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Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Lord, God, omnipotent, You are above all nations. Take our lives and use them for Your purposes. Cleanse our hearts, forgive our sins, and amend our ways as Your transforming grace changes our lives.

Today, make our Senators true servants of Your will. In these challenging times, give them the wisdom to labor for justice, to love mercy, and to walk humbly with You. Keep their minds and spirits steady as they strive to do Your will.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 7, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND 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. Madam President, following leader remarks, the Senate will be in morning business for 1 hour. Republicans will be in control of the first half, Democrats the final half. Following morning business, the Senate will resume consideration of the surface transportation act.

ORDER OF PROCEDURE

I ask unanimous consent that there be a recess at 5 p.m. and that be extended until 6:30 p.m. to accommodate Senators on the briefing.

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

Mr. REID. Madam President, we are having a briefing this evening at the request of Senator MIKULSKI, who is a long-term member of the Intelligence Committee, to have an actual demonstration of why we need to pass the cybersecurity bill. All Senators should be there, and that is why we asked for the recess.

BLOODY SUNDAY

Mr. REID. Madam President, 47 years ago today a group of 600 freedom-loving men and women set out on a march from Selma, AL, to Montgomery, AL. The purpose of the march was to call for an end to discrimination and violence against African Americans. Among those peaceful protesters was a young man by the name of JOHN LEWIS, now Congressman JOHN LEWIS. His life has been one of truly a great civil rights leader, outstanding legislator, and a patriot beyond excellence.

Only 6 blocks from the church where the march began, they were met at Edmund Pettus Bridge by police dogs, firehoses, and clubs. The terrible violence that day, known as Bloody Sunday, was broadcast across the country.

March 1965 marked a turning point in the civil rights movement, as Americans cried out against the injustice and bloodshed they saw on television. Later that month about 25,000 courageous souls finally completed that 12-mile march from Selma to Montgomery that started on Bloody Sunday, and 6 months later President Lyndon Johnson signed the Voting Rights Act of 1965.

A year ago I was privileged to lock arms with Congressman JOHN LEWIS and Congressman Jim Claiborne, two men whom I admire deeply, as we reenacted the march across the Edmund Pettus Bridge. It was really a humbling experience as JOHN LEWIS, with throngs of people—but we were together—explained to me what he remembered from that day:

As we were starting up the bridge there was a drug store that doesn't exist anymore, but a lot of whites were gathered there. They were, of course, up to mischief.

JOHN LEWIS had on his back a backpack—they were not very common in those days—he had a backpack on his back. He thought perhaps he would be arrested, as he had been many times, and he would have something to read while he was in jail. He had a book and an apple in that backpack, but, of course, he was beaten very badly, and no one will ever know what happened to the backpack and the apple and the book.

It was really a humbling experience—I repeat, one I will never forget. On this day, I think we should all pause to

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

think that, while we have come a long way, we have a long way to go to make sure we have civil rights for everyone in America.

THE HIGHWAY BILL

Madam President, we were disappointed, as I indicated yesterday, at not being able to invoke cloture on this highway bill. I was satisfied yesterday that the Speaker of the House indicated that he thought the best thing to do, at least as I read the reports, would be to take the Senate version of a bill, if we can figure out a way to pass one, and then they would use that—he would bring it to the floor for a vote. I hope that is the case. The press doesn't always get things right, but I hope in this case they did.

Senator MCCONNELL's staff and my staff are exchanging paper as we speak. I hope we can work our way through this bill. I think it is unfortunate that we are going to have to have votes on a number of amendments that have nothing to do with this underlying piece of legislation.

This is one thing the American people really do not like. At our townhall meetings, our visitations with people throughout our States, I have come to the realization that they hate what they call riders—things that have nothing to do with bills. The Senate rules allow them in most instances, so if it takes this to get this bill done, then we will have to move forward in that way. I hope we can do that. As I said, we are going to exchange paper, and I hope both sides will react positively. I am confident we will over here, and I hope we can work something out.

RECOGNITION OF THE MINORITY LEADER

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

GAS PRICES

Mr. MCCONNELL. Madam President, last week I came to the Senate floor to speak out on an issue that is on the minds of a lot of Americans these days: the rising cost of gas at the pump and how the administration's policies are actually making matters worse.

The President may try to take credit for production gains that are entirely the work of others, but more to the point is the fact that production is up on private lands and down on Federal lands. The property the President and the Interior Secretary actually manage is the property upon which production is down.

In fact, when it comes to the rising cost of gas at the pump, it is my view that the administration's policies are actually designed to a purpose: to bring about higher gas prices. That is a view which should not be the least bit controversial given the fact that the President's own Energy Secretary has suggested on a couple of occasions now that his goal certainly is not to drive gas prices down.

For the President's part, he often says that Americans should judge him not only by his words but on his deeds. So when it comes to gas prices, I have pointed out that the President continues to limit offshore areas to energy production and is granting fewer leases on public land for oil drilling, has encouraged countries such as Brazil to move forward with their own offshore drilling projects, continues to impose burdensome regulations on the domestic energy sector that will further drive up the cost of gasoline for the consumer, has repeatedly proposed raising taxes on the energy sector, which we all know would only drive gas prices even higher, and, finally, has flatly rejected the Keystone XL Pipeline.

All of these help drive up the cost of gas and increase our dependence on foreign oil. So the President simply cannot claim to have a comprehensive approach to energy because he doesn't—he simply doesn't—and anytime he says he does, the American people should remember one word: Keystone. Keystone.

Another thing they might want to do is play a clip of the press conference the President held just yesterday. Asked about whether he actually wants gas prices to go up, the President's facetious attempt to deflect the question only served to confirm the premise. But it was the President's admission that rising gas prices hurt the economy that really betrayed the administration's attempt to have it both ways on this issue, because if higher gas prices hurt the economy, then why in the world is the administration calling for higher taxes on energy manufacturers? We know these taxes would drive up the price at the pump and send jobs overseas. The Congressional Research Service said that. If the President wants to drive prices down, he should stop calling for these increases in taxes.

Look, if the President wants Americans to think he is serious about lower gas prices, he has to do more than simply say—and this is what he said yesterday—''No President would want higher gas prices in an election year.'' ''No President would want higher gas prices in an election year.'' What about other years? Would they want them in other years? It is only in election years that it is a problem? He has to get serious about changing his policies, and he might want to consider an Energy Secretary who is more committed to helping the American people than in helping the administration's buddies in the solar panel business—and that brings me to a larger point.

The President likes to talk a lot about fairness. We have heard a lot about fairness, but when it comes to rising gas prices, the American people don't think it is particularly fair that at a time when they are struggling to fill the tank, their own tax dollars are being used to subsidize failing solar companies of the President's choosing, not to mention the bonuses executives at these companies keep getting. I think most Americans are tired of reading about all the goodies this administration's allies are getting on their dime even as the President goes around lecturing everybody about fairness.

I will tell you what is not fair. What is not fair is that it costs about $40 more to fill a 20-gallon tank with gasoline than it did when this President took office. That is not fair. Yet this administration continues to pursue policies that would make it even worse.

Earlier this year the White House launched a campaign in support of the payroll tax holiday, asking Americans what $40 a month would mean to them. Yet, now, when it comes to gas prices, they are doubling down on policies that are taking away that $40 a month given by the payroll tax holiday to fill the gas tank. Once again, they are trying to have it both ways, and, frankly, the American people have had it.

TRIBUTE TO JOHN RABUN

Mr. MCCONNELL. Madam President, I would like to pay tribute today to a friend of many decades, a Kentuckian who is a hero to many and a personal hero of mine for his work on behalf of children that has had a national impact. In his 28 years of service with the National Center for Missing and Exploited Children, John Rabun has saved literally thousands of lives and averted tragedy for thousands of families.

As the very first employee of the national center since its creation back in 1984, he has been the heart and the soul of that organization. His dedication and passion for the issue will continue to shape the national center long after he leaves it. Frankly, for John, saving children was not just a job, it was his mission. That is why it is such a blow that after 28 years of service, John Rabun will retire from his work at the National Center for Missing and Exploited Children this Friday, March 9. I cannot say enough how much this man will be missed.

John and I have a history that stretches back almost four decades, dating to his time as a social worker in Jefferson County, KY. Of course, Jefferson County contains the city of Louisville, my hometown, and in the late 1970s and early 1980s, I served as the judge-executive for Jefferson County. What that is, I say to the Presiding Officer from New York, is like the county executive for the county. It was in this capacity that I got to know John Rabun.

John earned his bachelor's degree from Mercer University in Macon, GA, and his master of science in social work from the University of Louisville. As a social worker, John managed the company's group home for kids and was one of the first in town to identify

the growing crisis of child abduction and sexual exploitation. Working in those foster homes, John saw the problem firsthand and saw what local police and social services were not seeing. He saw that information between social service workers and law enforcement was not being shared as it should have been. He realized a lot more could be done.

So John, along with a friend and fellow social worker, Kerry Rice, approached Ernie Allen, who at the time was the director of the Louisville-Jefferson County Crime Commission. Ernie is now known as the director and CEO of the National Center for Missing and Exploited Children, which he helped build alongside John. But way back then, the issue of missing and exploited children had yet to receive the national focus it deserved.

