



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 111<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, MONDAY, MAY 4, 2009

No. 67

## Senate

The Senate met at 2 p.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.

O, holy God, who has taught us to place our confidence in You, give the Members of this body the power of Your wisdom. In all their duties, empower them to be loyal to You and obedient to Your precepts. Infuse them with faith to believe that You are willing to help them solve the problems they face when they place their trust in You. Lord, be their abiding reality and lead them into the paths of loving service, as they strive to honor You. Open their eyes to the many things they can do to accomplish Your will.

Today, Lord, we thank You for the life and legacy of former Congressman Jack Kemp. Comfort all who mourn his death and give them Your peace.

We pray in Your great 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 4, 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.

### RECOGNITION OF THE MAJORITY LEADER

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

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, if any, there will be a period of morning business for up to 1 hour with Senators permitted to speak therein for up to 10 minutes each.

Following morning business, the Senate will resume consideration of the mortgage fraud legislation. At 5 p.m. there will be up to 30 minutes of debate equally divided and controlled between Senators DODD and VITTER or their designees. At 5:30, the Senate will vote on Vitter amendment No. 1016 and, following that vote, 1017. The second vote will be 10 minutes in duration.

Last week the managers of the bill were able to reach an agreement to limit the number of amendments to the bill. It is my understanding that all amendments will not be debated and voted on here. But we will wait and see. We hope to consider the remaining amendments on the list today and tomorrow so we are able to finish passage of this bill tomorrow.

We will work as late as necessary tomorrow to do our best to complete the legislation.

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

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

The legislative clerk proceeded to call the roll.

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

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

### GITMO

Mr. MCCONNELL. Mr. President, with the administration still unsure of what to do with the detainees at Guantanamo, Attorney General Holder has described its arbitrary closing date as one of his most daunting challenges. Secretary Gates said some would be released or transferred overseas, some tried in American courts, and the administration doesn't know what to do with 50 to 100 who can't be released or tried. Clearly, the administration lacks a plan and a safe alternative for closing Guantanamo. Let me make a suggestion. The administration should reconsider its arbitrary deadline on Guantanamo, as it has reconsidered its commitment to arbitrary withdrawal deadlines in Iraq. Once the administration has a plan to safely detain, prosecute or transfer these detainees, Congress should be consulted and briefed to evaluate the proposal. With no safe alternative, this is the only sensible approach.

No American will penalize the administration for putting safety over symbolism. Europe should not either, since it has been far more critical than helpful. It is increasingly clear that working through the problems related to Guantanamo will require time and close consultation with Congress. The Senate voted 94 to 3 against sending detainees to American soil even if only to prisons. Let me say that again. The Senate voted 94 to 3 against sending detainees to U.S. prisons, not to mention the possibility that they would simply be released into neighborhoods. Secretary Gates has conceded that no one wants these detainees in their communities.

The legal authority for releasing trained terrorists is in question, a concern the administration hasn't publicly

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



Printed on recycled paper.

S5045

addressed at all. The administration hasn't decided if it will use the military commissions process that Congress passed on a bipartisan basis at the suggestion of the Supreme Court.

Finally, the administration hasn't said how it plans to deal with the problem of terrorists we release returning to the battlefield even, even as DOD has confirmed that 18 of the prisoners we released have returned to terrorism and that at least 44 are suspected as having done so.

The American people want to keep the terrorists at Guantanamo, out of their neighborhoods and off the battlefield. At this point, the only way we can assure them that neither one of these things will occur is for the administration to keep this secure facility open until it develops a sensible plan for the Congress to evaluate. We remain a nation at war with ground forces in Iraq and Afghanistan. Despite disagreements over the best way to combat international terrorism, the truth remains that we haven't been attacked at home since 9/11. That is a record we wish to continue. Maintaining a safe and secure way to detain terrorists is a critical part of protecting the American people.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for 1 hour, with Senators permitted to speak for up to 10 minutes each.

The Senator from Missouri.

#### IN MEMORY OF JACK KEMP

Mr. BOND. Mr. President, I come to the floor to celebrate the life of a great American, Jack Kemp.

Jack Kemp was many things to many different people. Probably everyone knows the basics about Jack. He was a football player, a Member of Congress, a Cabinet Secretary, and a Vice Presidential nominee. Perhaps he was best known as the coauthor of the Kemp-Roth tax cuts that were the basis of the Reagan economic plan that brought progress out of prosperity and stagflation.

Today's Wall Street Journal said about Kemp:

He was among the most important Congressmen in U.S. history. He wasn't powerful because he held a mighty post, and he never served in the House majority. He helped to transform the Republican Party though he was never its Presidential standard-bearer. His influence sprang from the power of his ideas, and from the sincerity and enthusiasm with which he spread them.

To millions of Americans, he was much more than a football player, Con-

gressman, and candidate. For minorities who suffered from discrimination, Jack was an olive branch from a party that too often ignored them. As a quarterback and as leader of the football players union, he championed the cause of African-American ball players and fought against segregation. For the poor struggling to rise above their circumstances in the inner city, Jack was hope for a better future. He proposed empowering tenets in public housing, offering vouchers for housing and education. For hard-working families who wanted more freedom from Government, Jack was a crusader for their cause. He believed everyone, especially those in inner cities, should have an opportunity to participate in our economy. His idea of enterprise zones has expanded and developed into many different areas of providing opportunities for those caught in circumstances in which they would otherwise have none.

Jack was all these things and more. Today Jack serves as a role model, I believe, for the future of our party. Known as the happy warrior, Jack always focused on the positive.

Don't get me wrong, Jack never shied away from a fight, and I know that in a couple instances. He called out his fellow party members for protectionism and anti-immigration efforts, believing they were wrong for this country and for the opportunities we seek. No matter how big the adversary, whether it was a linebacker or a powerful committee chair, Jack was a fearless fighter. But as a happy warrior, Jack understood the power of the positive.

Today's Washington Post carried an article by Michael Gershon in which he said:

Opportunity, [Kemp] argued, is the most important measure of economic justice; capitalism is perfected by the broadest possible distribution of capital; and economic freedom and political freedom are inseparable.

Jack was well known for saying:

The best way to oppose a bad idea is to replace it with a good one.

You see, Jack was more about solutions than party labels. It is that pragmatism and willingness to work across the aisle to solve problems that all of us would be well advised to embrace today. As a self-described bleeding heart conservative, there are so many examples of Jack Kemp doing that. Jack worked across the aisle on some of the most important issues of our time, from civil rights to safe housing for all families. It was Jack who, along with the esteemed Dr. Benjamin Hooks, brought to the national stage the scourge of lead paint poisoning which was afflicting children and families in many of our cities, particularly older ones. Exposure to lead, particularly by young children, was causing learning disabilities, behavioral problems, slowing growth, and possibly causing seizures, coma and, in some serious instances, death.

Jack Kemp and Dr. Hooks gave this avoidable tragedy a face and a very

powerful voice. Thanks to their advocacy, Senator MIKULSKI and I launched a \$50 million initiative to remove exposed paint in targeted neighborhoods. What started as an idea and a mission is now a more than \$300 million program that has helped countless children and their families. But this is just one example of the ideas that Jack, with his tireless advocacy, turned into action to improve the lives of the most vulnerable and needy in our country. Jack's extraordinary life has made a lasting impact on the generations of conservatives he inspired, on the Republican Party, on the national debate, but, most importantly, on the countless lives and communities which have benefited from his powerful ideas being put into action.

To Joanne and the rest of the Kemp family, Linda and my thoughts and prayers are with you. We shall always remember and treasure the memory of Jack Kemp and the great contributions he made.

I ask unanimous consent to print in the RECORD a copy of the Wall Street Journal piece entitled "Capitalist for the Common Man" and the Washington Post column by Michael Gershon entitled "Head and Heart."

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

[From the Washington Post]

HEAD AND HEART: REMEMBERING JACK KEMP  
(By Michael Gerson)

Some deaths make the world feel old, like they have stolen a part of youth itself. Normally this applies to those who die in their prime. But Jack Kemp's prime was supernaturally long. It is difficult to imagine his bounding arrivals, his shaken-gravel voice, his juice and joy, all stilled and ended. But there it is.

Generations of young conservatives—most of us no longer young—were drawn into Jack's orbit (I worked for him briefly in the 1990s as a speech-writer). We were attracted, in one way or another, to Jack's "bleeding-heart conservatism," with its mix of economic opportunity, social inclusion and ebullience. We came to love Jack's gracious wife, Joanne, and his accomplished children. We hoped and expected that Jack would become president of the United States. In the end, he lacked the consuming focus that quest requires. But in his passion for ideas—and in the affection he inspired—Jack was the most influential modern Republican who never became president.

Jack believed that ideas—not interests or political deals or public passions—rule the world. In this sense, he strangely resembled idealists such as Hegel or Marx, who discerned hidden, powerful currents beneath the surface of history. For Jack, that force was liberal democratic values" (small "l" and small "d," as he invariably added). Economic freedom, in his view, provides the poor with a hope beyond the dreams of socialism or large "L" Liberalism—the hope of becoming wealthy themselves. Opportunity, he argued, is the most important measure of economic justice; capitalism is perfected by the broadest possible distribution of capital; and economic freedom and political freedom are inseparable.

This belief in the power of ideas removed all rancor from Jack's political approach. Everyone fell into one of two categories: convert or potential convert. He seemed to believe that if he had just an hour—better yet,

three hours—with anyone, he could change their mind by the force of his ideas. So he gave nearly everyone the benefit of the doubt. He assumed goodwill on the part of his opponents. And he became the rarest kind of public figure—a conviction politician who was also a peacemaker.

The direction of Jack's career was set by two events. In the 1960s, he saw the American civil rights movement from the perspective of sports. As a quarterback and leader of the American Football League players union, he stood up for African American teammates victimized by segregation on their travels. The experience left a deeply rooted impatience with bigotry.

For this reason, Jack criticized the failures of urban liberalism—the high-rise horrors of the projects, the economic desolation of the inner city, the schools that betray minority students without consequence. He became the nation's leading advocate for educational vouchers, housing vouchers and enterprise zones—applications of his philosophy of freedom to the needs of the poor. But Jack was nothing if not consistent. The same impulse led him to assert that the party of Lincoln would never be healthy or complete without the support of African Americans—and to oppose outbreaks of anti-immigrant sentiment among Republicans, often at political cost to himself.

The second event that shaped Jack's career was a stroke of intellectual lightning in the 1970s that became known as supply-side economics. Jack was an amateur economist of broad reading, convinced he knew exactly the way the world works. National wealth depends on productivity, which depends on low tax rates that reward work, enterprise and investment. So as a backbench congressman, he proposed 30 percent across-the-board tax reductions, persuaded Ronald Reagan to embrace them, and helped spur decades of prosperity. Some dispute this version of economic history. Yet few would recommend a return to the 70 percent tax rates and stagflation of America before Jack Kemp.

Jack's ideals and priorities never really changed over the years, as a congressman, as a Cabinet secretary, as a vice presidential nominee. This is a contrast to many Republicans, and former Republicans, who will leave no mark beyond the vague, unpleasant memory of their opportunism. Even in Jack's absence, we know precisely what he would say: You can't divide wealth you don't create. Don't punish the rich, enable everyone to become rich. Value the dreams and contributions of immigrants. Be a happy warrior, not an angry one. And let me tell you about the gold standard.

But as much as we need it, we won't hear that voice again. It left a massive silence when the bleeding heart stopped.

[From the Wall Street Journal]

#### CAPITALIST FOR THE COMMON MAN

The scene was a low-rent Manhattan auditorium, circa 1978. A young Congressman from Buffalo with a raspy voice and rapid delivery was debating a liberal from central casting about the necessity of tax-cutting to stimulate economic growth and spread prosperity. Here, we thought, was something exciting: A politician who could speak about the benefits of capitalism for the average American. The crowd was mainly hostile, but then Jack Kemp never did confine his free-market evangelizing only to the believers.

Kemp, who died Saturday at age 73, was among the most important Congressmen in U.S. history. He wasn't powerful because he held a mighty post, and he never served in the House majority. He helped to transform the Republican Party though he was never

its Presidential standard bearer. His influence sprang from the power of his ideas, and from the sincerity and enthusiasm with which he spread them.

A celebrated pro quarterback, Kemp was an unlikely intellectual. Yet amid the economic troubles of the 1970s, he immersed himself in the details of fiscal and monetary policy. Along with a handful of others, many of whom wrote for this newspaper, Kemp became a champion for the classical economic ideas that challenged the Keynesian orthodoxy of that time. He also had to mount an insurgency inside the Republican Party, which for decades had been dominated by budget-balancers who saw their fate mainly as moderating and paying for liberal excess.

Along with Senator William Roth of Delaware, Kemp proposed a 30% across-the-board tax cut. Though the Democrats who ran Congress, combined with Old Guard Republicans to defeat it during the Carter Presidency, a GOP candidate by the name of Ronald Reagan liked what he saw. Reagan largely adopted Kemp-Roth as his own, campaigned on it in 1980; and the proposal eventually became the basis for the 25% income-tax cuts that finally took effect in 1983 and became the most successful domestic policy achievement of the modern era. The Kemp-Reagan policy mix of lower taxes to lift incentives, sound money to break inflation, and regulatory relief to unleash entrepreneurs became the foundation for the prosperity of the 1980s and 1990s.

... and could speak to the concerns of union members. His athletic career exposed him to men of different races and creeds, and he developed the conviction that economic liberty was even more vital for the poorest Americans than for the affluent.

Importantly, however, and unlike many of today's Republicans, Kemp's populism was inclusive. Across his career, he ventured into neighborhoods where Republicans too rarely tread. His policy innovations included enterprise zones; public-housing vouchers and a free-trade pact for all of North America. Also like Reagan, he believed that immigrants made America stronger and more vibrant. His religious faith was strong but never censorious. Kemp's loquacious optimism was contagious, even if he did sometimes get carried away.

One historic imponderable is what might have happened if Reagan had chosen Kemp as his running mate in 1980. The idea had support among the Reagan brain trust, but the Gipper went with the allegedly safer pick of George H.W. Bush as a way to unite the GOP. Mr. Bush had famously described Kemp-Roth as "voodoo economics," but Reagan's success made Mr. Bush the front-runner when he defeated Kemp for the GOP Presidential nod in 1988. Mr. Bush went on to repudiate Reaganomics with his tax increase of 1990 and made himself a one-term President. He also passed over Kemp as a running mate in 1988, and by the time Bob Dole selected Kemp in 1996 as his vice presidential nominee, the GOP ticket was already doomed.

Kemp's ideas and legacy continue to be relevant for today's Republicans, even if few of them seem to recognize it. The financial meltdown and recession have given President Obama a chance to revive a policy mix of higher spending and taxes, intrusive regulation and easy money. If those policies don't result in a sustainable expansion—and history argues that they won't—then Americans will again be looking for other ideas.

Republicans will need to be ready with Kempian proposals to address middle-class economic anxieties and revive broadly shared prosperity. The GOP also needs a rhetoric and a demeanor that invite all Americans to its cause. The Kemp-Reagan Message was rooted in ideas but it also ap-

pealed broadly across ages and incomes because of. . .

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I join my colleagues in mourning the passing of Jack Kemp last Saturday.

Jack was ever the quarterback, leading, inspiring, and winning frequently, it seemed, by sheer optimism and will. In my mind, Jack had three core political beliefs which he consistently promoted throughout his career. First, he was a pure free market enthusiast. He believed in Adam Smith's invisible hand and worked tirelessly to convince everyone else about the benefits of supply-side economics.

His many legislative achievements promoting growth through lower taxes and less regulation are a testament to his indefatigable efforts. Jack understood that free market theory also encompassed support for what he called "the least of these," a reference to the subjects of "The Good Shepherd." He was the original compassionate conservative, making sure always to provide a helping hand to the less fortunate.

His work to expand housing opportunity as HUD Secretary and outreach to minorities and the poor resulted in a political appeal far beyond his conservative roots. Finally, Jack was a passionate advocate for human rights, freedom, democracy, and the military strength to support America's national security requirements. Peace through strength was Jack's mantra.

Three weeks ago, I visited with Natan Sharansky in Israel. Jack had introduced me to Sharansky more than 20 years ago, after he had gotten out of the Soviet gulag. I told him Jack was ill. He asked me to convey his best wishes. When I left a message on Jack's phone, I asked his office to confirm he had gotten it. A couple days later, Jack himself called back, clearly touched by the concern of an old friend half the world away. I will always treasure this last conversation with Jack. He was still fighting.

We will miss Jack: gregarious, indomitable, earnest, always positive. He loved being with his family. He was very proud of his children. He relied on and was supported by his extraordinarily gracious wife of 51 years, Joanne.

Similar to sports, politics can be a great leveler, even of those who seem larger than life. But whether he won or lost, Jack always kept the faith. And so it was in the last battle of his life.

Jack Kemp, No. 15, thank you for your service, your leadership, and friendship. May God bless you and your family.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

(The remarks of Mr. KERRY and Mr. LUGAR pertaining to the introduction of S. 962 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

#### ORDER OF PROCEDURE

Mr. NELSON of Florida. Mr. President, I understand that morning business will run out in 6 minutes. I ask unanimous consent that I may speak in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

#### TRIBUTE TO JACK KEMP

Mr. NELSON of Florida. Mr. President, America lost a good friend when former Congressman Jack Kemp passed away over the weekend at the age of 73. He is survived by his wife Joanne, a marriage of 50 years, his 4 children, and 17 grandchildren.

Jack and Joanne have been personal friends of Grace and mine over the years. I will never forget one time; Jack was already a great celebrity when I came into the House of Representatives 30 years ago, in 1979, and on one of the tax bills I actually had the temerity to take him on on the floor. I will never forget the chairman of the Budget Committee walking up to me and saying: You better watch out because he is a fierce debater. Indeed, he was. He was passionate about what he believed in, and he was a strong advocate of what he believed in. That, of course, is a quality all of us admire. It was one of the attributes that drew me to Jack, he reciprocated, and we had a friendship over these last 30 years.

Clearly, the record has been set. Jack, of course, was the star quarterback for the Buffalo Bills. Before that, he was with the San Diego Chargers, and he said that his career in football prepared him well for a career in politics because he had been booed, cheered, cut, sold, traded, and hung in effigy in football. Sooner or later, those of us in politics will experience all of those. And how true a statement that is.

He talked about his career in politics. Jack represented western New York in the House for 9 terms. He ran for President. He served as the Secretary of HUD. He ran for Vice President. It is a great loss.

The one thing I want to call to the attention of the Senate is the letter he wrote to his grandchildren upon the election of Barack Obama as President. This letter was posted online on Jack's company Web site. I want you to listen to what he wrote:

... just imagine that in the face of all these indignities and deprivations, Dr. Mar-

tin Luther King could say 44 years ago, "I have an abiding faith in America and an audacious faith in mankind."

Jack continues to write this letter to his grandchildren:

He described his vision for America, even as he and his people were being denied their God-given human rights guaranteed under our Constitution.

You see, real leadership is not just seeing the realities of what we are temporarily faced with, but seeing the possibilities and potential that can be realized by lifting up people's vision of what they can be.

That is just one snippet of that letter he wrote to his grandchildren.

Mr. President, I ask unanimous consent to have printed in the RECORD the entire letter.

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

#### A LETTER TO MY GRANDCHILDREN

(by Jack Kemp)

Dear Kemp grandchildren—all 17 of you, spread out from the East Coast to the West Coast, and from Wheaton College in Illinois, to Wake Forest University in North Carolina:

My first thought last week upon learning that a 47-year-old African-American Democrat had won the presidency was, "Is this a great country or not?"

You may have expected your grandfather to be disappointed that his friend John McCain lost (and I was), but there's a difference between disappointment over a lost election and the historical perspective of a monumental event in the life of our nation.

Let me explain. First of all, the election was free, fair and transformational, in terms of our democracy and given the history of race relations in our nation.

What do I mean?

Just think, a little over 40 years ago, blacks in America had trouble even voting in our country, much less thinking about running for the highest office in the land.

A little over 40 years ago, in some parts of America, blacks couldn't eat, sleep or even get a drink of water using facilities available to everyone else in the public sphere.

We are celebrating, this year, the 40th anniversary of our Fair Housing Laws, which helped put an end to the blatant racism and prejudice against blacks in rental housing and homeownership opportunities. As an old professional football quarterback, in my days there were no black coaches, no black quarterbacks, and certainly no blacks in the front offices of football and other professional sports. For the record, there were great black quarterbacks and coaches—they just weren't given the opportunity to showcase their talent. And pro-football (and America) was the worse off for it.

I remember quarterbacking the old San Diego Chargers and playing for the AFL championship in Houston. My father sat on the 50-yard line, while my co-captain's father, who happened to be black, had to sit in a small, roped-off section of the end zone. Today, we can't imagine the NFL without the amazing contributions of blacks at every level of this great enterprise.

I could go on and on, but just imagine that in the face of all these indignities and deprivations, Dr. Martin Luther King could say 44 years ago, "I have an abiding faith in America and an audacious faith in mankind." He described his vision for America, even as he and his people were being denied their God-given human rights guaranteed under our Constitution.

You see, real leadership is not just seeing the realities of what we are temporarily

faced with, but seeing the possibilities and potential that can be realized by lifting up peoples' vision of what they can be.

When President-elect Obama quoted Abraham Lincoln on the night of his election, he was acknowledging the transcendent qualities of vision and leadership that are always present, but often overlooked and neglected by pettiness, partisanship and petulance. As president, I believe Barack Obama can help lift us out of a narrow view of America into the ultimate vision of an America where, if you're born to be a mezzo-soprano or a master carpenter, nothing stands in your way of realizing your God-given potential.

Both Obama in his Chicago speech, and McCain in his marvelous concession speech, rose to this historic occasion by celebrating the things that unite us irrespective of our political party, our race or our socio-economic background.

My advice for you all is to understand that unity for our nation doesn't require uniformity or unanimity; it does require putting the good of our people ahead of what's good for mere political or personal advantage.

The party of Lincoln, i.e., the GOP, needs to rethink and revisit its historic roots as a party of emancipation, liberation, civil rights and equality of opportunity for all. On the other hand, the party of Franklin Roosevelt, John Kennedy and now Obama must put forth an agenda that understands that getting America growing again will require both Keynesian and classical incentive-oriented (supply-side) economic ideas. But there's time for political and economic advice in a later column (or two).

Let me end with an equally great historical irony of this election. Next year, as Obama is sworn in as our 44th president, we will celebrate the 200th anniversary of Abraham Lincoln's birth. I'm serving, along with former Rep. Bill Gray of Pennsylvania, on the Abraham Lincoln Bicentennial Board to help raise funds for this historic occasion. President-elect Obama's honoring of Lincoln in many of his speeches reminds us of how vital it is to elevate these ideas and ideals to our nation's consciousness and inculcate his principles at a time of such great challenges and even greater opportunities.

In fact, we kick off the Lincoln bicentennial celebration on Wednesday, Nov. 19, in Gettysburg, Pa. The great filmmaker Ken Burns will speak at the Soldier's National Cemetery on the 145th anniversary of Lincoln's Gettysburg Address. On Thursday, Nov. 20, at Gettysburg College, we will have the first of 10 town hall forums, titled "Race, Freedom and Equality of Opportunity." I have the high honor of joining Rep. Jesse Jackson Jr., Professor Allen Guezlo and Norman Bristol-Colon on the panel, with Professor Charles Branham as the moderator.

President-elect Obama talks of Abraham Lincoln's view of our nation as an "unfinished work." Well, isn't that equally true of all of us? Therefore let all of us strive to help him be a successful president, so as to help make America an even greater nation.

Mr. NELSON of Florida. Mr. President, this is "A Letter to my Grandchildren" by Jack Kemp on November 12, 2008, just a few days after the election of Senator Obama as President of these United States.

#### CONGRESSIONAL GOLD MEDAL

Mr. NELSON of Florida. Mr. President, I wish to shift gears from that sad note to a celebratory note because

we are approaching the 40th anniversary of the first landing on another celestial body by human beings. A number of our colleagues have joined me to honor two major firsts from the early days of America's space program.

One of those firsts is the lunar landing. We have introduced legislation to bestow the distinguished Congressional Gold Medal, the highest civilian award given by Congress, on the crew of Apollo 11. Neil Armstrong and Buzz Aldrin were the first and second humans to set a footprint on the Moon, while command module pilot Mike Collins orbited above.

In this legislation, which we have termed the "New Frontier Congressional Gold Medal," we also honor the first American who orbited the Earth, Senator John Glenn.

Today at 87 years old, John Glenn is retired from the Senate. He lives in his home State of Ohio. He retains his home in the Washington, DC, area. We get a chance to see John from time to time as he comes back and joins his colleagues on the floor of the Senate.

These are pioneers. They are firsts—Glenn first to orbit the Earth as an American. Remember, we got surprised by the Soviets. They launched Yuri Gagarin for one orbit, and we did not even have a rocket with strong enough thrust to get into orbit.

Shortly after Gagarin, we put Alan Shepard up only into suborbit, followed by another suborbital mission with Gus Grissom. Ten months after Gagarin—and by this time the Soviets had flown a second cosmonaut, Titof, and he had orbited several times—10 months after that fateful first human flight, we took a chance. We took that Mercury capsule that John Glenn climbed into—indeed, he had to shoehorn in to get into it, it was so small—put it on top of an Atlas rocket that we knew had a 20-percent chance of failure, and the rest is history.

Of course, we remember that story. There was an indication that John's heat shield was loose which, had it been, he would have burned up on reentry. The last radio communication we had as he entered that blackout period coming through heat 3,000 degrees Fahrenheit at reentry that creates a blackout situation for radio frequency, the last thing we heard from John Glenn before he went into that blackout period was he was humming the "Battle Hymn of the Republic." Oh, what words those were when suddenly we heard: "Houston, this is Friendship 7." We knew he was alive.

He paved the way for that extraordinary message back to Earth from Neil Armstrong in which he said:

This is one small step for [a] man, one giant leap for mankind.

This past weekend, I had the occasion to join with a number of our American astronauts on the induction of three more space explorers into the Astronaut Hall of Fame. The inductees were space shuttle veterans—Pinky Nelson, Bill Shepherd, and Jim

Wetherbee. They joined the elite ranks of 70 other legendary astronauts, who already include John Glenn, Armstrong, Aldrin, and Collins.

I went to this particular ceremony because I had the privilege of being a crew mate of Pinky's, and Bill Shepherd, otherwise shown as "Shep," was the rookie astronaut who actually strapped us in before launch.

While I was there meeting with and seeing these three new astronauts honored by induction into the Hall of Fame, I thought about the amazing achievements we have made, how strong leadership and bold vision has changed not the space program but all our lives. I think about the true American character of exploration, whether it is the space program or exploration into the inner workings of the mind, the functions of the body, exploration into the climate of this planet, exploration of how we cope each day with all the problems we are facing, our space program being one part of our exploration which did not start just recently. We are a nation of explorers.

We did not just start with exploration. This started way back in our history. We had a frontier then. It was westward. Now that frontier is in so many other areas, including space.

The space program has given us much to improve life on Earth, from fire-resistant material to weather forecasting equipment, to scratch-resistant lenses, to new kinds of laser surgery. It has also given us selfless heroes who put their lives on the line for the benefit of all the rest of us and for the generations to come.

It was Armstrong who made that first step out onto the lunar dust. It was Glenn who paved the way for the rest of Mercury and Gemini and Apollo. It is hard to believe that all these things happened after President Kennedy presented a bold challenge before a joint session of the Congress in which he said: We are going to send a man to the Moon and return him safely to Earth by the end of the decade, and that was within a span of only 9 years.

The space program became the focal point of the Nation coming together. It inspired a generation of kids to get excited about science, math, technology, and engineering. We have seen that generation fulfill President Kennedy's promise, which was science and education have greatly enriched a new knowledge of ourselves, of our universe, and our environment. Life on Earth has improved by leaps and bounds from all the spinoffs from the space program.

Simply put: We all reap the harvest of gains because of exploration and the pioneering endeavors of brave Americans, such as these whom we honor with this gold medal, the highest congressional honor. They deserve this honor because of their significant contributions to planet Earth.

I ask our colleagues to join me in supporting this resolution. There will be ample opportunity for cosponsor-

ships, in addition to those of us who have submitted the resolution.

I yield the floor. I do not have to suggest the absence of a quorum because the great Senator from the State of Delaware is here, and I want him to know what a delight and pleasure he is to serve with.

I yield the floor.

Mr. KAUFMAN. Mr. President, I wish to say it is an honor serving with Senator NELSON. I also commend him for his tribute to Senator Glenn and the astronauts. As usual, he is right on point. 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. KAUFMAN. 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. KAUFMAN. Mr. President, I ask unanimous consent to speak as in morning business for 25 minutes.

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

#### PUBLIC SERVICE RECOGNITION WEEK

Mr. KAUFMAN. Mr. President, today marks the beginning of Public Service Recognition Week. This is a time to recognize the hard-working and devoted men and women who serve in our Federal, State, county, and municipal governments.

I wish to make particular mention of the several programs taking place throughout the week in celebration of our civil servants and their contributions. I know the Partnership for Public Service, an organization with a mission to highlight our finest Government workers and promote public service, will be marking the week by awarding their annual Service to America medals. I congratulate the medal finalists and thank them for their excellence in service to our Nation.

This is an appropriate occasion to address the subject which is so relevant to the way we face the challenges before us as a nation. These challenges have shaken the public's confidence in our financial markets, in our economy, and in our Government. We must work to restore the public's confidence.

So many of the solutions being presented from the rising cost of health care to the multiple threats from overseas, to the mortgage crisis, rely primarily on the work of dedicated and dependable civil servants. The Federal employees who work day in and day out to better our country, often at great private sacrifice, deserve our public's confidence, and that is what this speech will be all about.

In the post-9/11 era of insecurity and following years of political indecision

and divisive partisanship, we are left with an abundance of problems. Our honored veterans complain of diminishing benefits, while the young decry the increases in the cost of education. America's health care system is outdated and leaves millions uninsured. We remain painfully addicted to foreign oil, and auto manufacturers require more public funds to stay afloat. Some of our challenges rise to a level unseen in decades.

Of course, whenever Americans face difficulty, we display that greatest trait of our nature. Service to the common good has been our answer to every hardship since even before the birth of our Republic. One would be hard-pressed to find any public figure of note who does not highly invoke the praise of community service and voluntarism.

Indeed, in every neighborhood in all 50 States, one can find our citizens extending their hands in help to their fellow Americans and to the unfortunate throughout the world. Likewise, no one can refrain from honoring the service and sacrifice of our brave men and women in uniform. Their dedication and diligence ensure our safe borders and sustain our liberty. The hard work of our servicemembers is rightly congratulated.

But, Mr. President, there are those who give so much of themselves and often so many years of their lives, yet receive hardly any share of recognition. In the recent past, the disparagement of our Federal employees—the greatest civil servants in the history of our republican government—has become sadly commonplace. Diminishing their contribution to this Nation is an all-too-frequent exercise.

Federal employees deserve praise for the vital roles they play each day enforcing the laws we pass in this very Chamber. They care for our veterans. They toil in laboratories to create new energy technologies. Our Federal workers safely manage the complex networks of flights crossing our skies day and night. They deliver our mail, regulate fair housing practices, and conduct our diplomacy abroad. They serve in all three branches of Government.

They are, in many ways, silent sentinels of our Nation's well-being.

Indeed, Federal employees have become indispensable to our national life. With a generation of Federal employees nearing retirement, we need to attract our most talented citizens back to public service. Good, honest, responsible government requires the best civil servants.

Throughout our history, great men and women answered the call to serve in the Federal Government—citizens from all walks of life and from every corner of America. There are those who dedicate their entire careers to public service, but there are also so many Americans who enter Federal employment for just a short period. Even the novelist William Faulkner worked part-time as a postmaster when he was a young man.

The nature of our Federal workers today is the same as it was when the French philosopher Alexis de Tocqueville visited in the early 19th century. He observed that:

Public officers in the United States are commingled with a crowd of citizens; they have neither palaces nor guards, nor ceremonial costumes. This simple exterior of the persons in authority is connected not only with the peculiarities of the American character, but with the fundamental principles of that society.

I, too, was a Federal employee when I worked for 22 years with then-Senator JOE BIDEN, and I can attest as much as anyone that to serve entails responsibility and dedication. During my years in Government work, including 13 years as a member of the Broadcasting Board of Governors, I met so many hardworking, well-qualified, and devoted public servants, most of whom will not be recognized individually by the public for their important contributions.

The American people collectively put their faith in all who work in Government, from those elected to the highest offices, to those, like Faulkner, working part-time for an hourly wage. Our esteemed predecessor in this House, Henry Clay of Kentucky, once declared:

Government is a trust, and the officers of the government are trustees; and both the trust and the trustees are created for the benefit of the people.

Senator Clay could not have been more correct. Those who serve the Republic carry the heavy responsibility of not working for the benefit of themselves alone but for the good of all.

What should be a source of pride to those who enter employment in the Federal Government has become, all too often, a thankless job. Serving in the Federal Government can be an enriching experience, and we need to do more to promote civil service among young people. I am encouraged that there is a growing desire now, unlike in the past several years, among our best and brightest students to seek Federal jobs.

