.—Notwithstanding any other provision of this section, the Secretary shall consider to be homeless any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.''.

(b) REGULATIONS.—Not later than the expiration of the 6-month period beginning upon the date of the enactment of this division, the Secretary of Housing and Urban Development shall issue regulations that provide sufficient guidance to recipients of funds under title IV of the McKinney-Vento Homeless Assistance Act to allow uniform and consistent implementation of the requirements of section 103 of such Act, as amended by subsection (a) of this section. This subsection shall take effect on the date of the enactment of this division.

(c) CLARIFICATION OF EFFECT ON OTHER LAWS.—This section and the amendments made by this section to section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302) may not be construed to affect, alter, limit, annul, or supersede any other provision of Federal law providing a definition of ''homeless'', ''homeless individual'', or ''homeless person'' for purposes other than such Act, except to the extent that such provision refers to such section 103 or the definition provided in such section 103.

SEC. 1004. UNITED STATES INTERAGENCY COUNCIL ON HOMELESSNESS.

(a) IN GENERAL.—Title II of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended—

(1) in section 201 (42 U.S.C. 11311), by inserting before the period at the end the following ''whose mission shall be to coordinate the Federal response to homelessness and to create a national partnership at every level of government and with the private sector to reduce and end homelessness in the nation while maximizing the effectiveness of the Federal Government in contributing to the end of homelessness'';

(2) in section 202 (42 U.S.C. 11312)—

(A) in subsection (a)—

(i) by redesignating paragraph (16) as paragraph (22); and

(ii) by inserting after paragraph (15) the following:

''(16) The Commissioner of Social Security, or the designee of the Commissioner.

''(17) The Attorney General of the United States, or the designee of the Attorney General.

''(18) The Director of the Office of Management and Budget, or the designee of the Director.

''(19) The Director of the Office of Faith-Based and Community Initiatives, or the designee of the Director.

''(20) The Director of USA FreedomCorps, or the designee of the Director.'';

(B) in subsection (c), by striking ''annually'' and inserting ''four times each year, and the rotation of the positions of Chairperson and Vice Chairperson required under subsection (b) shall occur at the first meeting of each year''; and

(C) by adding at the end the following:

''(e) ADMINISTRATION.—The Executive Director of the Council shall report to the Chairman of the Council.'';

(3) in section 203(a) (42 U.S.C. 11313(a))—

(A) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as paragraphs (2), (3), (4), (5), (9), (10), and (11), respectively;

(B) by inserting before paragraph (2), as so redesignated by subparagraph (A), the following:

''(1) not later than 12 months after the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, develop, make available for public comment, and submit to the President and to Congress a National Strategic Plan to End Homelessness, and shall update such plan annually;'';

(C) in paragraph (5), as redesignated by subparagraph (A), by striking ''at least 2, but in no case more than 5'' and inserting ''not less than 5, but in no case more than 10'';

(D) by inserting after paragraph (5), as so redesignated by subparagraph (A), the following:

''(6) encourage the creation of State Interagency Councils on Homelessness and the formulation of jurisdictional 10-year plans to end homelessness at State, city, and county levels;

''(7) annually obtain from Federal agencies their identification of consumer-oriented entitlement and other resources for which persons experiencing homelessness may be eligible and the agencies' identification of improvements to ensure access; develop mechanisms to ensure access by persons experiencing homelessness to all Federal, State, and local programs for which the persons are eligible, and to verify collaboration among entities within a community that receive Federal funding under programs targeted for persons experiencing homelessness, and other programs for which persons experiencing homelessness are eligible, including mainstream programs identified by the Government Accountability Office in the reports entitled 'Homelessness: Coordination and Evaluation of Programs Are Essential', issued February 26, 1999, and 'Homelessness: Barriers to Using Mainstream Programs', issued July 6, 2000;

''(8) conduct research and evaluation related to its functions as defined in this section;

''(9) develop joint Federal agency and other initiatives to fulfill the goals of the agency;'';

(E) in paragraph (10), as so redesignated by subparagraph (A), by striking ''and'' at the end;

(F) in paragraph (11), as so redesignated by subparagraph (A), by striking the period at the end and inserting a semicolon;

(G) by adding at the end the following new paragraphs:

''(12) develop constructive alternatives to criminalizing homelessness and eliminate laws and policies that prohibit sleeping, feeding, sitting, resting, or lying in public spaces when there are no suitable alternatives, result in the destruction of a homeless person's property without due process, or are selectively enforced against homeless persons; and

''(13) not later than the expiration of the 6-month period beginning upon completion of the study requested in a letter to the Acting Comptroller General from the Chair and Ranking Member of the House Financial Services Committee and several other members regarding various definitions of homelessness in Federal statutes, convene a meeting of representatives of all Federal agencies and committees of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families, local and State governments, academic researchers who specialize in homelessness, nonprofit housing and service providers that receive funding under any Federal program to assist homeless individuals or families, organizations advocating on behalf of such nonprofit providers and homeless persons receiving housing or services under any such Federal program, and homeless persons receiving housing or services under any such Federal program, at which meeting such representatives shall discuss all issues relevant to whether the definitions of 'homeless' under paragraphs (1) through (4) of section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended by section 1003 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, should be modified by the Congress, including whether there is a compelling need for a uniform definition of homelessness under Federal law, the extent to which the differences in such definitions create barriers for individuals to accessing services and to collaboration between agencies, and the relative availability, and barriers to access by persons defined as homeless, of mainstream programs identified by the Government Accountability Office in the two reports identified in paragraph (7) of this subsection; and shall submit transcripts of such meeting, and any majority and dissenting recommendations from such meetings, to each committee of the House of Representatives and the Senate having jurisdiction over any Federal program to assist homeless individuals or families not later than the expiration of the 60-day period beginning upon conclusion of such meeting.''.

(4) in section 203(b)(1) (42 U.S.C. 11313(b))—

(A) by striking ''Federal'' and inserting ''national'';

(B) by striking ''; and'' and inserting ''and pay for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made;'';

(5) in section 205(d) (42 U.S.C. 11315(d)), by striking ''property.'' and inserting ''property, both real and personal, public and private, without fiscal year limitation, for the purpose of aiding or facilitating the work of the Council.''; and

(6) by striking section 208 (42 U.S.C. 11318) and inserting the following:

''SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $3,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal years 2011. Any amounts appropriated to carry out this title shall remain available until expended.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on, and shall apply beginning on, the date of the enactment of this division.

TITLE I—HOUSING ASSISTANCE GENERAL PROVISIONS

SEC. 1101. DEFINITIONS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle A—General Provisions'';

(2) by redesignating sections 401 and 402 (42 U.S.C. 11361, 11362) as sections 403 and 406, respectively; and

(3) by inserting before section 403 (as so redesignated by paragraph (2) of this section) the following new section:

''SEC. 401. DEFINITIONS.

''For purposes of this title:

''(1) AT RISK OF HOMELESSNESS.—The term 'at risk of homelessness' means, with respect to an individual or family, that the individual or family—

''(A) has income below 30 percent of median income for the geographic area;

''(B) has insufficient resources immediately available to attain housing stability; and

''(C)(i) has moved frequently because of economic reasons;

''(ii) is living in the home of another because of economic hardship;

''(iii) has been notified that their right to occupy their current housing or living situation will be terminated;

''(iv) lives in a hotel or motel;

''(v) lives in severely overcrowded housing;

''(vi) is exiting an institution; or

''(vii) otherwise lives in housing that has characteristics associated with instability and an increased risk of homelessness.

Such term includes all families with children and youth defined as homeless under other Federal statutes.

''(2) CHRONICALLY HOMELESS.—

''(A) IN GENERAL.—The term 'chronically homeless' means, with respect to an individual or family, that the individual or family—

''(i) is homeless and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter;

''(ii) has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least 4 separate occasions in the last 3 years; and

''(iii) has an adult head of household (or a minor head of household if no adult is present in the household) with a diagnosable substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post traumatic stress disorder, cognitive impairments resulting from a brain injury, or chronic physical illness or disability, including the co-occurrence of 2 or more of those conditions.

''(B) RULE OF CONSTRUCTION.—A person who currently lives or resides in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital or other similar facility, and has resided there for fewer than 90 days shall be considered chronically homeless if such person met all of the requirements described in subparagraph (A) prior to entering that facility.

''(3) COLLABORATIVE APPLICANT.—The term 'collaborative applicant' means an entity that—

''(A) carries out the duties specified in section 402;

''(B) serves as the applicant for project sponsors who jointly submit a single application for a grant under subtitle C in accordance with a collaborative process; and

''(C) if the entity is a legal entity and is awarded such grant, receives such grant directly from the Secretary.

''(4) COLLABORATIVE APPLICATION.—The term 'collaborative application' means an application for a grant under subtitle C that—

''(A) satisfies section 422; and

''(B) is submitted to the Secretary by a collaborative applicant.

''(5) CONSOLIDATED PLAN.—The term 'Consolidated Plan' means a comprehensive housing affordability strategy and community development plan required in part 91 of title 24, Code of Federal Regulations.

''(6) ELIGIBLE ENTITY.—The term 'eligible entity' means, with respect to a subtitle, a public entity, a private entity, or an entity that is a combination of public and private entities, that is eligible to directly receive grant amounts under such subtitle.

''(7) FAMILIES WITH CHILDREN AND YOUTH DEFINED AS HOMELESS UNDER OTHER FEDERAL STATUTES.—The term 'families with children and youth defined as homeless under other Federal statutes' means any children or youth that are defined as 'homeless' under any Federal statute other than this subtitle, but are not defined as homeless under section 103, and shall also include the parent, parents, or guardian of such children or youth under subtitle B of title VII this Act (42 U.S.C. 11431 et seq.).

''(8) GEOGRAPHIC AREA.—The term 'geographic area' means a State, metropolitan city, urban county, town, village, or other nonentitlement area, or a combination or consortia of such, in the United States, as described in section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306).

''(9) HOMELESS INDIVIDUAL WITH A DISABILITY.—

''(A) IN GENERAL.—The term 'homeless individual with a disability' means an individual who is homeless, as defined in section 103, and has a disability that—

''(i)(I) is expected to be long-continuing or of indefinite duration;

''(II) substantially impedes the individual's ability to live independently;

''(III) could be improved by the provision of more suitable housing conditions; and

''(IV) is a physical, mental, or emotional impairment, including an impairment caused by alcohol or drug abuse, post traumatic stress disorder, or brain injury;

''(ii) is a developmental disability, as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002); or

''(iii) is the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agency for acquired immunodeficiency syndrome.

''(B) RULE.—Nothing in clause (iii) of subparagraph (A) shall be construed to limit eligibility under clause (i) or (ii) of subparagraph (A).