It was John who proposed to Ernie that the county create a special unit bridging the traditional barriers between social services and law enforcement to try to combat this serious problem. They came to me—as the CEO of the county—with this idea, and together we created what I believe to be the first police-social services team in the Nation dedicated to working child abduction and sexual exploitation cases. Eventually, we created Jefferson County's first exploited and missing child unit, with John as its manager. Under John's leadership, almost immediately the unit began to solve cases, rescue victims, and put some very good news on the front pages.

John became famous nationwide as a leading expert on missing and exploited child cases. In 1980, the U.S. Department of Justice asked me to send John and Ernie to Atlanta to consult on a grisly child murder case. John is now so recognized as a leader in this field that he has provided expert testimony to Congress seven times on child abduction cases and has instructed for the FBI Law Enforcement Satellite Training Network. John has provided consultation at nearly 1,000 hospitals and for over 62,000 personnel in America, Canada, and the United Kingdom on the abduction of newborns in hospitals. He is the author of the book ''For Healthcare Professionals: Guidelines on Prevention of and Response to Infant Abductions.'' Thanks in large measure to his efforts, what was once a recurring problem is now all but eliminated.

John has been recognized by the FBI as 1 of only 27 investigators nationwide with the highest expertise in the investigation of cases concerning missing and exploited children. He has appeared on television shows such as ''20/20,'' ''Primetime,'' ''Good Morning America,'' ''Larry King Live,'' and, of course, ''America's Most Wanted'' with his friend and my friend, John Walsh.

In 1984, John signed the lease for office space for the National Center for Missing and Exploited Children right here in Washington. He began working as that organization's executive vice president and chief operating officer. It is a post he has held ever since. As the National Center's executive vice president and COO, John manages a staff of 350 and a budget of $42 million a year. He is the hub of the wheel for all interagency communication between the center, the Justice Department, the State Department, the Secret Service, the FBI, the Department of Homeland Security, as well as State governments.

When I say John Rabun has a great passion and drive on this issue that has animated his entire career, I mean it. He is absolutely dedicated to rescuing children who would otherwise fall through the cracks.

Back when he was running the Jefferson County Crime Unit, John led the effort to successfully identify and prosecute the pastor of a major local church for sexually abusing over one dozen children in his congregation. After this pastor's conviction, the judge shockingly sentenced him merely to probation with a community service requirement. John leapt from the prosecutor's table and cried: ''Your Honor, will you at least stipulate that this community service not be with children?'' The judge held John in contempt of court. Luckily, the prosecutor quickly scurried John out through a side door before he could be taken into custody and after a few days the heat died down. But this story goes to illustrate how John will stop at literally nothing to see justice is done for those who are weakest among us, our children.

John's lifetime of service to children has directly led to the rescue of over 80,000 kids. Let me share with my colleagues just one success story. About 1 year ago, a Los Angeles police detective contacted the National Center for Missing and Exploited Children for information on a 10-year-old boy who had been missing for many years. In 2004, the child's parents separated, and although the mother received custody, her son was abducted from their home. A search began for the boy and his father, which continued for 7 years. Law enforcement had no leads on the child's whereabouts, suspecting the father may have abducted him back to his native country of Guatemala. Upon receiving the call from that Los Angeles detective, the National Center's case management team began coordinating the center's resources with the child's mother and detectives in the Los Angeles Police Department. A missing child poster was created and disseminated around California, and detectives were provided with detailed public database searches throughout the National Center's case analysis division.

Just a little over 1 month ago, the center received a lead from a school official who believed he had recognized the boy as a fifth grader at a Los Angeles elementary school. This official had searched the center's Web site, saw the missing child's poster, and contacted the center's 24-hour hot line. The center passed this lead along to police, and I am pleased to say that on January 31 of this year, 8 years after his abduction, this boy was reunited with his mother, and his father was arrested.

Imagine that mother's relief and then multiply that feeling by literally thousands. Only then can we begin to appreciate the immense service John Rabun has done for his country. So that is why we are all going to miss John so much. No one can say he could have done more; however, neither could anyone say his retirement is not extremely well deserved. I am sure he is looking forward to being able to spend more time with his lovely wife Betsy, a retired schoolteacher, and their two children and five grandchildren.

A national movement on behalf of America's most precious resource, our children, was launched because one social worker in Louisville, KY, saw that too many children were at risk and not enough was being done. If every family impacted by the National Center for Missing and Exploited Children's work could thank John Rabun personally, it might take another 28 years, and he would never get to retire. But on behalf of a grateful and safer America, I hope the recognition of this Senate and the thanks and friendship of this Senator will suffice instead. So thank you very much, John Rabun.

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, there will now be a period of morning business for 1 hour, with Senators permitted to speak therein for 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half.

The Senator from Tennessee.

SURFACE TRANSPORTATION ACT

Mr. CORKER. Madam President, I rise to speak regarding the highway bill. We each come into work daily with different thoughts. I come in today very hopeful. The fact is we have a bipartisan bill that hopefully will actually have the finance component of it on the floor soon. We have had it worked through the various committees of the Senate—the Banking Committee, the Commerce Committee, the EPW Committee. I think what this body is waiting for right now is the Finance Committee package, and I know they are continuing to work on that package. The reason I come down here, in a very hopeful way, is I think all of us support the highway bill. We want

to see a bill such as this passed. But I think we also want to see it passed in an appropriate way, and some of the earlier renditions that have come out of the Finance Committee, unfortunately, have not paid for this bill. It is my sense that maybe what is happening right now is that there is some work being done to try to make that not the case.

I know the Senator from New York is familiar with the health care debate we had years ago, and one of the issues many of the folks on this side of the aisle were concerned about—and I think many folks on the other side of the aisle were concerned about—was some of the gimmickry used to pay for it. We had 6 years' worth of spending and 10 years' worth of revenues. Obviously, people around the country—rightfully so—were concerned about that. What we have at present with this highway bill is something that is even worse than that. We have 2 years' worth of spending and 10 years' worth of revenues to pay for it. Everybody in this body knows there is no family in New York and no family in Tennessee who could possibly survive under that scenario.

I had an op-ed published this morning in the Washington Post talking about the fact that we have had so many bipartisan efforts here to try to deal with deficit reduction. We had the Bowles-Simpson report that came out; we had 64 Senators—32 on each side of the aisle—who wrote a letter to the President to encourage him to embrace deficit reduction and progrowth tax reform. We had another group of colleagues who became involved in something called Go BIG, and the whole focus was to deal with the fiscal issues of this country.

I come in somewhat hopeful this morning, but what I fear is happening is because this highway bill is so popular that Members on both sides of the aisle are willing to kick the can down the road in an area where we could—in a bipartisan way—address deficit reduction and get the highway bill on a spend-as-you-go basis, meaning that we pay for it as we go—instead of doing that, because this is an election year and this is a popular bill, both parties—instead of leading on deficit reduction—are going to cave in and basically kick the can down the road because this is ''a popular bill.'' To me, that is not what the American people sent us to do.

So we have this opportunity to pay for it. I don't know whether we are going to get where we need to go. As a matter of fact, even though I am hopeful we are going to make progress on this issue, I don't think we are going to quite get there. I sense in this body a desire to kick the can down the road, to turn our head, to not live up to our responsibilities as it relates to this bill.

So I am going to offer two amendments. One amendment would say: Look, we have a highway trust fund. We have had the transfer of $34 billion or $35 billion into it from the general fund since 2008. We have a trust fund. We ought to either spend the money that comes into it accordingly and reduce the amount of spending on highways or what we should do is lower discretionary spending someplace else.

Again, we have not seen the final bill because another negotiation is taking place. It appears to me, in order to live up to our responsibilities to the American people, that what we would have to do is cut about $11 billion or $12 billion out of the discretionary caps we agreed to as part of the Budget Control Act to make this appropriate. I will offer an amendment once we see what the final package is that does just that.

In other words, if we all think highways and transit bills are important—and by the way, I do. I used to be the mayor of a city. I know that infrastructure is very important to our economic growth in this country. But if we believe spending on highways and transit is important and it is a priority, then what we need to do is lower discretionary caps and lower spending in another area. For us to do anything short of that would be making a mockery of the American people and certainly making a mockery of the arrangement that was created through the Budget Control Act. So I am certainly hopeful this amendment will pass if we continue on this course. I can't imagine that in a bipartisan way both sides would show the irresponsibility that has led to today anyway. I am still hopeful that by the time we pass this highway bill, we will have come together and acted responsibly and actually paid for this. But I think the American people understand that passing a bill that spends money over 2 years and tries to recoup it over a 10-year period is a highway to insolvency.

So I am committed more than ever to us living up to our responsibilities to the American people. I believe there is something brewing in this body that says we have to live up to these responsibilities. I think the best place for us to start is on this highway bill.

I will close with this. I know the Senator from Utah wishes to speak for a few moments also. A lot of people are saying: Senator CORKER, this is such a small amount of money; and, gosh, this is such a popular bill—everybody likes it. Can't we just turn our heads on this issue and kick the can down the road and do something we know fiscally is totally irresponsible because all of us like highways?

My response is, look, if we cannot deal with the highway bill that, by the way, is just simple math—this isn't something such as Medicare reform or something else where we have all kinds of moving parts that are very difficult to deal with—the highway bill is just simple math. If we don't have the ability in this body to deal with just addition and subtraction, there is no way the American people are going to trust us with things such as Medicare reform and Social Security reform and making sure those programs are solvent down the road for seniors who depend upon them.