For so long, the allure of easy wealth on Wall Street and scorn for Government work led our young graduates to overlook positions in civil service. But it should not take a recession and a popular new administration to attract this talent. Our young people are eager to take on responsibility, to prove themselves worthy of others' trust. They want to have a part in what President Obama has called "repairing the world." With more recognition of our Federal workforce and praise for its important contribution, there is no reason we cannot convince these young, idealistic Americans to seek in Government what they so desire—a role in history, a chance to shape their world.

The recent decision by Kal Penn, the young Hollywood star, to accept a position working in the administration advances this effort significantly. Despite a lucrative career in film and on tele-

vision, Penn—a second-generation American whose parents are immigrants from Mumbai—announced he would take a couple of years off from acting to serve his country in the Federal Government. When asked about his motives, he said:

It's probably because of the value system my grandparents instilled in me. There's not a lot of financial reward in these jobs. But, obviously, the opportunity to serve in a capacity like this is an incredible honor.

Mr. President, when I was young, it used to be that this honor which Penn speaks of drew young people by the thousands to careers in our civil service. A job in Government was a mark of distinction. It was a privilege to be able to work for the betterment of the American people. However, in recent years, that honor has been eroded by the misconception that our civil service is growing beyond measure and consists of those in Washington who are out of touch with ordinary Americans. But I say this characterization is completely untrue.

The number of Federal employees today has not grown significantly larger than its size in the 1960s. In fact, 85 percent of all Federal employees live and work outside of Washington. They are ordinary Americans, yet they perform extraordinary work.

As De Tocqueville observed more than 150 years ago, the qualities embodied by our civil servants reflect the greatest values we hold dear as Americans. Federal employees display exemplary citizenship, choosing of their own accord to pursue careers that not only provide for their families but benefit the Nation as a whole. This is despite the advantages to private sector employment. Our civil servants are industrious. They work hard, tackle difficult problems affecting millions of their fellow citizens, and do so with grace and humility.

They often need to take risks, not only to make new discoveries in science and engineering or to represent us in unsafe corners of the world, but also to expose unnecessary waste and corruption where it may arise. The history of our civil service is filled with those who choose to uphold the public trust even when at a danger to their own lives and careers. Their work requires great perseverance, and results may take longer than their tenure in office. It requires great care and attention to detail. When the public's faith is bestowed upon you, there can be no halfhearted effort. Most of all, employees in our Federal Government display an unbelievable level of modesty.

You may wonder why I go on about the virtues of our public servants when there are so many pressing matters to be considered by this body. I return, however, to my first point—that no matter what programs we launch to get America back on the right path, they will be carried out by our Federal workers.

Exemplary cases abound, but I want to highlight a few individuals in particular who embody these values and



reflect the excellence of our civil service as a whole. They have each been selected by a blue ribbon panel which includes Senator SUSAN COLLINS, in concert with Partnership for Public Service, to receive a Service to America medal.

When she began her job as Director of the Office of Public Housing Programs in 2002, Nicole Faison inherited a HUD rental system program rated for 13 years as a "high risk" program by the Government Accountability Office due to rampant waste, fraud, and abuse. Today, it is recognized for helping more low-income families receive housing assistance without wasting resources. Under Nicole's guidance, the program eliminated over \$2 billion in fraudulent payments and earned praise for its streamlined operations.

Since 9/11, there has been much attention on the security of cargo containers entering our country from overseas. Leading the charge to secure our ports, Tracy Mustin serves as Director of the Department of Energy's office of Second Line of Defense. Under Tracy's leadership, her office has installed monitoring devices at more than 100 airports, seaports, and border crossings in over 40 countries which help detect and prevent the trafficking of nuclear or radiological substances. She also oversees the Megaports Initiative, which screens and monitors cargo entering major seaports around the world. In addition to her responsibilities as a civil servant, Tracy is commissioned as a captain in the Navy Reserve.

While Tracy and her team have been fortifying our Nation's second line of defense against terrorism, brave men and women in the Armed Forces remain overseas fighting on the first line of defense. When our wounded warriors return home, they can thank the dedicated civilian employees of our Defense Department for significant advancements in the treatment and care they will receive for their injuries.

Dave Carballeyra, the Air Force's Director of Stereolithography, introduced a new 3-D technology for bone and tissue imaging which has improved treatment and rehabilitation care for wounded veterans. In particular, his work has helped soldiers suffering from severe burns from bombings in Iraq and Afghanistan and those requiring surgery to attach prosthetic devices. These advances have significantly improved their quality of life. Believe it or not, Dave is only 25 years of age.

Another public servant whom I very much want to mention is Dr. Rajiv Jain. Each year it is estimated that 2 million patients develop infections while in U.S. hospitals for routine procedures. One hundred thousand of these patients die as a result, and the elderly and newborn are particularly susceptible. Rajiv and his team at the Veterans Affairs Hospital in Pittsburgh are at the forefront of an effort to reduce these infections. The infection rate at their VA facility has already

dropped 60 percent, and the strategy developed by Rajiv to prevent infections has now been adopted by all 153 VA hospitals.

When asked about his work, he commonly explains that "one infection is too many."

The final person I will mention, who works for the Department of Energy, has proven wrong those who are convinced that Government can't do something right. At the end of the Cold War, when the former Rocky Flats nuclear weapons plant near Denver was designated as a Superfund site, it was estimated that it would take 70 years and nearly \$40 billion to clean it up. Many advocated a permanent quarantine of the site, arguing that its rehabilitation was not worth the cost. Frazer Lockhart took charge of the cleanup effort in 1995 and finished the job in 10 years, spending only \$7 billion. Today, 95 percent of the original site has been delisted from the Superfund and been set aside as a 6,200-acre wildlife refuge. Frazer's sound management and perseverance led to the cleanup 60 years ahead of schedule and \$30 billion under budget.

Mr. President, these stories are just a few of the countless many. Indeed, there are a great number of exceptional Federal employees, and I hope to continue sharing their stories before the Senate and honoring their service over the coming weeks and months, beginning with this group. I invite my fellow Senators to join me on those or other occasions in doing the same. These men and women daily carry out the work of developing new technologies, protecting our free markets, ensuring a cleaner environment, and advancing our interests around the world.

I believe the Founders foresaw the need for a vibrant and effective civil service and that they would be proud of the Federal employees serving today. When the first Congress convened in New York on March 4, 1789, its first matter of business was to fulfill an obligation set to it by the Constitution. Article VI declares that all public officers are to be bound by an oath or affirmation to support the Constitution, but the document leaves up to Congress to decide on the form.

The first piece of legislation ever to be passed by the United States Congress and signed into law by President Washington codified this simple but poignant oath:

I do solemnly swear or affirm that I will support the Constitution of the United States.

In the years since, it has been expanded to the oath presently taken by all of us who serve in this Chamber and in the House of Representatives and by every Federal employee. But the underlying point remains unchanged from that original oath. What the Founders intended in their first act of Government, and what we now reaffirm with each taking of our modern oath, is that everyone who serves in our Government is not only obligated to support

the Constitution but also entrusted with that responsibility. That trust—the same as was noted by Clay—is the foundation of our civil service. It is the guiding principle of our Federal workers and the reason they deserve the public's confidence.

Careers in Government, we know, frequently pay far less than comparable careers in the private sector, and many times our Federal employees are asked to move across the country or overseas to perform their duties. Many serve for 20 years or more, leaving a lasting impact on communities and on our national policies without special recognition. They never see bonuses like those paid on Wall Street or elsewhere in the private sector. However, after many years of service, when our civil servants retire, they can look back on their careers and know with certainty that when their country needed them, they gave of themselves. They gave to our Nation, and they know their contribution, even if little recognized, has been genuine and significant. This is their bonus, the satisfaction and the knowledge that they have answered the call to duty, that their lives have surely served a meaningful purpose.

Again, please let it be noted that the first week of May each year is Public Service Recognition Week, and it is with great pride that I honor the service and sacrifice of our Federal employees. I thank them, and I urge my colleagues to join me this week and in future weeks to thank them for their continued work in support of our recovery during this challenging time.

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

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

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## HELPING FAMILIES SAVE THEIR HOMES ACT OF 2009

The PRESIDING OFFICER. 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 PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I am going to take a few minutes to explain. I know the leadership has already made these announcements, but as I have been told, at 5:30 there will be two votes on amendments offered by our colleague from Louisiana, Senator VITTER. I am going to take a few minutes here, once again, to review the underlying proposals Senator SHELBY of Alabama and I have crafted as part of this bill. Then I will take a few minutes to express my views on the two Vitter amendments. I presume Senator VITTER himself may come over and talk about this or others who are interested in the two amendments may show up to express their interest in them as well.

I thank the majority leader, Senator REID, for scheduling the time for the consideration of this bill. Obviously, the importance of foreclosure mitigation is still critical. I still believe, as many do, that the root cause of our financial problems in this country began with the residential mortgage market, the predatory lending that went on with literally millions of people in this country. The Wall Street Journal reported that some 60 to 65 percent of people who were talked into predatory loans, subprime loans, actually qualified for conventional mortgages. Conventional mortgages are far less costly than subprime mortgages, but because there was a greater financial reward for brokers and others who were able to market and sell the subprime mortgages, they were marketed to people. Of course, those mortgages became far more costly. There were adjustable rate mortgages, there were teaser rates with almost no downpayments required and very little interest payments for months on end and then, of course, ballooning to the point that many people could ill-afford them. For many, they could not afford them at all, to the point that problem migrated to other areas of our economy. As a result, today we find ourselves in a recession, and a deep one at that.

This bill is designed to help families save their homes. That is what it is designed to do. There are a lot of provisions that relate to the smaller banks in the country and how we can be of some help to them to get credit moving.

I did this last week at the close of business, but I thought I would spend a few minutes to review, once again, the major provisions of the bill without going into great detail as to what is included in each provision and then, as I said, address the two Vitter amend-

ments that will be offered later this afternoon.

This amendment we have offered is a substitute amendment that Senator SHELBY and I have before us now, which is S. 896. It expands the number of tools available to try to prevent foreclosures and the ability of homeowners and loan servicers to use those tools. In addition, the bill includes provisions to make the banking system more stable and improve the availability of credit.

Specifically, there are about 8 or 9 or 10 major provisions of the bill.

The first of these provisions expands the ability of the Federal Housing Administration in rural housing to modify loans. I made the point last week that this is absolutely critical. FHA has been a savior in many cases, providing credit when credit has not been available elsewhere to keep a limited housing market open. It is very important that they have the tools to do that—certainly the tools to modify FHA or USDA loans, as they do for non-Government loans they service.

This part of the bill is one that is critically important and can make a huge difference to people. There will be amendments offered to modify this provision of the bill. If we end up undermining the role of the FHA at this critical time, we can make it far more difficult for these foreclosures to be mitigated and decrease the possibility of people remaining in their homes.

Second, it expands access to the HOPE for Homeowners legislation, which makes a number of changes to that bill we adopted last summer. It was a program that was well intended but left a lot of problems in terms of the effectiveness and efficiency of the legislation. This bill will allow for the option to lower fees and streamline the borrower certification requirements. We give the Secretary of the housing agency in our country limited discretion to determine the amount and distribution of future appreciation. We ban the very wealthiest in our country from being involved in this program. It was never intended to be such. We allow for incentive payments to servicers and originators who participate in the program. Again, it is something designed to be of help to the average citizens, working families in this country.

Third, we create more enforcement tools for the FHA to eliminate bad lenders. This was an important provision that provides the tools to the housing and urban development agency to more expeditiously drop lenders that break FHA rules. This was needed to strengthen those provisions and make sure resources go to the areas that need them. They are certainly not to be used by lenders who are violating the rules of FHA.

We then provide for a safe harbor for servicers who would either modify a loan consistent with the Obama foreclosure mitigation program or refinance the borrower into a HOPE for

Homeowners loan. This has been a contentious issue between bankers and investors, trying to do something with regard to mitigation. This has been narrowly drawn.

The House-passed bill—and I say this respectfully of the other body—had a broad provision in this area. This was an idea Senator MARTINEZ offered a number of weeks ago. He has since modified this—and I agree with him—to try to restrict time, duration, and circumstances in which a safe harbor would apply.

What is a safe harbor? A safe harbor is designed to encourage the servicers to modify loans, servicers who have had contracts with investors. The investors obviously are somewhat reluctant to watch a modification of any of these things that would deprive them of the ability to take legal action against a servicer who engaged in a modification creating a safe harbor for the servicer. We encourage them—it doesn't mandate but encourages them to modify those loans with the borrower, in the absence of which I doubt any servicer will be willing to step forward so.

So this is an absolutely critical area. While there are still concerns on the part of some, I believe it is the right step to be taking. It is limited in duration. It is limited to only the Obama foreclosure mitigation and the HOPE for Homeowners, only in those two instances, and therefore would not be as open and broad-based as provisions that have been adopted elsewhere.

So I encourage my colleagues to be supportive. There will be an effort to change this in a way that I think would make it unworkable in terms of achieving the desired results here. Again, with 10,000 foreclosures going on every single day in our country, we need to try to bring closure to that problem where we can. This is not going to solve every foreclosure, but it can certainly make a huge difference. An estimated 1.7 to 2 million foreclosures can be avoided with this kind of proposal in the bill.

With the Obama proposals and HOPE for Homeowners proposals, we think that would make a significant difference, allow people to stay in their homes, and allow the lenders to get some payment back rather than the property falling into foreclosure.

As the Presiding Officer knows, the contagion effect of a foreclosed property in a neighborhood is very daunting. We know for a fact that with one foreclosure in a neighborhood of a one-square-block area, the value of every other property in that square block declines by as much as \$5,000 that very day. The last thing you want to see on your block, in your neighborhood, is foreclosed, boarded-up properties deteriorating. If you have a home there and that property is declining in value by the day, obviously everyone is adversely affected.

So while I know this is a contentious issue for some, I am pleased that most



of the consumer groups, the realtors, the Financial Roundtable, and others strongly support the provisions Senator SHELBY and I have in this bill when it comes to the issue of safe harbor. Again, I thank Senator MARTINEZ, my colleague from Florida, for initiating the idea of this proposal.

The next provision authorizes an additional \$130 million for foreclosure prevention activities. Senator REID is the author. I mentioned earlier that his support in creating the space and time for this bill to come up has been critically important but also the addition of this language which we now know is terribly effective.

Earlier, Senator SCHUMER and others offered language to provide resources for the support of the prevention activities; that is, counseling activities. It proved very helpful. These can be complicated areas. To get into the issue of modifying a mortgage requires some good counseling. This is not a matter where the average person can just walk in and negotiate by themselves. I think having people who are experienced and knowledgeable, as we now have across the country, who can assist in this process, has been a great asset. These additional resources Senator REID of Nevada has offered here will make a huge difference for people across our Nation, in addition to what has already been allocated.

Then we have some provisions to increase the deposit insurance with the Federal Deposit Insurance Corporation from \$100,000 to \$250,000. I mentioned earlier how important that is to people to avoid the kinds of runs that can occur when fear grips investors and depositors. Certainly, those who have even a passing knowledge of history, of the Great Depression, know what happened when fear gripped the country and there were great runs on the banks, people running and taking their deposits out of the banks, feeling as though they were going to lose them, and the old notion of hiding it in your mattress was not a joke; people actually did that. They buried their hard-earned money on their property rather than keep it in what they perceived as an unsafe institution where they could lose those resources.

So back in the 1930s, the FDIC was created to provide, among other things, an ability, when a bank is in trouble, to make that transition from a closed bank to one that could open so the people would not lose their resources, as well as providing insurance so that money would not be lost, a full guarantee of up to \$100,000.

The world has changed a lot since the 1980s, which is when I believe that provision, the \$100,000, was added, over the last 29 or 30 years. Raising it to \$250,000 we believed was necessary to assist, providing further guarantee and assistance as well.

We increased borrowing authority in this bill for both the FDIC and the National Credit Union Administration, from \$100 billion in the case of the

FDIC and \$6 billion for the National Credit Union Administration. There is additional authority that requires the approval of a two-thirds vote of the FDIC or National Credit Union Administration, a two-thirds vote of the Federal Reserve Board, and agreement by the Secretary of Treasury in consultation with the President of the United States.

We stretch out the payment of assessments to rebuild bank thrift and credit union deposit insurance funds to 8 years. This was a very important provision; for many of our lending institutions, that period of assessment is absolutely essential. If it is too short, it obviously puts a huge financial burden on these institutions. I believe the 8 years was a provision that was very important to these institutions and one that they are very pleased our legislation includes. I hope that will work as well as we intend it to.

We also improve the FDIC systemic risk special assessment authority. Again, that is a real relief to institutions that would not participate in that program, that would have been assessed anyway. This provision of the bill protects them from that kind of assessment. Again, it is essentially important.

That is a very quick review of the major provisions of the bill. As I mentioned earlier, this legislation enjoys broad-based support in our country, from major groups of people from major consumer groups in our Nation: The National Consumer Law Center, the Independent Community Bankers, the Center for Responsible Lending, along with the Housing Policy Council, the Financial Services Roundtable, the American Bankers Association. Rarely do I find these organizations coming together around a bill.

You will normally have the consumer groups on one side and your financial services sector on the other side. That is normally how it works. But because of the effort made by so many people on our committee and elsewhere, we have put together a piece of legislation which we think will make a difference on foreclosure, provide some needed reform to our major financial institutions, provide counseling and additional support for people who seek that kind of help, as well as attract the kind of support from diverse institutions that watch and care very much about these groups.

Last week I included letters of support. I should add as well that Lenders One, an association of mid-sized independent mortgage brokers, and the Mortgage Bankers Association, have endorsed what Senator SHELBY and I have put together in this bill.

That is a rough summary of the legislation. Of course, anybody who is interested in further information about this, we would welcome them to come over and discuss any provision they have interest in.

Let me, at this point, if I can, address the two amendments which this

body will consider at 5:30. The first one I will discuss is the amendment of Senator VITTER of Louisiana No. 1015.

This amendment, as I understand it—obviously Senator VITTER will come and explain his own amendment. I hope I am accurately describing it. Under the Emergency Economic Stabilization Act, currently it requires the Treasury to permit a TARP recipient to repay the financial assistance it receives subject to consultation with the appropriate Federal banking agency. When the assistance is repaid, the recipient must also buy back the warrants it provided to the Treasury at the current market price.

As I understand the Vitter amendment, it would require the Treasury to permit a TARP recipient to repay TARP assistance it received if the institution would be “well capitalized” after repaying the funds.

Capitalization of our lending institutions is a critical component, as the Presiding Officer knows, very important, certainly essential, before one would even consider, again, having TARP money come back, the whole idea of insisting upon properly capitalized institutions.

Under the amendment, Treasury could not condition the right of a TARP recipient to repay TARP on an agreement to also buy back the warrants. Under the current law, payback of the TARP money must be accompanied by the repurchase of those warrants.

In fact, the amendment gives the TARP recipient the right to determine when the Treasury must buy back the warrants it received; the TARP recipient is not required to pay market price for them.

I oppose the amendment and urge my colleagues to vote against it, I say respectfully of the author of the amendment, Senator VITTER, a member of our committee. I am concerned this amendment, if adopted, would further destabilize our financial system and could harm taxpayers who, of course, are the ones who put up the TARP money.

Under this amendment, the Treasury would be forced to permit a bank that received TARP money to repay that assistance based on the sole criterion that the bank would remain well capitalized. Again, I emphasize that is an important consideration, but it is not the only one.

If there is one lesson we have learned from this crisis, the definition for what “well capitalized” means is inadequate. For example, Citibank and Bank of America are well capitalized according to the standard in the amendment, and despite their obvious troubles, they would be able to return the TARP money they received. The standard the amendment would establish is simply ineffective and not comprehensive enough.

Currently, the regulators can consider the bank's condition in a more complete, holistic way in assessing its

fitness to return TARP funds. The amendment would tie the hands of the regulators to this one particular factor, capital, a very important one but not the only one, a factor that has already proven to be faulty and insufficient to weather today's economic climate.

To get out from under the executive compensation restrictions and other conditions imposed by Treasury, for example, institutions that are in a weakened condition may put themselves and the broader economy at risk. That is why this is important. If we are only talking about one institution, certainly getting the TARP money back is something we would all welcome. But I think we need to look at this beyond just what the effect is on that one institution but what is the effect of the overall financial system. That was the reason why these TARP dollars went out in the first place.

So while being well capitalized is very important, if you limit it to that and that only and allow an institution, such as the ones I have mentioned, to then move beyond that, there could be put at risk the larger economy, which is, of course, the major goal here, to get the overall economy functioning and moving in the right direction.

If banks were allowed to move in that direction merely on that basis alone, then I think we would regret that. Again, I think it is something we ought to be striving for, but this amendment is too narrow, in my view, to limit the decisions strictly on that one criterion. If lending is limited as a result of this amendment, that would mean more businesses closing for lack of financing, more job losses in our country, and a further weakening of the overall economy, delaying even further the recovery we all seek.

It also would mean more foreclosures, which is at the heart of the bill. Foreclosed homes will stay on the market longer because people would not be able to get mortgages to buy these homes.

As my colleagues know, the large banks have gone through the so-called stress tests. Many of them, despite being designated as "well-capitalized," may still be forced to raise more capital, we are told.

It strikes me as unwise that we want to tie Treasury's hands at this important time, right when the results of the stress tests are to be announced.

The amendment would also harm the taxpayer by allowing the TARP recipient to decide when warrants may be exercised and by limiting the Treasury's ability to require the repurchase of warrants when TARP funds have been repaid.

It also harms the taxpayer by eliminating the requirement that Treasury pay market price for the warrants and would allow banks to try to negotiate a better price, thereby reducing the returns to the taxpayers who put up the money in the first place.

In conclusion, I would respectfully oppose this amendment. Current law

already allows the banks to repay their TARP funding—in fact, we would encourage it—when it is the right time and safe to do so, examining an array of criteria, not just being well-capitalized. The quicker we can do that, the better off we are going to be. But it will be important that when some of these major institutions repay that, that in so doing they are not going to be jeopardizing the economy at large.

The amendment, however, could cut credit availability at a time when credit is desperately needed; and could put more institutions at risk when stability is needed; and it is a bad deal, further, for the American taxpayer who, ultimately, is the one who put up the resources and hopes to get repaid when this economy begins to recover.

Again, respectfully I say to my colleague and friend from Louisiana, I would oppose that amendment.

The second amendment is No. 1017. This amendment deals with the Federal Housing Administration. The Vitter amendment would establish "solvency" as the "primary foundational responsibility" of the Federal Housing Administration, the FHA.

The amendment then requires the Secretary to close down any FHA program if it seems "reasonably likely" that the FHA might need credit subsidy from Congress. Again, I oppose this amendment because it does exactly the opposite of what we ought to be doing at a moment such as this.

We thank our lucky stars that we have the FHA providing credit at this time. In exactly a moment such as this, you need the FHA out there to provide that credit when credit is so unavailable through the clogged-up financial system in our Nation. First and foremost, this amendment fails to reflect the fact that the primary mission of the Federal Housing Administration is to help create and sustain home ownership for American families.

The mission of the FHA is especially important now, while we are struggling through such troubled economic times. FHA currently insures nearly 30 percent of the mortgage market in our Nation.

If you extend the logic that the amendment proposes, you would shut the doors of Fannie Mae and Freddie Mac right now because both have had to draw on their credit lines from the Treasury. Without them, we would lose the other 70 percent of the mortgage market overnight, turning a housing recession into a deep housing depression.

In my view, if it were not for the Federal Government at this hour, working through FHA and other federally supported institutions, there would be no mortgage credit available at all.

The FHA has a mission. It is to ensure that adequate and affordable mortgage credit is available in every part of our Nation. It is currently fulfilling that mission admirably, while

many other sources of credit, as I mentioned earlier, have totally disappeared or almost completely disappeared.

The Federal Housing Administration pushes against the prevailing downward winds in our economy. It is countercyclical. The Senator's amendment would turn the FHA into a procyclical program, withdrawing credit, pulling it back, when credit is so difficult to come by. This change would help deepen the worst housing recession we are experiencing since the Great Depression.

Moreover, I think it is important to know that FHA fund is not at risk. As of the second half of the fiscal year 2009, the sum of FHA's investments and cash on hand is nearly \$32 billion. Its net position, assets minus liabilities, on March 31 of this year, was a positive \$11.8 billion. Although FHA's capital has fallen to 3 percent, it is still 50 percent above its statutorily mandated level of 2 percent. Falling capital in tough times is to be expected. That is what is going on. We all understand that. That is what you have capital for, to protect yourself in the bad times.

In addition, it is important to remember that FHA has always been a fixed-rate mortgage insurer. It never got involved in the exotic and often predatory practices offered by the subprime lenders. FHA has also required income to be documented and verified.

In fact, because FHA has been known for its solid loan products, more and more people with better credit quality are using FHA today. Over the past 6 months, the average credit score in FHA has increased by nearly 40 points.

Finally, current law already establishes a fiduciary duty "to ensure that the Mutual Mortgage Insurance Fund remains financially sound." The Secretary is already required to make program changes or adjust premiums if FHA's performance is expected to differ substantially from the baseline established by an independent actuarial report.

Secretary Donovan has assured me and the Congress that the Congress would be immediately alerted if he thought the FHA was at risk at all.

In short, I ask my colleagues, again, I say this respectfully of its author, to oppose this amendment. It is not needed. It would be exactly the wrong message, the wrong action to be taking at this critical time. Solvency is not an insignificant issue, but the role of the FHA is not to provide solvency, necessarily, but it is to provide credit at a time when credit is not available.

When as many people as I have indicated by the facts are relying on the FHA at a time when we are trying to encourage home ownership on responsible terms—and the FHA, as I pointed out earlier, was not one of these exotic lenders that was out there with these predatory practices. Quite the contrary. So rather than, in a sense, changing the mission of the FHA, fundamentally altering what its goal is

and ought to be at these times, we need to oppose this amendment.

Again, we need to rely, as we can and must, on the fact that the FHA is in sound shape. If it is not for some reason, we have every reason to believe we can take improvement steps.

Accordingly, again, I would urge our colleagues, when talking about both of these amendments, join me in opposing them, given the difficulty that both these amendments would raise if they were to be adopted.

Again, I will be happy to be in the Chamber for the next hour or so. If people wish to come over and engage in a discussion or debate, I welcome that opportunity. But at 5:30, in a little more than an hour, we will have a vote on both these amendments of our colleague from Louisiana.

Let me say, again, I think we assume this is personal in nature. It is not. I have respect for my colleague. We have a different point of view on matters. That is the nature of the institution and the debate that occurs.

I don't question his motives or the sincerity behind his amendments, but I believe in both cases they would move us in the opposite direction from where we need to be going.

With regard to TARP funding, all of us wish to get the TARP money back to the taxpayers as quickly as we can with interest. But we need to understand it is more than just capitalization when we make that decision. We don't want to do harm to our economy at a critical moment such as this. Secondly, with regard to FHA, solvency is important. The mission of FHA is, of course, to be countercyclical, not procyclical. At a critical time such as this, depriving them of that opportunity to fill a credit gap that does not exist today would be exactly the wrong message and do great damage to a critical component of home ownership.

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

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BOND. Madam President, I rise today to offer some remarks on the Helping Families Save Their Homes Act of 2009.

The housing foreclosure crisis continues to affect families and communities throughout the Nation. I appreciate the good efforts of Senators DODD and SHELBY and the Banking Committee for trying to tackle this crisis. Until we address these issues head-on and remove the toxic assets that have poisoned not only our financial system but the world's financial system, economic recovery will be difficult to achieve. President Obama himself said, when he addressed us in January, that all the other things happening are not

going to get us out of the crisis we are in until we get the toxic assets out of the system.

I particularly appreciate the fact that included in the bill is the Dodd-Crapo-Bond bill as an amendment which will strengthen the power of the Federal Deposit Insurance Corporation to go after institutions which are on the verge of failing. To me, that is the direction this administration and the previous administration should have been following but have not.

But there are some troubling aspects of the Government's action in the FHA area, and I am concerned about the implications of some of the provisions in the bill before us. My biggest concern is the health and solvency of the Department of Housing and Urban Development's Federal Housing Administration, or FHA. I appreciate the work the managers have done to deal with the fraud issues. I also support Senator VITTER's efforts to raise this issue through an amendment he has offered. I think this amendment goes in the right direction. We might want to work on some of the language, but it gets at the problem.

The bottom line is this: The FHA is a powder keg that could explode, leaving the taxpayers on the hook if Congress and the administration continue to overburden the Government agency. As I stated at a recent Transportation, Housing and Urban Development Appropriations Subcommittee hearing, the FHA's health and solvency are at high risk. The signs are troubling in many areas: FHA default rates are at their highest level in several years. FHA's economic value has fallen by almost 40 percent over the past year. FHA approval of new lenders has increased by 525 percent over the past 2 years, and there is evidence that some former subprime lenders and brokers have infiltrated FHA to conduct business. That in itself ought to be an alarm bell that goes off. Fraudulent activity in the mortgage industry has put and is at risk of exposing FHA to more risk. FHA has seen a significant increase in foreclosures, which endangers the stability of communities and neighboring homes. The rise in FHA defaults and foreclosures, especially in areas already victimized by subprime lending, threatens to make a bad problem worse. These troubling signs all point to a powder keg that is waiting to explode.

What does this mean for taxpayers? It means, by law, FHA is required to carry a 2-percent reserve or a 50-to-1 leverage rate. If it falls below that statutory level, FHA must raise the premiums it charges to borrowers or Congress must appropriate funds. That means taxpayers footing more of the bill.

I have a message for my colleagues in Congress and the administration: Americans do not want another bailout. The taxpayer credit card is maxed out.

Luckily, HUD is currently being led by a very capable leader, HUD Sec-

retary Shaun Donovan. However, he alone cannot fix the longstanding problems with HUD and FHA. The Congress and the administration must not make Secretary Donovan's job harder by placing more risk on FHA until the problems of the agency are fixed or the agency will crash.

I read in today's Wall Street Journal an editorial, which I will ask to be printed in the RECORD, that says:

In a rational world, Congress and the White House would tighten FHA underwriting standards, in particular by eliminating the 100% guarantee. That guarantee means banks and mortgage lenders have no skin in the game; lenders collect the 2% to 3% origination fees on as many FHA loans as they can push out the door regardless of whether the borrower has a likelihood of repaying the mortgage.

Madam President, I ask unanimous consent to have this article printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BOND. Let me reemphasize, because this is important, if we continue to overburden FHA, this powder keg may explode.

I thank my colleague, Senator VITTER, for highlighting the need to make protecting FHA solvency a priority—so taxpayers are not left on the hook. I ask my colleagues to support that amendment.

Madam President, I yield the floor.

[From the Wall Street Journal, May 4, 2009]

#### EXHIBIT 1

##### THE NEXT HOUSING BUST

Everyone knows how loose mortgage underwriting led to the go-go days of multitrillion-dollar subprime lending. What isn't well known is that a parallel subprime market has emerged over the past year—all made possible by the Federal Housing Administration. This also won't end happily for taxpayers or the housing market.

Last year banks issued \$180 billion of new mortgages insured by the FHA, which means they carry a 100% taxpayer guarantee. Many of these have the same characteristics as subprime loans: low downpayment requirements, high-risk borrowers, and in many cases shady mortgage originators. FHA now insures nearly one of every three new mortgages, up from 2% in 2006.

The financial results so far are not as dire as those created by the subprime frenzy of 2004-2007, but taxpayer losses are mounting on its \$562 billion portfolio. According to Mortgage Bankers Association data, more than one in eight FHA loans, is now delinquent—nearly triple the rate on conventional, nonsubprime loan portfolios. Another 7.5% of recent FHA loans are in "serious delinquency," which means at least three months overdue.

The FHA is almost certainly going to need a taxpayer bailout in the months ahead. The only debate is how much it will cost. By law FHA must carry a 2% reserve (or a 50 to 1 leverage rate), and it is now 3% and falling. Some experts see bailout costs from \$50 billion to \$100 billion or more, depending on how long the recession lasts.

How did this happen? The FHA was created during the Depression to help moderate-income and first time homebuyers obtain a mortgage. However, as subprime lending took off, banks fled from the FHA and its business fell by almost 80%. Under the Bush

Administration, the FHA then began a bizarre initiative to "regain its market share." And beginning in 2007, the Bush FHA, Congress, the homebuilders and Realtors teamed up to expand the agency's role.

The bill that passed last summer more than doubled the maximum loan amount that FHA can insure—to \$719,000 from \$362,500 in high-priced markets. Congress evidently believes that a moderate-income buyer can afford a \$700,000 house. This increase in the loan amount was supposed to boost the housing market as subprime crashed and demand for homes plummeted. But FHA's expansion has hardly arrested the housing market decline. The higher FHA loan ceiling was also supposed to be temporary, but this year Congress made it permanent.

Even more foolish has been the campaign to lower FHA downpayment requirements. When FHA opened in the 1930s, the downpayment minimum was 20%; it fell to 10% in the 1960s, and then 3% in 1978. Last year the Senate wisely insisted on raising the downpayment to 3.5%, but that is still far too low to reduce delinquencies in a falling market.