''(10) LEGAL ENTITY.—The term 'legal entity' means—

''(A) an entity described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of such Code;

''(B) an instrumentality of State or local government; or

''(C) a consortium of instrumentalities of State or local governments that has constituted itself as an entity.

''(11) METROPOLITAN CITY; URBAN COUNTY; NONENTITLEMENT AREA.—The terms 'metropolitan city', 'urban county', and 'nonentitlement area' have the meanings given such terms in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

''(12) NEW.—The term 'new' means, with respect to housing, that no assistance has been provided under this title for the housing.

''(13) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a project sponsor operating transitional housing or permanent housing under this title with respect to—

''(A) the administration, maintenance, repair, and security of such housing;

''(B) utilities, fuel, furnishings, and equipment for such housing; or

''(C) coordination of services as needed to ensure long-term housing stability.

''(14) OUTPATIENT HEALTH SERVICES.—The term 'outpatient health services' means outpatient health care services, mental health services, and outpatient substance abuse services.

''(15) PERMANENT HOUSING.—The term 'permanent housing' means community-based housing without a designated length of stay, and includes both permanent supportive housing and permanent housing without supportive services.

''(16) PERSONALLY IDENTIFYING INFORMATION.—The term 'personally identifying information' means individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including—

''(A) a first and last name;

''(B) a home or other physical address;

''(C) contact information (including a postal, e-mail or Internet protocol address, or telephone or facsimile number);

''(D) a social security number; and

''(E) any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any other non-personally identifying information, would serve to identify any individual.

''(17) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

''(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

''(B) that has a voluntary board;

''(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

''(D) that practices nondiscrimination in the provision of assistance.

''(18) PROJECT.—The term 'project' means, with respect to activities carried out under subtitle C, eligible activities described in section 423(a), undertaken pursuant to a specific endeavor, such as serving a particular population or providing a particular resource.

''(19) PROJECT-BASED.—The term 'project-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an owner of a structure that exists as of the date the contract is entered into; and

''(B) provides that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

''(20) PROJECT SPONSOR.—The term 'project sponsor' means, with respect to proposed eligible activities, the organization directly responsible for carrying out the proposed eligible activities.

''(21) RECIPIENT.—Except as used in subtitle B, the term 'recipient' means an eligible entity who—

''(A) submits an application for a grant under section 422 that is approved by the Secretary;

''(B) receives the grant directly from the Secretary to support approved projects described in the application; and

''(C)(i) serves as a project sponsor for the projects; or

''(ii) awards the funds to project sponsors to carry out the projects.

''(22) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''(23) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a severe and persistent mental illness or emotional impairment that seriously limits a person's ability to live independently.

''(24) SOLO APPLICANT.—The term 'solo applicant' means an entity that is an eligible entity, directly submits an application for a grant under subtitle C to the Secretary, and, if awarded such grant, receives such grant directly from the Secretary.

''(25) SPONSOR-BASED.—The term 'sponsor-based' means, with respect to rental assistance, that the assistance is provided pursuant to a contract that—

''(A) is between—

''(i) the recipient or a project sponsor; and

''(ii) an independent entity that—

''(I) is a private organization; and

''(II) owns or leases dwelling units; and

''(B) provides that rental assistance payments shall be made to the independent entity and that eligible persons shall occupy such assisted units.

''(26) STATE.—Except as used in subtitle B, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

''(27) SUPPORTIVE SERVICES.—The term 'supportive services' means services that address the special needs of people served by a project, including—

''(A) the establishment and operation of a child care services program for families experiencing homelessness;

''(B) the establishment and operation of an employment assistance program, including providing job training;

''(C) the provision of outpatient health services, food, and case management;

''(D) the provision of assistance in obtaining permanent housing, employment counseling, and nutritional counseling;

''(E) the provision of outreach services, advocacy, life skills training, and housing search and counseling services;

''(F) the provision of mental health services, trauma counseling, and victim services;

''(G) the provision of assistance in obtaining other Federal, State, and local assistance available for residents of supportive housing (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment);

''(H) the provision of legal services for purposes including requesting reconsiderations and appeals of veterans and public benefit claim denials and resolving outstanding warrants that interfere with an individual's ability to obtain and retain housing;

''(I) the provision of—

''(i) transportation services that facilitate an individual's ability to obtain and maintain employment; and

''(ii) health care; and

''(J) other supportive services necessary to obtain and maintain housing.

''(28) TENANT-BASED.—The term 'tenant-based' means, with respect to rental assistance, assistance that—

''(A) allows an eligible person to select a housing unit in which such person will live using rental assistance provided under subtitle C, except that if necessary to assure that the provision of supportive services to a person participating in a program is feasible, a recipient or project sponsor may require that the person live—

''(i) in a particular structure or unit for not more than the first year of the participation;

''(ii) within a particular geographic area for the full period of the participation, or the period remaining after the period referred to in subparagraph (A); and

''(B) provides that a person may receive such assistance and move to another structure, unit, or geographic area if the person has complied with all other obligations of the program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.

''(29) TRANSITIONAL HOUSING.—The term 'transitional housing' means housing the purpose of which is to facilitate the movement of individuals and families experiencing homelessness to permanent housing within 24 months or such longer period as the Secretary determines necessary.

''(30) UNIFIED FUNDING AGENCY.—The term 'unified funding agency' means a collaborative applicant that performs the duties described in section 402(g).

''(31) UNDERSERVED POPULATIONS.—The term 'underserved populations' includes populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Secretary, as appropriate.

''(32) VICTIM SERVICE PROVIDER.—The term 'victim service provider' means a private nonprofit organization whose primary mission is to provide services to victims of domestic violence, dating violence, sexual assault, or stalking. Such term includes rape crisis centers, battered women's shelters, domestic violence transitional housing programs, and other programs.

''(33) VICTIM SERVICES.—The term 'victim services' means services that assist domestic violence, dating violence, sexual assault, or stalking victims, including services offered by rape crisis centers and domestic violence shelters, and other organizations, with a documented history of effective work concerning domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1102. COMMUNITY HOMELESS ASSISTANCE PLANNING BOARDS.

Subtitle A of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 401 (as added by section 1101(3) of this division) the following new section:

''SEC. 402. COLLABORATIVE APPLICANTS.

''(a) ESTABLISHMENT AND DESIGNATION.—A collaborative applicant shall be established for a geographic area by the relevant parties in that geographic area to—

''(1) submit an application for amounts under this subtitle; and

''(2) perform the duties specified in subsection (f) and, if applicable, subsection (g).

''(b) NO REQUIREMENT TO BE A LEGAL ENTITY.—An entity may be established to serve as a collaborative applicant under this section without being a legal entity.

''(c) REMEDIAL ACTION.—If the Secretary finds that a collaborative applicant for a geographic area does not meet the requirements of this section, or if there is no collaborative applicant for a geographic area, the Secretary may take remedial action to ensure fair distribution of grant amounts under subtitle C to eligible entities within that area. Such measures may include designating another body as a collaborative applicant, or permitting other eligible entities to apply directly for grants.

''(d) CONSTRUCTION.—Nothing in this section shall be construed to displace conflict of interest or government fair practices laws, or their equivalent, that govern applicants for grant amounts under subtitles B and C.

''(e) APPOINTMENT OF AGENT.—

''(1) IN GENERAL.—Subject to paragraph (2), a collaborative applicant may designate an agent to—

''(A) apply for a grant under section 422(c);

''(B) receive and distribute grant funds awarded under subtitle C; and

''(C) perform other administrative duties.

''(2) RETENTION OF DUTIES.—Any collaborative applicant that designates an agent pursuant to paragraph (1) shall regardless of such designation retain all of its duties and responsibilities under this title.

''(f) DUTIES.—A collaborative applicant shall—

''(1) design a collaborative process for the development of an application under subtitle C, and for evaluating the outcomes of projects for which funds are awarded under subtitle B, in such a manner as to provide information necessary for the Secretary—

''(A) to determine compliance with—

''(i) the program requirements under section 426; and

''(ii) the selection criteria described under section 427; and

''(B) to establish priorities for funding projects in the geographic area involved;

''(2) participate in the Consolidated Plan for the geographic area served by the collaborative applicant; and

''(3) ensure operation of, and consistent participation by, project sponsors in a community-wide homeless management information system (in this subsection referred to as 'HMIS') that—

''(A) collects unduplicated counts of individuals and families experiencing homelessness;

''(B) analyzes patterns of use of assistance provided under subtitles B and C for the geographic area involved;

''(C) provides information to project sponsors and applicants for needs analyses and funding priorities; and

''(D) is developed in accordance with standards established by the Secretary, including standards that provide for—

''(i) encryption of data collected for purposes of HMIS;

''(ii) documentation, including keeping an accurate accounting, proper usage, and disclosure, of HMIS data;

''(iii) access to HMIS data by staff, contractors, law enforcement, and academic researchers;

''(iv) rights of persons receiving services under this title;

''(v) criminal and civil penalties for unlawful disclosure of data; and

''(vi) such other standards as may be determined necessary by the Secretary.

''(g) UNIFIED FUNDING.—

''(1) IN GENERAL.—In addition to the duties described in subsection (f), a collaborative applicant shall receive from the Secretary and distribute to other project sponsors in the applicable geographic area funds for projects to be carried out by such other project sponsors, if—

''(A) the collaborative applicant—

''(i) applies to undertake such collection and distribution responsibilities in an application submitted under this subtitle; and

''(ii) is selected to perform such responsibilities by the Secretary; or

''(B) the Secretary designates the collaborative applicant as the unified funding agency in the geographic area, after—

''(i) a finding by the Secretary that the applicant—

''(I) has the capacity to perform such responsibilities; and

''(II) would serve the purposes of this Act as they apply to the geographic area; and

''(ii) the Secretary provides the collaborative applicant with the technical assistance necessary to perform such responsibilities as such assistance is agreed to by the collaborative applicant.

''(2) REQUIRED ACTIONS BY A UNIFIED FUNDING AGENCY.—A collaborative applicant that is either selected or designated as a unified funding agency for a geographic area under paragraph (1) shall—

''(A) require each project sponsor who is funded by a grant received under subtitle C to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds awarded to the project sponsor under subtitle C in order to ensure that all financial transactions carried out under subtitle C are conducted, and records maintained, in accordance with generally accepted accounting principles; and

''(B) arrange for an annual survey, audit, or evaluation of the financial records of each project carried out by a project sponsor funded by a grant received under subtitle C.

''(h) CONFLICT OF INTEREST.—No board member of a collaborative applicant may participate in decisions of the collaborative applicant concerning the award of a grant, or provision of other financial benefits, to such member or the organization that such member represents.''.