So what I would say to this body is we have a great opportunity this week and next week to show the American people we are serious about getting this country on a solid footing. There is no better place to do that than on a popular bill. In other words, if we have to make priorities, if we have to make choices, if we have to cut spending in other places to make 2 years' worth of payouts equal 2 years worth of income, there is no place better to do it than on the highway bill. I urge this body to stand tall, to meet its responsibilities, and only pass this bill if it is paid for over the same amount of time that it is extended. So that means all the money that goes out is paid for over the next 2 years. I will be offering amendments to do that if the Finance Committee does not in and of itself.

I thank my colleagues for listening, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

GAS PRICES

Mr. LEE. Madam President, the American people need help because they are suffering at the gas pump. With the national average price for gasoline up at around $3.75 per gallon, representing an increase of about 40 cents from a year ago and about 20 cents from just 1 month ago, citizens are suffering and they need relief.

It is important to point out in this context that when President Obama took office, gas prices were at about $1.85 per gallon. Now that they are up to about $3.75 per gallon we can see a steady increase. Over this 38-month period of time of his Presidency so far, gasoline prices have risen an average of about 5 cents per gallon per month. This is staggering when we think about the fact that if he is reelected—if he serves out the rest of this term and if he is reelected—that is a total of an additional 58 months. With that increase, gas prices will be up at around $6.60 per gallon.

This is a lot of money. It is staggering. It affects everything we do—from the miles we drive to the products we buy at the grocery store. Everything gets more expensive when the fuel we use to transport ourselves and our products becomes more expensive.

Now, to some extent, one could suggest this was not only foreseeable, but it was actually foreseen. To some, it was considered a desired outcome. Let's consider, for example, that in 2008, Dr. Steven Chu, who now serves as President Obama's Energy Secretary, said:

> Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.

Well, Mr. Chu, it looks as though we are headed in that direction, and if we

continue to follow this administration's energy policies, we may get there.

As a member of the Senate's Energy and Natural Resources Committee, I was somewhat surprised when a suggestion was made just a few days ago that there are some who believe there is no relationship between U.S. production of petroleum and the price of gasoline in the United States. That simply is not true, and it cannot be true. With oil being the input ingredient into gasoline, it is the precursor for gasoline. Anytime we do anything that cuts off or restricts or limits the supply, that is necessarily going to have an impact on the price, and it does.

The fact that it is indisputable that there are other factors which also influence the price of gasoline makes it no less true that we have to produce petroleum at home in addition to buying it from other places. In order to keep gasoline prices at reasonable levels, we have to produce more.

There are some things we can do in order to help improve that trend. For example, we could open ANWR for drilling. We could open our country's vast Federal public lands to development of oil shale. It is a little known fact that in three Rocky Mountain States, a small segment of Rocky Mountain States—Utah, Colorado, and Wyoming—we have an estimated 1.2 trillion barrels of proven recoverable oil reserves locked up in oil shale. Now, 1.2 trillion barrels is a lot of oil. That is comparable to the combined petroleum reserves of the top 10 petroleum-producing countries of the world combined—just in one segment of three Rocky Mountain States.

Yet we are not producing it commercially, in part to a very significant degree because that oil shale—especially in my State, the State of Utah—is overwhelmingly on Federal public land, and it is almost impossible to get to it, to produce it commercially on federally owned public land. We need to change that.

We need to create a sensible environmental review process for oil and gas production generally. We need to improve the permitting process for offshore development in the Gulf of Mexico and in other areas. We need to allow the States to regulate hydraulic fracturing without the fear of suffocating and duplicative Federal regulations. We need to keep all the Federal lands in the West open to all kinds of energy development. And, of course, we need the President to approve the Keystone XL Pipeline. This will contribute substantially to America's energy security and will provide an estimated 20,000 shovel-ready jobs right off the bat.

There are things we can do to help Americans with this difficult problem—one that will affect almost every aspect of the day-to-day lives of Americans. We need government to get out of the way. We need the government to become part of what the President laudably outlined as an all-of-the-above strategy in his State of the Union Address just recently. We need to get there. We cannot afford gas at $6.60 per gallon, which is exactly where we are headed if we continue to do things as this administration has done, which has lead to an increase in the price of gasoline at a staggering rate of 5 cents per gallon every single month.

RAILROAD ANTITRUST

Mr. LEE. Madam President.

I stand in this moment in opposition to the railroad antitrust amendment offered by my distinguished colleague, Senator KOHL, and I urge my fellow Senators to do likewise.

As the Antitrust Modernization Commission noted in 2007, free market competition is the fundamental economic policy of the United States. In advancing this overarching policy goal, we should be wary of particularized exemptions from our Nation's antitrust laws. I know Senator KOHL shares my view in that regard.

When properly applied, antitrust laws function to help ensure that market forces promote robust competition, spur innovation, and result in the greatest possible benefit to the American consumer. In many respects, Federal and State agencies enforce antitrust laws in order to forestall the need for burdensome and long-lasting government regulation.

If competition thrives and market forces operate properly, there is no need for extensive government intrusion or interference. Likewise, when the antitrust laws do apply, comprehensive economic regulations should not dictate how an industry operates. It, therefore, makes little sense to impose upon a heavily regulated industry an additional layer of government oversight and enforcement through the application of antitrust laws while at the same time leaving in place a comprehensive regime of government oversight through economic regulation. Piling layer upon layer of government interference will not advance the cause of free market competition, innovation, and consumer welfare.

I am concerned that such layering of government regulation is effectively what the Kohl amendment does. I worry that in extending the reach of antitrust laws to the freight rail industry, the amendment does not remove any authority or jurisdiction of the Surface Transportation Board, the regulatory agency currently overseeing the rail industry. As a result, the amendment simply imposes additional government supervision over the rail industry with attendant increased regulatory burdens and costs as well as inevitable conflicts and uncertainties resulting from a second layer of government oversight over the same activities.

Given the highly regulated nature of the freight rail industry, application of antitrust laws would likely require courts to wade into the complex realm of rate setting and other highly technical matters—a task for which judges are particularly ill-equipped. In addition to this fundamental unease over multiplying government regulatory burdens, I am also very concerned with a number of the amendment's provisions that seem to reach beyond simply eliminating antitrust exceptions for the rail industry.

First, I worry that section 4 of the amendment limits what is known as the doctrine of ''primary jurisdiction'' in those antitrust cases that involve railroads. Under this longstanding doctrine, which was established in 1907, a court will normally defer to an expert agency when that agency has jurisdiction over the subject matter of a legal dispute. This doctrine allows courts to balance regulatory requirements with other legal requirements for regulated industries. The primary jurisdiction doctrine is not an antitrust exemption and discouraging the use of this would be a legal and judicial change that reaches far beyond the antitrust laws and its implications.

I would also note that section 4 would give trial lawyers the power to disregard agency action, but only with respect to the railroads. As a result, railroads would be singled out for special treatment, leaving the doctrine of primary jurisdiction available to the courts in cases involving electrical utilities and other regulated industries. I am unaware of any compelling justification for this disparity.

My second concern relates to section 7(a) of the amendment which not only repeals antitrust immunity for rail rate bureaus but also repeals procedural protections that facilitate lawful rail transportation services. Because of their route structures, railroads are often not individually capable of providing rail transportation services to all locations that a customer may request or that regulations may require. As a result, approximately 40 percent of all rail travel is jointly handled by more than one railroad.

While the railroads must work together to provide through service on some routes in order to meet their regulatory obligations and to meet their customers' transportation needs, the railroads compete with one another for freight movements on routes not involved with through service, and they are fully subject to the antitrust laws.

Current law provides that proof of an antitrust violation may not be inferred from discussions among two or more rail carriers relating to interline movements and rates. In the conference report for the Staggers Rail Act of 1980, Congress explained the need for these evidentiary protections as follows:

> Because of the requirement that carriers concur in changes to joint rates, carriers must talk to competitors about interline movements in which they interchange.
>
> That requirement could falsely lead to conclusions about rate agreements that were

lawfully discussed. To prevent such a conclusion, the Conference substitute provides procedural protections about lawful discussions and resulting rates.

These evidentiary protections are not antitrust exemptions. They are designed to avoid prejudicial inferences from discussions the railroads must have in order to implement joint arrangements. I am unaware of any compelling reason to alter Congress's considered judgment in establishing these procedural protections. Were these protections to be discarded, railroads would be exposed potentially to legal liability for interline discussions, and they may choose simply not to participate, and rail customers would be faced with the burden of having to deal separately with each railroad in a given route in order to work out commercial and service details.

Third, and perhaps most critically, I am concerned that section 8 of the amendment would effectively lead to retroactive application of antitrust laws, allowing a government agency or private plaintiff to bring a case attacking past railroad activities that were expressly immunized from the antitrust laws in that respect.

Section 8(b) would allow antitrust lawsuits for ongoing railroad activity that was previously immunized from the railroad antitrust laws. This would leave open the possibility that conduct in accordance with railroad merger and line sale transactions previously approved by the Interstate Commerce Commission or the Surface Transportation Board as in the public interest, immunized by statute from antitrust laws, and implemented by the railroads, consistent with the agency's approval, could now be challenged as unlawful.