Because FHA also allows borrowers to finance closing costs and other fees as part of the mortgage, the purchaser's equity can be very close to zero. With even a small drop in prices, many homeowners soon have mortgages larger than their home's value—which is one reason FHA's defaults are rising. Every study shows that by far the best way to reduce defaults and foreclosures is to increase downpayments. Banks know this and have returned to a 10% minimum downpayment on their non-FHA loans.

In a rational world, Congress and the White House would tighten FHA underwriting standards, in particular by eliminating the 100% guarantee. That guarantee means banks and mortgage lenders have no skin in the game; lenders collect the 2% to 3% origination fees on as many FHA loans as they can push out the door regardless of whether the borrower has a likelihood of repaying the mortgage. The Washington Post reported in March a near-tripling in the past year in the number of loans in which a borrower failed to make more than a single payment. One Florida bank, Great Country Mortgage of Coral Gables, had a 64% default rate on its FHA properties.

The Veterans Affairs housing program has a default rate about half that of FHA loans, mainly because the VA provides only a 50% maximum guarantee. If banks won't take half the risk of nonpayment, this is a market test that the loan shouldn't be made.

These reforms have long been blocked by the powerful housing lobby—Realtors, homebuilders and mortgage bankers, backed by their friends in Congress. They claim FHA makes money for taxpayers through the premiums it collects from homebuyers. But keep in mind these are the same folks who said taxpayers weren't at risk with Fannie Mae and Freddie Mac.

A major lesson of Fan and Fred and the subprime fiasco is that no one benefits when we push families into homes they can't afford. Yet that's what Congress is doing once again as it relentlessly expands FHA lending with minimal oversight or taxpayer safeguards.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Madam President, I applaud the work of Chairman DODD on this issue, as on so many others—fighting the terrible problems of credit card abuse, dealing with the home foreclosure mess—and thank him for his work.

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

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENTS NOS. 1020 AND 1021 TO AMENDMENT NO. 1018

Mr. DODD. Madam President, I know this may confuse some people. I am going to call up a couple amendments for my colleague from Iowa, Senator GRASSLEY. He cannot be here.

I ask unanimous consent to temporarily set aside the pending amendments and call up amendments Nos. 1020 and 1021 on behalf of the Senator from Iowa, Mr. GRASSLEY.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for Mr. GRASSLEY, for himself, Mr. BAUCUS, and Ms. SNOWE, proposes an amendment numbered 1020.

The Senator from Connecticut [Mr. DODD], for Mr. GRASSLEY, proposes an amendment numbered 1021.

The amendments are as follows:

AMENDMENT NO. 1020 TO AMENDMENT NO. 1018

(Purpose: To enhance the oversight authority of the Comptroller General of the United States with respect to expenditures under the Troubled Asset Relief Program)

At the end of the bill, add the following:

#### **TITLE V—ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM**

##### **SEC. 501. ENHANCED OVERSIGHT OF THE TROUBLED ASSET RELIEF PROGRAM.**

Section 116 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5226) is amended—

(1) in subsection (a)(1)(A)—

(A) in clause (iii), by striking "and" at the end;

(B) in clause (iv), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(v) public accountability for the exercise of such authority, including with respect to actions taken by those entities participating in programs established under this Act."; and

(2) in subsection (a)(2)—

(A) by redesignating subparagraph (C) as subparagraph (E); and

(B) by striking subparagraph (B) and inserting the following:

"(B) ACCESS TO RECORDS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, and for purposes of reviewing the performance of the TARP, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by the TARP, any entity established by the Secretary under this Act, or any entity participating in a program established under the authority of this Act, and to the officers, employees, directors, independent public accountants, financial advisors and any and all other agents and representatives thereof, at such time as the Comptroller General may request.

"(ii) VERIFICATION.—The Comptroller General shall be afforded full facilities for verifying transactions with the balances or securities held by, among others, depositories, fiscal agents, and custodians.

"(iii) COPIES.—The Comptroller General may make and retain copies of such books,

accounts, and other records as the Comptroller General deems appropriate.

"(C) AGREEMENT BY ENTITIES.—Each contract, term sheet, or other agreement between the Secretary or the TARP (or any TARP vehicle, officer, director, employee, independent public accountant, financial advisor, or other TARP agent or representative) and an entity participating in a program established under this Act shall provide for access by the Comptroller General in accordance with this section.

"(D) RESTRICTION ON PUBLIC DISCLOSURE.—

"(i) IN GENERAL.—The Comptroller General may not publicly disclose proprietary or trade secret information obtained under this section.

"(ii) EXCEPTION FOR CONGRESSIONAL COMMITTEES.—This subparagraph does not limit disclosures to congressional committees or members thereof having jurisdiction over any private or public entity participating in a program established under this Act.

"(iii) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to alter or amend the prohibitions against the disclosure of trade secrets or other information prohibited by section 1905 of title 18, United States Code, or other applicable provisions of law."

AMENDMENT NO. 1021 TO AMENDMENT NO. 1018

(Purpose: To amend chapter 7 of title 31, United States Code, to provide the Comptroller General additional audit authorities relating to the Board of Governors of the Federal Reserve System, and for other purposes)

At the appropriate place insert the following:

#### **TITLE —COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES**

##### **SEC. —. COMPTROLLER GENERAL ADDITIONAL AUDIT AUTHORITIES.**

(a) DEFINITION OF AGENCY.—Section 714(a) of title 31, United States Code, is amended by striking "Federal Reserve Board," and inserting "Board of Governors of the Federal Reserve System (in this section referred to as the 'Board'), the Federal Open Market Committee, the Federal Advisory Council,".

(b) AUDITS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM AND THE FEDERAL RESERVE BANKS.—Section 714(b) of title 31, United States Code, is amended by striking the second sentence.

(c) CONFIDENTIAL INFORMATION.—Section 714(c) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2)(A) Except as provided under paragraph

(4), an officer or employee of the Government Accountability Office may not provide to any person outside the Government Accountability Office any document or name described under subparagraph (B) if that document or name is maintained as confidential by the Board, the Federal Open Market Committee, the Federal Advisory Council, or any Federal reserve bank.

"(B) The documents and names referred to under subparagraph (A) are—

"(i) any document relating to—

"(I) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

"(II) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations; or

"(III) transactions made under the direction of the Federal Open Market Committee; or

“(ii) the name of any foreign central bank, government of a foreign country, or non-private international financing organization associated with a transaction described under clause (i)(I).”; and

(3) by striking paragraph (4) (as redesignated by this subsection) and inserting the following:

“(4) This subsection shall not—

“(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

“(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.”.

(d) ACCESS TO RECORDS.—

(1) ACCESS TO RECORDS.—Section 714(d)(1) of title 31, United States Code, is amended—

(A) in the first sentence, by inserting “or any entity established by an agency” after “an agency”; and

(B) by inserting “The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency or any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate.” after the first sentence.

(2) UNAUTHORIZED ACCESS.—Section 714(d)(2) of title 31, United States Code, is amended by inserting “, copies of any record,” after “records”.

(e) AVAILABILITY OF DRAFT REPORTS FOR COMMENT.—Section 718(a) of title 31, United States Code, is amended by striking “Federal Reserve Board,” and inserting “Board of Governors of the Federal Reserve System, the Federal Open Market Committee, the Federal Advisory Council,”.

Mr. DODD. Madam President, let me just say that my offering these amendments should not necessarily indicate we have reached an agreement on these amendments. Senator GRASSLEY's staff and our staff are working together to see if we can achieve an agreement on them. We hope we do. But certainly he has the right to raise those amendments, and I was more than happy to offer them on his behalf.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### AMENDMENTS NOS. 1016 AND 1017

Under the previous order, the time until 5:30 shall be equally divided prior to a vote in relation to amendments Nos. 1016 and 1017 offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Louisiana is recognized.

Mr. VITTER. Madam President, I rise to again present my amendments coming up for a vote, Nos. 1016 and 1017. I have spoken before on this floor about them, but I want to summarize briefly.

Amendment No. 1016 is very simple and straightforward, but it is very im-

portant as well. It says any bank that has accepted taxpayer TARP dollars can repay those dollars, with interest, and get out of the program whenever it wants, as long as it meets all of the safety and soundness criteria, and all the capitalization and liquidity criteria that all of the regulators who regulate that bank have on them. Again, this is a very basic but important idea.

The TARP program was designed to stabilize shaky banks. So if a bank wants to give back the money, with interest, as long as it meets all of the safety and soundness criteria—every one in sight—it should be able to do that.

You would think this would be beyond debate. Unfortunately, it is not and, unfortunately, several folks, starting with the Secretary of the Treasury, Timothy Geithner, are refusing to let this happen. In fact, Secretary Geithner has been very clear that this isn't simply up to those banks; it is up to their new senior partner, the Federal Government. It is sort of like when the mob comes in as your partner in a business; you lose complete control and you cannot decide that it is not time for them to buy you out. After that happens, no, no, no, it is no longer your decision.

As the Wall Street Journal recently reported, with regard to an interview with the Secretary, he indicated that the “health of individual banks won't be the sole criteria for whether financial firms will be allowed to repay bailout funds.”

What a great, brave, new world we now live in, where individual private institutions cannot set their own course, cannot decide their own destiny, and cannot even give back taxpayer dollars to benefit the taxpayer, benefit the Treasury, with interest, as long as they meet all of the safety and soundness and capitalization and liquidity requirements in sight.

There is also a provision in my amendment that says Treasury cannot force repayment buyback of the warrants at a price they name. That is completely noncontroversial, since a distinguished member of the majority, Senator JACK REED of Rhode Island, is proposing precisely my same language with regard to warrants. This is an important issue regarding our free market system and whether we are going to allow it to get back to a private firm-based free market system.

I urge my colleagues to support this amendment.

Second is my amendment No. 1017. This amendment has to do with the Federal Housing Administration. It simply focuses like a laser beam on the importance of preserving and protecting the fundamental solvency of the FHA. This amendment requires that the first duty of the FHA is to maintain that solvency. It says if the provisions of this underlying bill, or any other existing requirement, cause the FHA to be reasonably likely to need a bailout from Congress—which a

lot of folks think is imminent—then the Commissioner shall temporarily suspend that program which is causing a need for a bailout and recommend legislation to Congress to fix the situation.

Many observers, including the Wall Street Journal, think it is a virtual certainty that we are headed toward a crippling blow to the FHA needing a bailout from Congress. Rather than rush there and heap more burdens and more requirements and more need for more money on the FHA, which this underlying bill does, perhaps we should put in place some basic protections to the solvency of the FHA. That is what my amendment does very clearly.

With that, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I see my friend from Louisiana is here. I spoke earlier about my colleague's two amendments. I appreciate the spirit and motivation behind them. I will take a couple of minutes to review my concern about them.

First, regarding Senator VITTER's first amendment, No. 1016, dealing with TARP money, I think we all would like money coming back sooner rather than later—getting to a point where these resources come back, with additional interest, to the extent that taxpayers can be made whole as a result of coming up with that money in the first instance and trying to bring stability to the financial markets. There is no debate about that. We agree about that.

There was significant debate that occurred about whether there should be TARP money to begin with. It wasn't all one way. I supported it. I thought it made sense to try to stabilize our economy. I believe most believe that the decision made last September, early October, was the right one. In fact, had we not done that, we probably would have lost major lending institutions in the country over many months. Obviously, this administration inherited a good part of the problem, which didn't begin overnight, and it is trying to grapple with it in a holistic fashion, institution by institution.

My concern with the amendment of my friend from Louisiana is this: He is absolutely correct that, again, if we have an institution that is well capitalized, that is a very important criteria in consideration of when these TARP moneys ought to be repaid. My concern is it is not the only criteria. We have major lending institutions, which I could make a case both in Citi and Bank of America, that are well capitalized but, frankly, they have other issues they are grappling with beyond being well capitalized.

If that was the sole criterion, then we would be able to have the TARP money come back. Citi may want to do that, and Bank of America—and I am not suggesting they do, but they may—

their problems could migrate very quickly to the larger financial problems with which we are trying to deal.

On the one hand, I agree with the motivation, and that is we ought to try to get to the bottom of this as quickly as we can, get the TARP moneys back so the Treasury is replenished with these resources. On the other hand, if we do so prematurely solely on the basis of being well capitalized, we can end up compounding a problem that is already serious and making it far worse.

For that reason, I urge this amendment be rejected. I say that respectfully to my colleague. I don't like getting up and opposing amendments for the simple reason of opposing them. There is a difference here, to have one criteria on which we would depend solely on the determination of returning these dollars, putting the larger issues at risk, I think would not be the right move to make at this point. Therefore, at the appropriate time I will ask for the amendment to be rejected.

Regarding FHA—and, again, I find myself in the awkward position of not disagreeing with my colleague. Solvency is obviously an important issue. Had the rest of the lending institutions in the country been as prudent as FHA, we wouldn't be here talking about this larger problem.

FHA never engaged in the exotic instruments that many others did in the subprime markets with teaser rates and no-doc loans, as they were called, or liar loans. FHA has been a well-run, prudent operation. Today, when very little credit is available for home mortgages, FHA is proving to be vitally important. Thirty percent of the mortgage market today is made up of FHA. If the goal of FHA is strictly the solvency of it—today it is 50 percent above statutorily what it is required to have on a cap of 2 percent, at 3 percent, less than 6 they had a while ago. Obviously, we have to keep an eye on this. But the law statutorily requires the Secretary of the Treasury to notify the Congress when, in fact, there is danger of FHA falling either at or below that 2-percent requirement.

Again, solvency is not insignificant. If that becomes the criteria at a time when we need to be getting more credit out so we begin to get the housing market moving again, I think it is absolutely essential. If FHA is forced to close down just as it is needed most, making it procyclical not countercyclical—which is exactly what we need to be is countercyclical, not procyclical—then we would be turning the recession in the housing area into a depression, which none of us want to see happen.

At this hour, it is very important that we keep FHA moving in that direction, watching, obviously, as my colleague from Louisiana suggests by his amendment, that solvency not be disregarded.

Current statute already requires the Secretary to adjust programs that en-

sure FHA remains financially sound. In fact, like all housing-focused activities, FHA has lost money in this crisis, but it still has more capital than the law requires, and the quality of its borrowers is improving as we speak. That is to be applauded.

At this very moment, were we to move away from FHA when so much of our housing market depends upon them, I think would be a step in the wrong direction. For that reason, I respectfully ask our colleagues to oppose this amendment. Again, I find myself in the awkward position of not disagreeing with what my colleague talks about in the case of both amendments; that is, getting TARP money back as soon as we can and that solvency is a critically important function at FHA. That is why the statute was written the way it was. I agree with him on those points. I am just concerned if in the first case we set a sole criteria of being well capitalized, and in the case of FHA if solvency is the only value, then we lose the value of FHA at a time when housing is having a hard time finding available credit.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Madam President, I appreciate the kind comments of my colleague. I note that he never disagrees with me, although, unfortunately, he always opposes my amendments. We will work through that.

I have a few closing comments. First of all, with regard to my first amendment allowing banks to repay the TARP money as long as they are sound and secure, I note that the U.S. Chamber of Commerce strongly supports this amendment. I have a letter from the Chamber.

I ask unanimous consent to have printed in the RECORD the letter from the Chamber of Commerce.

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

CHAMBER OF COMMERCE  
OF THE UNITED STATES OF AMERICA,  
Washington, DC, May 4, 2009.

TO THE MEMBERS OF THE UNITED STATES SENATE: The U.S. Chamber of Commerce, the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region, supports Vitter Amendment #1 to S. 896, the "Helping Families Save Their Homes Act of 2009." This amendment would remove impediments to the repayment of funds received under the Troubled Asset Relief Program (TARP).

The Chamber supported the passage of the Emergency Economic Stabilization Act (EESA) and the creation of the TARP program. Inadequate credit markets blocked the life blood of the economy forcing thousands of businesses to close and millions of people to lose their jobs. The EESA allows the federal government to undertake temporary measures to stabilize the financial services sector and restore fully functioning credit markets. To bolster the effectiveness of TARP, the Treasury Department requested that otherwise healthy firms enter the program. Those firms have since complied.

While the success and administration of TARP has been hotly debated, the program

was always envisioned as a temporary measure. Last week, House Financial Services Committee Chair Barney Frank was quoted in reports that he envisioned the banking sector being TARP-free within a year and that "it would be good for public confidence" if banks repay TARP funds. Nevertheless, published reports have stated that impediments may exist, or would be put in place, to make the repayment of TARP funds problematic at best.

The Vitter Amendment would remove any impediments to repaying TARP funds. The repayment of TARP funds is an important element in restoring confidence in the financial services sector and a vital and necessary step on the road to economic recovery.

Accordingly, the Chamber urges you to support Vitter Amendment #1 to S. 896.

Sincerely,

R. BRUCE JOSTEN,  
Executive Vice President,  
Government Affairs.

Mr. VITTER. Madam President, I also note a particular line in that letter, which is an excellent point, which is that the repayment of these moneys from TARP banks will actually be an enormously positive confidence-inspiring turn of events, and I think it will do a lot to shore up concern regarding financial institutions that will be correctly perceived as movement in the right direction.

With regard to my second amendment regarding the FHA, I will just note a couple of things. First of all, my amendment does not propose in any way shutting down the FHA under any circumstances. What it says is, if the FHA thinks it is headed toward insolvency, it is going to stop these new mandates on it, these new programs which are pushing it toward insolvency and, at the same time, immediately report to Congress about how we deal with that situation.

Unfortunately, I don't think it is a very well kept secret that this is a grave threat for the FHA to start walking down the path of Fannie and Freddie and everyone else.

Again, the Wall Street Journal wrote in their very prescient article, "The Next Housing Bust," predicting exactly that. There are very many tell-tale signs on the horizon:

According to Mortgage Bankers Association data, more than one in eight FHA loans is now delinquent, nearly triple the rate of conventional non-subprime loan portfolios. Another 7.5 percent of recent FHA loans are in serious delinquency, which means at least 3 months overdue. The FHA is almost certainly going to need a taxpayer bailout in the months ahead.

Let's try to head this off before another collapse, another rattling of the system is upon us and keep the FHA solvent rather than having it shaken, having public confidence rattled once again and having Congress have to act in a complete emergency atmosphere. My amendment would head that off in an effective way.

Madam President, I reserve the remainder of my time to the extent I have any.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I wish to add regarding the FHA amendment,



for my colleague's information, joining me in opposing the amendment are the mortgage bankers, homebuilders, realtors, Lenders One—the people very involved in the residential mortgage market. I note they expressed a concern about the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, there will now be 2 minutes of debate, equally divided, prior to a vote on amendment No. 1016, offered by the Senator from Louisiana, Mr. VITTER.

Mr. DODD. Madam President, I think we are both prepared to waive that time. We have talked enough about the amendments, so I am prepared to waive that time and go right to the vote.

The PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to amendment No. 1016.

Mr. VITTER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator for South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Florida (Mr. MARTINEZ), and the Senator from Arizona (Mr. MCCAIN).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 53, as follows:

[Rollcall Vote No. 176 Leg.]

#### YEAS—39

Barrasso	Dorgan	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Graham	Risch
Brownback	Grassley	Roberts
Bunning	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Cornyn	Kohl	Voinovich
Crapo	Kyl	Webb
DeMint	Lincoln	Wicker

#### NAYS—53

Akaka	Cantwell	Gillibrand
Alexander	Cardin	Gregg
Baucus	Carper	Hagan
Begich	Casey	Harkin
Bennet	Conrad	Inouye
Bingaman	Corker	Kaufman
Boxer	Dodd	Kerry
Brown	Durbin	Klobuchar
Burr	Feingold	Landrieu
Byrd	Feinstein	Lautenberg

Leahy	Murray	Stabenow
Levin	Nelson (FL)	Tester
Lieberman	Pryor	Udall (CO)
Lugar	Reed	Udall (NM)
McCaskill	Reid	Warner
Menendez	Sanders	Whitehouse
Merkley	Schumer	Wyden
Mikulski	Specter	

#### NOT VOTING—7

Coburn	Martinez	Shaheen
Johnson	McCain	
Kennedy	Rockefeller	

The amendment (No. 1016) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 1017, offered by the Senator from Louisiana, Mr. VITTER.

The Senator from Connecticut is recognized.

Mr. DODD. Madam President, I believe Senator VITTER and I are prepared to waive the 2 minutes equally divided.

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

The question is on agreeing to amendment No. 1017.

Mr. DODD. Does my colleague want a recorded vote?

Mr. VITTER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), and the Senator from Oklahoma (Mr. COBURN).

The PRESIDING OFFICER (Mr. BEGICH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 56, as follows:

[Rollcall Vote No. 177 Leg.]

#### YEAS—36

Alexander	Crapo	Kyl
Barrasso	DeMint	Lugar
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Cochran	Hutchison	Snowe
Collins	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Johanns	Wicker

#### NAYS—56

Akaka	Brown	Conrad
Baucus	Burr	Dodd
Bayh	Byrd	Dorgan
Begich	Cantwell	Durbin
Bennet	Cardin	Feingold
Bingaman	Carper	Feinstein
Boxer	Casey	Gillibrand

Hagan	Lincoln	Schumer
Harkin	McCaskill	Specter
Inouye	Menendez	Stabenow
Kaufman	Merkley	Tester
Kerry	Mikulski	Udall (CO)
Klobuchar	Murray	Udall (NM)
Kohl	Nelson (NE)	Voinovich
Landrieu	Nelson (FL)	Warner
Lautenberg	Pryor	Webb
Leahy	Reed	Whitehouse
Levin	Reid	Wyden
Lieberman	Sanders	

#### NOT VOTING—7

Coburn	Martinez	Shaheen
Johnson	McCain	
Kennedy	Rockefeller	

The amendment (No. 1017) was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

#### KENTUCKY DERBY

Ms. LANDRIEU. Mr. President, I know we are probably going to move forward on discussing the underlying bill. I ask unanimous consent to speak about a resolution I would like to discuss for a moment, about a wonderful event that actually took place in our country this weekend.

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

Ms. LANDRIEU. Mr. President, every year for 135 years, the country has been watching and cheering and celebrating the Kentucky Derby.

While this event is not held in Louisiana—it is held in Kentucky—many people in my State and around the country tune in. Some people have the opportunity to actually attend what has become one of the most extraordinary sporting events in our Nation's calendar year. This weekend was no exception. It was an extraordinary race. Anyone who watched it could attest to the tremendous skill of the Louisiana born-and-bred jockey who rode Mine That Bird to a victory in a heart-pounding, quite shocking and surprising victory. So this resolution just simply says:

Whereas Calvin Borel, born and raised in St. Martin Parish, Louisiana, began riding match horses at the age of 8;—

As my husband says, we just sort of strap them on and let them go, but he most certainly learned at a young age—

Whereas Mr. Borel began his professional career as a jockey at the age of 16;

Whereas [he] has won more than 4,500 career starts;

Whereas [he] won the 135th Kentucky Derby by 6¼ length, the greatest winning margin since 1946;

Where [he] is the first jockey since 1993 to win both the Kentucky Oaks—

Which is the fillies race—

and the Kentucky Derby in the same year;

Whereas in 2 minutes and 2.66 seconds, [he] and Mine That Bird completed the race and placed first, making it [his] second Kentucky Derby victory; Now, therefore, be it

*Resolved*, That the Senate commends Calvin Borel and Mine That Bird for their extraordinary victory at the 135th Kentucky Derby.

It is sporting events like this and races run like this on a horse that cost \$9,500, I understand, that was trailored by the owner and its manager that keeps this sport exciting and open for so many. For all of us in Louisiana, we are very proud of this young jockey from down in the bayou, as we say, and for the pride that he brings to our State and to a wonderful industry.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Finally, let me take a moment before the Senator comes back to debate the underlying bill and submit to the RECORD a statement about an event that took place last week on Capitol Hill and actually around the country. It is an event that Senator KAY BAILEY HUTCHISON and I proudly and happily, joyfully sponsor every year for the Senate; that is, Take Our Daughters and Sons to Work Day.

It was started 17 years ago by Ms. Magazine, thinking it might be a good idea for girls, particularly girls between the ages of 10 and 16, to have an opportunity to go to work with their parents because many women, of course, do wonderful work at home raising children and working out of the home. But a lot of important work goes on outside of the home as well. Ms. Magazine thought it would be a great opportunity for girls, particularly, and then, of course, have included boys, to go anywhere where their parents work, whether that work is out of the home or in the home and actually come to appreciate the work that goes into keeping our society moving forward and this country moving forward.

So KAY BAILEY HUTCHISON and I cohosted. The Senator from Texas and I host this every year. I would like to first acknowledge her support, also acknowledge Ms. Magazine that founded this day, and to thank all of our Senators and staffers and workers around the Capitol who participated in that day.

I ask unanimous consent to print in the RECORD the names of the young ladies who joined me that day.

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

Sophie Boudreaux, Meraux, LA, Chalmette High School; Dominique Cravins, Washington, DC, St. Peter's School; Heather Duplessis, New Orleans, LA, Metairie Park Country Day School; Maya English, Baton Rouge, LA, St. George's Episcopal School; Matisse Gilmore, Mitchellville, MD; Monet Gilmore, Mitchellville, MD; Golnaz Kamrad, Washington, DC, Georgetown Day School; Mallory MacRostie, Bethesda, MD, Bethesda Chevy Chase High School; Lily Silva, Washington, DC, Georgetown Day School; Mary Shannon Snellings, daughter of Senator Mary Landrieu, Washington, DC, Georgetown Day School; Mary Agnes Nixon, Washington, DC, Aidan Montessori School; Sydney Rita-Louise Sumas, New Orleans, LA, Ursuline Academy; Kelsey Teo, Bristow, VA, Stonewall Jackson High School; Eliza Warner, daughter of Senator Mark Warner, Alexandria, VA, Potomac School; Brittany Watts, Tickfaw, LA, Hammond High School.

Ms. LANDRIEU. These young ladies and many young men who joined them

had a wonderful day, understanding what happens at the Capitol, working in the Senate. I thank them and their parents for making this day special for us and hope and trust that their day was inspirational to them as they think about their career opportunities in the future.

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

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

Mr. SCHUMER. Mr. President, I will not offer my amendment at the moment. We are still trying to negotiate it. But I want to discuss an amendment I will offer, hopefully, with agreement. That is an amendment that would require the Secretary of the Treasury, in consultation with the Secretary of HUD and other housing-related Federal agencies, to develop a program to address the rising defaults and foreclosures in multifamily properties.

The program is necessary because the same excesses that occurred in the single-family mortgage market also occurred in the multifamily mortgage market, leading to buildings that are significantly overleveraged with rent rolls that are unable to support basic operational expenses and maintenance. The tenants of these buildings had absolutely no input into the misguided decision of the owners and lenders who mortgaged the property beyond supportable levels, but they are the ones who will face the consequences of this investment and foreclosure, as owners are unable to meet monthly payments and maintain the properties.

In New York City alone, it is estimated that 60,000 units of multifamily housing are at risk of disinvestment and foreclosure. We have similar problems in smaller ways in many upstate cities as well. We have seen buildings in New York where in order to make the loan underwriting work, lenders estimated tenant turnover rates that would double or triple the neighborhood average, rent increases that were not even legal under local law, and expected maintenance costs that were actually less than half of what the owner spent in previous years. This kind of basic underwriting malpractice has left tens of thousands of families in New York State and other States vulnerable. We are not the only ones. New York has the eleventh highest multifamily delinquency rate in the country, according to a recent Deutsche Bank report.

The 15 States with the highest multifamily delinquency rates are not concentrated just in the Northeast or on the west coast. This is a truly national problem. I ask my colleagues to listen because their State may be among the one-third, or close to it, the 15 out of

50. They are Tennessee, Georgia, Florida, Michigan, Nevada, Texas, Illinois, Ohio, Indiana, Connecticut, Oklahoma, New York, Kentucky, Missouri, and Mississippi.

While I am strongly supportive of the administration's efforts to help families across the country obtain loan modifications and other financing options, a similar effort to protect tenants of multifamily properties must be made. It must be made in a way to protect the tenants first and foremost and not let the developers and the investors, who did all the wrong, get away with wrongs.

Housing experts in New York have begun to examine options to assist these buildings. There are a number of different ways that might be effective in addressing this problem. So the bottom line is, we need Federal expertise, leadership, and support to help determine the best course of action and implement a program across the country to ensure that innocent tenants do not have to pay the price for the poor decisions of landlords and lenders.

This should be an easy amendment to support. I am not asking for any new money. We are certainly not asking to bail out any of the bad actors or even giving specific directions to the Treasury Department to take this approach or that one, although I have talked to the Secretary of HUD about this problem and, in fact, we worked on some problems related to this when he was the head of the HPD, the housing department in New York City.

What we are doing in this amendment is simply asking the Congress to direct Treasury to examine this problem and develop a program to address it in whatever way they determine best. My hope is that the Treasury will consult with HUD. It is unfair that tenants of multifamily rental buildings are being left out in the cold while single-family homeowners receive focused attention from their agencies. Single-family homeowners should but so should those in multiple developments.

I urge my colleagues to support the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I ask unanimous consent that once the Senate resumes consideration of S. 896 on Tuesday, May 5, the time until 10:50 a.m. be for debate with respect to the Corker amendment No. 1019, with the time equally divided and controlled between Senators DODD and CORKER or their designees; that at 10:50 a.m., the Senate proceed to vote in relation to the amendment, with no amendment in order to the amendment prior to a vote.

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

#### MORNING BUSINESS

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

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

#### NATIONAL TEACHER DAY

Mr. BROWN. Mr. President, tomorrow is National Teacher Day, granting us all an opportunity—an important opportunity—to honor and thank some of the most dedicated public servants in our land: our teachers. Their tireless devotion to the education of our children is the greatest investment made in the future success of this country. At no time is this more obvious than today. I rise to express my gratitude to those who make a difference in young lives every day.

My mother, who passed away 3 months ago, was a high school English teacher. She grew up in Georgia. She taught in Florida. She taught in Ohio. She always stressed the importance of an education but also impressed upon me and my two older brothers the importance of how we use that education.

So many teachers across the country are like my mother. They impart knowledge while they cultivate wisdom. They teach the facts while they encourage the imagination. Most importantly, our teachers inspire us to achieve our greatest goals while providing us with the foundation we need to do so.

There are over 100,000 Ohio teachers who spend each day devoted to the education and enrichment of our children. There is not one Senator here who does not owe his or her achievement in public service to a teacher who lit that path before us. Let's all take the time to remember that support for our teachers today is the surest way to promote a better tomorrow.

#### HEALTH INSURANCE REFORM

Mr. BROWN. Mr. President, in the last 2-plus years, I have held almost 150 roundtables around my State, and there is one thing I know for sure: health care reform must include health insurance reform.

Ohioans—as are North Carolinians and people from Connecticut—are tired of trying to get coverage and being rebuffed because they have a “pre-existing health condition.” They are tired of premiums, deductibles, and copays that keep climbing. They are tired of fighting tooth and nail simply to get their claims paid. They are tired of wondering whether their insurer will pay for them to see the specialist they need, get the medicine they need, have the operation they need. They are tired

of health insurance, which is supposed to ease uncertainty, breeding uncertainty instead. If they lose their job, they lose their insurance. If they get sick, they cannot get insurance. If they submit a claim, it may be paid in a month, in 3 months, in 6 months. Sometimes they fight and fight and fight, and the claim is not paid at all. Ohioans are tired of their insurer treating them like unwanted guests rather than paying customers.

To be meaningful, health care reform must be responsive. And to be responsive, health care reform must address insurance affordability, insurance reliability, and insurance continuity. That requires a two-part strategy.

The first strategy is to give Ohioans and every American more options. They should be able to choose whether to keep the coverage they have or purchase coverage backed by the Federal Government. What is the difference between the two?

The federally backed plan—again, an option—would provide continuity; it would be available in every part of the country, no matter how rural, no matter how sparsely populated, its benefits would be guaranteed, and its cost-sharing would be affordable, no ifs, ands, or buts. The federally backed plan would be an option but certainly not the only option. Americans who have employer-sponsored coverage would still have it. Americans who have individual coverage through a private insurer would still have that. The federally backed insurance would be an option, not a mandate. Some people will choose it, others will not.

One reason such an option—a Federal option—is important is because hundreds of thousands of Americans are losing their jobs and have no place to go, have no affordable coverage options. This would give them one. Where would they turn otherwise? If you have ever tried to purchase affordable coverage in the individual insurance market, you understand why a federally backed insurance program is so important. If you live in a rural area where no affordable insurance coverage is available, you know why a federally backed insurance option is so important. There needs to be an option for people who cannot find what they need in the private insurance market—just as Medicare is there for seniors. The federally backed option will give those under 65 a place to turn.

The second strategy is to fix what is wrong with private insurance. Ohioans should not be discriminated against by insurers based on past health care needs. Take, for example, Debra from Summit County, OH, near Akron. She is one of the nearly 50 million Americans locked out of our health care system because she lacks insurance. Her income is too high for Medicaid, and her preexisting conditions—she has a spinal injury and is recovering from two heart attacks—disqualify her from finding affordable insurance in the private market. As a result, she has piled

up thousands of dollars in unpaid bills and is in constant pain.

She wrote to me:

My only option [is] to start paying for my funeral.