SEC. 1103. GENERAL PROVISIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after section 403 (as so redesignated by section 1101(2) of this division) the following new sections:

''SEC. 404. PREVENTING INVOLUNTARY FAMILY SEPARATION.

''(a) IN GENERAL.—After the expiration of the 2-year period that begins upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, and except as provided in subsection (b), any project sponsor receiving funds under this title to provide emergency shelter, transitional housing, or permanent housing to families with children under age 18 shall not deny admission to any family based on the age of any child under age 18.

''(b) EXCEPTION.—Notwithstanding the requirement under subsection (a), project sponsors of transitional housing receiving funds under this title may target transitional housing resources to families with children of a specific age only if the project sponsor—

''(1) operates a transitional housing program that has a primary purpose of implementing an evidence-based practice that requires that housing units be targeted to families with children in a specific age group; and

''(2) provides such assurances, as the Secretary shall require, that an equivalent appropriate alternative living arrangement for the whole family or household unit has been secured.

''SEC. 405. TECHNICAL ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall make available technical assistance to private nonprofit organizations and other nongovernmental entities, States, metropolitan cities, urban counties, and counties that are not urban counties, to implement effective planning processes for preventing and ending homelessness, to improve their capacity to prepare collaborative applications, to prevent the separation of families in emergency shelter or other housing programs, and to adopt and provide best practices in housing and services for persons experiencing homeless.

''(b) RESERVATION.—The Secretary shall reserve not more than 1 percent of the funds made available for any fiscal year for carrying out subtitles B and C, to provide technical assistance under subsection (a).''.

SEC. 1104. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

''SEC. 407. PROTECTION OF PERSONALLY IDENTIFYING INFORMATION BY VICTIM SERVICE PROVIDERS.

''In the course of awarding grants or implementing programs under this title, the Secretary shall instruct any victim service provider that is a recipient or subgrantee not to disclose for purposes of the Homeless Management Information System any personally identifying information about any client. The Secretary may, after public notice and comment, require or ask such recipients and subgrantees to disclose for purposes of the Homeless Management Information System non-personally identifying information that has been de-identified, encrypted, or otherwise encoded. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this subsection for victims of domestic violence, dating violence, sexual assault, or stalking.''.

SEC. 1105. AUTHORIZATION OF APPROPRIATIONS.

Subtitle A of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11361 et seq.), as amended by the preceding provisions of this title, is further amended by adding at the end the following new section:

''SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title $2,200,000,000 for fiscal year 2010 and such sums as may be necessary for fiscal year 2011.''.

TITLE II—EMERGENCY SOLUTIONS GRANTS PROGRAM

SEC. 1201. GRANT ASSISTANCE.

Subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle B—Emergency Solutions Grants Program'';

(2) by striking section 417 (42 U.S.C. 11377);

(3) by redesignating sections 413 through 416 (42 U.S.C. 11373-6) as sections 414 through 417, respectively; and

(4) by striking section 412 (42 U.S.C. 11372) and inserting the following:

''SEC. 412. GRANT ASSISTANCE.

''The Secretary shall make grants to States and local governments (and to private nonprofit organizations providing assistance to persons experiencing homelessness or at risk of homelessness, in the case of grants

made with reallocated amounts) for the purpose of carrying out activities described in section 415.

"SEC. 413. AMOUNT AND ALLOCATION OF ASSISTANCE.

''(a) IN GENERAL.—Of the amount made available to carry out this subtitle and subtitle C for a fiscal year, the Secretary shall allocate nationally 20 percent of such amount for activities described in section 415. The Secretary shall be required to certify that such allocation will not adversely affect the renewal of existing projects under this subtitle and subtitle C for those individuals or families who are homeless.

''(b) ALLOCATION.—An entity that receives a grant under section 412, and serves an area that includes 1 or more geographic areas (or portions of such areas) served by collaborative applicants that submit applications under subtitle C, shall allocate the funds made available through the grant to carry out activities described in section 415, in consultation with the collaborative applicants.''; and

(5) in section 414(b) (42 U.S.C. 11373(b)), as so redesignated by paragraph (3) of this section, by striking ''amounts appropriated'' and all that follows through ''for any'' and inserting ''amounts appropriated under section 408 and made available to carry out this subtitle for any''.

SEC. 1202. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 415 (42 U.S.C. 11374), as so redesignated by section 1201(3) of this division, and inserting the following new section:

"SEC. 415. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Assistance provided under section 412 may be used for the following activities:

''(1) The renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters.

''(2) The provision of essential services related to emergency shelter or street outreach, including services concerned with employment, health, education, family support services for homeless youth, substance abuse services, victim services, or mental health services, if—

''(A) such essential services have not been provided by the local government during any part of the immediately preceding 12-month period or the Secretary determines that the local government is in a severe financial deficit; or

''(B) the use of assistance under this subtitle would complement the provision of those essential services.

''(3) Maintenance, operation, insurance, provision of utilities, and provision of furnishings related to emergency shelter.

''(4) Provision of rental assistance to provide short-term or medium-term housing to homeless individuals or families or individuals or families at risk of homelessness. Such rental assistance may include tenant-based or project-based rental assistance.

''(5) Housing relocation or stabilization services for homeless individuals or families or individuals or families at risk of homelessness, including housing search, mediation or outreach to property owners, legal services, credit repair, providing security or utility deposits, utility payments, rental assistance for a final month at a location, assistance with moving costs, or other activities that are effective at—

''(A) stabilizing individuals and families in their current housing; or

''(B) quickly moving such individuals and families to other permanent housing.

''(b) MAXIMUM ALLOCATION FOR EMERGENCY SHELTER ACTIVITIES.—A grantee of assistance provided under section 412 for any fiscal year may not use an amount of such assistance for activities described in paragraphs (1) through (3) of subsection (a) that exceeds the greater of—

''(1) 60 percent of the aggregate amount of such assistance provided for the grantee for such fiscal year; or

''(2) the amount expended by such grantee for such activities during fiscal year most recently completed before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009.''.

SEC. 1203. PARTICIPATION IN HOMELESS MANAGEMENT INFORMATION SYSTEM.

Section 416 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11375), as so redesignated by section 1201(3) of this division, is amended by adding at the end the following new subsection:

''(f) PARTICIPATION IN HMIS.—The Secretary shall ensure that recipients of funds under this subtitle ensure the consistent participation by emergency shelters and homelessness prevention and rehousing programs in any applicable community-wide homeless management information system.''.

SEC. 1204. ADMINISTRATIVE PROVISION.

Section 418 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11378) is amended by striking ''5 percent'' and inserting ''7.5 percent''.

SEC. 1205. GAO STUDY OF ADMINISTRATIVE FEES.

Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall—

(1) conduct a study to examine the appropriate administrative costs for administering the program authorized under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11371 et seq.); and

(2) submit to Congress a report on the findings of the study required under paragraph (1).

TITLE III—CONTINUUM OF CARE PROGRAM

SEC. 1301. CONTINUUM OF CARE.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by striking the subtitle heading for subtitle C of title IV (42 U.S.C. 11381 et seq.) and inserting the following:

"Subtitle C—Continuum of Care Program"; and

(2) by striking sections 421 and 422 (42 U.S.C. 11381 and 11382) and inserting the following new sections:

"SEC. 421. PURPOSES.

''The purposes of this subtitle are—

''(1) to promote community-wide commitment to the goal of ending homelessness;

''(2) to provide funding for efforts by nonprofit providers and State and local governments to quickly rehouse homeless individuals and families while minimizing the trauma and dislocation caused to individuals, families, and communities by homelessness;

''(3) to promote access to, and effective utilization of, mainstream programs described in section 203(a)(7) and programs funded with State or local resources; and

''(4) to optimize self-sufficiency among individuals and families experiencing homelessness.

"SEC. 422. CONTINUUM OF CARE APPLICATIONS AND GRANTS.

''(a) PROJECTS.—The Secretary shall award grants, on a competitive basis, and using the selection criteria described in section 427, to carry out eligible activities under this subtitle for projects that meet the program requirements under section 426, either by directly awarding funds to project sponsors or by awarding funds to unified funding agencies.

''(b) NOTIFICATION OF FUNDING AVAILABILITY.—The Secretary shall release a notification of funding availability for grants awarded under this subtitle for a fiscal year not later than 3 months after the date of the enactment of the appropriate Act making appropriations for the Department of Housing and Urban Development for such fiscal year.

''(c) APPLICATIONS.—

''(1) SUBMISSION TO THE SECRETARY.—To be eligible to receive a grant under subsection (a), a project sponsor or unified funding agency in a geographic area shall submit an application to the Secretary at such time and in such manner as the Secretary may require, and containing such information as the Secretary determines necessary—

''(A) to determine compliance with the program requirements and selection criteria under this subtitle; and

''(B) to establish priorities for funding projects in the geographic area.

''(2) ANNOUNCEMENT OF AWARDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall announce, within 5 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(B) TRANSITION.—For a period of up to 2 years beginning after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall announce, within 6 months after the last date for the submission of applications described in this subsection for a fiscal year, the grants conditionally awarded under subsection (a) for that fiscal year.

''(d) OBLIGATION, DISTRIBUTION, AND UTILIZATION OF FUNDS.—

''(1) REQUIREMENTS FOR OBLIGATION.—

''(A) IN GENERAL.—Not later than 9 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements, except as provided in subparagraphs (B) and (C).

''(B) ACQUISITION, REHABILITATION, OR CONSTRUCTION.—Not later than 24 months after the announcement referred to in subsection (c)(2), each recipient or project sponsor seeking the obligation of funds for acquisition of housing, rehabilitation of housing, or construction of new housing for a grant announced under subsection (c)(2) shall meet all requirements for the obligation of those funds, including site control, matching funds, and environmental review requirements.

''(C) EXTENSIONS.—At the discretion of the Secretary, and in compelling circumstances, the Secretary may extend the date by which a recipient or project sponsor shall meet the requirements described in subparagraphs (A) and (B) if the Secretary determines that compliance with the requirements was delayed due to factors beyond the reasonable control of the recipient or project sponsor. Such factors may include difficulties in obtaining site control for a proposed project, completing the process of obtaining secure financing for the project, obtaining approvals from State or local governments, or completing the technical submission requirements for the project.

''(2) OBLIGATION.—Not later than 45 days after a recipient or project sponsor meets the requirements described in paragraph (1), the Secretary shall obligate the funds for the grant involved.

''(3) DISTRIBUTION.—A recipient that receives funds through such a grant—

''(A) shall distribute the funds to project sponsors (in advance of expenditures by the project sponsors); and

''(B) shall distribute the appropriate portion of the funds to a project sponsor not later than 45 days after receiving a request for such distribution from the project sponsor.