Were this to become law, the impact on the railroad network and its ability to plan and invest to meet our Nation's growing transportation needs would be adversely affected in a significant way.

In summary, if this amendment eliminated regulatory intervention in the marketplace for rail transportation and left the rail industry subject solely to the antitrust laws, I could, perhaps, endorse that effort. However, that is not the case. This amendment increases rather than improves government oversight of the rail industry's activities and, in my view, is inconsistent with the overarching goal of seeking greater competition in the transportation marketplace unfettered by intrusive government regulation.

In addition, the amendment goes beyond simply eliminating antitrust exemptions and instead changes longstanding policies and judicial doctrine that are not antitrust law tenets.

Last year, when the Judiciary Committee favorably reported S. 49, which is the text of Senator KOHL's current amendment, I made clear that my support was contingent upon resolving these and other concerns prior to floor consideration. Regrettably, such a resolution did not occur, and I must now oppose the amendment and ask my colleagues in the Senate to do likewise.

Thank you, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

ENERGY

Mr. BINGAMAN. Madam President, I wish to speak for a few minutes about gasoline prices, which my colleague from Utah talked about a few minutes ago, also about domestic oil and gas production, and also about access to federally owned oil and gas resources. These are issues that have been raised by numerous Senators on this Transportation bill. They are issues of critical importance to our country's economy, to national security, and to resource management. I have been increasingly concerned that the issues we are debating and the facts that are being put out there are often not the true facts. There is widespread misunderstanding of what needs to be done to deal with this set of issues, in my opinion.

Let me start with the issue that is most important to most Americans; that is, the price of gasoline at the pump—the price of oil and then, of course, the price of gasoline. We need to understand clearly what is causing these prices, and we need to be direct with our constituents about what is causing these prices.

Let me state as clearly as I can what I believe is really without dispute among experts; that is, we do not face cycles of high gasoline prices in the United States because of a lack of domestic production, and we do not face these cycles of high gasoline prices because of the lack of access to Federal resources or because of some environmental regulation that is getting in the way of us obtaining cheap gasoline. As was made clear in a hearing we had in the Senate Energy Committee in January, the prices we are paying for oil and the products refined from oil, such as gasoline, are set on the world market. They are relatively insensitive to what happens here in the United States with regard to production. Instead, the world price of oil and our gasoline prices are affected more by events beyond our control, such as instability in Libya last year or instability in Iran and concerns about oil supply from Iran this year.

First, I have two charts that I think make this point very clearly. I believe this first chart I have in the Chamber is very instructive. This is entitled ''Weekly Retail Price for Premium Unleaded Gasoline, Including Taxes Paid.'' There are two lines on the chart. The top line contains the weekly retail prices in Belgium, France, Germany, Italy, the Netherlands, and the United Kingdom. You can see how that has fluctuated. This is through January of last year. The comparable prices paid in the United States are reflected in this bottom line. And, of course, the lower prices are because we pay much less in taxes than do these other countries.

So it is a useful chart that I think makes a couple of important points. The first point it makes is that the price patterns are remarkably similar in all countries; that is, the prices for gasoline in all of these countries reflect the world price of oil. Second, while the patterns are similar, the U.S. price is significantly lower because of the lower taxes we pay in this country.

The second chart I have in the Chamber shows U.S. domestic oil production and U.S. gasoline prices between 1990 and 2011. Here, the red line is the change in domestic production year over year. The blue line is gasoline prices. What is striking about the chart is the lack of relationship between the two lines. Even with U.S. production increasing, as it was at some points, oil prices also were increasing and gasoline prices were increasing.

So while domestic oil production plays an important role in the energy security and the economy of our country, its contribution to the world oil balance is not sufficient to bring global oil prices down. For this reason, increased domestic production unfortunately will not bring down gasoline prices in our country.

We also need to understand the status of domestic production. Here again, the facts are often misunderstood. For example, we have heard the claim that the United States and the Obama administration have turned away from producing the domestic oil and gas resources we possess. The facts are very much to the contrary.

At the hearing we had in January in the Energy Committee, James Burkhard, a managing director of IHS Cambridge Energy Research Associates, described our situation in this country as the ''great revival'' of U.S. oil production. He provided this next graph, which clearly demonstrates what we are experiencing in the United States. This graph shows the net change in production of petroleum liquids in the United States and in other major oil-producing countries between 2008 and 2011. The U.S. increase is shown by this very large column here on the left. We can see that our increase in production is far greater than that of any other country in the world. The United States is now the third largest oil producer in the world, after Russia and Saudi Arabia.

Another chart on domestic production is also instructive. This chart shows total U.S. oil production between 2000 and 2011. It clearly demonstrates that current increases in oil production are reversing several years of decline in that production. We have not had to change any environmental laws or limit protections that apply to public lands in order to get these increases.

This next chart shows the percentage of our liquid fuel consumption that is imported, including the projections the

Energy Information Administration has made out to 2020. The trend is very encouraging. In 2005 we imported almost 60 percent of the oil we consumed. Now we import about 49 percent of the oil we consume. The Energy Information Administration projects that these imports will continue to decline to around 38 percent by 2020. This is an enormous improvement that we would not have thought possible even a few years ago.

Now, let me say a few words about natural gas because that is also something which greatly affects utility bills in this country and, of course, is very important to our economy.

The good news continues as we look at natural gas. This graph shows U.S. natural gas production between 2000 and 2011. As we can see, there has been a dramatic increase in recent years. As we have heard from the International Energy Agency, headquartered in Paris, U.S. gas production grew by more than 7 percent in 2011. Our natural gas reserves are such that the United States is expected to become an overall net exporter of natural gas in the next decade. And natural gas inventories are now at record highs—20 percent above their level at the same time last year. In fact, there is so much natural gas being produced, frankly, some producers are shutting-in production. They are waiting and hoping that prices improve before they actually sell the natural gas they are able to produce today.

This next chart contains production data for the world's largest natural gas producers for the years 2008 through 2010. There are three bars here. The green bar is 2010 production, the most recent data available. This chart shows that in 2009, the United States surpassed Russia and became literally the world's leader in natural gas production. The green bar shows that trend continued in 2010.

So, unlike oil, the price of natural gas is not set on the world market. For natural gas, our enormous domestic resources and increased production have a significant effect on the price American consumers have to pay on their utility bills especially. Natural gas prices are near historic lows, and this is important to consumers who depend on this fuel for electricity, for heating. It is good for manufacturers who depend on natural gas. It is good for our economy overall.

Further evidence of our extremely robust domestic oil and gas production is the fact that the number of oil and gas drilling rigs active in the United States exceeds that of most of the rest of the world. As of last week, there were 1,981 rigs actively exploring for or developing oil and natural gas in the United States. The best comparable figure we have for rigs operating internationally is 1,871. This does not include Russia. It does not include China. It is probably safe to say, though, that more oil and gas drilling is occurring here in the United States than in any other country in the world.

Despite our relatively modest resource base for conventional petroleum, the industry in the United States has led the world in developing state-of-the-art technology for oil and gas exploration and production, tapping both conventional formations and unconventional resources, such as shale and tight sands.

To use a boxing metaphor, we are ''punching above our weight'' in oil and gas production, thanks to the technology lead our companies have developed, and it is a success story our country should celebrate. Even in light of this good news on domestic production, we hear claims that the Obama administration has withheld access to the oil and gas that is available on Federal lands and the Outer Continental Shelf. So we in Congress are urged to mandate that virtually all federally owned oil and gas resources be leased for development more quickly without regard to any impact that might have on other resources or economic interests, without any scientific analysis that is currently required.

Again, however, the facts tell us a different story. Secretary Salazar testified before our Energy Committee on February 28 that oil production from the Outer Continental Shelf has increased by 30 percent since 2008. It is now at 589 million barrels—in 2010. Annual oil production onshore on Federal lands increased by over 8 million barrels between 2008 and 2011. It is now over 111 million barrels of production.

Industry has been given access to millions of acres, much of which they either have not leased—not chosen to lease—or they have not put into production. In 2009, 53 million acres of the resource-rich central and western Gulf of Mexico were offered for lease. Industry chose to lease only 2.7 million out of that 53 million acres. In 2010, 37 million acres of the gulf were offered. Only 2.4 million acres were actually leased in that year.

In June of 2012, 3 months from now, the administration will offer another 38 million acres in the central Gulf of Mexico for lease. The Interior Department estimates that these areas could produce 1 billion barrels of oil and 4 trillion cubic feet of natural gas. The administration has recently proposed a leasing plan for 2012 through 2017 that would make at least 75 percent of the undiscovered, technically recoverable oil and gas resources on the Outer Continental Shelf available for lease.

So even when the industry leases these resources, it often does not move to produce oil or gas from these areas they have leased. Onshore, out of 38 million acres currently under lease, the industry has about 12 million acres actually producing. Offshore, there are a total of 35 million acres under lease. Six million acres of that is actually in production.

As of September 2011, industry held over 7,000 permits to drill onshore that were not being used. I have heard it stated that only 2 percent of the acres in the Outer Continental Shelf are currently leased and that this is evidence of lack of access to the resources. In my view, this is a misleading way to think about the current situation.