Ohioans should not have to go through 100 hoops just to get a claim paid or see the specialist they need. They should not have to wait for months to receive their claims check. They should not have to pay premiums that break the bank. They should not have to pay copays and deductibles so high that coverage, for all intents and purposes, is meaningless. They should not be subjected to huge bills based on the difference between what their provider charges and their insurer's reasonable and customary payments. When an insurer reimburses providers only pennies on the dollar and patients have to pick up the difference, that is not reasonable. That is not real insurance.

Long story short: Insurance reform, plus the public option, must be part of health care reform. We cannot claim we have fixed our health care system while leaving a fault-riddled insurance system intact. If we give consumers more options, including the option to purchase federally backed coverage designed to provide affordability, reliability, and continuity, and if we reform the private health insurance system to require insurers to actually do their job instead of skirting their liability, we will have gone a long way toward making the U.S. health care system work for every American.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I compliment our colleague from Ohio for his eloquent statement. I think it is important that we all hear our colleagues as to what goes on in our respective States.

I commend my colleague, who has had around 150 roundtables in his State where he has been listening to his constituents on a wide range of issues. I think we all benefit from his report on those meetings.

I say to my colleague from Ohio, those responses you are hearing from your constituents in Ohio are not any different from what we are hearing from all across the country, as I know my colleague is aware. So we thank our colleague very much for that, and his comments on health care are very important.

#### KENTUCKY DERBY

Mr. BINGAMAN. Mr. President, even people who don't follow horse racing, and certainly those who do, have been thunderstruck by this year's Kentucky Derby results. The only reason I mention it is that the horse wearing the blanket of roses this year is a gelding from New Mexico. “Mine That Bird” swept the field on Saturday, coming from so far behind he was last, to win with nearly seven lengths separating him from his nearest competitor.

We have seen his trainer, Bennie "Chip" Woolley, and his owners, Mark Allen and Leonard Blach, talk about this remarkable victory and about the outstanding jockey, Calvin Borel. He took his horse from last to first by the shortest route possible—along the rail. It was a masterful display of ability and skill from all involved, not least the horse, and New Mexicans are delighted that our state is home to this year's Derby winner. It is a first for us.

#### 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:

I appreciate the opportunity to share my feelings on the outlandish energy circumstances of this great country and her citizens. There is no question that increasing prices have caused my family to rethink our spending habits. Though we are able to fuel the vehicles right now, in an attempt to save a little more we are spending substantially less in any other economic environment. We do not go out to eat anymore. Rarely do we seek entertainment the way we have in the past. Though we will still travel, I can only do that because of credit card points from my business. We are also relying on food storage more so we spend a great deal less at the grocery store. All of these combine to make one statement from our household: Current energy prices and future speculation have and will continue to impact our ability to support a once thriving economy.

For my business, I work with truck drivers: owner-operators. I have lost clients as they have shut down because they cannot afford fuel. More are on the way. Everything costs more. I do not need to belabor this point as I know all are feeling this. What I just do not understand is the stubborn bullheadedness in the legislature of those who work to block everything that could ease the pain. It is as if they want to destroy this country and her citizens—even those citizens who elected them. It is as if there is some conspiracy to destroy this country and such actions makes less than no sense to me. I appreciate the few of you who seem to be working to resolve the problem.

Increasing domestic production is the only immediate resolution and future technology

is the only long term resolution. I support green-focused energy but not at the immediate and deadly cost to our society, economy and national security—all of which are on the verge of collapse through our reliance on energy purchased from those who would have us destroyed—enemies foreign and domestic.

Again, thank you for this opportunity.

TROY.

Thank you for allowing us to make our voices heard. I am the mother of six wonderful children. My husband and I have been married almost 15 years. We are raising a beautiful family of good, caring, hard working children. The rising cost of fuel has affected us. We do not even have the option of purchasing a hybrid, or smaller car as our family will not even fit. We will be staying closer to home this summer, though we have family out of town we would love to visit. I do not have a heart-wrenching story to give you, but it affects our family every day. Due to the increasing price of food, clothing, and transportation, we have cut back. We will make it, but it takes money away from savings for college, savings for medical expenses, and just general peace of mind savings. I am a stay-at-home mom, who has thought more than once lately of finding a way to enter the workforce without leaving the upbringing of my six children to someone else.

I would very much like us to open up the resources we have in this great country. It seems ludicrous to me that we have the resources right around us, and yet continue to buy foreign fuels . . . The earth was placed here to support us and we can still take care of it even when tapping into those resources that are so abundant around us. Research alternative energy methods, find ways to harness those things around us to power our lives.

Thank you for listening.

SHEL, Meridian.

My husband and I are frustrated with having to spend so much on gasoline these days when the oil companies are making so high a profit that each quarter they set a new record. Why are they charging so high prices at the pump when they are continuously setting new records? I work in downtown Boise and live in southeast Boise near Micron where there are no public transportation services available and impossible to ride a bicycle. So I have no choice but to drive a car to work. Carpooling is not feasible due to my schedule after work.

If it were not for our Economic Stimulus Tax Rebate check, we would have to cancel our summer vacation to Oregon to visit family and the Oregon Coast. Due to gas prices we cannot make a trip to Washington this summer to visit our three other children and their families. Our daughter and son-in-law who live near Belfair, Washington, are faced with the difficulty with wondering how they will afford heat this winter because they have oil heat in their house. They cannot afford to purchase a new electric furnace nor can they afford to have their oil tank refilled with the current prices. A few weeks ago when it was still cold, they ran out of oil and had the tank refilled one-quarter. It costs them approximately \$450. A tank does not make it through the winter and they can in no way afford to pay current prices.

These prices are causing difficulty for many people and our government needs to take action to have the prices reduced to affordable levels such as more drilling here at home and not relying on foreign resources and other ways to help save energy. Back in the 70s and early 80s when we had the last fuel crisis, the federal government ordered

all states to drop the maximum speed limit to 55 mph so to save fuel. My husband and I find that both of our vehicles get more miles on a tank of gas if we drive under 60 mph so we are doing so. Perhaps the federal government could take this action again because driving 20 miles less per hour is not that difficult when you plan and allow the extra time on a long trip.

BETTY.

I need to express my concerns over the cost of energy. It has affected every part of my life. I drive 40 miles one way to work every day. I do this because I live in the country. My costs have tripled in the last seven years. I am now looking for a job that is closer to home. But, this is my problem. I am 55 years old and the sole support for my husband and I. He got laid off from the INL several years ago after a bad car accident and has not been able to find a job that pays more than \$8 a hour. As I am also older and I look closer to home, it will also cause me to find a lower-paying job with less benefits. I am currently spending about \$500 a month in gas. If I purchase a newer car that gets better gas mileage, I am not gaining anything because I would have to pay a larger car payment and more insurance which would eat up any savings. There is no public transportation in my area that I can use instead of driving. I have tried carpooling, but those who have ridden with me have not paid so, I am hauling people without any help. I am in an endless circle, and I do not appreciate the position it has put me in. I am an older person who sees that I am not going to be able to retire for a very long time.

What do I expect the government to do? I do not expect them to nationalize the oil companies or discourage business. I would like to see more alternative options than just gasoline. There are autos out there in other countries that are running on compressed air. According to the article I read on the internet, we do not accept them in this country because we do not recognize "air" as a fuel. Why not? If it works, let us allow it. Why are we behind other countries. I have heard that we do not have the support system for other resources like hydrogen. Why not? We did not have support for the gasoline engines either but we did it. What happened to the good ole American spirit? We have a can-do attitude and I do not think we should be whipped by the oil companies. Let us give them some competition in other alternative fuels. India uses methane gas to cook with. We have a lot of dairies here in Idaho with a lot of cow "by product" that is definitely renewable. So, lets encourage the American Can Do attitude and support ideas promoting renewable resources.

ELAINE.

Gas prices do not affect us in one single way but in hundreds of ways. They make everything more expensive and work to slow the economy as a whole. People travel less and buy less consumer items because they cost more. Therefore, companies buy less, expand less, and spend less on their facilities. It is like a self-fulfilling prophecy.

Please forget about short-term solutions such as the gas tax amnesty. That is a ridiculous idea. Our real solutions are all long-term. Invest now and in ten or twenty years you'll be patting yourself on the back.

Here are my priorities for making the U.S. energy independent:

1. More drilling everywhere, ANWR, the Gulf Coast, etc. Give oil companies more areas to drill.

2. More nuclear production. Please do everything you can to make it easier and cheaper for companies to put in new reactors.

3. More electric and plug-in hybrid cars. Most people do not seem to make the connection that nuclear, coal, wind, etc. produce electricity and without electric and plug-in hybrid cars, gas prices are not going to go down. We have the technology now for both of these types of cars. Let us start producing them! This is probably the quickest and most immediate way to reduce gas prices. We already have all of the infrastructure in place.

4. Clean coal production. Nuclear alone will not cut it. We need to get off of coal but it is going to take several decades.

#### Low, Low, Priorities:

1. Alternative energy (wind, solar, etc.). It is a ridiculously small percentage of our total power production for several reasons. I know that it is great politically but the technology is generations away. Nuclear is a technology we already have.

2. Hydrogen Vehicles: This technology is a long way off. Also, what about the infrastructure? It would be ridiculously expensive.

I would say this to any politician: Please do what is right for the United States, regardless of what is right for you personally or politically. That is really what we need.

NATHAN, *Idaho Falls.*

You may not like what I have to say. I believe in tough love and tough policies. Current oil prices are causing changes, but they are the types of changes that create a "correction" whereby the cost of fuel is real. It is real that foreign oil prices are too high to ignore. Governments getting in the way of a natural rebellion to that real cost does not offer long-term sustainable solutions. Okay, so I become a bit more frugal with the miles I drive; and so I start looking into buying a more fuel-efficient vehicle. These changes cause real and natural consequences like manufacturers dumping more of their money into creating greener options for consumers. Consumers will rebel against costs. Life-styles will change. Why do not we embrace the positive direction this drives us—away from materialism and consumerism (the hatred of which caused us to be the target of the Taliban in the first place)?

War on terrorism is still war. Showing love to our planet and global community by accepting the consequences of prior mistakes (need I elaborate?) and vowing not to repeat or continue the rape our natural resources: this will heal the hatred. There is something much deeper at stake here than the pocket-books of the American people. I urge you to dig for that, not for petroleum.

All the issues are as connected as we Americans are to the cultures that span the globe.

SUSAN, *Ketchum.*

I am a disabled Vietnam Veteran; my disability benefits are \$914 a month. With the cost of gas now and the rising price of food, I cannot really afford to go anywhere. It takes me three months to save enough extra money to buy a tank of gas to go visit my mother, who is in a home in Jackson, Wyoming. If gas and food prices get any higher, there will be no need for me to even own a car, for I will not be able to afford the insurance and tags.

ROBERT.

I am less concerned about gasoline price than I am about heating fuel. Being recently (involuntarily) placed in the "fixed income" category, I am in a position that I do have a fair amount of discretion regarding the number of miles I drive each year, but as both my wife and myself are advancing in age, thus increasingly more sensitive to hyperthermia, I am much less flexible re-

garding heating. The projected global cooling for the next decade, with return to harsh Idaho winters, simply exacerbates the situation. A few years ago, the highest monthly home energy bill I faced (fuel oil, electricity, and propane) was on the order of \$500. Last winter, that cost rose to \$1,500. Looking at projected fuel and electricity costs, within a few years that will increase to \$3,000. Should that happen, I am faced with the prospect of having to sell my house in order to afford heating it.

In the 1970s, the citizens of this country accepted energy conservation as a stopgap measure to allow the federal government time to devise a self-sufficient and affordable energy infrastructure for the country. The federal government has not only squandered the three decades of grace given it, but has actively blocked all measures attempted by private enterprise to develop a workable domestic energy supply. The only measures that have been taken by the federal government (such as ethanol) have made the situation worse by skyrocketing food costs, which we are only seeing the leading edge of. I raise poultry. A 50-pound bag of turkey finisher (of which corn is a major component) cost \$8 in 2004. In February of this year, it was \$15. Last month, that same sack of turkey finisher was \$30. A 50-pound bag of scratch grain rose from \$5 to \$15 during that same time frame. Chicken feed ain't chicken feed any more, and although transportation costs have contributed to feed cost, it certainly is not the major contributor. Whatever were you people thinking of when you decided to subsidize competition of this country's energy supply with its food supply?

As far as what I want to see our federal government do, first, dissolve the Department of Energy and replace it with a commission drawn from private enterprise, then task them to correct the total failure of the DOE to devise an effective short-term and long-term energy policy for the USA. Second, remove the hobbles the government has placed on the oil companies for using currently known petroleum reserves, including off-shore and, especially, ANWR. Third, roll back the excessive and crippling regulations the federal government has placed on this country. Quit the insane policy of requiring our dwindling number of refineries to produce dozens of different gasoline and diesel blends. Return to a licensing process that allows a nuclear plant, coal-fired plant, or refinery to be on line within five years of license application. Fourth, immediately start rebuilding our nuclear infrastructure. Even if you take the first three steps I propose, we no longer have the internal capability to build and operate nuclear plants at the scale needed for significant contribution to the energy future of the country. Without the government immediately commencing the domestic equivalent of the Manhattan Project, we will find ourselves contracting with France, Japan, and probably even Iran to build and staff our new reactors.

DARWIN, *Idaho Falls.*

I support the development and utilization of our natural resources including drilling on the north slope and extracting shale oil in Utah, Colorado, and Wyoming. Why would we endanger our sovereignty by relying so heavily on foreign oil anyway? We should be producing our own oil like we did in the 80s when the U.S. reacted to the oil embargo of 1973. OPEC realized that we were capable of being self-sufficient so they lowered the price of their oil. The way to contain energy costs is to keep reminding them that if they are going to take advantage of a free world economy then, they will also have to deal with the natural results of competition. Our founding fathers understood the concept—

have we forgotten it? I do not support increased taxes for oil companies or the consumer. Let the oil guys make some money and remove the fetters of exploration, refinement, and drilling. Let us take care of America for a change. Every American should be able to afford to drive—it is part of being free.

DON.

Fewer trips, less fishing, flying when I used to drive—all because the [partisan behavior of politicians]. Most lack plain old 'common sense', lack any business or military horse sense. I believe price of fuel will continue upward until we fix [partisan posturing].

BOB.

I just wanted to take a moment to write to you to let you know how the price of gasoline has affected me and my family and the recent past. I am a student working on my doctorate in Political Science at ISU. This last semester I had to drive down from Rigby to Pocatello five days a week. As you may be aware, that is a one-way distance of about 70 miles. The cost last semester for transportation to and from campus almost broke me. With the prices as they are presently I am lucky that I am only going to have to go to the Pocatello campus one day a week in the fall semester or I would have to drop out because I would not be able to afford the transportation costs simply to get from home to campus and back home again.

My wife works for janitorial service and Idaho Falls as a night supervisor, and part of her job requires her to drive from site to site, delivering supplies, checking on the janitors, and making sure that they have done their job. This means that she spends a good part of her job every night in the car, putting miles on driving from spot to spot. Her job does not pay her for mileage nor for gas used, and does not pay enough for her to be able to deduct her mileage off of her taxes. Since her employer cannot afford to give her a raise and we have no way of being able to recoup the increased costs of her doing her job, we have, in effect, had a cut in income from her. I do not know what can be done and I do not know what should be done, but something needs to change because I know in our case we are falling farther and farther behind simply because of the increased price in gasoline.

There is no doubt in my mind that we cannot drill our way out of this problem. But there is also no doubt that ignoring the option of drilling will make matters that much worse. I believe we need to have a comprehensive energy policy that includes drilling for more oil resources, increased use of natural gas, a reduction in the policies that prohibit the building of nuclear power facilities, and coal liquefaction programs.

Thanks for reading my comments,

JAY, *Rigby.*

## ADDITIONAL STATEMENTS

### TRIBUTE TO CATHY LEWIS

• Mr. BROWN. Mr. President, today I wish to commend and congratulate Cathy Lewis, who has been chosen by the organization Voices for Ohio's Children to receive the 2009 Champion for Children Award.

Voices for Ohio's Children established the Champion for Children Award in 2005 to recognize local individuals or organizations demonstrating a commitment to improving the well-being of children and their families.

Cathy Lewis, from Cleveland, OH, has been a strong and clear voice for children and their families for many years. Cathy's volunteer and philanthropic works have made a real difference in the lives of thousands of Clevelanders, most of whom she is likely never to meet. But her commitment to see our children get a strong start in life and the nurturing development they deserve has changed lives and our community for the better.

Cathy's life has been one of service to others. As chairperson of the board of directors of the Cleveland Foundation from 2001 to 2003, she was instrumental in starting Cuyahoga County's early childhood initiative, Invest in Children. This successful public/private partnership has helped families and communities provide that nurturing environment that we know is essential for the success of our children.

As Americans we are realizing the depth and breadth of the impact of HIV/AIDS on our communities, Cathy stepped up with others to form the Citizens' Committee on AIDS/HIV. This group created a strategy for addressing AIDS prevention, education, and services that continues to this day as the AIDS Funding Collaborative, which she chaired for 10 years.

Cathy currently serves on the Advisory Committee for the Center for International Child Health at Case Western Reserve University, the board of directors of the Institute for Research on Unlimited Love, cochair of the Strong Families=Successful Children Vision Council at United Way, and is a trustee of the George Gund Foundation, where she serves as cochair of the Communications Committee for Invest in Children.

Cathy richly deserves the 2009 Champion for Children Award, and I thank her for her selfless service to Ohioans in need.●

#### TRIBUTE TO JOHN PHILLIPS

● Mr. COCHRAN. Mr. President, I am pleased to commend John Phillips of Holly Bluff, MS, for his service and contributions to the State of Mississippi during 2009, through his service as the 74th president of Delta Council.

Delta Council is an economic development organization representing the business, professional, and agricultural leadership of the 18 delta and part-delta counties of Mississippi. This prominent and widely respected organization was formed in 1935 to deal with the challenges which faced the economy and quality of life of this region of our State.

John Phillips has served as president during a period when our Nation, as well as the State of Mississippi, and the Mississippi delta region, have experienced precedent-setting economic challenges.

As a successful businessman and farmer, John has brought an abundance of practical knowledge to the role of Delta Council president. His ex-

perience and expertise have enabled him also to be an effective advocate for flood protection in the Yazoo-Mississippi River basin. Additionally, he has demonstrated the foresight to accelerate and expand the efforts of Delta Council in other important areas of interest such as improved access to healthcare, adult literacy, early childhood education, and transportation throughout this region of our State.

John has also proven himself to be an exemplary conservationist by supporting efforts to protect wildlife and other valuable natural resources. He has utilized his year of service as president of Delta Council to advance the economic opportunities of all of the people of the Mississippi delta region. I am confident that John will continue to be an effective leader for the Mississippi delta in the years ahead.

In Mississippi we appreciate John Phillips, and his wife Ann Elise, their son, Jack, and their daughters, Whitney and Reid, for the sacrifices they have made to help improve the quality of life of all who live in the Mississippi delta.●

#### HONORING THE NEW HAMPSHIRE STUDENT HONOREES IN THE 2009 PRUDENTIAL SPIRIT OF COMMUNITY AWARDS

● Mrs. SHAHEEN. Mr. President, I would like to congratulate and honor two young New Hampshire students who have achieved national recognition for exemplary volunteer service in their communities. Edward Zaremba III of Hampstead and Colleen Slein of Salem have just been named State Honorees in the 2009 Prudential Spirit of Community Awards program, an annual honor conferred on only one high school student and one middle school student in each State.

Mr. Zaremba was nominated by Pinkerton Academy for his work in co-founding a club at his school that promotes awareness and inclusion of students with developmental disabilities. The club sponsors social events throughout the year so that classmates with and without disabilities cannot only have fun together, but learn from each other as well.

Ms. Slein was nominated by St. Joseph Regional Catholic School for her work raising money for the Cystic Fibrosis Foundation. She baked cookies and cupcakes every night for 2 months and sold them at school the next day, raising a total of \$440 for this very worthy organization.

It is important that we encourage and support the kind of selfless contributions these young people have made. People of all ages need to think more about how we, as individual citizens, can work together at the local level to ensure the health and vitality of our towns and neighborhoods. Young volunteers such as Mr. Zaremba and Ms. Slein are examples to all of us, and I commend them for their service.

I would also like to congratulate two other young people in my State of New

Hampshire who were named Distinguished Finalists by the Prudential Spirit of Community Awards for their outstanding volunteer service. Rachel Liff of Bedford prepared a handbook for Special Olympics athletes and volunteers, and Jane Stark of Merrimack raised money to purchase water filtration systems for people living in developing countries.

All these young people have demonstrated a level of commitment and accomplishment that is encouraging in today's world, and they deserve our admiration and respect. Their initiative shows that young Americans can—and do—play important roles in their communities, and that America's community spirit continues to hold great promise for the future.●

#### TRIBUTE TO JOHN A. GARRETT

● Mr. SHELBY. Mr. President, today I pay tribute to John A. Garrett, an honorable Alabamian and a good friend of mine. On Sunday, May 10, 2009, John A. will celebrate his 100th birthday.

John A. was born in 1909 in Bay Minnette, AL. He graduated from Alabama Polytechnic Institute, now known as Auburn University, in 1936, the same year that he married the love of his life, Katherine Virginia Stowers, at the Snowdown United Methodist Church in Montgomery. Together, they have two daughters, Kitty Walter Dawson and Mary John, a son-in-law Sim Byrd, three grandchildren, and five great-grandchildren.

Most people in Alabama know John A. for his many contributions to Alabama's agriculture industry. During the 1950s, he served as the State director of commodity services for the Alabama Farm Bureau. Later, he would go on to own and operate Cherokee Builders, an industrial and commercial construction business.

In 1969, he was appointed by President Nixon to serve as the director of the Alabama Farmer's Home Administration, a position he would hold until 1977. In the early 1970s, John A. became a nationally recognized leader on agricultural and water issues. Later, at the age of 68, John A. established the Alabama Rural Water Association, an organization of which he served as executive director for 17 years.

An avid leader, John A. is the recipient of many honors and awards. In 1970, John A. was designated an Honorary State Farmer by the Future Farmers of America. Two years later, he relieved the ACTION Federal Employee Distinguished Voluntary Service Award for his extraordinary volunteer service. In 1985, Auburn University honored John A. for his outstanding services on the Montgomery County Auburn Committee. He was named Alabama Arthritis Foundation Humanitarian of the Year in 1989 and was inducted into the Alabama Senior Citizens Hall of Fame in 1991.



John A. is also known for his wit and wisdom. In addition to authoring numerous poems, John A. penned the secrets to a wonderful life: a positive attitude and thinking, clean living, and "Toddy Time" every afternoon. Indeed, Congress should live by his rules.

Today, John A. remains very active in his community. He attends the monthly meetings of the Snowdown community, Snowdown Volunteer Fire Department, Montgomery County Alfa, and the Alabama Cattlemen's Association. John A. can also frequently be found greeting the visitors at his gift shop on Mulberry Street or riding on his farm and tending to his cattle.

On the day of his 100th birthday, John A. will be celebrated by his friends and family, and honored for his dedication and many contributions to Alabama. I wish him much luck in his future endeavors, and I ask this entire Senate to join me in recognizing and honoring the life of my good friend John A. Garrett.●

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mrs. Neiman, 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 appropriate committees.

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

#### MESSAGE FROM THE HOUSE

##### ENROLLED BILL SIGNED

At 2:08 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 735. An act to ensure States receive adoption incentive payments for fiscal year 2008 in accordance with the Fostering Connections to Success and Increasing Adoptions Act of 2008.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs:

Report to accompany S. 414, a bill to amend the Consumer Credit Protection Act, to ban abusive credit practices, enhance consumer disclosures, protect underage consumers, and for other purposes (Rept. No. 111-16).

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs.

\*Ivan K. Fong, of Ohio, to be General Counsel, Department of Homeland Security.

\*Timothy W. Manning, of New Mexico, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.

\*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. LEVIN (for himself and Ms. COLLINS):

S. 961. A bill to authorize the regulation of credit default swaps and other swap agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

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

S. 962. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; to the Committee on Foreign Relations.

By Mr. ALEXANDER:

S. 963. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers a flat tax alternative to the current income tax system; to the Committee on Finance.

By Mr. FEINGOLD (for himself, Mr. REID, Mr. KOHL, and Mr. KENNEDY):

S. 964. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. LaFollette, Sr., in recognition of his important contributions to the Progressive movement, the State of Wisconsin, and the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 965. A bill to approve the Taos Pueblo Indian Water Rights Settlement Agreement, and for other purposes; to the Committee on Indian Affairs.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. WHITEHOUSE)):

S. 966. A bill to improve the Federal infrastructure for health care quality improvement in the United States; to the Committee on Finance.

By Mr. BINGAMAN:

S. 967. A bill to amend the Energy Policy and Conservation Act to create a petroleum product reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for himself, Mr. PRYOR, Mrs. MURRAY, Mr. MENENDEZ, and Mr. BENNET):

S. 968. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. INOUE (for himself, Mr. AKAKA, and Mr. KERRY):

S. Res. 126. A resolution commemorating the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawai'i; considered and agreed to.

By Ms. SNOWE:

S. Res. 127. A resolution recognizing the members of the United States Army and the physicians of Maine Medical Center for the open-heart surgery they performed on a 6-year-old Iraqi girl; to the Committee on Armed Services.

#### ADDITIONAL COSPONSORS

S. 146

At the request of Mr. KOHL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 146, a bill to amend the Federal antitrust laws to provide expanded coverage and to eliminate exemptions from such laws that are contrary to the public interest with respect to railroads.

S. 211

At the request of Mrs. MURRAY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services and volunteer services, and for other purposes.

S. 229

At the request of Mrs. BOXER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 229, a bill to empower women in Afghanistan, and for other purposes.

S. 238

At the request of Mr. WYDEN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 238, a bill to provide \$50,000,000,000 in new transportation infrastructure funding through bonding to empower States and local governments to complete significant infrastructure projects across all modes of transportation, including roads, bridges, rail and transit systems, ports, and inland waterways, and for other purposes.

S. 410

At the request of Mrs. LINCOLN, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 410, a bill to amend part E of title IV of the Social Security Act to ensure States follow best policies and practices for supporting and retaining foster parents and to require the Secretary of Health and Human Services to award grants to States to improve the empowerment, leadership, support, training, recruitment, and retention of foster care, kinship care, and adoptive parents.

S. 423

At the request of Mr. AKAKA, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of

S. 423, a bill to amend title 38, United States Code, to authorize advance appropriations for certain medical care accounts of the Department of Veterans Affairs by providing two-fiscal year budget authority, and for other purposes.

S. 475

At the request of Mr. BURR, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from Nevada (Mr. ENSIGN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 475, a bill to amend the Servicemembers Civil Relief Act to guarantee the equity of spouses of military personnel with regard to matters of residency, and for other purposes.

S. 476

At the request of Mrs. BOXER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 476, a bill to amend title 10, United States Code, to reduce the minimum distance of travel necessary for reimbursement of covered beneficiaries of the military health care system for travel for specialty health care.

S. 546

At the request of Mr. REID, the names of the Senator from Vermont (Mr. SANDERS) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 546, a bill to amend title 10, United States Code, to permit certain retired members of the uniformed services who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special Compensation.

S. 566

At the request of Mr. DURBIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 566, a bill to create a Financial Product Safety Commission, to provide consumers with stronger protections and better information in connection with consumer financial products, and to give providers of consumer financial products more regulatory certainty.

S. 581

At the request of Mr. BENNET, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 581, a bill to amend the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966 to require the exclusion of combat pay from income for purposes of determining eligibility for child nutrition programs and the special supplemental nutrition program for women, infants, and children.

S. 584

At the request of Mr. HARKIN, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Vermont (Mr. SANDERS) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. 584, a bill to ensure that all users of the transportation system, including pedestrians,

bicyclists, transit users, children, older individuals, and individuals with disabilities, are able to travel safely and conveniently on and across federally funded streets and highways.

S. 614

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

S. 634

At the request of Mr. HARKIN, the names of the Senator from Rhode Island (Mr. WHITEHOUSE) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 634, a bill to amend the Elementary and Secondary Education Act of 1965 to improve standards for physical education.

S. 644

At the request of Mr. THUNE, his name was added as a cosponsor of S. 644, a bill to amend title 10, United States Code, to include service after September 11, 2001, as service qualifying for the determination of a reduced eligibility age for receipt of non-regular service retired pay.

S. 645

At the request of Mrs. LINCOLN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Montana (Mr. TESTER) were added as cosponsors 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. 663

At the request of Mr. NELSON of Nebraska, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 663, a bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 682

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 682, a bill to amend the Public Health Service Act to improve mental and behavioral health services on college campuses.

S. 701

At the request of Mr. KERRY, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 701, a bill to amend title XVIII of the Social Security Act to improve access of Medicare beneficiaries to intravenous immune globulins (IVIG).

S. 714

At the request of Mr. WEBB, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 714, a bill to establish the National Criminal Justice Commission.

S. 823

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 823, a bill to amend the Internal Revenue Code of 1986 to allow a 5-year carryback of operating losses, and for other purposes.

S. 828

At the request of Mr. HARKIN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 828, a bill to amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes.

S. 832

At the request of Mr. NELSON of Florida, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 832, a bill to amend title 36, United States Code, to grant a Federal charter to the Military Officers Association of America, and for other purposes.

S. 841

At the request of Mr. KERRY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 841, a bill to direct the Secretary of Transportation to study and establish a motor vehicle safety standard that provides for a means of alerting blind and other pedestrians of motor vehicle operation.

S. 846

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Alaska (Mr. BEGICH), the Senator from Hawaii (Mr. AKAKA), the Senator from Vermont (Mr. SANDERS) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 846, a bill to award a congressional gold medal to Dr. Muhammad Yunus, in recognition of his contributions to the fight against global poverty.

S. 866

At the request of Mr. REED, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 866, a bill to amend the Elementary and Secondary Education Act of 1965 regarding environmental education, and for other purposes.

S. 883

At the request of Mr. KERRY, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 883, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the Medal of Honor in 1861, America's highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States, to honor the American military men and women who have been recipients of the Medal of Honor, and to promote awareness of what the Medal of Honor represents and how ordinary Americans, through courage, sacrifice, selfless service and patriotism, can challenge fate and change the course of history.

S. 908

At the request of Mr. BAYH, the names of the Senator from Maine (Ms. SNOWE), the Senator from Washington (Ms. CANTWELL) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 908, a bill to amend the Iran Sanctions Act of 1996 to enhance United States diplomatic efforts with respect to Iran by expanding economic sanctions against Iran.

S. 909

At the request of Mr. KENNEDY, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors 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. CON. RES. 19

At the request of Mrs. BOXER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 19, a concurrent resolution expressing the sense of Congress that the Shi'ite Personal Status Law in Afghanistan violates the fundamental human rights of women and should be repealed.

S. RES. 76

At the request of Ms. CANTWELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 76, a resolution expressing the sense of the Senate that the United States and the People's Republic of China should work together to reduce or eliminate tariff and nontariff barriers to trade in clean energy and environmental goods and services.

S. RES. 125

At the request of Mr. LAUTENBERG, the names of the Senator from Illinois (Mr. BURRIS), the Senator from Connecticut (Mr. DODD), the Senator from New York (Mrs. GILLIBRAND) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. Res. 125, a resolution in support and recognition of National Train Day, May 9, 2009.

AMENDMENT NO. 1030

At the request of Mr. THUNE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of amendment No. 1030 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1033

At the request of Mr. CASEY, the names of the Senator from Ohio (Mr. BROWN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 1033 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1036

At the request of Mr. KERRY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 1036 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1038

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 1038 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

AMENDMENT NO. 1040

At the request of Mr. REED, the names of the Senator from California (Mrs. BOXER), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. SCHUMER), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Illinois (Mr. DURBIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of amendment No. 1040 intended to be proposed to S. 896, a bill to prevent mortgage foreclosures and enhance mortgage credit availability.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Ms. COLLINS):

S. 961. A bill to authorize the regulation of credit default swaps and other swap agreements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, I am introducing legislation today, along with Senator COLLINS, to strengthen the transparency, accountability, and stability of a key aspect of our nation's financial system. Right now, trillions of dollars in complex financial transactions known as swap agreements are being marketed, traded, and implemented by financial institutions operating in the U.S. without adequate oversight or regulation.

Swaps are typically an agreement between two parties placing a bet on future cash flows. Some swaps bet on whether a stock price, interest rate, commodity price, or currency value will rise or fall; others bet on whether a company will default on payment of a bond. Stock price bets are referred to as equity swaps; bets on whether companies will be unable to pay their debts are referred to as credit default swaps.

As of June 2008, according to data compiled by the Bank of International Settlements, worldwide swaps markets included credit default swaps with a total notional value of \$57 trillion; commodity swaps with a notional value of \$13 trillion; equity swaps with a notional value of \$10 trillion; foreign currency swaps with a notional value of \$62 trillion; and interest rate swaps with a notional value of \$458 trillion. These multi-trillion-dollar swap transactions are going on full bore, without appropriate U.S. disclosure requirements, clearing requirements, capital or liquidity safeguards, or other measures to protect the U.S. financial system against systemic risk.