''(4) EXPENDITURE OF FUNDS.—The Secretary may establish a date by which funds made available through a grant announced under subsection (c)(2) for a homeless assistance project shall be entirely expended by the recipient or project sponsors involved. The date established under this paragraph shall not occur before the expiration of the 24-month period beginning on the date that funds are obligated for activities described under paragraphs (1) or (2) of section 423(a). The Secretary shall recapture the funds not expended by such date. The Secretary shall reallocate the funds for another homeless assistance and prevention project that meets the requirements of this subtitle to be carried out, if possible and appropriate, in the same geographic area as the area served through the original grant.

''(e) RENEWAL FUNDING FOR UNSUCCESSFUL APPLICANTS.—The Secretary may renew funding for a specific project previously funded under this subtitle that the Secretary determines meets the purposes of this subtitle, and was included as part of a total application that met the criteria of subsection (c), even if the application was not selected to receive grant assistance. The Secretary may renew the funding for a period of not more than 1 year, and under such conditions as the Secretary determines to be appropriate.

''(f) CONSIDERATIONS IN DETERMINING RENEWAL FUNDING.—When providing renewal funding for leasing, operating costs, or rental assistance for permanent housing, the Secretary shall make adjustments proportional to increases in the fair market rents in the geographic area.

''(g) MORE THAN 1 APPLICATION FOR A GEOGRAPHIC AREA.—If more than 1 collaborative applicant applies for funds for a geographic area, the Secretary shall award funds to the collaborative applicant with the highest score based on the selection criteria set forth in section 427.

''(h) APPEALS.—

''(1) IN GENERAL.—The Secretary shall establish a timely appeal procedure for grant amounts awarded or denied under this subtitle pursuant to a collaborative application or solo application for funding.

''(2) PROCESS.—The Secretary shall ensure that the procedure permits appeals submitted by entities carrying out homeless housing and services projects (including emergency shelters and homelessness prevention programs), and all other applicants under this subtitle.

''(i) SOLO APPLICANTS.—A solo applicant may submit an application to the Secretary for a grant under subsection (a) and be awarded such grant on the same basis as such grants are awarded to other applicants based on the criteria described in section 427, but only if the Secretary determines that the solo applicant has attempted to participate in the continuum of care process but was not permitted to participate in a reasonable manner. The Secretary may award such grants directly to such applicants in a manner determined to be appropriate by the Secretary.

''(j) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—

''(1) IN GENERAL.—A collaborative applicant may use not more than 10 percent of funds awarded under this subtitle (continuum of care funding) for any of the types of eligible activities specified in paragraphs (1) through (7) of section 423(a) to serve families with children and youth defined as homeless under other Federal statutes, or homeless families with children and youth defined as homeless under section 103(a)(6), but only if the applicant demonstrates that the use of such funds is of an equal or greater priority or is equally or more cost effective in meeting the overall goals and objectives of the plan submitted under section 427(b)(1)(B), especially with respect to children and unaccompanied youth.

''(2) LIMITATIONS.—The 10 percent limitation under paragraph (1) shall not apply to collaborative applicants in which the rate of homelessness, as calculated in the most recent point in time count, is less than one-tenth of 1 percent of total population.

''(3) TREATMENT OF CERTAIN POPULATIONS.—

''(A) IN GENERAL.—Notwithstanding section 103(a) and subject to subparagraph (B), funds awarded under this subtitle may be used for eligible activities to serve unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) only pursuant to paragraph (1) of this subsection and such families and children shall not otherwise be considered as homeless for purposes of this subtitle.

''(B) AT RISK OF HOMELESSNESS.—Subparagraph (A) may not be construed to prevent any unaccompanied youth and homeless families and children defined as homeless under section 103(a)(6) from qualifying for, and being treated for purposes of this subtitle as, at risk of homelessness or from eligibility for any projects, activities, or services carried out using amounts provided under this subtitle for which individuals or families that are at risk of homelessness are eligible.''.

SEC. 1302. ELIGIBLE ACTIVITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 423 (42 U.S.C. 11383) and inserting the following new section:

''SEC. 423. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Grants awarded under section 422 to qualified applicants shall be used to carry out projects that serve homeless individuals or families that consist of one or more of the following eligible activities:

''(1) Construction of new housing units to provide transitional or permanent housing.

''(2) Acquisition or rehabilitation of a structure to provide transitional or permanent housing, other than emergency shelter, or to provide supportive services.

''(3) Leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing, or providing supportive services.

''(4) Provision of rental assistance to provide transitional or permanent housing to eligible persons. The rental assistance may include tenant-based, project-based, or sponsor-based rental assistance. Project-based rental assistance, sponsor-based rental assistance, and operating cost assistance contracts carried out by project sponsors receiving grants under this section may, at the discretion of the applicant and the project sponsor, have an initial term of 15 years, with assistance for the first 5 years paid with funds authorized for appropriation under this Act, and assistance for the remainder of the term treated as a renewal of an expiring contract as provided in section 429. Project-based rental assistance may include rental assistance to preserve existing permanent supportive housing for homeless individuals and families.

''(5) Payment of operating costs for housing units assisted under this subtitle or for the preservation of housing that will serve homeless individuals and families and for which another form of assistance is expiring or otherwise no longer available.

''(6) Supportive services for individuals and families who are currently homeless, who have been homeless in the prior six months but are currently residing in permanent housing, or who were previously homeless and are currently residing in permanent supportive housing.

''(7) Provision of rehousing services, including housing search, mediation or outreach to property owners, credit repair, providing security or utility deposits, rental assistance for a final month at a location, assistance with moving costs, or other activities that—

''(A) are effective at moving homeless individuals and families immediately into housing; or

''(B) may benefit individuals and families who in the prior 6 months have been homeless, but are currently residing in permanent housing.

''(8) In the case of a collaborative applicant that is a legal entity, performance of the duties described under section 402(f)(3).

''(9) Operation of, participation in, and ensuring consistent participation by project sponsors in, a community-wide homeless management information system.

''(10) In the case of a collaborative applicant that is a legal entity, payment of administrative costs related to meeting the requirements described in paragraphs (1) and (2) of section 402(f), for which the collaborative applicant may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs.

''(11) In the case of a collaborative applicant that is a unified funding agency under section 402(g), payment of administrative costs related to meeting the requirements of that section, for which the unified funding agency may use not more than 3 percent of the total funds made available in the geographic area under this subtitle for such costs, in addition to funds used under paragraph (10).

''(12) Payment of administrative costs to project sponsors, for which each project sponsor may use not more than 10 percent of the total funds made available to that project sponsor through this subtitle for such costs.

''(b) MINIMUM GRANT TERMS.—The Secretary may impose minimum grant terms of up to 5 years for new projects providing permanent housing.

''(c) USE RESTRICTIONS.—

''(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—A project that consists of activities described in paragraph (1) or (2) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for not less than 15 years.

''(2) OTHER ACTIVITIES.—A project that consists of activities described in any of paragraphs (3) through (12) of subsection (a) shall be operated for the purpose specified in the application submitted for the project under section 422 for the duration of the grant period involved.

''(3) CONVERSION.—If the recipient or project sponsor carrying out a project that provides transitional or permanent housing submits a request to the Secretary to carry out instead a project for the direct benefit of low-income persons, and the Secretary determines that the initial project is no longer needed to provide transitional or permanent housing, the Secretary may approve the project described in the request and authorize the recipient or project sponsor to carry out that project.

''(d) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

''(1) REPAYMENT.—If a recipient or project sponsor receives assistance under section 422 to carry out a project that consists of activities described in paragraph (1) or (2) of subsection (a) and the project ceases to provide transitional or permanent housing—

''(A) earlier than 10 years after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 100 percent of the assistance; or

''(B) not earlier than 10 years, but earlier than 15 years, after operation of the project begins, the Secretary shall require the recipient or project sponsor to repay 20 percent of the assistance for each of the years in the 15-year period for which the project fails to provide that housing.

''(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), if any property is used for a project that receives assistance under subsection (a) and consists of activities described in paragraph (1) or (2) of subsection (a), and the sale or other disposition of the property occurs before the expiration of the 15-year period beginning on the date that operation of the project begins, the recipient or project sponsor who received the assistance shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient or project sponsor from unduly benefitting from such sale or disposition.

''(3) EXCEPTION.—A recipient or project sponsor shall not be required to make the repayments, and comply with the terms and conditions, required under paragraph (1) or (2) if—

''(A) the sale or disposition of the property used for the project results in the use of the property for the direct benefit of very low-income persons;

''(B) all of the proceeds of the sale or disposition are used to provide transitional or permanent housing meeting the requirements of this subtitle;

''(C) project-based rental assistance or operating cost assistance from any Federal program or an equivalent State or local program is no longer made available and the project is meeting applicable performance standards, provided that the portion of the project that had benefitted from such assistance continues to meet the tenant income and rent restrictions for low-income units under section 42(g) of the Internal Revenue Code of 1986; or

''(D) there are no individuals and families in the geographic area who are homeless, in which case the project may serve individuals and families at risk of homelessness.

''(e) STAFF TRAINING.—The Secretary may allow reasonable costs associated with staff training to be included as part of the activities described in subsection (a).

''(f) ELIGIBILITY FOR PERMANENT HOUSING.—Any project that receives assistance under subsection (a) and that provides project-based or sponsor-based permanent housing for homeless individuals or families with a disability, including projects that meet the requirements of subsection (a) and subsection (d)(2)(A) of section 428 may also serve individuals who had previously met the requirements for such project prior to moving into a different permanent housing project.

''(g) ADMINISTRATION OF RENTAL ASSISTANCE.—Provision of permanent housing rental assistance shall be administered by a State, unit of general local government, or public housing agency.''.

SEC. 1303. HIGH PERFORMING COMMUNITIES.

The McKinney-Vento Homeless Assistance Act is amended by striking section 424 (42 U.S.C. 11384) and inserting the following:

''SEC. 424. INCENTIVES FOR HIGH-PERFORMING COMMUNITIES.

''(a) DESIGNATION AS A HIGH-PERFORMING COMMUNITY.—

''(1) IN GENERAL.—The Secretary shall designate, on an annual basis, which collaborative applicants represent high-performing communities.

''(2) CONSIDERATION.—In determining whether to designate a collaborative applicant as a high-performing community under paragraph (1), the Secretary shall establish criteria to ensure that the requirements described under paragraphs (1)(B) and (2)(B) of subsection (d) are measured by comparing homeless individuals and families under similar circumstances, in order to encourage projects in the geographic area to serve homeless individuals and families with more severe barriers to housing stability.