Just as oil is not found uniformly everywhere on land but instead is concentrated where the geology is favorable, the same is true offshore. The total acreage on the Outer Continental Shelf is huge. It is 1.7 billion acres. Much of it does not have oil and gas reserves that can be tapped economically.

Oil and gas occurs in the greatest quantities in only a few areas, such as the central and western Gulf of Mexico. It is those productive regions in which the industry expresses interest and which are the primary areas where leasing is occurring that the Obama administration plan would cover.

The total 1.7 billion acres is not a useful metric without consideration of which of those acres actually have significant oil and gas resources that are economically recoverable. Much more relevant is the amount of the resources that are being made available. As I pointed out, Secretary Salazar has testified that the proposed 5-year oil and gas leasing plan they have put forward would make more than 75 percent of the Outer Continental Shelf resources available for development.

The bottom line is, an increased amount of Federal acres and resources onshore and offshore are being made available to industry. Production on federally owned resources continues to increase. The increase in this production can be even greater if industry would lease and explore and produce on a greater percentage of the lands that are offered to them for lease, the lands that are believed to have some of the highest oil and gas resource potential.

Before I close, let me return for a moment to the issue of gasoline prices. It is clear we are increasing our domestic production significantly but that gasoline prices continue to rise. So we need to look for other solutions. This does not mean we are powerless to help reduce the price of gasoline. We know what we need to do.

If we want to reduce our vulnerability to world oil prices and to volatility of world oil prices, the most important measure we can take is to find ways to use less oil. One of our colleagues gave a good speech a few years ago in which he advocated that we produce more and use less. We are doing a pretty good job of producing more, and we need to do a better job of using less. We can do much better in this ''use less'' part of the equation without affecting the quality of life in this country. We can do that by being more efficient in our use of fuel, by diversifying our sources of transportation fuel away from oil.

We have taken some first steps along this path, notably in the Energy Independence and Security Act of 2007. It passed the Senate with a strong bipartisan vote. That law required us to make our vehicles more efficient and

to shift toward relying more on renewable fuel, and it is working. Demand is down. Biofuel use is up. Consumers save money on fuel for their vehicles. Our percentage of imported oil has dropped by over 10 percent.

How do we continue on this path forward toward reducing oil use and dependence? I think there are three areas we can focus on. First, we need to enable further expansion of our renewable fuel industry, which is currently facing infrastructure and financing constraints. Second, we need to move forward the timeline for market penetration of electric vehicles. Finally, we need to make sure we use natural gas vehicles in as many applications as make sense based on that technology. Every barrel of oil that we are able to displace in the transportation sector and that we therefore do not need to consume makes our economy stronger.

Obviously, it also helps our personal pocketbooks. It makes us less available to the volatility of the current marketplace. This is not to say we should not keep drilling and that the Obama administration should not continue to move forward with its plans to bring even more supplies into the market. We lead the world in innovative exploration and production technology. It is helpful to our economy and our national security to increase domestic supply, and that is exactly what is happening.

But in the many debates we will have in the future over issues related to gasoline prices, we need to recognize the key issue very clearly is not lack of access to federally owned oil and gas resources. Our public lands contain many resources and uses that Americans value. We do not need to sacrifice science or balance the protection of these other resources and economic interests in order to have robust domestic production.

The long-term solution to the challenge of high and volatile oil prices is to continue to reduce our dependence on oil. This is a strategic vision that President George W. Bush, who had previously worked in the oil industry, clearly articulated in his State of the Union speech in 2006. We subsequently proved in Congress in 2007, the year after that State of the Union speech, that we have the ability to make significant changes in our energy consumption and that it is possible to mobilize a bipartisan consensus to do that. The bipartisan path the Senate embraced in 2007 is still the right approach today.

As part of whatever approach we take to energy and transportation in the weeks and months ahead, we need to be honest with our constituents about what works, and we need to keep moving in the direction that we began moving in with that 2007 bill. We need to allow the facts and not the myths to be our best guide.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

SURFACE TRANSPORTATION ACT

Mr. MERKLEY. Madam President, I rise to address the surface transportation bill that is on the floor. It has been a mark of the challenges this body faces in deliberation that we have now been on this bill for 3 weeks, and we have not had a debate over transportation amendments. But hope does spring eternal.

In that spirit, I wished to come to the floor and share some thinking about the amendments that we should be debating and should be approving in this process. Certainly, the underlying Transportation bill is a great step toward our No. 1 goal of passing legislation that would create jobs, put people back to work in the hardest hit sectors of our economy.

Building and repairing our transportation infrastructure will create or save 2 million jobs nationwide, good-paying jobs that would provide a huge boost to our struggling construction industry, the families, to the workers, and to our economy. This infrastructure we would be building is a down-payment for the success of our future economy.

China is spending 10 percent of its GDP on infrastructure. They are preparing for a stronger economy in the future. Europe is spending 5 percent of their GDP, but in America we are spending only 2 percent. Indeed, it was not but a few months ago that our colleagues on the House side of Capitol Hill said we should cut transportation spending by 30 to 35 percent, which would devastate the infrastructure efforts that are underway, even within the existing 2 percent, the small amount we are spending.

Is it any wonder our communities are struggling to repair the bridges and roads we have, let alone to solve the challenges, the bottlenecks in the transportation lines that need to be addressed for the future. We have made a good start in committee on this bill, despite the paralysis on the floor of the Senate. We had elements of this bill go through four different committees and incorporate good ideas from both sides of the aisle in each of those committees and come to the floor in a bipartisan fashion.

I wish to share a couple other thoughts to build on this groundwork that came out of our committees, commonsense fixes, cutting redtape, and closing loopholes. The first amendment, No. 1653, is one I am sponsoring with my colleagues Senator TOOMEY and Senator BLUNT. Right now, farmers are exempt from certain Federal regulations when they transport their products in farm vehicles, as long as they are transporting these products inside their own State. But should they venture across State lines, even by just a short distance, then the Federal regulations are triggered. So we have farmers who are simply trying to get their products to market, to the local grain elevator, if you will, and they have to cross a State border and suddenly their challenge becomes very complex indeed.

For instance, Oregon farmers who live just across the border from Idaho, in these cases, the best market might be the nearest processing facility just across the State line. These farmers are exactly the same as their counterparts elsewhere, except for one small fact, the processing facility is across the border. This arbitrary distinction can mean major differences in how these farmers and ranchers have to do business in the form of additional burdensome regulations, regulations such as vehicle inspections for every trip the vehicle makes, even if the farm vehicle is simply driving from the field to the barn or having to adhere to reporting requirements for things like hours of service rules, even though the farmer is just driving an hour down the road; or obtaining medical certifications meant for commercial truck drivers.

This amendment would simply make life a little easier and more logical for these farmers by exempting them from these regulations designed for interstate transport, not designed to intervene or interfere when a farmer is attempting to take his product to market. We have put limits on mileage and limits on purpose to make sure it serves the intended function—to get rid of that arbitrary boundary that creates a regulatory nightmare.

A second amendment is related to freight. The underlying bill has a freight program to improve the performance of the national freight network. That is a proposal that will help make desperately needed improvements. There are a few technical improvements that would further improve the bill; that is, to recognize that funding should be used in the most efficient and effective way to ensure that high-value goods are being moved quickly to market.

We often think of freight in terms of volume or tonnage. But when we start looking at the high-tech sector, we can have enormously high-value content such as that produced by the microchip industry in Oregon and the roads necessary to make sure that high-value freight gets to market, which drives a tremendous number of jobs. It is just as important to address as are the routes that involve high tonnage and volume.

Let's turn to a third issue, which is ''Buy American.'' I salute my colleagues, SHERROD BROWN and BERNIE SANDERS, for working on these issues. We already recognize the principle that if we are paying to complete a public infrastructure project in America, it only makes sense for American businesses and workers to do as much of the work as possible.

Unfortunately, there are several loopholes that have undermined this basic premise in recent years. My amendment No. 1599 is an amendment that addresses one of these loopholes.

This summer, construction of a rail bridge in Alaska to a military base will

be undertaken by a Chinese company because the Federal Rail Administration, unlike the Federal Transit and Federal Highway Administration, doesn't have the ''Buy American'' provision. An American company was ready to build this bridge, but because of this loophole the contract went to a Chinese company using Chinese steel. Isn't it frustrating that the infrastructure to provide access to a military base involves jobs and the steel going across the Pacific Ocean?

Then I wanted to note that a related amendment led by Senator SHERROD BROWN, No. 1807, addresses another ''Buy American'' challenge. States have been using a project segmentation loophole to avoid putting Americans to work, to avoid the ''Buy American'' seal.

The Bay Bridge in California put in 12 separate projects so that Federal funds would only apply to a couple of those pieces. This allows the bulk of the bridge to be built—you guessed it—with Chinese steel, by Chinese workers. My amendment is modeled after a Republican amendment in the House Transportation bill, by Representative CRAVAACK of Minnesota, to close this loophole and ensure that the spirit of the law is upheld. These provisions were incorporated into the amendment led by Senator SHERROD BROWN.

I urge my colleagues to support these amendments to make these commonsense fixes to our transportation program. We must have debate on the amendments on the Senate floor. This room should not be empty. The conversation should not be quiet because transportation is at the heart of our economy.