Why? Because current law prohibits key Federal financial regulators—in-

cluding the Securities and Exchange Commission, SEC, and the Commodities Futures Trading Commission, CFTC—from exercising oversight or issuing regulations to ensure the safety and soundness of swap transactions. That prohibition has been in place for nearly 10 years now, since the year 2000; it has never made any sense; it helped cause the financial crisis that is engulfing the American economy; and it ought to be eliminated immediately.

The bill we are introducing today, the Authorizing the Regulation of Swaps Act, would do just that. It would immediately repeal the statutory prohibition on the SEC and CFTC from regulating swaps. In addition, the bill would give authority to federal financial regulators, including bank, securities, and commodities regulators, to oversee and regulate all types of swap agreements, whether traded on an exchange or over-the-counter, including credit default, commodity, equity, foreign currency, and interest rate swaps. The bill would enable financial regulators, for the first time since 2000, to exercise oversight of the now largely hidden and unregulated swaps markets.

To understand why this legislation is needed and should be enacted promptly without waiting for the larger financial reform bill that's coming, I want to review some history. Twelve years ago, in 1997, Brooksley Born, then the head of the CFTC, raised a red flag about the growing use of over-the-counter swaps and other derivatives that were being traded outside of regulated exchanges and outside of normal federal oversight. She called for a study of those over-the-counter transactions and for comments on whether they should be subject to some type of regulation.

Her effort was immediately met with resistance, however, from not only the financial industry that profited from swaps trading, but also other Federal regulators then in office. For example, then Federal Reserve Chairman Alan Greenspan, then Treasury Secretary Robert Rubin, and then SEC Chairman Arthur Levitt all opposed her effort to even examine over-the-counter swap agreements. The dominant view at the time was that regulation was unnecessary and would only slow down a booming market.

In 1998, at the urging of then Chairman Greenspan, Secretary Rubin, Chairman Levitt, and others, Congress enacted legislation which actually barred the CFTC from conducting the study that Chairman Born wanted and from developing any regulatory alternatives for over-the-counter swaps.

In 2000, Congress went farther. In late December, during the final days of the 106th Congress, legislation affecting a range of financial issues was slipped without notice into a conference report of an omnibus appropriations bill. That legislation, called the Commodity Futures Modernization Act, included provisions which together created a flat out prohibition on the regulation of every kind of swap the authors could

think of, including credit default, commodity, equity, foreign currency, interest rate, and even weather swaps. That type of sweeping statutory prohibition had never been included in any bill voted on by the Senate before being inserted into a must-pass appropriations bill in December 2000. That omnibus appropriations bill was approved by the Senate on a voice vote.

Today we are living with the disastrous consequences of that ill-conceived prohibition on the regulation of swaps.

One example says it all: AIG. AIG is a financial holding company that, all by itself, has cost taxpayers more than \$150 billion so far. Over a period of years, AIG had issued more than \$400 billion in credit default swaps without setting aside sufficient capital or liquidity reserves. After its swaps began losing value, AIG's counterparties required AIG to post multi-billion-dollar collateral to secure payment on those swaps, and a credit rating downgrade threatened to increase its collateral calls. AIG came pleading for a taxpayer bailout. The \$150 billion in taxpayer dollars was needed not only to keep AIG afloat, but also to bail out a dozen other large financial institutions that had purchased credit protection from AIG, including Goldman Sachs, Merrill Lynch, and Bank of America.

Apparently, none of those credit default swap exposures had been known to Federal regulators until AIG informed the Federal Reserve on a Friday that it was likely to go out of business the following week unless provided billions in taxpayer support. When regulators understood how far in the hole AIG had fallen and how many financial institutions would be affected by its financial collapse, they determined that they had no choice but to prop up the whole mess with taxpayer dollars.

AIG is not the only financial institution with risky credit default swaps. But even if federal regulators know of other high-risk problems, the law has tied their hands in terms of what steps can be taken in response. Even measures that most experts believe would reduce systemic risks, such as requiring companies to use credit default swap clearinghouses or requiring traders to disclose all credit default swap transactions, cannot be fully implemented, because Federal agencies lack the authority to regulate swaps.

Seven months ago, during a Senate hearing in September 2008, Christopher Cox, then chairman of the SEC, testified that the credit default swap market was "completely lacking in transparency" and "ripe for fraud and manipulation." A few days later he called on Congress to take "swift action" to give regulators the authority to oversee credit default swaps. But the statutory barriers prohibiting swaps regulation have remained in place.

Giving the regulators what they have asked for is long overdue. It does not make sense for Federal regulators to be

statutorily barred from requiring disclosure of swap transactions, mandating use of clearinghouses, or imposing other safeguards particularly in light of the size of the swaps market with trillions of dollars in credit default swap, interest rate, commodity, equity, foreign currency, and other swaps.

Even some past opponents of swaps regulation have rethought their opposition.

Alan Greenspan acknowledged last October that there are "serious problems" associated with credit default swaps.

Robert Rubin recently acknowledged that derivatives, which include swaps, "create systemic risk."

Arthur Levitt said it was a mistake not to have regulated swap agreements.

Top financial officials in the Obama Administration, including Treasury Secretary Tim Geithner, National Economic Council Chairman Larry Summers, SEC Chair Mary Schapiro, and CFTC nominee Gary Gensler have all called publicly for stronger regulation of over-the-counter transactions, including swap agreements.

Congress and the Administration are now engaged in an effort to enact comprehensive financial reforms to safeguard our economy. While some of those reforms require a lot of time and deliberation to get right, others can—and should—be implemented more quickly. Removing the prohibition on regulating swaps is one of those reforms that can and should be done now, so our regulators can begin, without the hindrance of ill-conceived statutory barriers, to design a sensible regulatory framework for swaps.

Here is what my bill would do. First, it would repeal about a dozen provisions in the Commodity Futures Modernization Act and other laws that prevent federal financial regulators from overseeing and regulating swap agreements. Second, it would give Federal financial regulators, including bank, securities, and commodity regulators, immediate authority to oversee and regulate swaps involving the financial institutions and exchanges that they already regulate. To ensure regulators have sufficient authority, the bill would use the same comprehensive definition of swap agreement that is used in current law to prohibit swaps regulation.

These measures would give regulators immediate authority to acquire swap-related data. That would allow them to evaluate swap risks at specific companies as well as across the financial system. Regulators could then use this data to look into what additional safeguards are needed and what abuses need to be stopped.

One thing the bill would not do is require federal financial regulators to regulate swaps or tell them how to regulate swaps if they decide to do so. That is left for the larger regulatory reform bill coming later this year. The

only instruction provided in this bill is that, if any regulator decides to act, it must consult, work, and cooperate with all of the other federal financial regulators to ensure swaps are treated in a consistent way.

I see this bill as a necessary first step to eliminate harmful statutory barriers that tie regulators' hands, impede oversight of the multi-trillion-dollar swaps markets, and create systemic risk. The bill does not take the needed second step of laying out ways to regulate swaps. It does not, for example, specify swaps recordkeeping, disclosure requirements, clearing requirements, capital or liquidity safeguards, or other measures. Senator COLLINS has another bill that, in part, addresses credit default swaps clearinghouses; I have a separate bill that specifies safeguards in the area of commodity swaps. Other colleagues have introduced bills that address a variety of swaps issues. The legislation we are introducing today does not contradict or preclude any of those other approaches it is an interim measure that would clear the way for more specific swaps requirements in subsequent reform legislation.

The Levin-Collins bill offers a limited, commonsense way to restore immediate federal authority over a high-risk, high-dollar financial sector that has operated for too long in the shadows, and whose failure has cost us hundreds of billions of dollars so far. Due to the trillions of dollars and financial risk involved, I urge the Senate to act on this bill as soon as possible.

I would also like to take a moment to extend my thanks and appreciation to the SEC, CFTC, and Treasury officials who took the time to provide technical assistance in drafting this legislation. I hope those agencies, and the Obama Administration as a whole, will announce their support for the bill and work for its enactment.

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

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

#### SUMMARY OF LEVIN-COLLINS AUTHORIZING THE REGULATION OF SWAPS ACT

The Authorizing the Regulation of Swaps Act, introduced by Senator Carl Levin, D-Mich., and cosponsored by Senator Susan Collins, R-Maine, is intended to give federal financial regulators immediate authority over swap agreements in light of the fact that trillions of dollars in swap transactions continue to be marketed, traded, and implemented in the United States without adequate federal oversight or regulatory authority. Hundreds of billions of taxpayer dollars have already been expended to overcome the failures of firms that engaged in unregulated swaps. The bill contains the following provisions.

Repeal Existing Prohibitions on Regulating Swaps. The bill would repeal over a dozen provisions in existing law, including in the Commodity Futures Modernization Act of 2000, which prohibit federal financial regulators from regulating swap agreements.

Authorize the Regulation of Swaps. The bill would give authority to federal financial

regulators, including bank, securities and commodities regulators, to oversee and regulate all types of swap agreements, including credit default, commodity, equity, interest rate, and foreign currency swaps. The bill uses the same definition of swap agreement that is used in current law to prohibit swaps regulation, and would authorize federal oversight and regulation of all exchange-traded and over-the-counter swaps.

**Require Consistent Treatment of Swaps.** The bill does not require federal regulators to regulate swap agreements—it merely authorizes such regulation and removes barriers that have prevented this regulation since 2000. Nor does the bill provide any direction to federal financial regulators on how to regulate swaps other than to require them to consult, work, and cooperate with each other to promote consistency in the treatment of swap agreements.

**Establish Interim Authority.** By removing existing statutory prohibitions and providing federal financial regulators with authority to oversee and regulate swaps, the bill would eliminate harmful statutory barriers, give regulators immediate interim authority over multi-trillion-dollar swaps markets, and clear the way for more specific swaps requirements in subsequent comprehensive financial reform legislation later this year.

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

S. 962. A bill to authorize appropriations for fiscal years 2009 through 2013 to promote an enhanced strategic partnership with Pakistan and its people, and for other purposes; to the Committee on Foreign Relations.

Mr. KERRY. Mr. President, I rise today to join my colleague, the ranking member of the Foreign Relations Committee, Senator LUGAR, in introducing what we consider to be an important piece of legislation from our committee and an important initiative for the administration and for the Congress and the American people. We are joining today to introduce the Enhanced Partnership with Pakistan Act. I believe the legislation has already been placed at the desk.

This is legislation that will fundamentally change America's policy toward Pakistan, and I hope over time it will fundamentally change America's relationship with the people of Pakistan as well.

I especially thank Senator LUGAR for his partnership in crafting this legislation and for his ongoing leadership on this issue.

It is hard to overstate the importance of Pakistan to our national security. In fact, every day the newspapers are full of events that are transpiring there and of the challenges we face. Pakistan is a nation which could either serve as a force for stability and progress in a volatile region or it could become an epicenter for radicalism and violence on a cataclysmic scale.

This is a nation of striking contradictions and on divergent paths forward.

On one hand, we all know Pakistan is a nation where Osama bin Laden and the leadership of al-Qaida have found sanctuary for the past 7 years—a haven from which they and their confederates

have plotted and carried out attacks on their host country, on neighboring countries, and on sites around the globe—a nation that has in recent weeks seen the Taliban advance to within 60 miles of its capital, and a nation with a full arsenal of nuclear weapons and ballistic missiles capable of delivering them anywhere in a 1,000-kilometer range.

On the other hand, Pakistan is also a nation whose 170 million people are overwhelmingly moderate, overwhelmingly committed to democracy and rule of law; a major non-NATO ally that has sacrificed the lives of 1,500 of its soldiers and police in the fight against terrorism and insurgency; and a nation that has lost more of its citizens to the scourge of terrorism than all but a tiny handful of countries throughout the world.

In short, Pakistan has the potential either to be crippled by the Taliban or to serve as a bulwark against everything the Taliban represents. That is why the Obama administration and many of us in Congress see the need for a bold new strategy for Pakistan. The status quo has not brought success, the stakes could not be higher, and we have little choice but to think differently—in fact, to think bigger—about what these challenges are. The Enhanced Partnership With Pakistan Act is the centerpiece of this new approach, which is why President Obama has called on Congress to pass it.

An earlier version of this bill was reported out of the Foreign Relations Committee in July with overwhelming bipartisan support. This version builds upon its predecessor in a number of important ways. First, this new legislation directs \$100 million toward an urgent need: police reform and equipping. Second, it mandates strict accountability from the administration as to every dollar that is spent, using benchmarks and metrics to measure and adapt our performance. Third, in light of the acute security challenge on the ground today, this bill gives our Ambassador the flexibility needed to respond to events as they unfold.

We believe this bill is urgently needed. For decades, the United States has sought the cooperation of Pakistani decisionmakers through military aid—almost exclusively military aid—while paying scant attention to the wishes and urgent needs of the population itself. This arrangement is, frankly, rapidly disintegrating. We believe we are paying too much for one thing and getting too little for a broad number of things we really need. When I say “we,” I really emphasize the Pakistani people's needs. The desires and aspirations of the Pakistani people have never been adequately focused on or attended to sufficiently in these policies. Most Pakistanis understand that they have been, frankly, left out of the policy in broad terms. As a result, an alarming percentage of the Pakistani population now sees America as a greater threat than al-Qaida. Until we

change that perception, there is, frankly, very little chance of ending tolerance for terrorist groups or persuading any Pakistani Government to devote the political capital necessary to deny such groups and to deny them the sanctuary they have been able to receive, particularly in the western part of the country, as well as to deny them the covert material support which they have also been able to get from a number of different sources.

The dangers of inaction are rising almost every day. So when people measure this legislation, that is really what they have to consider. What happens if you do nothing? Well, if you do nothing, it is clear that the march of terror that is taking hold in a number of different places clearly threatens nuclear weapons that might then potentially fall into hands that are completely unpredictable. In fact, to whatever degree they might be predictable, one can only see danger in that kind of eventuality. The dangers of inaction are real. Almost any scenario played out plays against the broader interests of the Pakistani people and of the democratic Government which struggles today to provide services and to govern them.

In the month since President Obama called on Congress to pass the bill we are now introducing, the situation on the ground in Pakistan has deteriorated significantly. The Government struck what many of us believed and said at the time was an ill-advised deal that effectively surrendered the Swat Valley to the Taliban. The deal, predictably—as many of us said—emboldened the Taliban to deploy the same brutal tactics they had used in both Pakistan and Afghanistan and to use their base in Swat to then extend their reach ever closer to the country's heartland.

I emphasize—I know Senator LUGAR will join me in emphasizing this—ultimately, it is not the United States or the policy of the United States that is going to decide what happens in Pakistan. Ultimately, it will be Pakistanis, not Americans, who must determine their nation's future. But we can change the nature of our relationship and we can empower those Pakistanis who are fighting to steer the world's second largest Muslim country onto a path of moderation and stability and regional cooperation. That is the foundation of the bill Senator LUGAR and I are introducing.

Frankly, I have seen firsthand how this approach works. Following the 2005 Kashmir earthquake, the United States spent nearly \$1 billion on relief efforts. Having visited places, as I did then, such as Mansehra and Muzaffarabad in the earthquake's aftermath, I can personally attest to the awesome power of the operation we launched. I will never forget flying up in a helicopter to the northwest part of Pakistan, not far from the big Himalayas, where one could see off in the distance, and landing in a small spot by the river and meeting kids in a

tent city because this was the first time those kids had ever come out of the mountains and, in fact, the first time any of those kids had ever gone to school. It was extraordinary to see the sight of American service men and women saving the lives of Pakistani citizens. Frankly, it was invaluable in changing the perceptions of America in Pakistan. At that period of time, while we provided that assistance and while we were visibly involved in saving lives, not in taking them, the fact is that the reputation of the United States in the country as it was measured by polls at the time markedly increased, very dramatically increased.

In the wake of that natural disaster, we weren't the only ones to recognize the need for public diplomacy based in deeds rather than in words. The front group for the terrorist organization Lashkar-e Taiba set up a string of professional relief camps throughout the region trying to mimic what we were doing. But our effort was far more effective, and the permanent gift of the U.S. Army's last mobile Army surgical hospital, or MASH, had a profound impact on the perceptions of people in the region. For a brief period, America was going toe-to-toe with extremists in a true battle of hearts and minds, and we were winning.

It is up to us to recreate this kind of success on a broader scale, without waiting for a natural or even a man-made disaster. The question is, How can we most effectively demonstrate the true friendship of the American people for the Pakistani people?

We believe this bill is an important first step. It is a prime example of what we call "smart power" because it uses both economic and military aid to achieve an overall effect that is greater than the sum of its parts. On the economic side, this bill triples non-military aid to \$1.5 billion annually for 5 years and urges an additional 5 years of funding. These funds will be used to build schools, roads, and clinics. In other words, they aim to do on a regular basis what we briefly achieved with our earthquake relief and what the Pakistani Government, because of the economic crisis as well as political crisis in the country, has been unable to do to date. But this money will do a great deal more than just good deeds. It will empower the fledgling civilian Government to show that it can deliver the citizens of Pakistan a better life. It will empower the moderates, who will have something concrete to put forward as evidence that friendship with America actually brings rewards, not just perils, and it will empower the vast majority of Pakistanis who reject the terrifying vision of al-Qaida and Taliban but who have been angered and frustrated by the perception that their own leaders and America's leaders don't care about their daily struggle.

To do this right, we must make a long-term commitment. Most Pakistanis think that America has used and abandoned their country in the past,

most notably after the jihad against the Soviets in Afghanistan. They fear we will just desert them again the moment the threat from al-Qaida subsides. It is this history and this fear that cause Pakistan to hedge its bets.

If we ever expect Pakistan to break decisively with the Taliban and other extremist groups, then we need to provide firm assurance that we are not just foul-weather friends. By authorizing funds through 2013, and hopefully longer, this bill offers the chance to clearly state America's longer term concerns and interests.

On the security side, the bill places conditions on military aid that will ensure the money is used for the intended purposes, which was not the case over the last 8 years. In order for Pakistan to receive any military assistance, it will need to meet an annual certification that its army and spy services are genuine partners in this endeavor.

In the struggle against al-Qaida and other terrorist groups, including Lashkar-e Taiba—as we all know, Lashkar-e Taiba was the perpetrator of the Mumbai massacre of last November. We also will need a certification of their partnership in the battle against the Taliban and its affiliates who threaten our troops in Afghanistan from their sanctuaries in the Pakistani tribal areas, as well as in the effort to solidify democratic governance and the rule of law in Pakistan. We believe these conditions are eminently reasonable, and they should be easy to meet for any nation receiving American aid.

As important as the economic and military components of the bill are is the question of how they fit together. Making this unequivocal commitment to the Pakistani people enables us to calibrate our military assistance more effectively. In any given year, we may choose to increase it or decrease it or to simply leave its level unchanged, but we will have the flexibility which we haven't had in prior years. For too long, the Pakistani military frankly believed we were bluffing when we threatened to cut funding for a particular weapons system or an expensive piece of hardware because that was the only game, if you will. It was the only money on the table. This bill will change that. Up to now, frankly, they were right about the unwillingness of the United States to take alternative routes. But if our economic aid becomes the centerpiece of our aid policy and it is tripled to \$1.5 billion, then we can actually guarantee that we pay more attention to how the military assistance is being spent and what is occurring. We will finally be able to make the choice of expenditure on the basis of both of our natural security interests rather than simply the institutional interests of the security forces in Pakistan.

Let me be clear on the issue of military aid. The bill does not take any position on the level of such assistance deliberately. It is possible to envision a significant increase in military aid,

just as easily as one could envision a decrease. The Pakistani army needs more helicopters. It needs more night-vision capability, more training and counterinsurgency techniques. So instead of locking in a figure for future years, what this bill does is provide us the ability to target our military aid directly to the areas that best serve both of our national security interests, which are fighting terrorism, fighting the insurgency, and keeping the people of Pakistan safe from the most dire threats.

Moreover, this bill allows us to fine-tune our approach in response to the level of will and competence displayed by Pakistan's military: When we see the genuine commitment, then we can help increase capabilities, and if we see at any time that commitment is lacking, we have the ability to adjust and redirect assistance rather than permit it to be wasted. We have spent some \$10 billion in military aid and compensation over the past 8 years. Still, the militants got within 60 miles of the capital recently and al-Qaida continues to enjoy a sanctuary. So it is long past time we figure out how to work more effectively with the Pakistanis and the Pakistan Government on a more effective approach. That is what we hope this achieves.

This bill is not a short-term fix. It aims for the medium term and especially the long term. It won't drive the Taliban out of Swat Valley next week or next month. Its aim is, once the Taliban is driven from Swat and from Bajaur and from Dir, to help keep them out. To put it in terms of basic counterinsurgency doctrine made familiar by General Petraeus, the Pakistani military is already able to handle the "clear" phase of the struggle. The United States will now be assisting this mission through other vehicles. But the bill Senator LUGAR and I are introducing will provide vital help for the "hold" and the "build" parts of the mission. Nor is this bill intended to be a silver bullet. It provides powerful tools, but these tools are only as effective as the policymakers who wield them. I am confident President Obama and his team will use wisely whatever policy tools are at their disposal.

We need to approach this endeavor with a large dose of humility. The truth is that our leverage is limited.

This bill aims to increase that leverage significantly. But we need to be realistic about what we can accomplish. Americans can influence events in Pakistan, but we cannot and we should not decide them. Ultimately, the decisionmakers are the people and the leaders of Pakistan.

Ask any resident of Lahore, Karachi, or Peshawar what these places used to be like and you will hear a long statement of the reveries of the time that now seems a world away. We need to help Pakistan once again become a nation of stability, security, and prosperity, enjoying peace at home and abroad—a nation, in short, that older



Pakistanis remember from their childhoods.

It is this nation that most Pakistanis desperately wish to reclaim. The bill that Senator LUGAR and I now introduce will help America ensure that Pakistanis have the resources necessary to choose a peaceful, stable future. It offers them a helping hand in getting there. I urge our colleagues to join us in supporting this bill.

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

Mr. LUGAR. Mr. President, I am pleased and honored to join our chairman, JOHN KERRY, in introducing the Enhanced Partnership with Pakistan Act of 2009. Then-Senator JOE BIDEN and I originally introduced this legislation in July 2008. I have been especially pleased to continue the bipartisan effort on this bill with Senator KERRY.

Senators BIDEN and KERRY and I have worked closely over the past year with the State Department, USAID, the Defense Department, and the National Security Council to craft this legislation.

On March 27 of this year, President Obama announced a comprehensive strategy for Afghanistan and Pakistan. In his speech he called on Congress "to pass a bipartisan bill cosponsored by JOHN KERRY and RICHARD LUGAR that authorizes \$1.5 billion in direct support to the Pakistani people every year over the next 5 years—resources that will build schools, roads, and hospitals, and strengthen Pakistan's democracy."

Chairman of the Joint Chiefs of Staff ADM Mike Mullen and CENTCOM Commander David Petraeus repeatedly advocated expanding foreign assistance to Pakistan as an essential element of our national security. Defense Secretary Robert Gates and Secretary of State Hillary Clinton both have testified that strengthening democracy and countering terrorism in Pakistan go hand in hand. Secretary Clinton said at a Senate Appropriations Committee meeting last week:

As President Obama has consistently maintained, success in Afghanistan depends on success in Pakistan. We have seen how difficult it is for the government there to make progress, and the Taliban continues to make inroads. Counterinsurgency training is critical. But of equal importance are diplomacy and development to provide economic stability and diminish the conditions that feed extremism. This is the intent of the comprehensive strategy laid out by Senator KERRY and Senator LUGAR, which President Obama has endorsed.

I take the time to detail administration backing for this bill and its concepts because any U.S. policy related to Pakistan will require the cooperation and active support of both the executive and legislative branches of our Government. It also will require that policy toward Pakistan be closely integrated with United States efforts throughout the region.

I do not regard the Kerry-Lugar bill as a congressionally driven initiative in which we are bargaining for support of the administration; rather, Senator

KERRY and I are trying to play a constructive role in facilitating a consensus position between branches that will undergird a rational approach to the region with the best chance of success. With this in mind, it is vital that the administration's message on Pakistan be clear and consistent. The administration also must continue to actively consult with Congress on elements of strategy, not just lobby us for funds.

The United States has an intense strategic interest in Pakistan and the surrounding region. The U.S. National Intelligence Estimate last year painted a bleak picture of the converging crises in Pakistan. A growing al-Qaida sanctuary, an expanding Taliban insurgency, political brinksmanship, and a failing economy are intensifying the turmoil and violence in that country. These circumstances are a threat to Pakistan, the region, and the United States of America.

We should make clear to the people of Pakistan that our interests are focused on democracy, pluralism, stability, and the fight against terrorism. These are values supported by a large majority of Pakistani people. If Pakistan is to break its debilitating cycle of instability, it will need to achieve progress on fighting corruption, delivering government services, and promoting broad-based economic growth. The international community and the United States should support reforms that contribute to the strengthening of Pakistani civilian institutions.

This legislation marks an important step toward those goals. While our bill envisions sustained economic and political cooperation with Pakistan, it is not a blank check. It expects that the military institutions in Pakistan will turn their attention to the extremist dangers within Pakistan's borders. The bill subjects our security assistance to a certification that the Pakistani Government is using the money for its intended purpose—namely, to combat the Taliban and al-Qaida. The bill also calls for tangible progress in governance, including an independent judiciary, greater accountability by the central government, respect for human rights, and civilian control of the levers of power, including the military and the intelligence agencies.

In providing substantial resources to enhance a strategic partnership with Pakistan, our bill contains provisions to help ensure that this money is spent effectively and efficiently. The bill stipulates that the administration must provide Congress with a comprehensive assistance strategy before additional assistance is made available. This strategy is expected to detail clear objectives, enumerate projects the administration intends to implement, and identify criteria that the administration will use to measure the effectiveness of our assistance.

Once money begins to flow, the administration must report every 6 months on how the money is spent and

what impact it is having. In addition, the bill provides that before the administration spends more than half of the \$1.5 billion authorized in any fiscal year, it must certify that the assistance provided to that date is making substantial progress toward the principal objectives contained in the administration's strategy report. We also have asked the Government Accountability Office to review annually the administration's progress on stated goals. To ensure that sufficient resources will be available to oversee our program in Pakistan, we authorize \$20 million each year for audits and program reviews by the inspectors general of the State Department, USAID, and other relevant agencies.

I look forward to working with the administration of President Obama and with congressional colleagues on a policy toward Pakistan that builds our relationship with that nation and protects vital interests of the United States.

Again, I thank Senator KERRY for his partnership and leadership on this bill.

By Mr. BINGAMAN (for himself and Mr. UDALL of New Mexico):

S. 965. A bill to approve the Taos Pueblo Indian Water Rights Settlement Agreement, and for other purposes; to the Committee on Indian Affairs.

Mr. BINGAMAN. Mr. President, today Senator UDALL and I are introducing a bill that will end an ongoing water rights dispute in northern New Mexico. The bill accomplishes this by authorizing a water rights settlement resolving Taos Pueblo's water rights claims in the Rio Pueblo de Taos, a tributary to the Rio Grande.

The Rio Pueblo de Taos adjudication is a dispute that is almost 40 years old. The parties have been in settlement discussions for well over a decade but it was not until the last 5 years that the discussions took on the sense of urgency needed to resolve the issues at hand. A settlement agreement was signed by the Pueblo, State, and other interested parties in March 2006. Federal legislation was then finalized and introduced last year. Progress was made on the bill, including hearings in both the House and Senate which resulted in the identification of a few more issues which needed to be addressed. The parties negotiated a resolution to these issues and legislation to authorize and implement the settlement is now ready to move forward.

The settlement will fulfill the rights of the Pueblo consistent with the Federal trust responsibility. It will also continue the tradition of sharing precious water resources in a manner necessary to protect the sustainability of traditional agricultural communities. Finally, the Town of Taos and other local entities are assured of accessing the water necessary to meet municipal and domestic needs. In sum, the Taos Pueblo Indian Water Rights Settlement Act represents a commonsense

set of solutions that all parties to the adjudication have a stake in implementing.

This legislation is widely supported in the Taos Valley, probably as close to a consensus as any water-related agreement can get in the West. The State of New Mexico, under Governor Richardson's leadership, deserves recognition for actively pursuing a settlement in this matter and committing financial resources in recognition of the importance of this matter to all water users in the basin.

This bill, as with any water rights settlement, is crucial to New Mexico's future. In an arid State such as ours, the legal system is poorly equipped to allocate water and create the infrastructure needed for its efficient use. Negotiated agreements between the parties, the State Engineer, and the Federal Government are much more likely to lead to long-term solutions that allow for the use of water in a sustainable manner. This legislation builds upon the provisions included in the Navajo water rights settlement enacted into law on March 30, 2009 as part of the Omnibus Public Lands bill. That settlement, and each subsequent one, will help provide more certainty and less conflict with respect to the allocation and use of water in New Mexico. I look forward to working with my colleagues in the Senate, as well as the House of Representatives, to see that this bill gets enacted into law.

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. 965

*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 “Taos Pueblo Indian Water Rights Settlement Act”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.
- Sec. 4. Pueblo rights.
- Sec. 5. Pueblo water infrastructure and watershed enhancement.
- Sec. 6. Taos Pueblo Water Development Fund.
- Sec. 7. Marketing.
- Sec. 8. Mutual-Benefit Projects.
- Sec. 9. San Juan-Chama Project contracts.
- Sec. 10. Authorizations, ratifications, confirmations, and conditions precedent.
- Sec. 11. Waivers and releases.
- Sec. 12. Interpretation and enforcement.
- Sec. 13. Disclaimer.

# SEC. 2. PURPOSE.

The purposes of this Act are—

- (1) to approve, ratify, and confirm the Taos Pueblo Indian Water Rights Settlement Agreement;
- (2) to authorize and direct the Secretary to execute the Settlement Agreement and to perform all obligations of the Secretary under the Settlement Agreement and this Act; and

(3) to authorize all actions and appropriations necessary for the United States to meet its obligations under the Settlement Agreement and this Act.

# SEC. 3. DEFINITIONS.

In this Act:

(1) **ELIGIBLE NON-PUEBLO ENTITIES.**—The term “Eligible Non-Pueblo Entities” means the Town of Taos, El Prado Water and Sanitation District (“EPWSD”), and the New Mexico Department of Finance and Administration Local Government Division on behalf of the Acequia Madre del Rio Lucero y del Arroyo Seco, the Acequia Madre del Prado, the Acequia del Monte, the Acequia Madre del Rio Chiquito, the Upper Ranchitos Mutual Domestic Water Consumers Association, the Upper Arroyo Hondo Mutual Domestic Water Consumers Association, and the Llano Quemado Mutual Domestic Water Consumers Association.

(2) **ENFORCEMENT DATE.**—The term “Enforcement Date” means the date upon which the Secretary publishes the notice required by section 10(f)(1).

(3) **MUTUAL-BENEFIT PROJECTS.**—The term “Mutual-Benefit Projects” means the projects described and identified in articles 6 and 10.1 of the Settlement Agreement.

(4) **PARTIAL FINAL DECREE.**—The term “Partial Final Decree” means the Decree entered in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S. D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated), for the resolution of the Pueblo's water right claims and which is substantially in the form agreed to by the Parties and attached to the Settlement Agreement as Attachment 5.

(5) **PARTIES.**—The term “Parties” means the Parties to the Settlement Agreement, as identified in article 1 of the Settlement Agreement.

(6) **PUEBLO.**—The term “Pueblo” means the Taos Pueblo, a sovereign Indian Tribe duly recognized by the United States of America.

(7) **PUEBLO LANDS.**—The term “Pueblo lands” means those lands located within the Taos Valley to which the Pueblo, or the United States in its capacity as trustee for the Pueblo, holds title subject to Federal law limitations on alienation. Such lands include Tracts A, B, and C, the Pueblo's land grant, the Blue Lake Wilderness Area, and the Tenorio and Karavas Tracts and are generally depicted in Attachment 2 to the Settlement Agreement.

(8) **SAN JUAN-CHAMA PROJECT.**—The term “San Juan-Chama Project” means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

(9) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(10) **SETTLEMENT AGREEMENT.**—The term “Settlement Agreement” means the contract dated March 31, 2006, between and among—

- (A) the United States, acting solely in its capacity as trustee for Taos Pueblo;
- (B) the Taos Pueblo, on its own behalf;
- (C) the State of New Mexico;
- (D) the Taos Valley Acequia Association and its 55 member ditches (“TVAA”);
- (E) the Town of Taos;
- (F) EPWSD; and
- (G) the 12 Taos area Mutual Domestic Water Consumers Associations (“MDWCAs”), as amended to conform with this Act.

(11) **STATE ENGINEER.**—The term “State Engineer” means the New Mexico State Engineer.

(12) **TAOS VALLEY.**—The term “Taos Valley” means the geographic area depicted in Attachment 4 of the Settlement Agreement.

# SEC. 4. PUEBLO RIGHTS.

(a) **IN GENERAL.**—Those rights to which the Pueblo is entitled under the Partial Final

Decree shall be held in trust by the United States on behalf of the Pueblo and shall not be subject to forfeiture, abandonment, or permanent alienation.