''(3) 2-YEAR PHASE IN.—In each of the first 2 years after the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the Secretary shall designate not more than 10 collaborative applicants as high-performing communities.

''(4) EXCESS OF QUALIFIED APPLICANTS.—If, during the 2-year period described under paragraph (2), more than 10 collaborative applicants could qualify to be designated as high-performing communities, the Secretary shall designate the 10 that have, in the discretion of the Secretary, the best performance based on the criteria described under subsection (d).

''(5) TIME LIMIT ON DESIGNATION.—The designation of any collaborative applicant as a high-performing community under this subsection shall be effective only for the year in which such designation is made. The Secretary, on an annual basis, may renew any such designation.

''(b) APPLICATION.—

''(1) IN GENERAL.—A collaborative applicant seeking designation as a high-performing community under subsection (a) shall submit an application to the Secretary at such time, and in such manner as the Secretary may require.

''(2) CONTENT OF APPLICATION.—In any application submitted under paragraph (1), a collaborative applicant shall include in such application—

''(A) a report showing how any money received under this subtitle in the preceding year was expended; and

''(B) information that such applicant can meet the requirements described under subsection (d).

''(3) PUBLICATION OF APPLICATION.—The Secretary shall—

''(A) publish any report or information submitted in an application under this section in the geographic area represented by the collaborative applicant; and

''(B) seek comments from the public as to whether the collaborative applicant seeking designation as a high-performing community meets the requirements described under subsection (d).

''(c) USE OF FUNDS.—Funds awarded under section 422(a) to a project sponsor who is located in a high-performing community may be used—

''(1) for any of the eligible activities described in section 423; or

''(2) for any of the eligible activities described in paragraphs (4) and (5) of section 415(a).

''(d) DEFINITION OF HIGH-PERFORMING COMMUNITY.—For purposes of this section, the term 'high-performing community' means a geographic area that demonstrates through reliable data that all five of the following requirements are met for that geographic area:

''(1) TERM OF HOMELESSNESS.—The mean length of episodes of homelessness for that geographic area—

''(A) is less than 20 days; or

''(B) for individuals and families in similar circumstances in the preceding year was at least 10 percent less than in the year before.

''(2) FAMILIES LEAVING HOMELESSNESS.—Of individuals and families—

''(A) who leave homelessness, fewer than 5 percent of such individuals and families become homeless again at any time within the next 2 years; or

''(B) in similar circumstances who leave homelessness, the percentage of such individuals and families who become homeless again within the next 2 years has decreased by at least 20 percent from the preceding year.

''(3) COMMUNITY ACTION.—The communities that compose the geographic area have—

''(A) actively encouraged homeless individuals and families to participate in homeless assistance services available in that geographic area; and

''(B) included each homeless individual or family who sought homeless assistance services in the data system used by that community for determining compliance with this subsection.

''(4) EFFECTIVENESS OF PREVIOUS ACTIVITIES.—If recipients in the geographic area have used funding awarded under section 422(a) for eligible activities described under section 415(a) in previous years based on the authority granted under subsection (c), that such activities were effective at reducing the number of individuals and families who became homeless in that community.

''(5) FLEXIBILITY TO SERVE PERSONS DEFINED AS HOMELESS UNDER OTHER FEDERAL LAWS.—With respect to collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, effectiveness in achieving the goals and outcomes identified in subsection 427(b)(1)(F) according to such standards as the Secretary shall promulgate.

''(e) COOPERATION AMONG ENTITIES.—A collaborative applicant designated as a high-performing community under this section shall cooperate with the Secretary in distributing information about successful efforts within the geographic area represented by the collaborative applicant to reduce homelessness.''.

SEC. 1304. PROGRAM REQUIREMENTS.

Section 426 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11386) is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assistance under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient or project sponsor fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

''(b) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for a proposed project under this subtitle unless the collaborative applicant involved agrees—

''(1) to ensure the operation of the project in accordance with the provisions of this subtitle;

''(2) to monitor and report to the Secretary the progress of the project;

''(3) to ensure, to the maximum extent practicable, that individuals and families experiencing homelessness are involved, through employment, provision of volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating facilities for the project and in providing supportive services for the project;

''(4) to require certification from all project sponsors that—

''(A) they will maintain the confidentiality of records pertaining to any individual or family provided family violence prevention or treatment services through the project;

''(B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person responsible for the operation of such project;

''(C) they will establish policies and practices that are consistent with, and do not restrict the exercise of rights provided by, subtitle B of title VII, and other laws relating to the provision of educational and related services to individuals and families experiencing homelessness;

''(D) in the case of programs that provide housing or services to families, they will designate a staff person to be responsible for ensuring that children being served in the program are enrolled in school and connected to appropriate services in the community, including early childhood programs such as Head Start, part C of the Individuals with Disabilities Education Act, and programs authorized under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.); and

''(E) they will provide data and reports as required by the Secretary pursuant to the Act;

''(5) if a collaborative applicant is a unified funding agency under section 402(g) and receives funds under subtitle C to carry out the payment of administrative costs described in section 423(a)(11), to establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, such funds in order to ensure that all financial transactions carried out with such funds are conducted, and records maintained, in accordance with generally accepted accounting principles;

''(6) to monitor and report to the Secretary the provision of matching funds as required by section 430;

''(7) to take the educational needs of children into account when families are placed in emergency or transitional shelter and will, to the maximum extent practicable, place families with children as close as possible to their school of origin so as not to disrupt such children's education; and

''(8) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.'';

(2) by redesignating subsection (d) as subsection (c);

(3) in the first sentence of subsection (c) (as so redesignated by paragraph (2) of this subsection), by striking ''recipient'' and inserting ''recipient or project sponsor'';

(4) by striking subsection (e);

(5) by redesignating subsections (f), (g), and (h), as subsections (d), (e), and (f), respectively;

(6) in the first sentence of subsection (e) (as so redesignated by paragraph (5) of this section), by striking ''recipient'' each place it appears and inserting ''recipient or project sponsor'';

(7) by striking subsection (i); and

(8) by redesignating subsection (j) as subsection (g).

SEC. 1305. SELECTION CRITERIA, ALLOCATION AMOUNTS, AND FUNDING.

The McKinney-Vento Homeless Assistance Act is amended—

(1) by repealing section 429 (42 U.S.C. 11389); and

(2) by redesignating sections 427 and 428 (42 U.S.C. 11387, 11388) as sections 432 and 433, respectively; and

(3) by inserting after section 426 the following new sections:

''SEC. 427. SELECTION CRITERIA.

''(a) IN GENERAL.—The Secretary shall award funds to recipients through a national competition between geographic areas based on criteria established by the Secretary.

''(b) REQUIRED CRITERIA.—

''(1) IN GENERAL.—The criteria established under subsection (a) shall include—

''(A) the previous performance of the recipient regarding homelessness, including performance related to funds provided under section 412 (except that recipients applying from geographic areas where no funds have been awarded under this subtitle, or under subtitles C, D, E, or F of title IV of this Act, as in effect prior to the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, shall receive full credit for performance under this subparagraph), measured by criteria that shall be announced by the Secretary, that shall take into account barriers faced by individual homeless people, and that shall include—

''(i) the length of time individuals and families remain homeless;

''(ii) the extent to which individuals and families who leave homelessness experience additional spells of homelessness;

''(iii) the thoroughness of grantees in the geographic area in reaching homeless individuals and families;

''(iv) overall reduction in the number of homeless individuals and families;

''(v) jobs and income growth for homeless individuals and families;

''(vi) success at reducing the number of individuals and families who become homeless;

''(vii) other accomplishments by the recipient related to reducing homelessness; and

''(viii) for collaborative applicants that have exercised the authority under section 422(j) to serve families with children and youth defined as homeless under other Federal statutes, success in achieving the goals and outcomes identified in section 427(b)(1)(F);

''(B) the plan of the recipient, which shall describe—

''(i) how the number of individuals and families who become homeless will be reduced in the community;

''(ii) how the length of time that individuals and families remain homeless will be reduced;

''(iii) how the recipient will collaborate with local education authorities to assist in the identification of individuals and families who become or remain homeless and are informed of their eligibility for services under subtitle B of title VII of this Act (42 U.S.C. 11431 et seq.);

''(iv) the extent to which the recipient will—

''(I) address the needs of all relevant subpopulations;

''(II) incorporate comprehensive strategies for reducing homelessness, including the interventions referred to in section 428(d);

''(III) set quantifiable performance measures;

''(IV) set timelines for completion of specific tasks;

''(V) identify specific funding sources for planned activities; and

''(VI) identify an individual or body responsible for overseeing implementation of specific strategies; and

''(v) whether the recipient proposes to exercise authority to use funds under section 422(j), and if so, how the recipient will achieve the goals and outcomes identified in section 427(b)(1)(F);

''(C) the methodology of the recipient used to determine the priority for funding local projects under section 422(c)(1), including the extent to which the priority-setting process—

''(i) uses periodically collected information and analysis to determine the extent to which each project has resulted in rapid return to permanent housing for those served by the project, taking into account the severity of barriers faced by the people the project serves;

''(ii) considers the full range of opinions from individuals or entities with knowledge of homelessness in the geographic area or an interest in preventing or ending homelessness in the geographic area;

''(iii) is based on objective criteria that have been publicly announced by the recipient; and

''(iv) is open to proposals from entities that have not previously received funds under this subtitle;

''(D) the extent to which the amount of assistance to be provided under this subtitle to the recipient will be supplemented with resources from other public and private sources, including mainstream programs identified by the Government Accountability Office in the two reports described in section 203(a)(7);

''(E) demonstrated coordination by the recipient with the other Federal, State, local, private, and other entities serving individuals and families experiencing homelessness and at risk of homelessness in the planning and operation of projects;

''(F) for collaborative applicants exercising the authority under section 422(j) to serve homeless families with children and youth defined as homeless under other Federal statutes, program goals and outcomes, which shall include—

''(i) preventing homelessness among the subset of such families with children and youth who are at highest risk of becoming homeless, as such term is defined for purposes of this title; or

''(ii) achieving independent living in permanent housing among such families with children and youth, especially those who have a history of doubled-up and other temporary housing situations or are living in a temporary housing situation due to lack of available and appropriate emergency shelter, through the provision of eligible assistance that directly contributes to achieving such results including assistance to address chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, or multiple barriers to employment; and

''(G) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

''(2) ADDITIONAL CRITERIA.—In addition to the criteria required under paragraph (1), the criteria established under paragraph (1) shall also include the need within the geographic area for homeless services, determined as follows and under the following conditions:

''(A) NOTICE.—The Secretary shall inform each collaborative applicant, at a time concurrent with the release of the notice of funding availability for the grants, of the pro

rata estimated grant amount under this subtitle for the geographic area represented by the collaborative applicant.