We have a construction industry that is flat on its back. We have interest rates that are low. We have infrastructure that needs to be built. This is a win-win for our future economy and our current workers and our current economy.

Let's get to work. I ask my colleagues to continuously object to amendments being debated—for those listening in, the Senate has had a rule that any Senator can block an amendment. We have to get 100 percent of the Senators to agree to bring an amendment to the floor. The social contract that allows this to happen on a regular and orderly fashion in the past has been broken. So while families across this country look to us to put a transportation plan into place for our future economy and to put America back to work now, we are sitting here fiddling. Let's end the fiddling and do our work so America can do its work of rebuilding our highway infrastructure.

Madam President, I yield the floor and 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.

Mrs. BOXER. Madam 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.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TO APPLY THE COUNTERVAILING DUTY PROVISIONS OF THE TARIFF ACT OF 1930 TO NONMARKET ECONOMY COUNTRIES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate having received H.R. 4105, the text of which is identical to S. 2153, the Senate proceeds to the consideration of H.R. 4105, the bill is considered read a third time and passed, and the motion to reconsider is considered made and laid upon the table.

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1813, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1813) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

Pending:

Reid amendment No. 1761, of a perfecting nature.

Reid amendment No. 1762 (to amendment No. 1761), to change the enactment date.

Reid motion to recommit the bill to the Committee on Environment and Public Works, with instructions, Reid amendment No. 1763, to change the enactment date.

Reid amendment No. 1764 (to (the instructions) amendment No. 1763), of a perfecting nature.

Reid amendment No. 1765 (to amendment No. 1764), of a perfecting nature.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Madam President, I thought I would use this opportunity to inform our colleagues and anyone following this transportation debate as to where we are.

Yesterday, we had an opportunity to stop the filibuster and get right to our bill and get it done and protect 1.8 million jobs and create another 1 million. We didn't do that—pretty much on a party line vote. The filibuster continues.

The hopeful sign we had was right before the vote when the Republican leader said he was open to reaching an agreement. I was hopeful that agreement would not contain extraneous votes. I don't think that is going to happen. I think we are going to face extraneous votes—to repeal Clean Air Act rules, to open our States to drilling that rely on fishing and tourism and recreation when we know the oil companies have millions of acres they can drill on without going to these areas that are so essential to our economic future just as they are to our environmental future. It looks as though we are going to face that and a vote probably on the Keystone XL Pipeline.

Again, I am very sad we could not come together when we have a bill that got an 85-to-11 vote to proceed to it. We still have to face a filibuster and still we had to lose two votes to cut off debate. But the Senate, being the Senate, this is it.

So now we have to vote. The two leaders can agree. I hope they can work together to achieve an agreement whereby we would have votes on these extraneous matters, and, hopefully, we would not have a prolonged debate on them because this is a highway bill. Thousands and thousands of businesses are waiting for us to act. By March 31, if we don't act, everything stops. In your State and mine all these highway projects will shut down with no Federal contribution at all, which is most of them.

I am hopeful. I cannot report to the Senate that we have an agreement now, but I hope we will have one at some point today. Once we do have that, we have a path forward; and if we work together in goodwill, we can get this done.

Frankly, I don't think we have a choice but to get it done. Everything, as I said, expires March 31. Here it is March 7 and we have a few days left before this whole thing blows up, and we will have no highway bill and people will be laid off.

In this economic time, that is the last result we need. We need to fix our highways, bridges, and roads.

Madam President, the occupant of the chair is a proud member of the Environment and Public Works Committee. She has worked hard to get us to this day. I know she has worked hard to bring this debate to a close and get a path forward. We can all hope that happens today.

I will be back on the floor with Senator INHOFE. I am hopeful the two of us can lead us through this bill and get this bill done. Then I think we can have the House follow our example of Democrats and Republicans working together. If they start that over there, they will have the bill quicker than they think, and we can finally put this behind us and send a message that we are functioning.

This concept of a Federal highway system was brought to us by a Republican President, Dwight Eisenhower. He understood logistics better than most. He knew we could not have a thriving economy if we could not move goods and people. So I am hopeful. I will be back on the Senate floor when we have an agreement and we can move forward.

I will yield the floor, as I know the Senator from Vermont is here. I always look forward to his comments.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

CITIZENS UNITED

Mr. SANDERS. Madam President, over 2 years ago, the Supreme Court rendered what I consider to be one of the worst decisions in the history of the United States Supreme Court, and that is regarding the case of Citizens United. In that case, the Supreme Court, by a 5-to-4 decision, determined that corporations are people, and they have first amendment rights to spend as much money as they want on elections. I think when that decision first came about a lot of people in this country didn't pay attention to it. They looked at it as an abstract legal decision, not terribly important.

Well, today the American people understand the disastrous impact that decision has had because what they are seeing right now on their television screens all across this country is a handful of billionaires and large corporations spending huge amounts of money on the political process, and the American people are asking themselves: Is this really what people fought and died for when they put their lives on the line to defend American democracy? Is American democracy evolving into a situation where a small number of billionaires can put hundreds of millions of dollars into the political process in this State and that State, in Presidential elections, and then elect the people who will govern this country?

I believe very strongly the American people do not think that is appropriate, and I am very happy to say that yesterday, on Town Meeting Day in the State of Vermont—I think my small State has begun the process to overturn this disastrous Citizens United decision. We had 55 towns at town meetings demand the Congress move forward to overturn Citizens United and restore American democracy to the concept of one person, one vote.

What we do on Town Meeting Day in Vermont, all over our State, is people come together and argue about the school budget. They argue about the town budget. They debate the issues, and then they vote. What people in Vermont are saying is they do not want to see our democracy devolve into a situation where corporations are determining who will govern our Nation.

So I am very proud that in the State of Vermont just yesterday 55 separate towns voted to urge the Congress to move forward on a constitutional amendment to overturn Citizens United. I hope we will heed what the towns in Vermont are saying. I hope other towns and cities in States all over the country will move forward in that direction. I hope the day will come—sooner rather than later—where the Congress will entertain a constitutional amendment and bring it back to the States.

Madam President, at this difficult moment in American democracy, it is imperative that we stand and reclaim our democracy and say to the millionaires and billionaires and the large corporations: Sorry, this country belongs to all of us. This democracy belongs to all of us and not just to you.

Madam President, I ask unanimous consent to have printed in the RECORD the names of the 55 towns that passed resolutions yesterday to overturn Citizens United.

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

Bolton, Brandon, Brattleboro, Bristol, Burlington, Calais, Charlotte, Chester, Chittenden, Craftsbury, East Montpelier, Fayston, Fletcher, Greensboro, Granville, Hardwick, Hartland, Hinesburg, Jericho, Marlboro, Marshfield, Monkton, Moretown, Montpelier, Newfane, Peru, Plainfield, Randolph, Richmond, Ripton, Roxbury, Rochester, Rutland City, Rutland Town, Sharon, Shelburne, South Burlington, Thetford Center, Tunbridge, Underhill, Waitsfield, Walden, Waltham, Warren, West Haven, Williamstown, Williston, Windsor, Winooski, Woodbury, Woodstock, Worcester,

I am proud to sponsor a constitutional amendment which would overturn Citizens United and return the power to regulate elections to Congress and the states. In the coming weeks and months I hope to see more towns, cities, counties, and states pass similar resolutions.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. Mr. President, I rise to speak about an issue of great importance to millions of my constituents in New York, our Nation's transportation system, particularly public transit. This is the very lifeline that millions rely on to get to and from work, to bring their paychecks home every single day to their families at night. Various proposals that have been put forth throughout the course of the debate in both the House and the Senate would actually slash funding for mass transit. The proposal advanced by the House Republicans last month to eliminate the mass transit account of the highway funds was a stunning misunderstanding of our Nation's transit needs. Cutting off public transit from its traditional funding source without providing viable alternatives is irresponsible. In fact, former Congressman and now Transportation Secretary Ray LaHood called the House bill ''the worst transportation bill'' he had ever seen.

Let me state some clear facts. New York's Metropolitan Transit Authority is the Nation's largest public transportation system, operating over 8,000 rail and subway cars and nearly 6,000 buses. On an average weekday, nearly 8.5 million Americans ride these trains, subways, and buses operated by the MTA to commute to work or to visit the city, which generates enormous economic revenue, not just for New York but for our country. Moving these riders into cars flies in the face of any sound environmental public policy and furthers our dependence on Middle Eastern oil.

Increasing costs for our Nation's transit riders should be rejected out of hand by the Senate. I will continue to work with my colleagues to ensure that we do what is responsible and that we maintain transit funding to encourage the use of mass transit and reduce our dependence on foreign oil. I understand we have many very difficult decisions to make as we debate this bill, but I think stopping New York's transit system in its tracks is simply not a credible solution.

I also have a few amendments for this bill. Each of them is equally important and they address different issues. The first one I wish to address affects me as a mom of two young boys who I know will want to be driving at 16. Kids all across America cannot wait for that day when they get their driver's license. But there are terrible statistics about teen deaths. In fact, one statistic showed 11 teens die every single day because of car accidents. I know every family in America has been affected by those horrible high school tragedies, of kids dying in a car accident on their way home from the big game, on their way from the prom, every scenario we can imagine.