(b) **SUBSEQUENT ACT OF CONGRESS.**—The Pueblo shall not be denied all or any part of its rights held in trust absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

# SEC. 5. PUEBLO WATER INFRASTRUCTURE AND WATERSHED ENHANCEMENT.

(a) **IN GENERAL.**—The Secretary, acting through the Commissioner of Reclamation, shall provide grants and technical assistance to the Pueblo on a nonreimbursable basis to—

(1) plan, permit, design, engineer, construct, reconstruct, replace, or rehabilitate water production, treatment, and delivery infrastructure;

(2) restore, preserve, and protect the environment associated with the Buffalo Pasture area; and

(3) protect and enhance watershed conditions.

(b) **AVAILABILITY OF GRANTS.**—Upon the Enforcement Date, all amounts appropriated pursuant to section 10(c)(1) or made available from other authorized sources, shall be available in grants to the Pueblo after the requirements of subsection (c) have been met.

(c) **PLAN.**—The Secretary shall provide financial assistance pursuant to subsection (a) upon the Pueblo's submittal of a plan that identifies the projects to be implemented consistent with the purposes of this section and describes how such projects are consistent with the Settlement Agreement.

(d) **EARLY FUNDS.**—Notwithstanding subsection (b), \$10,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(1)—

(1) shall be made available in grants to the Pueblo by the Secretary upon appropriation or availability of the funds from other authorized sources; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice, a Tribal Council resolution that describes the purposes under subsection (a) for which the monies will be used, and a plan under subsection (c) for this portion of the funding.

# SEC. 6. TAOS PUEBLO WATER DEVELOPMENT FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a fund to be known as the “Taos Pueblo Water Development Fund” (hereinafter, “Fund”) to be used to pay or reimburse costs incurred by the Pueblo for—

- (1) acquiring water rights;
- (2) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, or wastewater infrastructure;
- (3) restoring, preserving and protecting the Buffalo Pasture, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project;
- (4) administering the Pueblo's water rights acquisition program and water management and administration system; and
- (5) for watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement.

(b) **MANAGEMENT OF THE FUND.**—The Secretary shall manage the Fund, invest amounts in the Fund, and make monies available from the Fund for distribution to

the Pueblo consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001, et seq.) (hereinafter, "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) **INVESTMENT OF THE FUND.**—Upon the Enforcement Date, the Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(d) **AVAILABILITY OF AMOUNTS FROM THE FUND.**—Upon the Enforcement Date, all monies deposited in the Fund pursuant to section 10(c)(2) or made available from other authorized sources, shall be available to the Pueblo for expenditure or withdrawal after the requirements of subsection (e) have been met.

(e) **EXPENDITURES AND WITHDRAWAL.**—

(1) **TRIBAL MANAGEMENT PLAN.**—

(A) **IN GENERAL.**—The Pueblo may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) **REQUIREMENTS.**—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Pueblo spend any funds in accordance with the purposes described in subsection (a).

(2) **ENFORCEMENT.**—The Secretary may take judicial or administrative action to enforce the requirement that monies withdrawn from the Fund are used for the purposes specified in subsection (a).

(3) **LIABILITY.**—If the Pueblo exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) **EXPENDITURE PLAN.**—

(A) **IN GENERAL.**—The Pueblo shall submit to the Secretary for approval an expenditure plan for any portions of the funds made available under this Act that the Pueblo does not withdraw under paragraph (1)(A).

(B) **DESCRIPTION.**—The expenditure plan shall describe the manner in which, and the purposes for which, amounts remaining in the Fund will be used.

(C) **APPROVAL.**—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) **ANNUAL REPORT.**—The Pueblo shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) **FUNDS AVAILABLE UPON APPROPRIATION.**—Notwithstanding subsection (d), \$15,000,000 of the monies authorized to be appropriated pursuant to section 10(c)(2)—

(1) shall be available upon appropriation or made available from other authorized sources for the Pueblo's acquisition of water rights pursuant to Article 5.1.1.2.3 of the Settlement Agreement, the Buffalo Pasture Recharge Project, implementation of the Pueblo's water rights acquisition program and water management and administration system, the design, planning, and permitting of water or wastewater infrastructure eligible for funding under sections 5 or 6, or costs related to the negotiation, authorization, and implementation of the Settlement Agreement; and

(2) shall be distributed by the Secretary to the Pueblo on receipt by the Secretary from the Pueblo of a written notice and a Tribal Council resolution that describes the pur-

poses under paragraph (1) for which the monies will be used.

(g) **NO PER CAPITA DISTRIBUTIONS.**—No part of the Fund shall be distributed on a per capita basis to members of the Pueblo.

## SEC. 7. MARKETING.

(a) **PUEBLO WATER RIGHTS.**—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may market water rights secured to it under the Settlement Agreement and Partial Final Decree, provided that such marketing is in accordance with this section.

(b) **PUEBLO CONTRACT RIGHTS TO SAN JUAN-CHAMA PROJECT WATER.**—Subject to the approval of the Secretary in accordance with subsection (e), the Pueblo may subcontract water made available to the Pueblo under the contract authorized under section 9(b)(1)(A) to third parties to supply water for use within or without the Taos Valley, provided that the delivery obligations under such subcontract are not inconsistent with the Secretary's existing San Juan-Chama Project obligations and such subcontract is in accordance with this section.

(c) **LIMITATION.**—

(1) **IN GENERAL.**—Diversion or use of water off Pueblo lands pursuant to Pueblo water rights or Pueblo contract rights to San Juan-Chama Project water shall be subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, and any applicable interstate compact as apply to the exercise of water rights or contract rights to San Juan-Chama Project water held by non-Federal, non-Indian entities, including all applicable State Engineer permitting and reporting requirements.

(2) **EFFECT ON WATER RIGHTS.**—Such diversion or use off Pueblo lands under paragraph (1) shall not impair water rights or increase surface water depletions within the Taos Valley.

(d) **MAXIMUM TERM.**—

(1) **IN GENERAL.**—The maximum term of any water use lease or subcontract, including all renewals, shall not exceed 99 years in duration.

(2) **ALIENATION OF RIGHTS.**—The Pueblo shall not permanently alienate any rights it has under the Settlement Agreement, the Partial Final Decree, and this Act.

(e) **APPROVAL OF SECRETARY.**—The Secretary shall approve or disapprove any lease or subcontract submitted by the Pueblo for approval not later than—

(1) 180 days after submission; or

(2) 60 days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later, provided that no Secretarial approval shall be required for any water use lease or subcontract with a term of less than 7 years.

(f) **NO FORFEITURE OR ABANDONMENT.**—The nonuse by a lessee or subcontractor of the Pueblo of any right to which the Pueblo is entitled under the Partial Final Decree shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of those rights.

(g) **NO PREEMPTION.**—

(1) **IN GENERAL.**—The approval authority of the Secretary provided under subsection (e) shall not amend, construe, supersede, or preempt any State or Federal law, interstate compact, or international treaty that pertains to the Colorado River, the Rio Grande, or any of their tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quantity of those waters.

(2) **APPLICABLE LAW.**—The provisions of section 2116 of the Revised Statutes (25

U.S.C. 177) shall not apply to any water made available under the Settlement Agreement.

(h) **NO PREJUDICE.**—Nothing in this Act shall be construed to establish, address, prejudice, or prevent any party from litigating whether or to what extent any applicable State law, Federal law, or interstate compact does or does not permit, govern, or apply to the use of the Pueblo's water outside of New Mexico.

## SEC. 8. MUTUAL-BENEFIT PROJECTS.

(a) **IN GENERAL.**—Upon the Enforcement Date, the Secretary, acting through the Commissioner of Reclamation, shall provide financial assistance in the form of grants on a nonreimbursable basis to Eligible Non-Pueblo Entities to plan, permit, design, engineer, and construct the Mutual-Benefit Projects in accordance with the Settlement Agreement—

(1) to minimize adverse impacts on the Pueblo's water resources by moving future non-Indian ground water pumping away from the Pueblo's Buffalo Pasture; and

(2) to implement the resolution of a dispute over the allocation of certain surface water flows between the Pueblo and non-Indian irrigation water right owners in the community of Arroyo Seco Arriba.

(b) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects authorized in subsection (a) shall be 75 percent and shall be nonreimbursable.

(2) **NON-FEDERAL SHARE.**—The non-Federal share of the total cost of planning, designing, and constructing the Mutual-Benefit Projects shall be 25 percent and may be in the form of in-kind contributions, including the contribution of any valuable asset or service that the Secretary determines would substantially contribute to completing the Mutual-Benefit Projects.

## SEC. 9. SAN JUAN-CHAMA PROJECT CONTRACTS.

(a) **IN GENERAL.**—Contracts issued under this section shall be in accordance with this Act and the Settlement Agreement.

(b) **CONTRACTS FOR SAN JUAN-CHAMA PROJECT WATER.**—

(1) **IN GENERAL.**—The Secretary shall enter into 3 repayment contracts by December 31, 2009, for the delivery of San Juan-Chama Project water in the following amounts:

(A) 2,215 acre-feet/annum to the Pueblo.

(B) 366 acre-feet/annum to the Town of Taos.

(C) 40 acre-feet/annum to EPWSD.

(2) **REQUIREMENTS.**—Each such contract shall provide that if the conditions precedent set forth in section 10(f)(2) have not been fulfilled by December 31, 2015, the contract shall expire on that date.

(3) **APPLICABLE LAW.**—Public Law 87-483 (76 Stat. 97) applies to the contracts entered into under paragraph (1) and no preference shall be applied as a result of section 4(a) with regard to the delivery or distribution of San Juan-Chama Project water or the management or operation of the San Juan-Chama Project.

(c) **WAIVER.**—With respect to the contract authorized and required by subsection (b)(1)(A) and notwithstanding the provisions of Public Law 87-483 (76 Stat. 96) or any other provision of law—

(1) the Secretary shall waive the entirety of the Pueblo's share of the construction costs, both principal and the interest, for the San Juan-Chama Project and pursuant to that waiver, the Pueblo's share of all construction costs for the San Juan-Chama Project, inclusive of both principal and interest shall be nonreimbursable; and

(2) the Secretary's waiver of the Pueblo's share of the construction costs for the San Juan-Chama Project will not result in an increase in the pro rata shares of other San

Juan-Chama Project water contractors, but such costs shall be absorbed by the United States Treasury or otherwise appropriated to the Department of the Interior.

**SEC. 10. AUTHORIZATIONS, RATIFICATIONS, CONFIRMATIONS, AND CONDITIONS PRECEDENT.**

(a) **RATIFICATION.**—

(1) **IN GENERAL.**—Except to the extent that any provision of the Settlement Agreement conflicts with any provision of this Act, the Settlement Agreement is authorized, ratified, and confirmed.

(2) **AMENDMENTS.**—To the extent amendments are executed to make the Settlement Agreement consistent with this Act, such amendments are also authorized, ratified, and confirmed.

(b) **EXECUTION OF SETTLEMENT AGREEMENT.**—To the extent that the Settlement Agreement does not conflict with this Act, the Secretary shall execute the Settlement Agreement, including all exhibits to the Settlement Agreement requiring the signature of the Secretary and any amendments necessary to make the Settlement Agreement consistent with this Act, after the Pueblo has executed the Settlement Agreement and any such amendments.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **TAOS PUEBLO INFRASTRUCTURE AND WATERSHED FUND.**—There is authorized to be appropriated to the Secretary to provide grants pursuant to section 5, \$30,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(2) **TAOS PUEBLO WATER DEVELOPMENT FUND.**—There is authorized to be appropriated to the Taos Pueblo Water Development Fund, established at section 6(a), \$58,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(3) **MUTUAL-BENEFIT PROJECTS FUNDING.**—There is further authorized to be appropriated to the Secretary to provide grants pursuant to section 8, a total of \$33,000,000, as adjusted under paragraph (4), for the period of fiscal years 2010 through 2016.

(4) **ADJUSTMENTS TO AMOUNTS AUTHORIZED.**—The amounts authorized to be appropriated under paragraphs (1) through (3) shall be adjusted by such amounts as may be required by reason of changes since April 1, 2007, in construction costs, as indicated by engineering cost indices applicable to the types of construction or rehabilitation involved.

(5) **DEPOSIT IN FUND.**—Except for the funds to be provided to the Pueblo pursuant to section 5(d), the Secretary shall deposit the funds made available pursuant to paragraphs (1) and (3) into a Taos Settlement Fund to be established within the Treasury of the United States so that such funds may be made available to the Pueblo and the Eligible Non-Pueblo Entities upon the Enforcement Date as set forth in sections 5(b) and 8(a).

(d) **AUTHORITY OF THE SECRETARY.**—The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Agreement and this Act.

(e) **ENVIRONMENTAL COMPLIANCE.**—

(1) **EFFECT OF EXECUTION OF SETTLEMENT AGREEMENT.**—The Secretary's execution of the Settlement Agreement shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) **COMPLIANCE WITH ENVIRONMENTAL LAWS.**—In carrying out this Act, the Secretary shall comply with each law of the Federal Government relating to the protection of the environment, including—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(f) **CONDITIONS PRECEDENT AND SECRETARIAL FINDING.**—

(1) **IN GENERAL.**—Upon the fulfillment of the conditions precedent described in paragraph (2), the Secretary shall publish in the Federal Register a statement of finding that the conditions have been fulfilled.

(2) **CONDITIONS.**—The conditions precedent referred to in paragraph (1) are the following:

(A) The President has signed into law the Taos Pueblo Indian Water Rights Settlement Act.

(B) To the extent that the Settlement Agreement conflicts with this Act, the Settlement Agreement has been revised to conform with this Act.

(C) The Settlement Agreement, so revised, including waivers and releases pursuant to section 11, has been executed by the Parties and the Secretary prior to the Parties' motion for entry of the Partial Final Decree.

(D) Congress has fully appropriated or the Secretary has provided from other authorized sources all funds authorized by paragraphs (1) through (3) of subsection (c) so that the entire amounts so authorized have been previously provided to the Pueblo pursuant to sections 5 and 6, or placed in the Taos Pueblo Water Development Fund or the Taos Settlement Fund as directed in subsection (c).

(E) The Legislature of the State of New Mexico has fully appropriated the funds for the State contributions as specified in the Settlement Agreement, and those funds have been deposited in appropriate accounts.

(F) The State of New Mexico has enacted legislation that amends NMSA 1978, section 72-6-3 to state that a water use due under a water right secured to the Pueblo under the Settlement Agreement or the Partial Final Decree may be leased for a term, including all renewals, not to exceed 99 years, provided that this condition shall not be construed to require that said amendment state that any State law based water rights acquired by the Pueblo or by the United States on behalf of the Pueblo may be leased for said term.

(G) A Partial Final Decree that sets forth the water rights and contract rights to water to which the Pueblo is entitled under the Settlement Agreement and this Act and that substantially conforms to the Settlement Agreement and Attachment 5 thereto has been approved by the Court and has become final and nonappealable.

(g) **ENFORCEMENT DATE.**—The Settlement Agreement shall become enforceable, and the waivers and releases executed pursuant to section 11 and the limited waiver of sovereign immunity set forth in section 12(a) shall become effective, as of the date that the Secretary publishes the notice required by subsection (f)(1).

(h) **EXPIRATION DATE.**—

(1) **IN GENERAL.**—If all of the conditions precedent described in section (f)(2) have not been fulfilled by December 31, 2016, the Settlement Agreement shall be null and void, the waivers and releases executed pursuant to section 11 and the sovereign immunity waivers in section 12(a) shall not become effective, and any unexpended Federal funds, together with any income earned thereon, and title to any property acquired or constructed with expended Federal funds, shall be returned to the Federal Government, unless otherwise agreed to by the Parties in writing and approved by Congress.

(2) **EXCEPTION.**—Notwithstanding subsection (h)(1) or any other provision of law, any unexpended Federal funds, together with any income earned thereon, made available under sections 5(d) and 6(f) and title to any property acquired or constructed with expended Federal funds made available under

sections 5(d) and 6(f) shall be retained by the Pueblo.

(3) **RIGHT TO SET-OFF.**—In the event the conditions precedent set forth in subsection (f)(2) have not been fulfilled by December 31, 2016, the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to paragraphs (1) and (2) of subsection (c) or made available from other authorized sources, together with any interest accrued, against any claims asserted by the Pueblo against the United States relating to water rights in the Taos Valley.

**SEC. 11. WAIVERS AND RELEASES.**

(a) **CLAIMS BY THE PUEBLO AND THE UNITED STATES.**—In return for recognition of the Pueblo's water rights and other benefits, including but not limited to the commitments by non-Pueblo parties, as set forth in the Settlement Agreement and this Act, the Pueblo, on behalf of itself and its members, and the United States acting in its capacity as trustee for the Pueblo are authorized to execute a waiver and release of claims against the parties to New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated) from—

(1) all claims for water rights in the Taos Valley that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated), up to and including the Enforcement Date, except to the extent that such rights are recognized in the Settlement Agreement or this Act;

(2) all claims for water rights, whether for consumptive or nonconsumptive use, in the Rio Grande mainstream or its tributaries that the Pueblo, or the United States acting in its capacity as trustee for the Pueblo, asserted or could assert in any water rights adjudication proceedings except those claims based on Pueblo or United States ownership of lands or water rights acquired after the Enforcement Date, provided that nothing in this paragraph shall prevent the Pueblo or the United States from fully participating in the inter se phase of any such water rights adjudication proceedings;

(3) all claims for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking) in the Rio Grande mainstream or its tributaries or for lands within the Taos Valley that accrued at any time up to and including the Enforcement Date; and

(4) all claims against the State of New Mexico, its agencies, or employees relating to the negotiation or the adoption of the Settlement Agreement.

(b) **CLAIMS BY THE PUEBLO AGAINST THE UNITED STATES.**—The Pueblo, on behalf of itself and its members, is authorized to execute a waiver and release of—

(1) all claims against the United States, its agencies, or employees relating to claims for water rights in or water of the Taos Valley that the United States acting in its capacity as trustee for the Pueblo asserted, or could have asserted, in any proceeding, including but not limited to in New Mexico v. Abeyta and New Mexico v. Arellano, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated);

(2) all claims against the United States, its agencies, or employees relating to damages, losses, or injuries to water, water rights, land, or natural resources due to loss of

water or water rights (including but not limited to damages, losses or injuries to hunting, fishing, gathering, or cultural rights due to loss of water or water rights, claims relating to interference with, diversion or taking of water or water rights, or claims relating to failure to protect, acquire, replace, or develop water, water rights or water infrastructure) in the Rio Grande mainstream or its tributaries or within the Taos Valley that first accrued at any time up to and including the Enforcement Date;

(3) all claims against the United States, its agencies, or employees for an accounting of funds appropriated by the Act of March 4, 1929 (45 Stat. 1562), the Act of March 4, 1931 (46 Stat. 1552), the Act of June 22, 1936 (49 Stat. 1757), the Act of August 9, 1937 (50 Stat. 564), and the Act of May 9, 1938 (52 Stat. 291) as authorized by the Pueblo Lands Act of June 7, 1924 (43 Stat. 636) and the Pueblo Lands Act of May 31, 1933 (48 Stat. 108) and for breach of trust relating to funds for water replacement appropriated by said Acts that first accrued before the date of enactment of this Act;

(4) all claims against the United States, its agencies, or employees relating to the pending litigation of claims relating to the Pueblo's water rights in *New Mexico v. Abeyta and New Mexico v. Arellano*, Civil Nos. 7896-BB (U.S.6 D.N.M.) and 7939-BB (U.S. D.N.M.) (consolidated); and

(5) all claims against the United States, its agencies, or employees relating to the negotiation, Execution or the adoption of the Settlement Agreement, exhibits thereto, the Final Decree, or this Act.

(c) **RESERVATION OF RIGHTS AND RETENTION OF CLAIMS.**—Notwithstanding the waivers and releases authorized in this Act, the Pueblo on behalf of itself and its members and the United States acting in its capacity as trustee for the Pueblo retain—

(1) all claims for enforcement of the Settlement Agreement, the Final Decree, including the Partial Final Decree, the San Juan-Chama Project contract between the Pueblo and the United States, or this Act;

(2) all claims against persons other than the Parties to the Settlement Agreement for damages, losses or injuries to water rights or claims of interference with, diversion or taking of water rights (including but not limited to claims for injury to lands resulting from such damages, losses, injuries, interference with, diversion, or taking of water rights) within the Taos Valley arising out of activities occurring outside the Taos Valley or the Taos Valley Stream System;

(3) all rights to use and protect water rights acquired after the date of enactment of this Act;

(4) all rights to use and protect water rights acquired pursuant to State law, to the extent not inconsistent with the Partial Final Decree and the Settlement Agreement (including water rights for the land the Pueblo owns in Questa, New Mexico);

(5) all claims relating to activities affecting the quality of water including but not limited to any claims the Pueblo might have under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (including but not limited to claims for damages to natural resources), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations implementing those Acts;

(6) all claims relating to damages, losses, or injuries to land or natural resources not due to loss of water or water rights (including but not limited to hunting, fishing, gathering, or cultural rights); and

(7) all rights, remedies, privileges, immunities, powers, and claims not specifically

waived and released pursuant to this Act and the Settlement Agreement.

(d) **EFFECT OF SECTION.**—Nothing in the Settlement Agreement or this Act—

(1) affects the ability of the United States acting in its sovereign capacity to take actions authorized by law, including but not limited to any laws relating to health, safety, or the environment, including but not limited to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), and the regulations implementing such Acts;

(2) affects the ability of the United States to take actions acting in its capacity as trustee for any other Indian Tribe or allottee;

(3) confers jurisdiction on any State court to—

(A) interpret Federal law regarding health, safety, or the environment or determine the duties of the United States or other parties pursuant to such Federal law; or

(B) conduct judicial review of Federal agency action; or

(4) waives any claim of a member of the Pueblo in an individual capacity that does not derive from a right of the Pueblo.

(e) **TOLLING OF CLAIMS.**—

(1) **IN GENERAL.**—Each applicable period of limitation and time-based equitable defense relating to a claim described in this section shall be tolled for the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) December 31, 2016; or

(B) the Enforcement Date.

(2) **EFFECT OF SUBSECTION.**—Nothing in this subsection revives any claim or tolls any period of limitation or time-based equitable defense that expired before the date of enactment of this Act.

(3) **LIMITATION.**—Nothing in this subsection precludes the tolling of any period of limitations or any time-based equitable defense under any other applicable law.

## **SEC. 12. INTERPRETATION AND ENFORCEMENT.**

(a) **LIMITED WAIVER OF SOVEREIGN IMMUNITY.**—Upon and after the Enforcement Date, if any Party to the Settlement Agreement brings an action in any court of competent jurisdiction over the subject matter relating only and directly to the interpretation or enforcement of the Settlement Agreement or this Act, and names the United States or the Pueblo as a party, then the United States, the Pueblo, or both may be added as a party to any such action, and any claim by the United States or the Pueblo to sovereign immunity from the action is waived, but only for the limited and sole purpose of such interpretation or enforcement, and no waiver of sovereign immunity is made for any action against the United States or the Pueblo that seeks money damages.

(b) **SUBJECT MATTER JURISDICTION NOT AFFECTED.**—Nothing in this Act shall be deemed as conferring, restricting, enlarging, or determining the subject matter jurisdiction of any court, including the jurisdiction of the court that enters the Partial Final Decree adjudicating the Pueblo's water rights.

(c) **REGULATORY AUTHORITY NOT AFFECTED.**—Nothing in this Act shall be deemed to determine or limit any authority of the State or the Pueblo to regulate or administer waters or water rights now or in the future.

## **SEC. 13. DISCLAIMER.**

Nothing in the Settlement Agreement or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of any other Indian tribe.

Mr. UDALL of New Mexico. Mr. President, today I join Senator BINGAMAN in introducing a bill to complete the Abeyta water settlement in northern New Mexico. Introduction of this bill represents a major milestone in the resolution of Taos Pueblo's water rights claims in the Rio Pueblo de Taos. Years of work and negotiation have gone into the settlement, and I am pleased that the tribes, village, city, county, acequias, and community groups involved were able to come to an agreement that is mutually beneficial to all the users of this tributary to the Rio Grande.

New Mexico is a State rich with tradition and culture, where the water resources are scarce and precious. As is common in most of the arid West, this vital but limited commodity can foster conflict between communities and individuals, and in a State where the history is long and complex, disputes over water are uniquely complicated. But, despite the complications surrounding water tenure, New Mexicans are united in a common respect for this resource. From the pueblos and tribes of New Mexico, to the historic acequias and growing communities, water is fundamental to both survival and cultural traditions, and is respected as such. The Abeyta settlement is an example of communities and the tribe coming together to resolve their differences and find a way to ensure that everyone has access to this precious and respected resource.

The Abeyta settlement establishes the water claims of the Pueblo of Taos, the Taos Valley Acequia Association, the Village of El Prado, and the Town of Taos. These communities depend heavily on agriculture and irrigation for both traditional practices and subsistence. The settlement ensures water for both agricultural and domestic use, and facilitates the rehabilitation of irrigation infrastructure. Additionally, the settlement helps to protect the quality of water in the watershed by protecting and recharging the wetlands areas of the Taos Pueblo's buffalo pasture. After years of negotiation, the parties involved in this important settlement have come to an agreement based on respect for cultural practices and a commitment to live as good neighbors sharing a common resource. I invite my colleagues to take note of the unprecedented level of cooperation, negotiation, and mutual support manifest in this settlement.

It has been said that the wars of the future will be fought over access to water. In New Mexico, we are setting a different precedent—a precedent of respect and compromise. One that will help us move into the future with well-established partnerships and a commitment to conserve and manage this vital resource to the benefit of all. I am honored to join Senator BINGAMAN today in introducing this legislation that will bring the Pueblo of Taos and the surrounding community one step closer to establishing a secure water future.

By Mr. REID (for Mr. ROCKEFELLER (for himself and Mr. WHITEHOUSE)):

S. 966. A bill to improve the Federal infrastructure for health care quality improvement in the United States; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with my colleague, Senator WHITEHOUSE of Rhode Island, to introduce the National Health Care Quality Act, legislation that makes health care quality a national priority. We have before us an overwhelming opportunity to make sweeping changes to our health care system. The dramatic change we need to improve America's health care delivery system requires a solid coordinated infrastructure to guide quality improvement; however this infrastructure does not exist today. The lack of a coordinated effort to improve health care quality has hindered our nation's ability to improve patient health outcomes and reduce inefficiencies in our health care system. In order to achieve our goals for true delivery system reform, health care quality must be elevated as a national priority.

As the cost of health care in America continues to increase, the quality of care Americans receive continues to decrease. The average cost of health insurance premiums has doubled in the last nine years, from \$5791 in 1999 to \$12,680 in 2008. However, less than half of adults receive recommended care. More is spent per person on health care in the United States than in any other nation in the world, and yet America has some of the worst health outcomes. Wide-spread inefficiencies plague our health care system. The Congressional Budget Office, CBO, estimates that 30 percent of annual health care spending, or as much as \$700 billion, could be eliminated with little to no impact on the system. Additionally, the Commonwealth Fund estimates that more than 100,000 American lives could be saved annually by improving health care quality to the level of performance achieved in other nations.

Several entities contribute to health care quality improvement in the U.S., including numerous federal departments, several key Federal agencies within those departments, and additional private-sector partners. While there has been some progress to coordinate efforts among these entities and create a framework for navigating quality improvement efforts, there is no defined structure in place to guide the process of quality improvement, prioritize limited resources, and provide oversight to ensure these efforts reflect the best interests of all patients. Therefore, legislation is needed to modernize our health care structure to create better coordination of quality efforts, and make certain the decisions about reimbursement and coverage will allow the government to effectively deliver care that is of the highest quality.

The National Health Care Quality Act would create a sensible infrastruc-

ture for health care quality improvement by creating an accountable entity—a new Office of National Health Care Quality Improvement within the Executive Office of the President—to set health care quality priorities for the nation. This office will be led by a new Director of National Health Care Quality, who will work with public and private stakeholders to establish and routinely update health care quality priorities for the nation based on a number of mandatory considerations, including the needs of children and the void in pediatric quality measures.

This legislation also puts forth a construct to coordinate health care quality improvement efforts across all federal agencies involved in purchasing, providing, studying, or regulating health care services. The bill statutorily re-establishes the Quality Interagency Coordinating Council, QuICC, first created during the Clinton administration, within the Office of National Health Care Quality Improvement. The purpose of the Quality Interagency Coordinating Council is to coordinate health care quality improvement efforts across all relevant Federal departments and agencies involved in health care services. It also provides a framework for the development and implementation of Department- and agency-specific quality improvement strategies.

Lastly, the legislation enhances health care quality improvement efforts within the Department of Health and Human Services, HHS, by expanding the authority of the Agency for Healthcare Research and Quality and elevating the role of the Director of AHRQ to a Senate-appointed position. By building on and improving the public-private process for health care quality measure development, AHRQ can also help to streamline the implementation of quality improvement measures within federal health programs under the jurisdiction of HHS. AHRQ will establish a standardized method for reporting quality measures and data to all federal health programs. Lastly, AHRQ would be required to develop and launch a public education campaign, aimed at both providers and consumers of health care, about health care quality improvement.

It is my belief that the multi-pronged approach provided in the National Health Care Quality Act will lead to vast improvements in the coordination of quality efforts and, most importantly, patient health outcomes. Given the current problems in the health care system, Congress has a responsibility to the American people to guarantee individuals have access to high quality, safe and effective care, and I urge my colleagues to join us in support of this important bill.

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. 966

*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 “National Health Care Quality Act”.

#### SEC. 2. DEFINITIONS.

In this Act:

(1) **HEALTH CARE QUALITY.**—The term “health care quality” means the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge, based upon the following criteria:

(A) **EFFECTIVENESS.**—Health care services should be provided based upon scientific knowledge of all who could benefit.

(B) **EFFICIENCY.**—Waste, including waste of equipment, supplies, ideas, and energies, should be avoided.

(C) **EQUITY.**—The provision of health care should not vary in quality because of personal characteristics of the individuals involved.

(D) **PATIENT-CENTEREDNESS.**—Health care should be responsive to, and respectful of, individual patient preferences.

(E) **SAFETY.**—Injuries to patients from the health care that is supposed to help them should be avoided.

(F) **TIMELINESS.**—Waiting times and harmful delays in providing health care should be reduced.

(2) **HEALTH CARE QUALITY MEASURE.**—The term “health care quality measure” means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services, consistent with the health care quality criteria described in paragraph (1).

(3) **MULTI-STAKEHOLDER GROUP.**—The term “multi-stakeholder group” means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

(A) health care providers and practitioners, including providers and practitioners primarily serving children and those with long-term health care needs;

(B) health care quality entities;

(C) health plans;

(D) patient advocates and consumer groups;

(E) employers;

(F) public and private purchasers of health care items and services;

(G) labor organizations;

(H) relevant departments or agencies of the United States;

(I) biopharmaceutical companies and manufacturers of medical devices; and

(J) licensing, credentialing, and accrediting bodies.

#### SEC. 3. DEPARTMENT AND AGENCY QUALITY REVIEW.

Each relevant department and agency of the Federal Government shall review the statutory authority of such department or agency, effective on the date of enactment of this Act, administrative regulations, and policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act. Each department and agency shall, not later than July 1, 2010, propose to the President such measures as may be necessary to bring the authority and policies and procedures of such department or agency into conformity with the intent, purposes, and provisions set forth in this Act.



#### SEC. 4. NATIONAL HEALTH CARE QUALITY PRIORITIES.

(a) **ESTABLISHMENT OF THE OFFICE OF NATIONAL HEALTH CARE QUALITY IMPROVEMENT.**—There is established within the Executive Office of the President an Office of National Health Care Quality Improvement (“NHCQI”) (referred to in this section as the “Office”). The Office shall be headed by a Director of National Health Care Quality (referred to in this section as the “Director”) who shall be appointed by the President and shall report directly to the President.

(b) **DIRECTOR.**—

(1) **RESPONSIBILITIES.**—The Director shall perform the duties of the Office, described in paragraph (3), in a manner consistent with the development of a nationwide health care quality infrastructure that—

(A) coordinates and implements health care quality research, measurement, and data collection and reporting across all Federal agencies involved in purchasing, providing, studying, or regulating health care services;

(B) incorporates proven public and private quality improvement best practices;

(C) includes public and private quality improvement strategies to address activities other than health care quality measurement, such as provider payment models, alternative care models, licensing, professional certification, medical education, alternative staffing models, and public reporting; and

(D) leads to improved health care outcomes for patients across the United States.

(2) **QUALIFICATIONS.**—The President shall, by and with the advice and consent of the Senate, appoint a Director. The President shall select an individual who has—

(A) national recognition for expertise in health care quality improvement;

(B) experience addressing health care quality improvement in more than one health care setting, such as inpatient care, outpatient care, long-term care, public programs, and private programs; and

(C) experience addressing health care quality as it applies to vulnerable populations, including children, underserved populations, rural populations, individuals with disabilities, the elderly, and racial and ethnic minorities.