''(B) AMOUNT.—

''(i) FORMULA.—Such estimated grant amounts shall be determined by a formula, which shall be developed by the Secretary, by regulation, not later than the expiration of the 2-year period beginning upon the date of the enactment of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that is based upon factors that are appropriate to allocate funds to meet the goals and objectives of this subtitle.

''(ii) COMBINATIONS OR CONSORTIA.—For a collaborative applicant that represents a combination or consortium of cities or counties, the estimated need amount shall be the sum of the estimated need amounts for the cities or counties represented by the collaborative applicant.

''(iii) AUTHORITY OF SECRETARY.—Subject to the availability of appropriations, the Secretary shall increase the estimated need amount for a geographic area if necessary to provide 1 year of renewal funding for all expiring contracts entered into under this subtitle for the geographic area.

''(3) HOMELESSNESS COUNTS.—The Secretary shall not require that communities conduct an actual count of homeless people other than those described in paragraphs (1) through (4) of section 103(a) of this Act (42 U.S.C. 11302(a)).

''(c) ADJUSTMENTS.—The Secretary may adjust the formula described in subsection (b)(2) as necessary—

''(1) to ensure that each collaborative applicant has sufficient funding to renew all qualified projects for at least one year; and

''(2) to ensure that collaborative applicants are not discouraged from replacing renewal projects with new projects that the collaborative applicant determines will better be able to meet the purposes of this Act.

''SEC. 428. ALLOCATION OF AMOUNTS AND INCENTIVES FOR SPECIFIC ELIGIBLE ACTIVITIES.

''(a) MINIMUM ALLOCATION FOR PERMANENT HOUSING FOR HOMELESS INDIVIDUALS AND FAMILIES WITH DISABILITIES.—

''(1) IN GENERAL.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 30 percent of the sums made available to carry out subtitle B and this subtitle, shall be used for permanent housing for homeless individuals with disabilities and homeless families that include such an individual who is an adult or a minor head of household if no adult is present in the household.

''(2) CALCULATION.—In calculating the portion of the amount described in paragraph (1) that is used for activities that are described in paragraph (1), the Secretary shall not count funds made available to renew contracts for existing projects under section 429.

''(3) ADJUSTMENT.—The 30 percent figure in paragraph (1) shall be reduced proportionately based on need under section 427(b)(2) in geographic areas for which subsection (e) applies in regard to subsection (d)(2)(A).

''(4) SUSPENSION.—The requirement established in paragraph (1) shall be suspended for any year in which funding available for grants under this subtitle after making the allocation established in paragraph (1) would not be sufficient to renew for 1 year all existing grants that would otherwise be fully funded under this subtitle.

''(5) TERMINATION.—The requirement established in paragraph (1) shall terminate upon a finding by the Secretary that since the beginning of 2001 at least 150,000 new units of permanent housing for homeless individuals and families with disabilities have been funded under this subtitle.

''(b) SET-ASIDE FOR PERMANENT HOUSING FOR HOMELESS FAMILIES WITH CHILDREN.—From the amounts made available to carry out this subtitle for a fiscal year, a portion equal to not less than 10 percent of the sums made available to carry out subtitle B and this subtitle for that fiscal year shall be used to provide or secure permanent housing for homeless families with children.

''(c) TREATMENT OF AMOUNTS FOR PERMANENT OR TRANSITIONAL HOUSING.—Nothing in this Act may be construed to establish a limit on the amount of funding that an applicant may request under this subtitle for acquisition, construction, or rehabilitation activities for the development of permanent housing or transitional housing.

''(d) INCENTIVES FOR PROVEN STRATEGIES.—

''(1) IN GENERAL.—The Secretary shall provide bonuses or other incentives to geographic areas for using funding under this subtitle for activities that have been proven to be effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(2) RULE OF CONSTRUCTION.—For purposes of this subsection, activities that have been proven to be effective at reducing homelessness generally or reducing homelessness for a specific subpopulation includes—

''(A) permanent supportive housing for chronically homeless individuals and families;

''(B) for homeless families, rapid rehousing services, short-term flexible subsidies to overcome barriers to rehousing, support services concentrating on improving incomes to pay rent, coupled with performance measures emphasizing rapid and permanent rehousing and with leveraging funding from mainstream family service systems such as Temporary Assistance for Needy Families and Child Welfare services; and

''(C) any other activity determined by the Secretary, based on research and after notice and comment to the public, to have been proven effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving homeless prevention and independent living goals as set forth in section 427(b)(1)(F).

''(3) BALANCE OF INCENTIVES FOR PROVEN STRATEGIES.—To the extent practicable, in providing bonuses or incentives for proven strategies, the Secretary shall seek to maintain a balance among strategies targeting homeless individuals, families, and other subpopulations. The Secretary shall not implement bonuses or incentives that specifically discourage collaborative applicants from exercising their flexibility to serve families with children and youth defined as homeless under other Federal statutes.

''(e) INCENTIVES FOR SUCCESSFUL IMPLEMENTATION OF PROVEN STRATEGIES.—If any geographic area demonstrates that it has fully implemented any of the activities described in subsection (d) for all homeless individuals and families or for all members of subpopulations for whom such activities are targeted, that geographic area shall receive the bonus or incentive provided under subsection (d), but may use such bonus or incentive for any eligible activity under either section 423 or paragraphs (4) and (5) of section 415(a) for homeless people generally or for the relevant subpopulation.

''SEC. 429. RENEWAL FUNDING AND TERMS OF ASSISTANCE FOR PERMANENT HOUSING.

''(a) IN GENERAL.—Renewal of expiring contracts for leasing, rental assistance, or operating costs for permanent housing contracts may be funded either—

''(1) under the appropriations account for this title; or

''(2) the section 8 project-based rental assistance account.

''(b) RENEWALS.—The sums made available under subsection (a) shall be available for the renewal of contracts in the case of tenant-based assistance, successive 1-year terms, and in the case of project-based assistance, successive terms of up to 15 years at the discretion of the applicant or project sponsor and subject to the availability of annual appropriations, for rental assistance and housing operation costs associated with permanent housing projects funded under this subtitle, or under subtitle C or F (as in effect on the day before the effective date of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009). The Secretary shall determine whether to renew a contract for such a permanent housing project on the basis of certification by the collaborative applicant for the geographic area that—

''(1) there is a demonstrated need for the project; and

''(2) the project complies with program requirements and appropriate standards of housing quality and habitability, as determined by the Secretary.

''(c) CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Secretary from renewing contracts under this subtitle in accordance with criteria set forth in a provision of this subtitle other than this section.

''SEC. 430. MATCHING FUNDING.

''(a) IN GENERAL.—A collaborative applicant in a geographic area in which funds are awarded under this subtitle shall specify contributions from any source other than a grant awarded under this subtitle, including renewal funding of projects assisted under subtitles C, D, and F of this title as in effect before the effective date under section 1503 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided to recipients in the geographic area, except that grants for leasing shall not be subject to any match requirement.

''(b) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the residents or clients of a project sponsor by an entity other than the project sponsor may count toward the contributions in subsection (a) only when documented by a memorandum of understanding between the project sponsor and the other entity that such services will be provided.

''(c) COUNTABLE ACTIVITIES.—The contributions required under subsection (a) may consist of—

''(1) funding for any eligible activity described under section 423; and

''(2) subject to subsection (b), in-kind provision of services of any eligible activity described under section 423.

''SEC. 431. APPEAL PROCEDURE.

''(a) IN GENERAL.—With respect to funding under this subtitle, if certification of consistency with the consolidated plan pursuant to section 403 is withheld from an applicant who has submitted an application for that certification, such applicant may appeal such decision to the Secretary.

''(b) PROCEDURE.—The Secretary shall establish a procedure to process the appeals described in subsection (a).

''(c) DETERMINATION.—Not later than 45 days after the date of receipt of an appeal described in subsection (a), the Secretary shall determine if certification was unreasonably withheld. If such certification was unreasonably withheld, the Secretary shall review such application and determine if such applicant shall receive funding under this subtitle.''.

SEC. 1306. RESEARCH.

There is authorized to be appropriated $8,000,000, for each of fiscal years 2010 and 2011, for research into the efficacy of interventions for homeless families, to be expended by the Secretary of Housing and Urban Development over the 2 years at 3 different sites to provide services for homeless families and evaluate the effectiveness of such services.

TITLE IV—RURAL HOUSING STABILITY ASSISTANCE PROGRAM

SEC. 1401. RURAL HOUSING STABILITY ASSISTANCE.

Subtitle G of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11408 et seq.) is amended—

(1) by striking the subtitle heading and inserting the following:

"Subtitle G—Rural Housing Stability Assistance Program"; and

(2) in section 491—

(A) by striking the section heading and inserting **"RURAL HOUSING STABILITY GRANT PROGRAM.**'';

(B) in subsection (a)—

(i) by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program'';

(ii) by inserting ''in lieu of grants under subtitle C'' after ''eligible organizations''; and

(iii) by striking paragraphs (1), (2), and (3), and inserting the following:

''(1) rehousing or improving the housing situations of individuals and families who are homeless or in the worst housing situations in the geographic area;

''(2) stabilizing the housing of individuals and families who are in imminent danger of losing housing; and

''(3) improving the ability of the lowest-income residents of the community to afford stable housing.'';

(C) in subsection (b)(1)—

(i) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (I), (J), and (K), respectively; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) construction of new housing units to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness;

''(E) acquisition or rehabilitation of a structure to provide supportive services or to provide transitional or permanent housing, other than emergency shelter, to homeless individuals and families and individuals and families at risk of homelessness;

''(F) leasing of property, or portions of property, not owned by the recipient or project sponsor involved, for use in providing transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, or providing supportive services to such homeless and at-risk individuals and families;

''(G) provision of rental assistance to provide transitional or permanent housing to homeless individuals and families and individuals and families at risk of homelessness, such rental assistance may include tenant-based or project-based rental assistance;

''(H) payment of operating costs for housing units assisted under this title;'';

(D) in subsection (b)(2), by striking ''appropriated'' and inserting ''transferred'';

(E) in subsection (c)—

(i) in paragraph (1)(A), by striking ''appropriated'' and inserting ''transferred''; and

(ii) in paragraph (3), by striking ''appropriated'' and inserting ''transferred'';

(F) in subsection (d)—

(i) in paragraph (5), by striking ''; and'' and inserting a semicolon;

(ii) in paragraph (6)—

(I) by striking ''an agreement'' and all that follows through ''families'' and inserting the following: ''a description of how individuals and families who are homeless or who have the lowest incomes in the community will be involved by the organization''; and

(II) by striking the period at the end, and inserting a semicolon; and

(iii) by adding at the end the following:

''(7) a description of consultations that took place within the community to ascertain the most important uses for funding under this section, including the involvement of potential beneficiaries of the project; and

''(8) a description of the extent and nature of homelessness and of the worst housing situations in the community.'';

(G) by striking subsections (f) and (g) and inserting the following:

''(f) MATCHING FUNDING.—

''(1) IN GENERAL.—An organization eligible to receive a grant under subsection (a) shall specify matching contributions from any source other than a grant awarded under this subtitle, that shall be made available in the geographic area in an amount equal to not less than 25 percent of the funds provided for the project or activity, except that grants for leasing shall not be subject to any match requirement.