We have to give our teens better tools, better training, so when they get to become full-time drivers and have all the various permissions allowed, they are ready for that. We can imagine the scenarios in our own minds as parents, I know. Think about texting and driving. One cannot imagine how deadly distracted driving is in our country. Imagine the young driver who does not have a lot of judgment. Imagine the young driver who has five other kids in the car and they are coming back from the big game and they are all excited and they are all listening to the music and it is nighttime. Those are risky situations where we know if we give those drivers more training before they are in those risky situations, they will be able to handle them better.

Experts agree the graduated driver's license, basically gradually phasing teens into the driving experience with different responsibilities and different permissions as they get older, is the way to begin to address some of these risks. It has been a proven effective method in many States that have already instituted graduated driver's licenses. So I think we need to have a national priority, a priority that says they must as a State put in some basic training requirements, some measure of graduated driver's license, to ensure when these kids get on the road they have the skills and tools they need to keep themselves safe, their passengers safe, and the other drivers on the road are safe as well.

As parents, as people who set public policy for our Nation, we should be making the safety and well-being and the lives of at least those 11 teens every day who die a priority, and this is a proven way to do it and we can do it.

The second amendment basically increases economic opportunity. New York is unusual in that we are a border State. We share a border with Canada. There is so much opportunity for cross-border transactions and cross-border commerce. This change is very simple. It gives authority to our States to invest in critical border crossings, such as freight and passenger rail systems. By providing this very simple change, States such as New York, California, Vermont, and Texas will be able to choose to enhance these crossings and increase many more economic engines to address our tough economy.

The last amendment, equally important, is about jobs. How do we create the economic engine to get America working again? One way is to increase our pipeline, actually do better training for jobs that are available. One of the ways we can do that is this pilot program, already proven effective elsewhere, the Construction Careers Demonstration Project, amendment No. 1648. Basically, it is a proven commonsense strategy for at-risk workers to give them an opportunity to be trained in the building and construction trades so they find employment, they provide for their families, and we reduce unemployment. It is a very simple change. It is just a pilot program.

I urge my colleagues to support these three amendments and focus on how we can pass a good, useful, beneficial transportation bill which will get our economy moving.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MCCASKILL. Mr. President, I ask to speak as in morning business for up to 5 minutes.

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

TRIBUTE TO JUDGE JIMMIE EDWARDS

Mrs. MCCASKILL. Mr. President, I rise today to speak about a new and successful program for at-risk youth in St. Louis—the Innovative Concept Academy—and about its founder, my friend, Judge Jimmie Edwards. Before I talk about the school and the incredible work Judge Edwards has done in the St. Louis community, I wish to spend a moment talking about his childhood roots.

Judge Edwards grew up on the north side of St. Louis in the shadows of the city's Pruitt-Igoe housing project. The residents of this housing project faced many challenges, including drug and gang activity, violence, and sometimes acute poverty. But through discipline, hard work, and determination, Judge Edwards rose above these circumstances. He earned his bachelor's and law degrees from St. Louis University before being appointed to the State bench in 1992, and for 4 years he has served as the chief judge of the St. Louis Family Court's Juvenile Division.

During his service on the bench, Judge Edwards became increasingly concerned about the number of young repeat offenders coming into his courtroom time and time again, only to be sent back to the same troubled environment that negatively influenced their behavior in the first place. From his own experience, he knew that offering these kids the opportunity for a proper education and for mentoring was absolutely critical to breaking the cycle.

In 2009 Judge Edwards, together with the St. Louis public school district, the Family Court Juvenile Division, and the nonprofit organization MERS/Goodwill Industries, founded Innovative Concept Academy, a unique educational opportunity for juveniles who had already been expelled from the city's public schools and who were on parole. These young people, whom many would have given up on, found a formidable advocate in Judge Edwards and the academy. From the beginning, Innovative Concept Academy has been devoted to helping at-risk youth achieve success through education, rehabilitation, and mentorship. Its mission—to enrich the learning environment for some of our most troubled kids—has resulted in second chances for these young men and women to dramatically improve their lives.

At the start, Judge Edwards planned on providing educational and mentoring services to 30 students who had been suspended or expelled due to Missouri's Safe Schools Act. When he asked the St. Louis public schools for a building to use for the program for 30 students, they asked him if he wouldn't mind taking on the responsibility of 200 more. This was a challenge he accepted with his usual enthusiasm and can-do attitude.

During the first year of its existence, the academy saw 246 students move through its doors. Today the academy teaches at-risk youth between ages 10 and 18 and has an enrollment of over 375. Some of these students are visiting our Nation's Capital this week with Judge Edwards, his wife Stacy, his daughter Ashley, and his son John, along with chaperones. Here today along with Judge Edwards and his family and chaperones are students Angel Tharpe, Deyon Smith, Tyrell Williams, and Nadia Jones. These are young men and women who have turned their lives around with the help of Judge Edwards and the academy and who serve as an inspiration to others in the community and, frankly, an inspiration to me. I am so proud of what they have been able to accomplish.

The Innovative Concept Academy provides these students and many like them with so many important services—a quality education in a safe environment; one-on-one mentoring with school staff, counselors, deputy junior officers, and police; an array of extracurricular and afterschool activities, many of which are often new experiences for these students, including golf, chess, dance, classical music, and creative writing; uniforms, meals, and so many other necessities are also provided; and with tough love and important lessons about discipline, respect, anger management, goal setting, and follow-through.

All of this allows the students to meet their full potential, and St. Louis has seen positive results already. The academy has an attendance rate of over 90 percent. Let me repeat that. The academy has an amazing attendance rate of over 90 percent, and we are seeing significant improvement in these young people's grades. And the students are responding positively. For example, at the end of the first semester at the academy, the suspensions of 40 of the students ended and the students were supposed to return to their home school. Almost every student asked if they could stay at the academy because they know the academy is a special place where they can improve their lives.

The innovative program has garnered national attention. Judge Edwards has appeared as a guest on a number of major network shows and most recently was honored by People Magazine as one of its 2011 Heroes of the Year. But, for him, it is not about the magazines or the interviews; for him, it is still about the kids.

I am proud that Judge Edwards hails from my home State of Missouri and from my hometown of St. Louis. His compassion for those whom society may have given up on and his commonsense and innovative approach to solving the problems facing some of our young men and women are inspirational. He is compelled by his duty to serve and uplift the next generation no matter what the circumstances. He said it best when he observed that ''if the community, and that includes judges, does not take it upon itself to educate the children, then our community and what we stand for will be no more.'' This notion that we all succeed when we work together with a common cause and unified purpose is central to our American identity.

I ask my distinguished colleagues to join me in congratulating the Innovative Concept Academy and Judge Jimmie Edwards. The success of the academy and Judge Edwards' dedication and service to the St. Louis community should be an inspiration for everybody serving in this Chamber. If we could have a little bit of Judge Jimmie Edwards' attitude about working together, not worrying about taking the credit, and a can-do attitude, it is amazing what we could accomplish on behalf of the American people.

Mr. President, I yield the floor for my distinguished colleague, the Senator from Missouri, Mr. BLUNT.

The PRESIDING OFFICER. The Senator from Missouri.

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

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

Mr. BLUNT. Mr. President, I thank my colleague for all the comments she has made about Judge Edwards, his family, and the school. This is truly a remarkable story. I know both of our staffs have been telling us for some time now of incident after incident of young people's lives that are being changed by this school, by a judge who decided he needed to get outside the courtroom to make a difference in the lives of kids.

In fact, People magazine calls this the ''School of Last Resort.'' It is a chance, it is an opportunity of which many are taking advantage.

Judge Ohmer, presiding judge of the circuit where Judge Edwards works, put out the following statement. He said:

The editors of PEOPLE magazine have selected St. Louis Juvenile Court Judge Jimmie Edwards as one of the publication's 'Heroes of the Year' for 2011. Judge Edwards was profiled in a recent issue of the magazine and the announcement was made in the November 7, 2011 issue.

Quoted in this comment from his colleague, the magazine said:

''We chose men and women who reached across boundaries to help strangers or worked within their communities to deepen bonds. From Logan, Utah . . . to Judge Jimmie Edwards of St. Louis who started a school for wayward teens, the 2011 winners never let daunting odds stand in their way,'' said Managing Editor [of People magazine] Larry Hackett.

In 2009, after watching a string of teen offenders come through his courtroom, Judge Edwards decided to take action. Along with 45 community partners, he took over an abandoned school that he and I were talking about earlier today and opened the Innovative Concept Academy. Providing strict discipline, counseling, and programs such as, as my colleague mentioned, music, chess, and creative writing, the center literally has changed life after life of young person after young person, giving them the opportunity to graduate from high school and lead successful lives after they had been expelled from high school at an earlier time.

These winners each received an award of $10,000 that they were able to use for their favorite causes, and certainly Judged Edwards has this cause and others.

Quoting Judge Edwards:

I am thrilled that our school has received this recognition but also amazed at the other individuals across America profiled by the magazine.

Judged Edwards is married to Stacy, and Stacy is here today in Washington with two of their three children—Amy, Ashley, and John.

His colleagues at the circuit court admire what he has done. The families involved, the teachers involved, the community partners involved admire what has happened here. MERS Goodwill, the St. Louis public schools, according to the judge himself, court employees, all the teachers and staff and volunteers at the school have made a difference in the Innovative Concept Academy.