(3) **DUTIES OF THE DIRECTOR.**—The Director shall—

(A) advise the President on the quality of health care in the United States, including priorities and goals for the future;

(B) in coordination with public and private stakeholders, determine national priorities for improving health care quality, in accordance with subsection (c);

(C) establish annual benchmarks for each relevant Federal department and agency to achieve national priorities for health care quality improvement;

(D) develop an annual report card on the state of the Nation's health as it relates to health care quality;

(E) in coordination with the heads of other relevant agencies and as part of the annual budget request of Congress, submit funding requirements, in accordance with subsection (d);

(F) serve as the chairperson of the Quality Interagency Coordinating Council (QuICC), established under section 4; and

(G) in consultation with the National Coordinator of Health Information Technology, develop an open source framework for Federal quality communication to create and maintain a standardized, electronic language or interface that enables all relevant Federal entities to communicate information or make requests regarding quality research, definitions, activities, or regulations, or to provide any other functionality, as the Director determines.

(c) **NATIONAL PRIORITIES FOR HEALTH CARE QUALITY IMPROVEMENT.**—

(1) **IN GENERAL.**—Not later than January 1, 2010 and at least every 5 years thereafter, the Director, in coordination with public and private stakeholders, shall establish national priorities for health care quality improvement.

(2) **DEVELOPMENT OF PRIORITIES.**—In establishing the national priorities for health care quality improvement under paragraph (1), the Director shall consider—

(A) health care outcomes in the United States in comparison to health outcomes in other World Health Organization member countries;

(B) the burden of disease, including the prevalence, incidence, and cost of disease to the United States;

(C) demographics;

(D) variability in practice norms;

(E) potential to eliminate harm to patients;

(F) improvements with the potential for the greatest impact on morbidity, mortality, performance, and a focus on the patient;

(G) quality measures that may be coordinated across different health care settings, including inpatient and outpatient measures, primary care, and specialty care;

(H) the specific quality improvement needs and challenges of rural areas; and

(I) the unique quality improvement needs disparities and challenges of vulnerable populations, including children, the elderly, individuals with disabilities, individuals near the end of life, and racial and ethnic minorities.

(3) **INITIAL PRIORITIES.**—The first set of national priorities established under this subsection shall include as a priority pediatric health care quality improvement, for children up to age 21.

(4) **COLLABORATION WITH MULTI-STAKEHOLDER GROUPS.**—

(A) **IN GENERAL.**—The Director shall convene and collaborate with multi-stakeholder groups in establishing and updating the national priorities under paragraph (1).

(B) **TRANSPARENCY.**—All collaboration between the Director and multi-stakeholder groups shall be conducted through an open and transparent process.

(C) **STATUTORY CONSTRUCTION.**—Notwithstanding any other provision in this paragraph, the Director shall have the final authority to decide whether to accept the recommendations provided by such multi-stakeholder groups.

(5) **AGENCY- AND DEPARTMENT-SPECIFIC STRATEGIC PLANS.**—Not later than October 1, 2010 and annually thereafter, the Director, in consultation with the heads of relevant Federal agencies and departments, shall develop agency- and department-specific strategic plans for health care quality improvement to achieve national priorities, including annual benchmarks.

(d) **ANNUAL BUDGET REQUEST FOR RESOURCES.**—As part of the annual budget request made by the President to Congress, beginning with such budget request made in calendar year 2011, the Director, in consultation with the heads of relevant Federal departments and agencies, shall include—

(1) a description of the agency- and department-specific strategic plans for health care quality improvement; and

(2) the level of Federal funding required for implementing or maintaining the quality improvement strategic plans described under paragraph (1).

(e) **MONITORING.**—

(1) **IN GENERAL.**—The Director shall institute mechanisms for monitoring the progress on achieving national health care quality priorities under subsection (c)(1) as well as department- and agency-specific strategic

plans under subsection (c)(5), including objectives, metrics, and benchmarks for the following:

(A) The benefits and drawbacks of specific quality improvement efforts for public programs and for the health care system at large.

(B) Coordination and communication of efforts to achieve interagency goals, including information exchange.

(C) Interagency coordination progress for national quality efforts.

(D) Methods for ensuring awareness and recognition among health care providers and the public at large of the significance of health care quality improvement.

(2) **REPORTING.**—

(A) **REPORTING.**—Not later than December 31, 2011, and by the end of each calendar year thereafter, the Director shall submit to the President and to Congress a report regarding the progress of Federal agencies in achieving the quality improvement priorities under paragraphs (1) and (5) of subsection (c), and shall make such report publicly available through the Internet.

(B) **ANNUAL NATIONAL HEALTH CARE QUALITY REPORT CARD.**—Not later than January 31, 2011, and annually thereafter, the Director shall publish a national health care quality report card, which shall include—

(i) the considerations for national health care quality priorities described in subsection (c)(2);

(ii) an analysis of the progress of the department- and agency-specific strategic plans under subsection (c)(5) in achieving the national health care quality priorities established under subsection (c)(1), and any gaps in such strategic plans;

(iii) the extent to which private sector strategies have informed Federal quality improvement efforts; and

(iv) a summary of consumer feedback regarding how well current quality improvement practices work for such consumers and additional ways to improve health care quality.

(f) **WEBSITE.**—Not later than July 1, 2010, the Director shall create a website to make public information regarding—

(1) the national priorities for health care quality improvement established under subsection (c)(1);

(2) the department- and agency-specific strategic plans for health care quality described in subsection (c)(5);

(3) the annual national health care quality report card described in subsection (e)(2)(B);

(4) ongoing health care quality research efforts;

(5) new and innovative health care quality improvement practices in the public and private sectors;

(6) a consumer feedback mechanism; and

(7) other information, as the Director determines to be appropriate.

(g) **STAFF; EXPERTS AND CONSULTANTS; VOLUNTARY AND UNCOMPENSATED SERVICE.**—

(1) **STAFF.**—The Director may employ such officers and employees as may be necessary to enable the Office to carry out its functions under this Act, and may employ and fix the compensation of such officers and employees as may be necessary to carry out its functions under this Act.

(2) **EXPERTS AND CONSULTANTS.**—The Director may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (without regard to the last sentence).

(3) **VOLUNTARY AND UNCOMPENSATED SERVICE.**—Notwithstanding section 1342 of title 31, United States Code, the Office may accept and use voluntary and uncompensated services, as the Director determines necessary.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to carry out this section \$50,000,000 for fiscal years 2010 through 2014.

## **SEC. 5. NATIONAL HEALTH CARE QUALITY COORDINATION.**

(a) **ESTABLISHMENT.**—As of the date of enactment of this Act, there is established within the Office of National Health Care Quality Improvement, the Quality Interagency Coordinating Council (referred to in this section as the “QuICC”).

(b) **PURPOSE.**—The purpose of the QuICC is to coordinate health care quality improvement efforts across all Federal agencies involved in purchasing, providing, studying, or regulating health care services in order to achieve the common goal of improving patient health outcomes.

(c) **ORGANIZATION OF THE QUICC.**—

(1) **CO-CHAIRPERSONS.**—The Director of National Health Care Quality (referred to in this section as the “Director”) and the Secretary of Health and Human Services shall serve as co-chairpersons of the QuICC, and the Director shall manage day-to-day operations of the QuICC.

(2) **FEDERAL MEMBERS.**—The Federal members of the QuICC, each of whom shall have equal standing in the QuICC, shall include—

(A) the Administrator of the Centers for Medicare & Medicaid Services;

(B) the Director of the National Institutes of Health;

(C) the Director of the Centers for Disease Control and Prevention;

(D) the Commissioner of Food and Drugs;

(E) the Administrator of the Health Resources and Services Administration;

(F) the Director of the Agency for Healthcare Research and Quality;

(G) the Assistant Secretary of the Administration for Children and Families;

(H) the Secretary of Labor;

(I) the Secretary of Defense;

(J) the Secretary of Veterans Affairs;

(K) the Under Secretary for Health of the Veterans Health Administration;

(L) the Secretary of Commerce;

(M) the Director of the Office of Personnel Management;

(N) the Director of the Office of Management and Budget;

(O) the Commandant of the United States Coast Guard;

(P) the Director of the Federal Bureau of Prisons;

(Q) the Administrator of the National Highway Traffic Safety Administration;

(R) the Chairman of the Federal Trade Commission; and

(S) the Commissioner of the Social Security Administration.

(d) **GOALS.**—The goals of the QuICC shall be to achieve the following:

(1) Collaboration between Federal departments and agencies with respect to developing goals, models, and timetables that are consistent with—

(A) reducing the underlying causes of illness, injury, and disability;

(B) reducing health care errors;

(C) ensuring the appropriate use of health care services;

(D) expanding research on effectiveness of treatments;

(E) addressing over-supply and under-supply of health care resources; and

(F) increasing patient participation in their care.

(2) Collaboration between Federal departments and agencies with respect to the development and utilization of quality improvement strategies, including quality measurement, for public sector programs that are flexible enough to respond to changing health care needs, technology, and information, while being sufficiently standardized to be comparably measured.

(3) Cooperation between Federal departments and agencies in the development and dissemination of evidence-based health care information to help guide practitioners' actions in ways that will improve quality and potentially reduce costs.

(4) Cooperation between Federal departments and agencies in the development and dissemination of user-friendly information for both consumer and business purchasers that facilitates meaningful comparisons of quality performances of health care plans, facilities and practitioners.

(5) Consultation with multi-stakeholder groups, where appropriate, in order to develop interdepartmental and interagency models for quality improvement.

(6) Avoidance of inefficient duplication of ongoing health care quality improvement efforts and resources, where feasible and appropriate.

(7) Coordination and implementation by Federal departments and agencies of a streamlined process for quality reporting and compliance requirements to reduce administrative burdens on private entities who administer, oversee, or participate in the Federal health programs.

(e) **WORKGROUPS.**—

(1) **IN GENERAL.**—Not later than 30 days after the establishment of the QuICC, the Director shall establish within the QuICC workgroups for each of the national health care priorities established under section 4(c)(1).

(2) **PURPOSE.**—Each such workgroup shall focus on achieving the goals of the QuICC (described in subsection (d)) for one such priority and shall—

(A) coordinate the implementation of such priority across all relevant Federal agencies and departments; and

(B) identify opportunities to improve the process of implementing such health care priority.

(3) **MEMBERSHIP.**—

(A) **LEADERSHIP.**—Each workgroup shall be led by 2 relevant Federal departments or agencies, as determined by the Director.

(B) **REPRESENTATION.**—Each of the Federal members listed in subsection (c)(2) may appoint 1 or more representatives to each workgroup.

(4) **REPORTING.**—

(A) **REPORT.**—Not later than December 31, 2010, and annually thereafter, the co-chairpersons of the QuICC shall submit a report to the relevant committees of Congress describing—

(i) the QuICC's progress in meeting the goals described in subsection (d);

(ii) recommendations for legislation to improve the processes of health care quality coordination and prioritization; and

(iii) recommendations for new and innovative quality initiatives.

(B) **PUBLICATION.**—Not later than December 31, 2010, and annually thereafter, the co-chairpersons shall publish the report described in subparagraph (A) on the website of the Office of National Health Care Quality Improvement.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal years 2011 through 2014.

## **SEC. 6. INCREASED AUTHORITY OF THE AGENCY FOR HEALTHCARE RESEARCH AND QUALITY WITHIN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.**

(a) **DIRECTOR OF THE AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.**—Section 901(a) of the Public Health Service Act (42 U.S.C. 299(a)) is amended by striking “by the Secretary” and inserting “by the Presi-

dent, by and with the advice and consent of the Senate”.

(b) **NATIONAL HEALTH CARE QUALITY PRIORITIES.**—Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended by adding at the end the following:

### **“PART E—NATIONAL HEALTH CARE QUALITY PRIORITIES**

#### **“SEC. 940. DEFINITIONS.**

“In this part:

“(1) **HEALTH CARE QUALITY.**—The term ‘health care quality’ means the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge, based upon the following criteria:

“(A) **EFFECTIVENESS.**—Health care services should be provided based upon scientific knowledge of all who could benefit.

“(B) **EFFICIENCY.**—Waste, including waste of equipment, supplies, ideas, and energies, should be avoided.

“(C) **EQUITY.**—The provision of health care should not vary in quality because of personal characteristics of the individuals involved.

“(D) **PATIENT-CENTEREDNESS.**—Health care should be responsive to, and respectful of, individual patient preferences.

“(E) **SAFETY.**—Injuries to patients from the health care that is supposed to help them should be avoided.

“(F) **TIMELINESS.**—Waiting times and harmful delays in providing health care should be reduced.

“(2) **HEALTH CARE QUALITY MEASURE.**—The term ‘health care quality measure’ means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services, consistent with the health care quality criteria described in paragraph (1).

“(3) **MULTI-STAKEHOLDER GROUP.**—The term ‘multi-stakeholder group’ means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

“(A) health care providers and practitioners, including providers and practitioners primarily serving children and those with long-term health care needs;

“(B) health care quality entities;

“(C) health plans;

“(D) patient advocates and consumer groups;

“(E) employers;

“(F) public and private purchasers of health care items and services;

“(G) labor organizations;

“(H) relevant departments or agencies of the United States;

“(I) biopharmaceutical companies and manufacturers of medical devices; and

“(J) licensing, credentialing, and accrediting bodies.

“(4) the term ‘health care quality measure’ means a national consensus standard for measuring the performance and improvement of population health or of institutional providers of services, physicians, and other clinicians in the delivery of health care services; and

“(5) the term ‘multi-stakeholder group’ means, with respect to a health care quality measure, a voluntary collaborative of public and private organizations representing persons interested in, or affected by, the use of such health care quality measure, including—

“(A) hospitals and other health care settings;

“(B) physicians, including pediatricians;

“(C) health care quality alliances;  
 “(D) nurses and other health care practitioners;  
 “(E) health plans;  
 “(F) patient advocates and consumer groups;  
 “(G) employers;  
 “(H) public and private purchasers of health care items and services;  
 “(I) labor organizations;  
 “(J) relevant departments or agencies of the United States;  
 “(K) biopharmaceutical companies and manufacturers of medical devices; and  
 “(L) licensing, credentialing, and accrediting bodies.

#### “SEC. 941. RESEARCH PRIORITIES.

“The Director, in consultation with the heads of agencies within the Department of Health and Human Services shall ensure that the health care quality improvement priorities identified by the Director of the Office of National Health Care Quality Improvement, established under section 4 of the National Health Care Quality Act, are taken into consideration in all applicable research conducted under the Department of Health and Human Services, including the National Institutes of Health and the demonstration projects.

#### “SEC. 942. QUALITY MEASURES.

“(a) APPLICATION OF QUALITY MEASURES TO PROGRAMS UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—

“(1) IN GENERAL.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and a consensus-based entity (as such term is used in section 1890 of the Social Security Act), shall define uniform health care quality measures, which shall apply to Federal health programs under the Department of Health and Human Services, including the following Federal programs, in order of priority:

“(A) The Medicare program under title XVIII of the Social Security Act, the rural health and pharmacy programs of the Health Resources and Services Administration, and the health programs of the Administration on Aging.

“(B) The Medicaid program under title XIX of the Social Security Act, the Children's Health Insurance program under title XXI of such Act, the health programs of the Administration for Children and Families, and the maternal and child health programs of the Health Resources and Services Administration.

“(C) The Indian Health Service.

“(D) The Substance Abuse and Mental Health Services Administration.

“(E) Programs of the Health Resources and Services Administration other than those described in subparagraph (B).

“(F) Centers of the Food and Drug Administration.

“(2) PRIORITIZATION.—The Director shall apply the health care quality measures under this section to the Federal programs in the order of priority described in paragraph (1).

“(3) CONSIDERATIONS REGARDING QUALITY MEASURE APPLICATION.—Before applying the health care quality measures described in paragraph (1), the Director shall consider—

“(A) the potential of such measures to improve patient outcomes;

“(B) the ease of integration as a factor in health care provider reimbursement;

“(C) the applicability of such measures across health care settings;

“(D) the unique quality improvement needs of vulnerable populations, including children, the elderly, individuals with dis-

abilities, individuals near the end of life, and racial and ethnic minorities;

“(E) the burden of disease, including the prevalence, incidence, and cost of disease to the United States; and

“(F) payment distortions that encourage certain practice norms which may not lead to greater patient health outcomes.

“(4) UPDATING OF THE APPLICATION OF QUALITY MEASURES.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and a consensus-based entity (as such term is used in section 1890 of the Social Security Act), shall develop a process for updating the health care quality measures defined under paragraph (1) as new research and evidence become available.

“(b) QUALITY MEASURE REPORTING TO FEDERAL HEALTH PROGRAMS.—The Director, in cooperation with the Administrator of the Centers for Medicare & Medicaid Services, the National Coordinator for Health Information Technology, the Administrator of the Health Resources and Services Administration, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, shall create a streamlined process for health care providers to report quality measures to the heads of relevant agencies and departments for the purpose of quality improvement in the Federal health programs described in subsection (a)(1).

“(c) DEVELOPMENT OF ADDITIONAL QUALITY IMPROVEMENT STRATEGIES.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, and multi-stakeholder groups, shall develop quality improvement strategies to address activities other than health care quality measurement that lead to improved patient outcomes, such as alternative care models, licensing, professional certification, medical education, alternative staffing models, and public reporting.

#### “SEC. 943. PUBLIC EDUCATION CAMPAIGNS.

“(a) IN GENERAL.—The Director shall conduct a public education campaign, designed to educate health care providers and consumers of health care about health care quality improvement.

“(b) CONSUMER EDUCATION CAMPAIGNS.—

“(1) IN GENERAL.—The Director, in coordination with the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Centers for Disease Control and Prevention, shall create a consumer education campaign to develop accurate and reliable information about health care quality. In compiling the information for the consumer education campaign, the Secretary may use mechanisms and sources of information that are available through other Federal agencies.

“(2) REQUIREMENTS.—The consumer education campaign shall include information regarding—

“(A) the importance of quality in health care decisions;

“(B) the ways in which health care experts define and identify quality in health care;

“(C) the variance of quality among health insurance plans, health care facilities, health care organizations, and health care providers; and

“(D) the role of consumers in improving the quality of health care.

“(3) PUBLICATION.—The Director shall make the information described in paragraph (1) available to the public through the Internet.

“(4) GRANT PROGRAM.—The Director shall award grants to States and private nonprofit organizations to assist with the creation and dissemination of the information described in paragraph (1).

“(c) QUALITY RESOURCE CENTER FOR HEALTH CARE PROVIDERS.—

“(1) IN GENERAL.—The Director, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall create a National Quality Resource Center (referred to in this subsection as the ‘NQRC’) for health care providers to assist with the understanding and implementation of quality improvement initiatives for health care providers.

“(2) DUTIES.—The national resource center developed under paragraph (1) shall—

“(A) inform providers about quality improvement techniques and the value of such techniques to improving quality;

“(B) accelerate the transfer of lessons learned from other initiatives in the public and private sectors, including those initiatives receiving Federal financial support;

“(C) provide a forum for exchange of knowledge and experience among health care providers;

“(D) provide technical assistance to health care providers for implementing quality improvement efforts; and

“(E) provide a forum for feedback from health care providers concerning the effect of the efforts under subparagraphs (A) through (D).

“(3) NATIONAL QUALITY SUPPORT EXTENSION GRANT PROGRAM.—

“(A) IN GENERAL.—The Director, in coordination with the NQRC, shall award National Quality Support Extension grants (referred to in this paragraph as ‘NQSE grants’ or the ‘NQSE grant program’), on a competitive basis, to eligible entities for the purpose of supporting and facilitating local health care quality improvement efforts throughout the United States.

“(B) PURPOSES.—The purposes of the NQSE grant program are—

“(i) to assist qualified eligible entities in carrying out projects related to health care quality improvement activities among the provider community to help test and acclimate to new, innovative quality improvement activities;

“(ii) to facilitate communication among local health care quality groups regarding the best practices in the area of quality improvement and prevention in the clinical setting; and

“(iii) to enable, empower, support, and assist local health care quality improvement efforts, particularly those that facilitate collaboration between independent providers.

“(C) ELIGIBLE ENTITIES.—An entity desiring a grant under this paragraph shall—

“(i) be a public or private nonprofit entity engaged in health care quality improvement;

“(ii) submit to the Director a program design that describes the purpose of the plan for which the entity seeks a grant and the community leadership that will support the entity in carrying out such plan; and

“(iii) submit to the Director an application at such time, in such manner, and containing such information as the Director may require.

“(4) IMPLEMENTATION ASSISTANCE.—The Health Information Technology regional extension centers under section 3012(c) shall operate as extension centers for the NQRC, for the purposes of implementation assistance.

“(5) TECHNICAL ASSISTANCE FOR HEALTH CARE PROVIDERS WORKING WITH VULNERABLE POPULATIONS.—In carrying out this subsection, the Director shall give particular attention to the technical assistance that

health care providers who serve vulnerable populations need.

**“SEC. 944. FUNDING.**

“(a) TRUST FUNDS.—For purposes of funding the activities under this part, the Secretary shall provide for the transfer from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t), including the Medicare Prescription Drug Account in such Trust Fund, in such proportion as determined appropriate by the Secretary, of \$150,000,000 for each of fiscal years 2010 through 2014.

“(b) AMERICAN RECOVERY AND REINVESTMENT FUNDS.—At the end of the recession adjustment period (as defined in section 5001(h)(3) of the American Recovery and Reinvestment Act (Public Law 111-5; 123 Stat. 496), the Secretary of the Treasury shall transfer any funds appropriated under such Act and not otherwise expended to the Agency for purposes of carrying out this part.

“(c) MEDICAID AND MEDICARE IMPROVEMENT FUNDS.—For purposes of funding the activities under this part for fiscal year 2014, the Secretary shall provide for the transfer of \$100,000,000 from the Medicaid Improvement Fund under section 1898 of the Social Security Act (42 U.S.C. 1395iii), and \$100,000,000 from the Medicare Improvement Fund under section 1941 of such Act (42 U.S.C. 1396w-1).”

(c) TECHNICAL AMENDMENT.—Section 937(b) of the Public Health Service Act (42 U.S.C. 299c-6(b)) is amended by inserting “except for part E,” after “this title”.

(d) DEVELOPMENT OF QUALITY MEASURES FOR FEDERAL HEALTH PROGRAMS.—

(1) PERIOD OF CONTRACT.—Section 1890(a)(3) of the Social Security Act (42 U.S.C. 1395aaa(a)(3)) is amended—

(A) by striking “4 years” and inserting “4 years, in the case of the first contract entered into under such paragraph, and 3 years in the case of each subsequent contract entered into under such paragraph”; and

(B) by inserting “for a period of 3 years” after “renewed”.

(2) PRIORITY SETTING PROCESS.—Section 1890(b)(1) of the Social Security Act (42 U.S.C. 1395aaa(b)(1)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “an integrated national strategy and priorities for”; and

(ii) by inserting “in a manner consistent with the national priorities for health care quality improvement (as defined in section 4(c)(1))” after “settings”;

(B) in subparagraph (A)—

(i) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), respectively; and

(ii) by inserting before clause (ii), as so redesignated, the following new clause:

“(i) that are consistent with such national priorities for health care quality improvement;”

(3) ANNUAL REPORT TO CONGRESS.—Section 1890(b)(5) of the Social Security Act (42 U.S.C. 1395aaa(b)(5)) is amended—

(A) by redesignating clauses (i) through (iii) as clauses (ii) through (iv); and

(B) by inserting before clause (ii), as so redesignated, the following new clause:

“(i) the extent to which the priorities set and the quality improvement measures endorsed by the entity under paragraphs (1) and (2), respectively, are consistent with the national priorities for health care quality improvement (as so defined);”

(4) FUNDING.—Section 1890(d) of the Social Security Act (42 U.S.C. 1395aaa(d)) is amended by inserting “and, for purposes of carrying out this section under a new or renewed contract, there are authorized to be

appropriated such sums as are necessary, taking into consideration the results of the study contained in the 18 month report submitted to Congress under section 183(b)(2) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275), for each of fiscal years 2013 through 2015” before the period at the end.

**SEC. 7. REPORTS TO CONGRESS.**

(a) EVALUATION OF THE CONSUMER EDUCATION CAMPAIGN.—Not later than 18 months after the establishment of the quality resource center under section 943(c) of the Public Health Service Act (as added by section 6), the Comptroller General of the United States shall submit to Congress a report describing—

(1) the effectiveness of the quality resource center for health care providers under such section 943(c); and

(2) the effectiveness of the consumer education program under section 943(b) of such Act (as added by section 6).

(b) QUALITY DISSEMINATION STRATEGIES.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall submit a report to Congress that includes—

(1) a description of the efforts made to translate clinical information regarding health care quality improvement into reasonable clinical practice;

(2) the processes through which the Secretary disseminated the information described in paragraph (1); and

(3) recommendations for the most effective methods for translating and disseminating information concerning health care quality, and required statutory changes to implement the recommended methods.

(c) IOM REPORT TO CONGRESS REGARDING THE VALUE OF QUALITY MEASURE REPORTING.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with the Director of the Institute of Medicine requiring that, not later than 18 months after the date of enactment of this Act, the Director submit to Congress a report regarding the value of quality measure reporting in improving patient health outcomes.

(2) CONSIDERATIONS.—In preparing the report described in paragraph (1), the Director of the Institutes of Medicine shall consider—

(A) specific instances in the history of existing public health care programs within the Federal Government in which quality measure reporting has been shown, through peer-reviewed studies or literature, to result in improved patient health outcomes; and

(B) instances in which quality measure reporting has been shown to improve existing health disparities among vulnerable populations, including children, underserved populations, rural populations, individuals with disabilities, the elderly, and racial and ethnic minorities.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(d) GAO STUDY AND REPORTS.—Section 183(b)(1) of the Medicare Improvements for Patients and Providers Act of 2008 (Public Law 110-275; 122 Stat. 2586) is amended—

(1) in subparagraph (A), by striking “and” after the semicolon;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by inserting after subparagraph (B) the following:

“(C) any negative effect on patients, particularly on patients in underserved or vulnerable populations; and

“(D) any negative effect on health care providers, particularly health care providers in rural and underserved areas.”

**SEC. 8. DATA COLLECTION.**

(a) IN GENERAL.—Not later than January 1, 2011, and at least every 5 years thereafter, the Comptroller General of the United States (referred to in this section as the “Comptroller General”) shall conduct evaluations of the implementation of the data collection processes for quality measures used by the Federal health programs administered through the Department of Health and Human Services.

(b) CONSIDERATIONS.—In conducting the evaluations under subsection (a), the Comptroller General shall consider—

(1) whether the system for the collection of data for quality measures provides for validation of data in a manner that is relevant, fair, and scientifically credible;

(2) whether data collection efforts under the system—

(A) use the most efficient and cost-effective means in a manner that minimizes administrative burden on persons required to collect data;

(B) adequately protects the privacy the personal health information of patients; and

(C) provides data security;

(3) whether standards under the system provide for an opportunity for health care providers and institutional providers of services to review and correct any inaccuracies with regard to the findings; and

(4) the extent to which quality measures—

(A) assess outcomes and the functional status of patients;

(B) assess the continuity and coordination of care and care transitions, including episodes of care, for patients across providers and health care settings;

(C) assess patient experience and patient engagement;

(D) assess the safety, effectiveness, and timeliness of care;

(E) assess health disparities, including disparities associated with race, ethnicity, age, gender, place of residence, or language;

(F) assess the efficiency and use of resources in the provision of care;

(G) are designed to be collected as part of health information technologies supporting better delivery of health care services; and

(H) result in direct or indirect costs to users of such measures.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$1,000,000 for fiscal years 2010 through 2014.

By Mr. BINGAMAN:

S. 967. A bill to amend the Energy Policy and Conservation Act to create a petroleum product reserve, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. BINGAMAN. Mr. President, I am pleased to introduce The Strategic Petroleum Reserve Modernization Act of 2009. This bill will ensure that the Strategic Petroleum Reserve will continue to fulfill the goal that its creators envisioned for it in 1975, which is to protect Americans from the economic consequences of oil supply disruptions.

This bill includes two key provisions. First, it creates a refined petroleum product component within the existing SPR. The Department of Energy is required to hold at least 30 million barrels of the total 1 billion barrel SPR inventory in refined petroleum products, such as gasoline and diesel fuel.

In the 1970s, the U.S. was vulnerable to supply disruptions in crude oil, as it was a significant and growing importer of crude oil. In 1973, major oil exporting nations embargoed oil exports to the United States in retaliation for U.S. support for Israel during that year's Arab-Israeli War. The embargo and resulting oil price spikes wreaked havoc on the U.S. economy. Preventing a recurrence of this kind of geopolitical oil supply disruption was the primary goal of the SPR. Because the country then held significant surplus refinery capacity, SPR managers decided to hold only crude oil in the SPR.

In 2009, our domestic oil market has changed. While we are more dependent on imported crude oil than ever before, we also import more refined petroleum products and have considerably less spare refinery capacity. When U.S. refinery operations are disrupted, we require imported products from other countries to fill the gap.

We have also learned in the last 34 years that weather-related events are the most frequent source of oil supply disruptions. In history, the SPR has been used in connection with only on geopolitical event, during the 1990–1991 Iraqi invasion of and removal from Kuwait, while it has been used several times in response to hurricanes or other weather events, such as dense fog halting tanker traffic in the Houston Ship Channel.

These more frequent weather events are usually as disruptive, if not more disruptive, to U.S. refinery operations as to crude oil production and imports. Hurricanes Gustav and Ike in September 2008 took much of the U.S. Gulf Coast infrastructure offline, and shortages of gasoline and diesel were experienced throughout the Southeast through October of that year. The SPR was of limited use in mitigating these shortages because the refineries affected by the storms were not able to process SPR crude oil into gasoline and diesel.

Including a small volume of refined petroleum products in the SPR, as required by The Strategic Petroleum Reserve Modernization Act of 2009, would provide a cushion to affected markets while damaged infrastructure were brought back online, or until imported gasoline and diesel could arrive to service the area.

The second key provision included in the Strategic Petroleum Reserve Modernization Act of 2009 authorizes the Secretary of Energy to release emergency oil from the SPR. Under current law, only the President of the United States can authorize an emergency sale of SPR oil. Experts believe that this requirement creates a disincentive to use SPR oil for the purposes for which it is intended, as the President does not want to alarm the public by announcing that the country is in an oil supply emergency.

Moving the SPR drawdown authority to the Secretary of Energy would allow SPR policy decisions to be made closer

to the oil markets that the SPR serves. I believe that many of my colleagues share my disappointment that recent discussions about when and how to use the SPR have become so political that sound decisions, based on the reality of our country's oil market, have not been possible.

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. 967

*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 “Strategic Petroleum Reserve Modernization Act of 2009”.

#### SEC. 2. PETROLEUM PRODUCT RESERVE.

(a) STRATEGIC PETROLEUM RESERVE.—Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)) is amended by striking “1 billion barrels of petroleum products” and inserting “1,000,000,000 barrels of petroleum products (including at least 30,000,000 barrels of refined petroleum products)”.

(b) PLAN.—Title I of the Energy Policy and Conservation Act is amended by inserting after section 154 (42 U.S.C. 6234) the following:

##### “SEC. 155. PLAN.

“Not later than 180 days after the date of enactment of this section, the Secretary shall submit to the President and, if the President approves, to Congress, a plan to include refined petroleum products in the Strategic Petroleum Reserve, including a description of—

“(1) the disposition of refined petroleum products that shall be stored in the Reserve, which shall be selected—

“(A) to alleviate shortages that might be expected to result from hurricanes, earthquakes, or other acts of nature; and

“(B) to minimize the number of different kinds of refined petroleum products that shall be stored;

“(2) the method of acquisition of refined petroleum products for storage in the Reserve, which shall—

“(A) be intended to minimize both the cost and market disruption associated with the acquisition; and

“(B) include—

“(i) an analysis of the option of exchanging crude oil from the Reserve for refined petroleum products; and

“(ii) the anticipated time requirement for building the inventory of refined petroleum products;

“(3) storage facility options for the storage of refined petroleum products, including the anticipated location of existing or new facilities;

“(4) the estimated costs of establishment, maintenance, and operation of the refined petroleum product component of the Reserve;

“(5) efforts the Department will take to ensure that distributors and importers are not discouraged from maintaining and increasing supplies of refined petroleum products; and

“(6) actions that will be taken to ensure quality of refined petroleum products in the Reserve, including the rotation of products stored.”.

(c) DRAWDOWN AND SALE.—Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended—

(1) by striking subsection (d) and inserting the following:

“(d) LIMITATION ON DRAWDOWN AND SALE.—

“(1) IN GENERAL.—The drawdown and sale of petroleum products from the Strategic Petroleum Reserve may not be made unless the Secretary determines that—

“(A) the drawdown and sale are required by—

“(i) a severe energy market supply interruption; or

“(ii) obligations of the United States under the international energy program; or

“(B) in the case of the refined petroleum product component of the Reserve, a sale of refined petroleum products will mitigate the impacts of weather-related events or other acts of nature that have resulted in a severe energy market disruption.

“(2) SEVERE ENERGY MARKET DISRUPTION.—For purpose of this subsection, a severe energy market supply disruption shall be considered to exist if the Secretary determines that—

“(A) an emergency situation exists and there is a disruption in global oil markets of significant scope and duration;

“(B) a severe increase in the price of petroleum products has resulted, or is likely to result, from the emergency situation; and

“(C) the price increase is likely to cause a major adverse impact on the national economy.”; and

(2) in subsections (h)(1) and (i), by striking “President” each place it appears and inserting “Secretary”.