''(2) LIMITATIONS ON IN-KIND MATCH.—The cash value of services provided to the beneficiaries or clients of an eligible organization by an entity other than the organization may count toward the contributions in paragraph (1) only when documented by a memorandum of understanding between the organization and the other entity that such services will be provided.

''(3) COUNTABLE ACTIVITIES.—The contributions required under paragraph (1) may consist of—

''(A) funding for any eligible activity described under subsection (b); and

''(B) subject to paragraph (2), in-kind provision of services of any eligible activity described under subsection (b).

''(g) SELECTION CRITERIA.—The Secretary shall establish criteria for selecting recipients of grants under subsection (a), including—

''(1) the participation of potential beneficiaries of the project in assessing the need for, and importance of, the project in the community;

''(2) the degree to which the project addresses the most harmful housing situations present in the community;

''(3) the degree of collaboration with others in the community to meet the goals described in subsection (a);

''(4) the performance of the organization in improving housing situations, taking account of the severity of barriers of individuals and families served by the organization;

''(5) for organizations that have previously received funding under this section, the extent of improvement in homelessness and the worst housing situations in the community since such funding began;

''(6) the need for such funds, as determined by the formula established under section 427(b)(2); and

''(7) any other relevant criteria as determined by the Secretary.'';

(H) in subsection (h)—

(i) in paragraph (1), in the matter preceding subparagraph (A), by striking ''The'' and inserting ''Not later than 18 months after funding is first made available pursuant to the amendments made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the''; and

(ii) in paragraph (1)(A), by striking ''providing housing and other assistance to homeless persons'' and inserting ''meeting the goals described in subsection (a)'';

(iii) in paragraph (1)(B), by striking ''address homelessness in rural areas'' and inserting ''meet the goals described in subsection (a) in rural areas''; and

(iv) in paragraph (2)—

(I) by striking ''The'' and inserting ''Not later than 24 months after funding is first made available pursuant to the amendment made by title IV of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009, the'';

(II) by striking '', not later than 18 months after the date on which the Secretary first makes grants under the program,''; and

(III) by striking ''prevent and respond to homelessness'' and inserting ''meet the goals described in subsection (a)'';

(I) in subsection (k)—

(i) in paragraph (1), by striking ''rural homelessness grant program'' and inserting ''rural housing stability grant program''; and

(ii) in paragraph (2)—

(I) in subparagraph (A), by striking ''; or'' and inserting a semicolon;

(II) in subparagraph (B)(ii), by striking ''rural census tract.'' and inserting ''county where at least 75 percent of the population is rural; or''; and

(III) by adding at the end the following:

''(C) any area or community, respectively, located in a State that has population density of less than 30 persons per square mile (as reported in the most recent decennial census), and of which at least 1.25 percent of the total acreage of such State is under Federal jurisdiction, provided that no metropolitan city (as such term is defined in section 102 of the Housing and Community Development Act of 1974) in such State is the sole beneficiary of the grant amounts awarded under this section.'';

(J) in subsection (l)—

(i) by striking the subsection heading and inserting ''PROGRAM FUNDING.—''; and

(ii) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Secretary shall determine the total amount of funding attributable under section 427(b)(2) to meet the needs of any geographic area in the Nation that applies for funding under this section. The Secretary shall transfer any amounts determined under this subsection from the Community Homeless Assistance Program and consolidate such transferred amounts for grants under this section, except that the Secretary shall transfer an amount not less than 5 percent of the amount available under subtitle C for grants under this section. Any amounts so transferred and not used for grants under this section due to an insufficient number of applications shall be transferred to be used for grants under subtitle C.''; and

(K) by adding at the end the following:

''(m) DETERMINATION OF FUNDING SOURCE.—For any fiscal year, in addition to funds awarded under subtitle B, funds under this title to be used in a city or county shall only be awarded under either subtitle C or subtitle D.''.

SEC. 1402. GAO STUDY OF HOMELESSNESS AND HOMELESS ASSISTANCE IN RURAL AREAS.

(a) STUDY AND REPORT.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this division, the Comptroller General of the United States shall conduct a study to examine homelessness and homeless assistance in rural areas and rural communities and submit a report to the Congress on the findings and conclusion of the study. The report shall contain the following matters:

(1) A general description of homelessness, including the range of living situations

among homeless individuals and homeless families, in rural areas and rural communities of the United States, including tribal lands and colonias.

(2) An estimate of the incidence and prevalence of homelessness among individuals and families in rural areas and rural communities of the United States.

(3) An estimate of the number of individuals and families from rural areas and rural communities who migrate annually to non-rural areas and non-rural communities for homeless assistance.

(4) A description of barriers that individuals and families in and from rural areas and rural communities encounter when seeking to access homeless assistance programs, and recommendations for removing such barriers.

(5) A comparison of the rate of homelessness among individuals and families in and from rural areas and rural communities compared to the rate of homelessness among individuals and families in and from non-rural areas and non-rural communities.

(6) A general description of homeless assistance for individuals and families in rural areas and rural communities of the United States.

(7) A description of barriers that homeless assistance providers serving rural areas and rural communities encounter when seeking to access Federal homeless assistance programs, and recommendations for removing such barriers.

(8) An assessment of the type and amount of Federal homeless assistance funds awarded to organizations serving rural areas and rural communities and a determination as to whether such amount is proportional to the distribution of homeless individuals and families in and from rural areas and rural communities compared to homeless individuals and families in non-rural areas and non-rural communities.

(9) An assessment of the current roles of the Department of Housing and Urban Development, the Department of Agriculture, and other Federal departments and agencies in administering homeless assistance programs in rural areas and rural communities and recommendations for distributing Federal responsibilities, including homeless assistance program administration and grantmaking, among the departments and agencies so that service organizations in rural areas and rural communities are most effectively reached and supported.

(b) ACQUISITION OF SUPPORTING INFORMATION.—In carrying out the study under this section, the Comptroller General shall seek to obtain views from the following persons:

(1) The Secretary of Agriculture.

(2) The Secretary of Housing and Urban Development.

(3) The Secretary of Health and Human Services.

(4) The Secretary of Education.

(5) The Secretary of Labor.

(6) The Secretary of Veterans Affairs.

(7) The Executive Director of the United States Interagency Council on Homelessness.

(8) Project sponsors and recipients of homeless assistance grants serving rural areas and rural communities.

(9) Individuals and families in or from rural areas and rural communities who have sought or are seeking Federal homeless assistance services.

(10) National advocacy organizations concerned with homelessness, rural housing, and rural community development.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

TITLE V—REPEALS AND CONFORMING AMENDMENTS

SEC. 1501. REPEALS.

Subtitles D, E, and F of title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11391 et seq., 11401 et seq., and 11403 et seq.) are hereby repealed.

SEC. 1502. CONFORMING AMENDMENTS.

(a) CONSOLIDATED PLAN.—Section 403(1) of the McKinney-Vento Homeless Assistance Act (as so redesignated by section 1101(2) of this division), is amended—

(1) by striking ''current housing affordability strategy'' and inserting ''consolidated plan''; and

(2) by inserting before the comma the following: ''(referred to in such section as a 'comprehensive housing affordability strategy')''.

(b) PERSONS EXPERIENCING HOMELESSNESS.—Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302), as amended by the preceding provisions of this division, is further amended by adding at the end the following new subsection:

''(e) PERSONS EXPERIENCING HOMELESSNESS.—Any references in this Act to homeless individuals (including homeless persons) or homeless groups (including homeless persons) shall be considered to include, and to refer to, individuals experiencing homelessness or groups experiencing homelessness, respectively.''.

(c) RURAL HOUSING STABILITY ASSISTANCE.—Title IV of the McKinney-Vento Homeless Assistance Act is amended by redesignating subtitle G (42 U.S.C. 11408 et seq.), as amended by the preceding provisions of this division, as subtitle D.

SEC. 1503. EFFECTIVE DATE.

Except as specifically provided otherwise in this division, this division and the amendments made by this division shall take effect on, and shall apply beginning on—

(1) the expiration of the 18-month period beginning on the date of the enactment of this division, or

(2) the expiration of the 3-month period beginning upon publication by the Secretary of Housing and Urban Development of final regulations pursuant to section 1504,

whichever occurs first.

SEC. 1504. REGULATIONS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this division, the Secretary of Housing and Urban Development shall promulgate regulations governing the operation of the programs that are created or modified by this division.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this division.

SEC. 1505. AMENDMENT TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 note) is amended by striking the item relating to the heading for title IV and all that follows through the item relating to section 492 and inserting the following new items:

''TITLE IV—HOUSING ASSISTANCE

''Subtitle A—General Provisions

''Sec. 401. Definitions.
''Sec. 402. Collaborative applicants.
''Sec. 403. Housing affordability strategy.
''Sec. 404. Preventing involuntary family separation
''Sec. 405. Technical assistance.
''Sec. 406. Discharge coordination policy.
''Sec. 407. Protection of personally identifying information by victim service providers.
''Sec. 408. Authorization of appropriations.

''Subtitle B—Emergency Solutions Grants Program

''Sec. 411. Definitions.
''Sec. 412. Grant assistance.
''Sec. 413. Amount and allocation of assistance.
''Sec. 414. Allocation and distribution of assistance.
''Sec. 415. Eligible activities.
''Sec. 416. Responsibilities of recipients.
''Sec. 417. Administrative provisions.
''Sec. 418. Administrative costs.

''Subtitle C—Continuum of Care Program

''Sec. 421. Purposes.
''Sec. 422. Continuum of care applications and grants.
''Sec. 423. Eligible activities.
''Sec. 424. Incentives for high-performing communities.
''Sec. 425. Supportive services.
''Sec. 426. Program requirements.
''Sec. 427. Selection criteria.
''Sec. 428. Allocation of amounts and incentives for specific eligible activities.
''Sec. 429. Renewal funding and terms of assistance for permanent housing.
''Sec. 430. Matching funding.
''Sec. 431. Appeal procedure.
''Sec. 432. Regulations.
''Sec. 433. Reports to Congress.

''Subtitle D—Rural Housing Stability Assistance Program

''Sec. 491. Rural housing stability assistance.
''Sec. 492. Use of FHMA inventory for transitional housing for homeless persons and for turnkey housing.''.

SA 1041. Mr. REED submitted an amendment intended to be proposed to amendment SA 1018 submitted by Mr. DODD (for himself and Mr. SHELBY) to the bill S. 896, to prevent mortgage foreclosures and enhance mortgage credit availability; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

TITLE V—REAL ESTATE MORTGAGE INVESTMENT CONDUIT IMPROVEMENT ACT

SEC. 501. SHORT TITLE.

This title may be cited as the ''Real Estate Mortgage Investment Conduit Improvement Act of 2009''.

SEC. 502. SPECIAL RULES FOR MODIFICATION OR DISPOSITION OF QUALIFIED MORTGAGES OR FORECLOSURE PROPERTY BY REAL ESTATE MORTGAGE INVESTMENT CONDUITS.

(a) IN GENERAL.—If a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986) modifies or disposes of a troubled asset under the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 503 of this title—

(1) such modification or disposition shall not be treated as a prohibited transaction under section 860F(a)(2) of such Code, and

(2) for purposes of part IV of subchapter M of chapter 1 of such Code—

(A) an interest in the REMIC shall not fail to be treated as a regular interest (as defined in section 860G(a)(1) of such Code) solely because of such modification or disposition, and

(B) any proceeds resulting from such modification or disposition shall be treated as amounts received under qualified mortgages.

(b) TERMINATION OF REMIC.—For purposes of the Internal Revenue Code of 1986, an entity which is a REMIC (as defined in section 860D(a) of the Internal Revenue Code of 1986)

shall cease to be a REMIC if the instruments governing the conduct of servicers or trustees with respect to qualified mortgages (as defined in section 860G(a)(3) of such Code) or foreclosure property (as defined in section 860G(a)(8) of such Code)—

(1) prohibit or restrict (including restrictions on the type, number, percentage, or frequency of modifications or dispositions) such servicers or trustees from reasonably modifying or disposing of such qualified mortgages or such foreclosure property in order to participate in the Troubled Asset Relief Program established by the Secretary of the Treasury under section 101(a) of the Emergency Economic Stabilization Act of 2008 or under rules established by the Secretary under section 503 of this title,

(2) commit to a person other than the servicer or trustee the authority to prevent the reasonable modification or disposition of any such qualified mortgage or foreclosure property,

(3) require a servicer or trustee to purchase qualified mortgages which are in default or as to which default is reasonably foreseeable for the purposes of reasonably modifying such mortgages or as a consequence of such reasonable modification, or

(4) fail to provide that any duty a servicer or trustee owes when modifying or disposing of qualified mortgages or foreclosure property shall be to the trust in the aggregate and not to any individual or class of investors.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—Subsection (a) shall apply to modification and dispositions after the date of the enactment of this title, in taxable years ending on or after such date.

(2) SUBSECTION (b).—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (b) shall take effect on the date that is 3 months after the date of the enactment of this title.

(B) EXCEPTION.—The Secretary of the Treasury may waive the application of subsection (b) in whole or in part for any period of time with respect to any entity if—

(i) the Secretary determines that such entity is unable to comply with the requirements of such subsection in a timely manner, or

(ii) the Secretary determines that such waiver would further the purposes of this title.

SEC. 503. ESTABLISHMENT OF A HOME MORTGAGE LOAN RELIEF PROGRAM UNDER THE TROUBLED ASSET RELIEF PROGRAM AND RELATED AUTHORITIES.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this title, the Secretary of the Treasury shall establish and implement a program under the Troubled Asset Relief Program and related authorities established under section 101(a) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5211(a))—

(1) to achieve appropriate broad-scale modifications or dispositions of troubled home mortgage loans; and

(2) to achieve appropriate broad-scale dispositions of foreclosure property.

(b) RULES.—The Secretary of the Treasury shall promulgate rules governing the—

(1) reasonable modification of any home mortgage loan pursuant to the requirements of this title; and

(2) disposition of any such home mortgage loan or foreclosed property pursuant to the requirements of this title.

(c) CONSIDERATIONS.—In developing the rules required under subsection (b), the Secretary of the Treasury shall take into consideration—

(1) the debt-to-income ratio, loan-to-value ratio, or payment history of the mortgagors of such home mortgage loans; and

(2) any other factors consistent with the intent to streamline modifications of troubled home mortgage loans into sustainable home mortgage loans.

(d) USE OF BROAD AUTHORITY.—The Secretary of the Treasury shall use all available authorities to implement the home mortgage loan relief program established under this section, including, as appropriate—

(1) home mortgage loan purchases;

(2) home mortgage loan guarantees;

(3) making and funding commitments to purchase home mortgage loans or mortgage-backed securities;

(4) buying down interest rates and principal on home mortgage loans;

(5) principal forbearance; and

(6) developing standard home mortgage loan modification and disposition protocols, which shall include ratifying that servicer action taken in anticipation of any necessary changes to the instruments governing the conduct of servicers or trustees with respect to qualified mortgages or foreclosure property are consistent with the Secretary of the Treasury's standard home mortgage loan modification and disposition protocols.

(e) PAYMENTS AUTHORIZED.—The Secretary of the Treasury is authorized to pay servicers for home mortgage loan modifications or other dispositions consistent with any rules established under subsection (b).

(f) RULE OF CONSTRUCTION.—Any standard home mortgage loan modification and disposition protocols developed by the Secretary of the Treasury under this section shall be construed to constitute standard industry practice.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a business meeting has been scheduled before Committee on Energy and Natural Resources. The business meeting will be held on Wednesday, May 6, 2009 at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

The purpose of the business meeting is to consider legislation on siting of interstate electric transmission facilities, energy finance, and nuclear energy.

For further information, please contact Sam Fowler at (202) 224–7571 or Amanda Kelly at (202) 224–6836.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 81, 82, 83, 84, 86, 87, 88, 89, 90, 91, 92, and 93; that the nominations be confirmed, en bloc; that the motions to reconsider be laid upon the table, en bloc; that no further motions be in order; that any statement relating to the nominations be printed in the Record; that the President be immediately notified of the Senate's action; and that the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Peter A. Kovar, of Maryland, to be an Assistant Secretary of Housing and Urban Development.

John D. Trasvina, of California, to be an Assistant Secretary of Housing and Urban Development.

Helen R. Kanovsky, of Maryland, to be General Counsel of the Department of Housing and Urban Development.

DEPARTMENT OF THE TREASURY

David S. Cohen, of Maryland, to be Assistant Secretary for Terrorist Financing, Department of the Treasury.

DEPARTMENT OF EDUCATION

Russlynn Ali, of California, to be Assistant Secretary for Civil Rights, Department of Education.

Carmel Martin, of Maryland, to be Assistant Secretary for Planning, Evaluation, and Policy Development, Department of Education.

Charles P. Rose, of Illinois, to be General Counsel, Department of Education.

Peter Cunningham, of Illinois, to be Assistant Secretary for Communications and Outreach, Department of Education.

DEPARTMENT OF LABOR

Brian Vincent Kennedy, of Virginia, to be an Assistant Secretary of Labor.

T. Michael Kerr, of the District of Columbia, to be an Assistant Secretary of Labor.

DEPARTMENT OF EDUCATION

Gabriella Cecilia Gomez, of California, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Thomasina Rogers, of Maryland, to be a Member of the Occupational Safety and Health Review Commission.

Mr. REID. Mr. President, I also want the record to reflect how much I appreciate the cooperation of the Republicans in allowing us to clear these nominations. I am disappointed that a number of them, additional ones, have not been cleared. Especially, I am concerned about Cameron Kerry, who is going to be general counsel at Commerce, and hope we can get that done early next week.

ORDERS FOR MONDAY, MAY 4, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, May 4; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each. Further, I ask unanimous consent that following morning business, the Senate resume consideration of S. 896, under the guidance of Senator DODD, the Helping Families Save Their Homes Act of 2009.

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

Mr. REID. Mr. President, I should have mentioned Senator SHELBY as well, the ranking member. He and Senator DODD will be managing that bill.

PROGRAM

Mr. REID. Mr. President, Senators should expect rollcall votes in relation to the two pending Vitter amendments beginning at about 5:30 on Monday.

We have a long list of amendments, and I would ask Senators—and certainly at this time of the day there are staff—to make sure they understand these amendments are going to have to be offered. We are going to finish this bill on Tuesday, one way or the other. People should come and offer their amendments. There will be debate and we will move to either accept or reject them. Let's try to get this done.

We have a lot more work to do following this. Before we leave here—just to go over briefly what we have to do—we have to do the legislation dealing with credit cards, which was passed in a huge bipartisan vote in the House yesterday, and we have to do the procurement bill, which is also a bipartisan bill sponsored by Senators LEVIN and MCCAIN. We, frankly, are not going to be able to get to the tobacco legislation this work period. I am disappointed we can't do that, but we would not be able to. Then we will have to work very hard that last week to do the supplemental appropriations bill. So we have a lot of work to do.

ADJOURNMENT UNTIL MONDAY, MAY 4, 2009, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent it stand adjourned under the previous order.

There being no objection, the Senate, at 2:39 p.m., adjourned until Monday, May 4, 2009, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF THE TREASURY

MICHAEL S. BARR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE DAVID GEORGE NASON, RESIGNED.

HERBERT M. ALLISON, JR., OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF THE TREASURY. (NEW POSITION)

CONFIRMATIONS

Executive nominations confirmed by the Senate, Friday, May 1, 2009:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PETER A. KOVAR, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

JOHN D. TRASVINA, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

HELEN R. KANOVSKY, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF THE TREASURY

DAVID S. COHEN, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR TERRORIST FINANCING, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF EDUCATION

RUSSLYNN ALI, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR CIVIL RIGHTS, DEPARTMENT OF EDUCATION.

CARMEL MARTIN, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR PLANNING, EVALUATION, AND POLICY DEVELOPMENT, DEPARTMENT OF EDUCATION.

CHARLES P. ROSE, OF ILLINOIS, TO BE GENERAL COUNSEL, DEPARTMENT OF EDUCATION.

PETER CUNNINGHAM, OF ILLINOIS, TO BE ASSISTANT SECRETARY FOR COMMUNICATIONS AND OUTREACH, DEPARTMENT OF EDUCATION.

DEPARTMENT OF LABOR

BRIAN VINCENT KENNEDY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

T. MICHAEL KERR, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

DEPARTMENT OF EDUCATION

GABRIELLA CECILIA GOMEZ, OF CALIFORNIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

THOMASINA ROGERS, OF MARYLAND, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2015.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.