By Mr. REID (for himself, Mr. PRYOR, Mrs. MURRAY, Mr. MENENDEZ, and Mr. BENNET):

S. 968. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, in our global economy, a high school diploma has become the minimum qualification necessary for a good job. Yet only about a third of the students who enter 9th grade each fall will graduate 4 years later prepared for college or the workforce.

Another third will leave high school with a diploma, but without the skills and knowledge they need to succeed. Yet another third will not graduate from high school within four years, if at all.

This trend, across thousands of our Nation's schools, robs millions of young Americans—particularly poor and minority students—of their best chances to succeed.

Students in Nevada are hit particularly hard. Less than 70 percent of high school students in my home state graduate on time. For African American and Latino students, that number is closer to 50 percent. Nearly 20,000 students in Nevada who started school with the class of 2008 did not graduate with their peers.

Leaving these students behind hurts our economy in both the short- and long-run. These students will cost the State's economy an estimated \$5.1 billion in lost wages over the course of

their lifetimes, and will earn an average of almost \$10,000 less each year compared to their classmates who finished high school.

Almost 90 percent of the fastest-growing and best-paying jobs require some postsecondary education. We can no longer afford to ignore our unacceptable graduation rates. We can no longer afford to look the other way while more and more students remain unprepared to compete in the global economy. It is not right for these students, and it is not right for our economy.

That is why Senators MURRAY and PRYOR and I are introducing the Secondary School Innovation Fund, a bill to improve the education our students get in America's secondary schools. Our future competitiveness depends on our ability to transform our Nation's middle- and high-schools to meet the needs of the 21st century. This legislation aims to address some of these challenges.

Many of our high schools are too large and impersonal. They lack the rigor and high expectations that we must set for all of our students. Of course, many of the problems that lead students to lose interest or drop out of school begin at the middle-school level.

To meet the challenges of this economy and prepare our young people for life after high school, we must give our middle and high schools the opportunity to try new ideas and approaches that will improve students' performance and their graduation rates.

We must take proven ideas and put them in the schools that need them the most like extending the school day or year; dividing large urban schools into smaller, more personal learning academies; expanding summer learning opportunities for middle-school students; or partnering schools with colleges and universities to allow high school students to take and receive credit for college-level courses.

The good news is that schools throughout my home state of Nevada, and across the country, have already started implementing these sorts of innovative strategies:

The Clark County Schools District in southern Nevada—the Nation's 5th largest and one of the fastest growing—has opened some of the most cutting-edge career and technical academies in the country. With programs in engineering and design, medical occupations, and media communications, a visitor to one of these new academies might think they were on a university campus.

In northern Nevada, the Washoe County School District has teamed up with one of the local community colleges. The Truckee Meadows Community College High School now allows students to take a combination of college and high school courses, and they get credit on both levels. Not only do these students complete more challenging, college-level coursework, but they are laying the groundwork for success after high school.

Encouraging our secondary schools to meet new, demanding and competitive requirements requires replicating these types of school models. But they need adequate Federal support to do so. The Secondary School Innovation Fund gives them just that.

President Obama and Secretary Duncan know this as well. The budget we passed last week proposes a similar fund that would promote innovation and excellence in America's schools. And the economic recovery plan that we passed earlier this year includes unprecedented funding for improving and reforming our education systems. It also creates a \$5 billion "Race to the Top Fund" that rewards states and districts for innovation.

This bill would give states, districts, schools, institutes of higher education, businesses and community-based organizations \$500 million in competitive grants in each of the next 6 years to reform in our Nation's secondary schools. By supporting a variety of strategies for innovation and creating evidence-based, systemic and replicable models of reform, we will improve student achievement and prepare them to succeed in school and then in the workforce.

We also know that every dollar we spend belongs to the American people. That is why we will only help programs that can demonstrate that their students are improving.

Democrats are committed to expanding educational opportunities for all Americans and preparing them to succeed in the global economy. We must give them the best chance to achieve their full potential, and this bill will help make that possible. I hope my colleagues will join me in supporting 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. 968

*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 "Secondary School Innovation Fund Act".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Since almost 90 percent of the fastest growing and best paying jobs now require some postsecondary education, a secondary school diploma and the skills to succeed in postsecondary education and the modern workplace are essential.

(2) Only 1/3 of all high school students in the United States graduate in 4 years prepared for a 4-year institution of higher education. Another 1/3 graduate, but without the skills and qualifications necessary for success in postsecondary education or the workplace, and the rest will not graduate from high school in 4 years, if at all.

(3) Dropouts from the class of 2008 will cost the United States more than \$319,000,000,000 in reduced earnings.

(4) The Nation's failure to meet the increasing demand for skilled workers means

that American companies cannot fill a large number of jobs. 81 percent of American manufacturing companies report experiencing a moderate to severe shortage of qualified workers.

(5) The education system of the United States should support critical thinking, creativity, and innovative approaches to problem-solving—all skills that cannot easily be outsourced. The Program for International Student Assessment is an international assessment that measures these high-demand skills. Unfortunately, when the results on this assessment of students from the United States are compared to those of students from 27 other countries, many of which are economic competitors of the United States, the United States students rank 24th in problem-solving, 21st in scientific literacy, and 25th in mathematical literacy.

(6) As the bar for success continues to be raised, the responsibility to engender these attributes with progressive programs and original models lies squarely with the education system. It is imperative that the United States develop and implement new, innovative approaches to fully prepare every student for the 21st century.

(7) Realigning the education system to meet new, demanding requirements and face intensifying competition requires effective, systemic reform. Identifying effective, replicable models that achieve this goal is a critical step towards enhancing the prospects of all students entering the modern workforce.

#### SEC. 3. SECONDARY SCHOOL INNOVATION FUND.

(a) SECONDARY SCHOOL INNOVATION FUND.—Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

- (1) by redesignating part I as part J; and
- (2) by inserting after section 1830 the following:

#### "PART I—SECONDARY SCHOOL INNOVATION FUND

##### "SEC. 1851. PURPOSES.

"The purposes of this part are—

"(1) to improve the achievement of at-risk secondary school students and prepare such students for postsecondary education and the workforce;

"(2) to create evidence-based, replicable models of innovation in secondary schools at the State and local level; and

"(3) to support partnerships to create and inform innovation at the State and local level to improve learning outcomes and transitions for secondary school students.

##### "SEC. 1852. DEFINITIONS.

"In this part:

"(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

- "(A) not less than 1—
- "(i) State educational agency; or
- "(ii) local educational agency that is eligible for assistance under part A; and
- "(B) not less than 1—
- "(i) institution of higher education;
- "(ii) nonprofit organization;
- "(iii) community-based organization;
- "(iv) business; or
- "(v) school development organization or intermediary.

"(2) ELIGIBLE SCHOOL.—The term 'eligible school' means a public secondary school served by a local educational agency that is eligible for assistance under part A.

"(3) HIGH SCHOOL.—The term 'high school' means a public school, including a public charter high school, that provides secondary education, as determined under State law, in 1 or more of grades 9 through 12.

"(4) MIDDLE SCHOOL.—The term 'middle school' means a public school, including a public charter middle school, that provides



middle or secondary education, as determined under State law, in 1 or more of grades 5 through 8.

**“SEC. 1853. SECONDARY SCHOOL INNOVATION FUND.**

“(a) PROGRAM AUTHORIZED.—

“(1) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of implementing innovative strategies described in subsection (f) to improve the achievement of at-risk students in secondary schools.

“(2) SUBGRANTS TO ELIGIBLE SCHOOLS.—An eligible partnership that receives a grant under this part may use the grant funds to award a subgrant to an eligible school to enable the eligible school to implement innovative strategies described in subsection (f) to improve the achievement of at-risk students at the eligible school.

“(3) DURATION OF GRANT PERIOD.—A grant awarded under paragraph (1) shall be for not longer than a 5-year period.

“(b) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts appropriated under this part for a fiscal year for the evaluation described in subsection (h).

“(c) APPLICATION.—

“(1) IN GENERAL.—An eligible partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(2) CONTENTS.—The application described in paragraph (1) shall include—

“(A) a description of the eligible partnership, the partners forming the eligible partnership, and the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the outlined roles and responsibilities;

“(B) a description of how funds will be used to improve the achievement of at-risk students in secondary schools;

“(C) a description of how the activities funded by the grant will be innovative, systematic, evidence-based, and replicable;

“(D) a description of each subgrant the eligible partnership will award to an eligible school, including a description of the eligible school;

“(E) a description of how the eligible partnership will measure and report improvement using the data collected under subsection (g) and additional indicators of improvement proposed by the partnership, such as—

“(i) student attendance or participation;

“(ii) credit accumulation rates;

“(iii) core course completion rates;

“(iv) college enrollment and persistence rates; or

“(v) number or percentage of students taking—

“(I) Advanced Placement (AP), International Baccalaureate (IB), or other postsecondary education courses;

“(II) rigorous postsecondary education preparatory courses; or

“(III) registered apprenticeship and workforce training programs; and

“(F) a description of the planning phase of not more than 90 days that the eligible partnership will undertake for the grant, including—

“(i) the activities and goals of the planning phase; and

“(ii) how each partner in the eligible partnership will participate in the planning phase.

“(d) APPLICATION REVIEW AND AWARD BASIS.—

“(1) GRANT REVIEW AND APPROVAL.—The Secretary shall—

“(A) establish a peer review process to assist in the review of the grant applications and approval of the grants under this section; and

“(B) appoint to the peer review process—

“(i) individuals who are educators and experts in—

“(I) secondary school reform;

“(II) accountability;

“(III) secondary school improvement;

“(IV) innovative education models;

“(V) postsecondary education preparation and access; and

“(VI) workforce preparation;

“(ii) not less than 1 parent or community representative; and

“(C) ensure that each grant award is of sufficient size and scope to carry out the activities proposed in the grant application, including the evaluation required under subsection (g)(3).

“(2) AWARD BASIS.—In awarding grants under this part, the Secretary shall ensure, to the extent practicable—

“(A) diversity in the type of activities funded under the grants, including statewide and local initiatives;

“(B) an equitable geographic distribution of the grants, including urban and rural areas and small and large school districts; and

“(C) that the grants support activities—

“(i) that target different grade levels of students at the secondary school level;

“(ii) in a variety of types of secondary schools, including middle schools and high schools; and

“(iii) in secondary schools of varying sizes, including small and large schools.

“(e) FEDERAL SHARE, NON-FEDERAL SHARE.—

“(1) FEDERAL SHARE.—The Federal share of a grant under this part shall be not more than 75 percent of the costs of the activities assisted under the grant.

“(2) NON-FEDERAL SHARE.—The non-Federal share shall be not less than 25 percent of the costs of the activities assisted under the grant, of which not more than 10 percent of the costs of the activities assisted under the grant may be provided in-kind, fairly evaluated.

“(f) USE OF FUNDS.—An eligible partnership receiving a grant under this part, or an eligible school receiving a subgrant under this part, shall use grant or subgrant funds, respectively, to carry out 1 or more of the following effective models or innovative programs:

“(1) EFFECTIVE SCHOOL MODELS.—

“(A) MULTIPLE EDUCATION PATHWAYS.—A model creating a range of academically rigorous multiple education pathways, based on the analysis of student data, that lead to a secondary school diploma, that are consistent with readiness for postsecondary education and the workforce, and that offer students a range of educational options designed to meet the students' needs and interests, including through the creation of new schools. Such pathways may include—

“(i) an effective dropout prevention and recovery model that—

“(I) prepares students for postsecondary education and career readiness;

“(II) uses re-engagement and recuperative strategies based in youth development;

“(III) uses innovative strategies for credit recovery and acceleration, such as flexible hours or online access to curricula, courses, assessments, resources, and supports;

“(IV) provides competency-based instruction and performance-based assessment to improve educational outcomes for various populations of overaged or undercredited students or students who have previously dropped out of secondary school, such as—

“(aa) students not making sufficient progress to graduate with a regular secondary school diploma in the standard number of years;

“(bb) students who need to work to support themselves or their families;

“(cc) pregnant and parenting teens; and

“(dd) students returning from the juvenile justice system; and

“(V) combines rigorous academic education with career training for students that are not making sufficient progress to graduate from secondary school in the standard number of years;

“(ii) a career and technical education program;

“(iii) a career academy or other model that delivers high quality, college preparatory curriculum in the context of a rigorous technical core; and

“(iv) creating a more personalized and engaging learning environment for secondary school students, such as—

“(I) establishing smaller learning communities;

“(II) creating student advisories and developing peer engagement strategies;

“(III) creating mechanisms for increased educator collaboration around individual student needs;

“(IV) involving students and parents in the development of individualized student plans for secondary school success and graduation and transition to postsecondary education; and

“(V) creating mechanisms for increased student participation in school improvement efforts and in decisions affecting the students' own learning, including students leading guidance activities, mentoring, or tutoring efforts.

“(B) EARLY COLLEGE AND DUAL ENROLLMENT SCHOOLS.—An early college high school or other dual enrollment learning opportunity that provides a course of study that enables a student to earn a secondary school diploma and either an associate degree or not more than 2 years of transferable postsecondary education credit toward a postsecondary degree or credential.

“(C) SECONDARY SCHOOLS USING EARLY WARNING SYSTEMS.—A secondary school that enables at-risk students to graduate from secondary school ready to succeed in postsecondary education and the workforce, through use of an early warning indicator and intervention system that combines—

“(i) research-based whole school reform focused on improving attendance, behavior, and course performance;

“(ii) targeted interventions provided by trained teams of adults working full-time in the school, which may include—

“(I) participants or volunteers under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.);

“(II) student and family advocates; and

“(III) college and career access and success counselors;

“(iii) integrated student services and case-managed interventions for students requiring intensive supports; and

“(iv) an on-track indicator system to identify students in need of additional support and to monitor the effectiveness of the interventions described in clause (ii).

“(2) INNOVATIVE PROGRAMS.—

“(A) EXPANDED LEARNING-TIME OPPORTUNITIES.—The creation of an expanded learning-time opportunity, which may include—

“(i) establishing a mandatory expanded day, for all students transitioning into the first year of high school, for academic catch-up and enrichment;

“(ii) providing arts, service-learning (as defined in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511), or youth development opportunities with community-based cultural and civic organizations;

“(iii) providing higher education and work-based exposure, experience, and credit-bearing learning opportunities in partnership with postsecondary education institutions and the workforce;

“(iv) providing technology-enabled collaboration and access for students to receive assistance from content experts, instructors, and peers and to utilize resources for remediation and enrichment; or

“(v) providing quality summer experiences, which may include youth development.

“(B) **SUCCESSFUL TRANSITIONS TO HIGH SCHOOL.**—A program improving student transitions from middle school to high school and ensuring successful entry into high school, which may include—

“(i) establishing summer transition programs for students transitioning from middle school to high school to ensure the students’ connection to the students’ new high school and to orient the students to the study skills and social skills necessary for success in the high school;

“(ii) providing for the sharing of data between high schools and feeder middle schools;

“(iii) establishing early warning indicator and intervention programs in high school for students transitioning into the students’ first year of high school so that such students do not become truant or fall too far behind in academics;

“(iv) increasing the level of student supports, including academic and nonacademic supports that meet the comprehensive needs of struggling students;

“(v) aligning academic standards, curricula, and assessments between middle and high schools; and

“(vi) providing electronic access to detailed information on student performance and all content and skill areas to students transitioning into high school and their parents.

“(C) **SUCCESSFUL TRANSITIONS TO POSTSECONDARY EDUCATION AND THE WORKFORCE.**—Improvements to assist student transition from secondary school to postsecondary education and the workforce, which may include—

“(i) providing for the sharing of data between secondary schools and institutions of higher education, including data on remediation and completion rates;

“(ii) enabling dual enrollment and postsecondary credit-bearing learning opportunities;

“(iii) creating new opportunities to better utilize grades 11 and 12 and creating better connections to postsecondary education, which may include internships, externships, job shadowing, and technology-enabled collaboration;

“(iv) providing enhanced planning and counseling for postsecondary education, including financial aid counseling; and

“(v) aligning the academic standards of secondary school with the academic standards of postsecondary education and the requirements and expectations of the workforce, including partnering with local industry to align technical curricula to workforce needs.

“(D) **INCREASED SCHOOL AUTONOMY AND FLEXIBILITY.**—A program of providing secondary schools with increased autonomy and flexibility, which may include—

“(i) establishing a process whereby existing schools can apply for flexibility in such areas as scheduling, curricula, budgeting, and governance; and

“(ii) starting new small public secondary schools that are guaranteed such autonomy.

“(E) **RURAL OPPORTUNITIES.**—A program to improve learning opportunities for secondary school students in rural schools, including through the use of distance-learning opportunities and other technology-based tools.

“(F) **MIDDLE GRADE IMPROVEMENTS.**—A program to improve learning opportunities for students in the middle grades—

“(i) to prevent student disengagement and improve achievement; and

“(ii) to better respond to early warning signs that students are at risk of dropping out of school, such as poor attendance, poor behavior, or course failure, through the use of an early warning indicator system and interventions.

“(G) **IMPROVING TEACHING AND ACADEMICS.**—A program of improving teaching and increasing academic rigor at the secondary school level, which may include—

“(i) improving the alignment of academic standards with the requirements and expectations of postsecondary education and the workforce;

“(ii) improving the teaching and assessment of 21st century skills, including through the development of formative assessment models;

“(iii) providing high-quality professional development on data literacy, including on use of data to inform classroom instruction;

“(iv) addressing the learning needs of various student populations, including students who are limited English proficient, late entrant English language learners, and students with disabilities; and

“(v) developing value-added measures for use in determining teacher ability and effectiveness, including for use in recruitment and hiring decisions.

“(H) **IMPROVED COMMUNITY AND PARENTAL INVOLVEMENT.**—A program improving community and parental involvement, which may include—

“(i) increasing community involvement, including leveraging community-based services and opportunities to provide every student with the academic and comprehensive nonacademic supports necessary for academic success; and

“(ii) increasing parental involvement, including providing parents with the tools to navigate, support, and influence their child’s academic career and choices through secondary school graduation and into postsecondary education and the workforce, including through electronic access to student data.

“(G) **DATA COLLECTION AND EVALUATION.**—

“(1) **COLLECTION OF DATA.**—Each eligible partnership receiving a grant under this part shall collect and report annually to the Secretary such information on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

“(A) the number and percentage of students who—

“(i) are served by the eligible partnership;

“(ii) are assisted under this part; and

“(iii) graduate from secondary school with a regular secondary school diploma in the standard number of years;

“(B) the number and percentage of students, at each grade level, who are—

“(i) served by the eligible partnership;

“(ii) assisted under this part; and

“(iii) on track to graduate from secondary school with a regular secondary school diploma in the standard number of years;

“(C) the number and percentage of students, at each grade level, who—

“(i) are served by the eligible partnership;

“(ii) are assisted under this part; and

“(iii) meet or exceed State challenging student academic achievement standards in mathematics, reading or language arts, or science, as measured by the State academic assessments under section 1111(b)(3);

“(D) information consistent with the additional indicators of improvement proposed by the eligible partnership in the grant application; and

“(E) other information the Secretary may require as necessary for the evaluation described in subsection (h).

“(2) **REPORTING OF DATA.**—Each eligible partnership receiving a grant under this part shall disaggregate the information required under paragraph (1) in the same manner as information is disaggregated under section 1111(h)(1)(C)(i).

“(3) **EVALUATION.**—

“(A) **IN GENERAL.**—Each eligible partnership receiving a grant under this part shall, immediately after the receipt of grant funds, enter into a contract with an outside evaluator to enable the evaluator to conduct—

“(i) an evaluation of the effects of the grant after the third year of implementation of the grant; and

“(ii) an evaluation of the effects of the grant after the final year of the grant period.

“(B) **DISTRIBUTION.**—Upon completion of an evaluation described in subparagraph (A), the eligible partnership shall submit a copy of the evaluation to the Secretary in a timely manner.

“(h) **EVALUATION; BEST PRACTICES.**—

“(1) **IN GENERAL.**—From amounts reserved under subsection (b), the Secretary shall—

“(A) enter into a contract with an outside evaluator to enable the evaluator to conduct—

“(i) a comprehensive evaluation after the third year of implementation on the effectiveness of all grants awarded under this part;

“(ii) a final evaluation following the final year of the grant period—

“(I) with a focus on the improvement in student achievement and the indicators described in subsection (g)(1) as a result of innovative strategies; and

“(II) to the extent practicable, that compares the relative effectiveness of different types of programs and compares the relative effectiveness of variations in implementation within types of programs; and

“(B) disseminate, and provide technical assistance regarding, best practices in improving the achievement of secondary school students.

“(2) **PEER REVIEW.**—

“(A) **IN GENERAL.**—An evaluator receiving a contract under this subsection shall—

“(i) establish a peer-review process to assist in the review and approval of the evaluations conducted under this subsection; and

“(ii) appoint individuals to the peer-review process who are educators and experts in—

“(I) research and evaluation; and

“(II) the areas of expertise described in subclauses (I) through (VI) of subsection (d)(1)(B)(i).

“(B) **RESTRICTIONS ON USE.**—The Secretary shall not distribute or use the results of any evaluation described in paragraph (1)(A) until the results are peer-reviewed in accordance with subparagraph (A).

“(i) **CONTINUATION OF FUNDING.**—An eligible partnership that receives a grant under this part shall only be eligible to receive a grant payment for a fourth or fifth year of the grant if the Secretary determines, on the basis of the evaluation of the grant under subsection (h)(1)(A)(i), that the performance of the eligible partnership under the grant has been satisfactory.

“(j) **RULE OF CONSTRUCTION REGARDING DISCRIMINATION.**—Nothing in this section shall be construed to permit discrimination on the

basis of race, color, religion, sex, national origin, or disability in any program or activity funded under this part.

**"SEC. 1854. AUTHORIZATION OF APPROPRIATIONS.**

"There is authorized to be appropriated to carry out this part \$500,000,000 for fiscal year 2010 and for each of the succeeding 5 years."

(b) CONFORMING AMENDMENTS.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 note) is amended—

(1) by striking the item relating to Part I and inserting the following:

"PART J—GENERAL PROVISIONS"; AND

(2) by inserting after the item relating to section 1830 the following:

"PART I—SECONDARY SCHOOL INNOVATION FUND

"Sec. 1851. Purposes.

"Sec. 1852. Definitions.

"Sec. 1853. Secondary school innovation fund.

"Sec. 1854. Authorization of appropriations."

### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 126—COMMEMORATING THE 150TH ANNIVERSARY OF THE ARRIVAL OF THE SISTERS OF THE SACRED HEARTS IN HAWAII

Mr. INOUE (for himself, Mr. AKAKA, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 126

Whereas the Sisters of the Sacred Hearts, also known as the Sisters of the Congregation of the Sacred Hearts of Jesus and Mary, in 2009 are celebrating the 150th anniversary of their arrival in Hawaii on May 4, 1859, to provide Catholic education to the children of Hawaii;

Whereas, during the past 150 years, through the devotion and dedication of the Sisters of the Sacred Hearts, thousands of youth in Hawaii, California, Massachusetts, and New Jersey have received the benefit of a well-rounded education based on Christian principles and moral living at the following educational institutions: Sacred Hearts Convent at Fort Street, Honolulu; Sacred Hearts Academy, Kaimuki, Honolulu; St. Anthony Home, Kalihi, Honolulu; Sacred Hearts Convent, Nuuanu, Honolulu; St. Theresa School, Honolulu; Our Lady of Peace School, Honolulu; Immaculate Conception School, Lihue, Kauai; St. Patrick School, Kaimuki, Honolulu; Maria Regina School, Gardena, California; Bishop Amat High School, West Covina, California; Sacred Hearts Academy, Fairhaven, Massachusetts; St. Joseph School, Fairhaven, Massachusetts; Sacred Hearts School, Fairhaven, Massachusetts; and St. Andrew School, Avenel, New Jersey;

Whereas, during the past 101 years, the Sisters of the Sacred Hearts have served communities in Fairhaven, Fall River, and Mt. Rainier, Massachusetts, and in Avenel, New Jersey, and continue to serve communities in Fairhaven, Massachusetts;

Whereas, during the past 50 years, the Sisters of the Sacred Hearts have served communities in Gardena, West Covina, and San Bernardino, California, and in Artesia, New Mexico, and continue to serve communities in Artesia, New Mexico; and

Whereas the people of the United States wish to convey their sincerest appreciation to the Sisters of the Sacred Hearts for their service and devotion: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii; and

(2) honors and praises the Sisters of the Sacred Hearts Pacific Province for their good works in the education of the youth of the United States and in service to the people of Hawaii, California, Massachusetts, New Jersey, and New Mexico, and for the Sisters' pursuit of educational, social, and economic equality of all persons.

#### SENATE RESOLUTION 127—RECOGNIZING THE MEMBERS OF THE UNITED STATES ARMY AND THE PHYSICIANS OF MAINE MEDICAL CENTER FOR THE OPEN-HEART SURGERY THEY PERFORMED ON A 6-YEAR-OLD IRAQI GIRL

Ms. SNOWE submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 127

Whereas 6-year-old Tiba and her mother, Sareea traveled from the countryside of Iraq to Maine so that Tiba could receive open-heart surgery;

Whereas the bravery of a young child and the phenomenal service of the courageous soldiers in the United States Army are inspiring and place a human face and a human heart at the center of one of the most war-torn areas in the world;

Whereas Kim Block of WGME channel 13 in Portland, Maine professionally produced and broadcast a heartwarming story on this case;

Whereas all of Maine feels a boundless sense of pride for the tremendous commitment and contribution of Dr. Reed Quinn who led the team of physicians at Maine Medical Center in the 8-hour open-heart surgery procedure that saved Tiba's life; and

Whereas such surgery was made possible by the compassion of the Maine Foundation for Cardiac Surgery, and was a mission fulfilled by a team of genuine heroes: Now, therefore, be it

*Resolved*, That the Senate recognizes the soldiers, doctors, nurses, and hospital staff at Maine Medical Center for their compassionate service, and Tiba and Sareea for their remarkable courage.

Ms. SNOWE. Mr. President, today I introduced a Senate Resolution recognizing the United States Army and the physicians of Maine Medical Center for saving the life of a 6-year-old Iraqi girl.

My Maine constituents and I are bursting with pride over the tremendous commitment and contribution of Dr. Reed Quinn and the team of health professionals at Maine Medical Center who recently conducted an eight-hour open heart surgery procedure which saved young Tiba's life. The procedure was made possible by the compassion of the Maine Foundation for Cardiac Surgery, and the mission was fulfilled by a team of genuine American heroes, led by the U.S. Army.

I am particularly touched by the bravery of a young child and the outstanding service of our courageous soldiers in the U.S. Army. I will always remember this story because it places a human face at the center of a war-torn area.

After viewing the moving news series reported by Kim Block of WGME Channel 13 in Portland on "Operation Good

Heart," I thought it was fitting to recognize the story of 6-year-old Tiba and her mother, Sareea, and their journey from their village in Iraq to Maine. Tiba suffered a dangerous heart condition and was transported by the U.S. Army from Iraq to Maine for life-saving open-heart surgery performed by the talented physicians of Maine Medical Center.

I hope my colleagues will join me in commending the dedicated soldiers of the U.S. Army, the superlative professionals of Maine Medical Center, the generous folks at the Maine Foundation for Cardiac Surgery, the good people of Channel 13, and—above all—the brave mother and daughter who traveled across the globe. This is a heartwarming story about wonderful people who make America great, and I urge adoption of the Resolution.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. KAUFMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Monday, May 4, 2009, at 5:30 p.m.

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

#### COMMEMORATING THE 150TH ANNIVERSARY OF THE ARRIVAL OF THE SISTERS OF THE SACRED HEARTS IN HAWAII

Mr. SCHUMER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 126, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 126) commemorating the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii.

There being no objection, the Senate proceeded to consider the resolution.

Mr. INOUE. Mr. President, today, I rise in support of a Senate resolution commemorating the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii. I am pleased to have Senators Daniel Akaka and John Kerry as original cosponsors of the resolution.

The first Catholic missionaries to the Hawaiian Islands were members of the Congregation of the Sacred Hearts of Jesus and Mary and of Perpetual Adoration of the Most Blessed Sacrament of the Altar.

The Congregation was founded by Pierre Coudrin and Henriette Aymer de la Chevalerie in Poitiers, France, on Christmas Eve 1800.

In 1825, the Congregation responded to a request of Pope Leo XII for missionaries to the Pacific Rim, then known as Oceania.

The Sacred Hearts Priests and Brothers arrived in Hawaii in 1827; the Sisters, in 1859.

Today, through the missionary zeal of its members, of which a noteworthy exemplar in Hawaii is Blessed Damien de Veuster, the Brothers and Sisters of the Congregation of the Sacred Hearts of Jesus and Mary are present in 40 countries and on all continents.

The Sisters of the Sacred Hearts Pacific Province is the administrative center of communities of Sisters currently serving in Hawaii, New Mexico, and Massachusetts. In observance of the 150th anniversary of the Sisters' arrival to Hawaii, I urge my colleagues to support this resolution recognizing the Sisters' dedication through these years to the education of the children of Hawaii, Massachusetts, California, and New Mexico.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 126) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 126

Whereas the Sisters of the Sacred Hearts, also known as the Sisters of the Congregation of the Sacred Hearts of Jesus and Mary, in 2009 are celebrating the 150 anniversary of their arrival in Hawaii on May 4, 1859, to provide Catholic education to the children of Hawaii;

Whereas, during the past 150 years, through the devotion and dedication of the Sisters of the Sacred Hearts, thousands of youth in Hawaii, California, Massachusetts, and New Jersey have received the benefit of a well-rounded education based on Christian principles and moral living at the following educational institutions: Sacred Hearts Convent at Fort Street, Honolulu; Sacred Hearts Academy, Kaimuki, Honolulu; St. Anthony Home, Kalihi, Honolulu; Sacred Hearts Convent, Nuuanu, Honolulu; St. Theresa School, Honolulu; Our Lady of Peace School, Honolulu; Immaculate Conception School, Lihue, Kauai; St. Patrick School, Kaimuki, Honolulu; Maria Regina School, Gardena, California; Bishop Amat High School, West Covina, California; Sacred Hearts Academy, Fairhaven, Massachusetts; St. Joseph School, Fairhaven, Massachusetts; Sacred

Hearts School, Fairhaven, Massachusetts; and St. Andrew School, Avenel, New Jersey;

Whereas, during the past 101 years, the Sisters of the Sacred Hearts have served communities in Fairhaven, Fall River, and Mt. Rainier, Massachusetts, and in Avenel, New Jersey, and continue to serve communities in Fairhaven, Massachusetts;

Whereas, during the past 50 years, the Sisters of the Sacred Hearts have served communities in Gardena, West Covina, and San Bernardino, California, and in Artesia, New Mexico, and continue to serve communities in Artesia, New Mexico; and

Whereas the people of the United States wish to convey their sincerest appreciation to the Sisters of the Sacred Hearts for their service and devotion: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the 150th anniversary of the arrival of the Sisters of the Sacred Hearts in Hawaii; and

(2) honors and praises the Sisters of the Sacred Hearts Pacific Province for their good works in the education of the youth of the United States and in service to the people of Hawaii, California, Massachusetts, New Jersey, and New Mexico, and for the Sisters' pursuit of educational, social, and economic equality of all persons.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Republican leader, pursuant to P.L. 110-229, the appointment of the following to be a nonvoting member of the Commission to Study the Potential Creation of a National Museum of the American Latino: Sandy Colon Peltyn of Nevada.

#### ORDERS FOR TUESDAY, MAY 5, 2009

Mr. SCHUMER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Tuesday, May 5; 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 that the Senate resume consideration of S. 896, the Helping Families Save Their Homes Act of 2009; further, I ask unanimous consent that the Senate recess from 12:30 until 2:15 to allow for the weekly caucus luncheons.

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

#### PROGRAM

Mr. SCHUMER. Mr. President, Senators should expect rollcall votes in relation to amendments prior to the caucus recess.

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SCHUMER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 6:37 p.m., adjourned until Tuesday, May 5, 2009, at 10 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

MERCEDES MARQUEZ, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE SUSAN D. PEPPLER, RESIGNED.

##### DEPARTMENT OF HEALTH AND HUMAN SERVICES

KATHY J. GREENLEE, OF KANSAS, TO BE ASSISTANT SECRETARY FOR AGING, DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE JOSEFINA CARBONELL, RESIGNED.

##### GENERAL SERVICES ADMINISTRATION

MARTHA N. JOHNSON, OF MARYLAND, TO BE ADMINISTRATOR OF GENERAL SERVICES, VICE LURITA ALEXIS DOAN, RESIGNED.

##### DEPARTMENT OF HOMELAND SECURITY

PHILIP MUDD, OF VIRGINIA, TO BE UNDER SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

##### FEDERAL ELECTION COMMISSION

JOHN J. SULLIVAN, OF MARYLAND, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2013, VICE ELLEN L. WEINTRAUB, TERM EXPIRED.

##### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### *To be lieutenant general*

LT. GEN. JOSEPH F. DUNFORD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### *To be lieutenant general*

MAJ. GEN. WALTER E. GASKIN, SR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

##### *To be lieutenant general*

LT. GEN. RICHARD C. ZILMER