Judge Edwards said:

By supporting our school St. Louis is refusing to give up on troubled juveniles and, in turn, the students are proving that hope for a better life is a universal dream.

What a great story this is. His colleagues see him as a hero among us. People magazine has talked about this. I notice and like in the People magazine article what they refer to as Judge Jimmie's rules. Here are three of Judge Jimmie's rules.

One headline is, ''No Saggy Pants.''

Like mumbling, bad grammar and rudeness, droopy pants are big no-nos [at this school]. ''Kids need to understand what it means to be civilized,'' says Edwards.

Another rule: ''No Loitering.''

Edwards wears his kids out with afterschool activities. ''I expect them to be so tired that they can't do anything but go [home and go] to sleep, get back up and start [the day] all over again.''

Then maybe the best rule of all: ''No Quitting.''

''As long as you're trying,'' says Edwards, ''you're succeeding.''

This is being proven time after time, day after day: One person can make a difference, and the way this one judge has made a difference is inspiring a lot of other people to come together and make that difference, and then inspiring these kids and others who care about them to decide that this is the school of last resort, but the school of last resort can produce lots of great results, and we are seeing that happen. I am proud this is going on in our State and hope that Judge Edwards's example becomes an example for community after community around this country.

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

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. 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. BARRASSO. I ask unanimous consent to speak as if in morning business and engage in a colloquy with my colleagues for up to 20 minutes.

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

A SECOND OPINION

Mr. BARRASSO. Mr. President, I come to the floor, as I do week after week, as a physician who has practiced medicine in Wyoming for almost one-quarter of a century to give a doctor's second opinion about the health care law, a law that I believe is bad for patients, it is bad for providers—the nurses and the doctors who take care of those patients—and terrible for taxpayers.

March 23 of this year, a little over 2 weeks from now, will mark the second anniversary of the President's health care law being signed. Two years ago at this time, Democrats in Congress said the Americans would learn to love this law. As a matter of fact, on March 28, 2010, the senior Senator from New York Mr. SCHUMER said: As people learn what's exactly in the bill, 6 months from now by election time—the election of 2010, remember—this is going to be a plus. Because the parade of horribles, particularly the worries that the average middle-income person has that this is going to affect them negatively, those will have vanished and they will see it will affect them positively in many ways.

Here we are 2 years later. We know that is definitely not the case. The health care law is more unpopular today than it was when it was passed and NANCY PELOSI famously said: First, you have to pass it before you get to find out what is in it. The more the American people have learned about the President's new law, the less they like it. Maybe that is why the White House and Democrats in Congress are hoping this 2-year anniversary of the health care law passes quietly and without great fanfare, while Republicans believe the American people deserve to know exactly how this law is going to impact them as well as the health care they receive.

So in the lead-up to the second anniversary of the law, I am going to talk about specific ways the law has actually made it worse for the American people—something I believed from the beginning would happen and now, 2 years later, we are seeing is specifically the case: It has hurt jobs, it has driven up costs, it has given Washington more control over Americans' health care, and I believe it has weakened Medicare.

Today, Senator CORNYN and I are going to focus on how the law threatens Medicare and specifically our seniors trying to get a doctor, our seniors trying to get health care, and how this new Washington board, called the Independent Payment Advisory Board, has had that impact. It is an unaccountable board. It is a group of unelected bureaucrats who will decide how to fund the care that is covered by Medicare.

So I come to the floor with my colleague Senator CORNYN. He has been traveling around the State of Texas as I have been traveling around the State of Wyoming talking with seniors, visiting with them, asking about their needs. They have great concerns about what is happening with this health care law, to the point that this week the House of Representatives is actually working in a bipartisan way to repeal this Board, these unelected, Washington-appointed bureaucrats. To me,

it is the commission that is going to ration seniors' care and make it harder for our seniors to see a health care provider and get the care they need.

I know Senator CORNYN is leading the effort in the Senate to work with the House in an effort to repeal this payment board. I know Senator CORNYN is doing this in an effort to protect our seniors, to make sure our seniors get the care they need. So I would ask that the Senator possibly share with me and others the concerns he has and the concerns he has heard and ways he is hoping to address them.

Mr. CORNYN. Mr. President, I am happy to respond to my colleague from Wyoming Senator BARRASSO, who has been not only a Senator but a medical doctor and who has been on the receiving end of government policy, that while it may be well intended, backfires, particularly this bipartisan support now we have seen in the House of Representatives Energy and Commerce Committee yesterday, where they voted to repeal this Independent Payment Advisory Board—Independent Payment Advisory Board, IPAB—not iPOD, IPAB.

The reason this is so important, and I would like to ask my colleague, from his long experience as a medical practitioner, the purpose of this 15-member, unelected, unaccountable bureaucracy to actually set prices for health care, what happens if, to the exclusion of all other health care reform, the IPAB or the Federal Government generally cuts reimbursement to providers? It would seem to me we get a phenomenon that we get the illusion of coverage, but we have no real access to health care.

The experience we have had in Texas is, for example, Medicaid and the President's health care bill puts a whole lot of people into Medicaid, but only about one-third of Medicaid patients can find a doctor who will see a new Medicaid patient in the Dallas-Fort Worth area, one of the most populous parts of our State. I know, particularly in many rural areas—and I know Wyoming has a big rural population as well—many times it is hard for seniors to find a doctor who will see a new Medicare patient, again, because reimbursement rates are so low.

So I would like to ask the Senator from Wyoming what his experience has been in that area.

Mr. BARRASSO. My experience is exactly what the Senator describes. He said the words ''the illusion of coverage.'' When the President talked about the health care law, so often he wasn't actually talking about care; he was using the word ''coverage,'' and he was trying to use those words interchangeably. But coverage is not care, because someone having a card doesn't mean they can actually see a doctor. We see that with Medicaid now, with its low levels of reimbursement. With seniors already having trouble getting in to see a physician, this has a significant impact when a board, an independent payment advisory board—15 unelected bureaucrats—decides they are going to decide how much to pay for a doctor's visit, how much they are going to pay a hospital for a bypass surgery or a hip replacement, which is an area of my specialty. That hospital has to decide if they are going to provide that service. That doctor gets to decide whether they are going to see that patient.

In rural communities, if the reimbursement is so low—and I have heard this from hospital administrators in Wyoming. If the reimbursement level is so low for a procedure that is primarily, if not exclusively, done on people of Medicare age—and we can think of those things that are more likely to happen with someone over the age of 65—the hospital may ultimately decide they cannot continue to afford to provide those services and keep the doors open to a hospital. So seniors in that community will then be denied access to the care in their own community because the hospital will no longer do or provide that service, whether it is bypass heart surgery, whether it is total joint replacement. That senior then has to travel greater distances to try to find someplace to do that. The hospital may look at reimbursement for a procedure or different kinds of technology and say: The reimbursement is so low we are not going to upgrade our x-ray equipment or our MRI machine. Again, that community would suffer.

Even during the debate of the health care law, we heard in many rural communities that 1 in 10 hospitals was likely to actually be so financially stressed by the health care law that they may end up having to close their doors over the next 10 years. I am hearing that in Wyoming. But it is because of this Board that the President wants to be the one to essentially, it looks to me, do the rationing of care.

Mr. CORNYN. Mr. President, I ask the Senator from Wyoming, it seems to me that what the intent is behind this Independent Payment Advisory Board and the President's health care law, sometimes called the Patient Protection and Affordable Care Act—I think it needs to be named ''Unaffordable Care Act'' for reasons we can go into later.

But the purpose behind it we can all understand; that is, to try to contain health care costs and spending by the Federal Government because, of course, health care inflation is going up much faster than regular inflation of the Consumer Price Index.

It strikes me that, as in a lot of the policy debates we have in Washington and Congress, we all agree we need to do something to contain costs, but we disagree about the means to achieve that affordability that we all know we need and to contain the inflation of health care costs. I would like to ask my colleague, rather than have Congress outsource its responsibility in this area to an unelected, unaccountable group of 15 bureaucrats, from which there is no appeal and which would have the consequence, as he said, of limiting people's access—because if all they are going to do is cut provider payments to hospitals and doctors, then fewer and fewer doctors and hospitals are going to be able to see those patients. Does he see an alternative that would perhaps help contain costs more by using transparency, patient choice, and good old-fashioned American competition? I am thinking, in particular, about the rare success we have had in the health care area containing costs in the Medicare Part D Program, to me, perhaps a model even where seniors have a choice between competing health care plans and where they get their prescription drugs. But because of the choices they have and the natural competition that occurs, we get market forces disciplining costs. Indeed, it is a very popular program, but the projected costs for Medicare Part D have come in at about 40 percent less than what was originally projected. It strikes me that is one of the missing elements with outsourcing of this responsibility to this unelected, unaccountable group of bureaucrats, where the only thing they try to do is cut provider payments.

Does the Senator see any alternative along the lines of Medicare Part D or otherwise?

Mr. BARRASSO. I think the two key words I heard the Senator from Texas say are ''choice'' and ''competition'' because those things put the patient at the center. It is patient-centered care, not government-centered care, not insurance company-centered care but patient-centered care. It is something we have been talking about for years on the Senate floor, at least on this side of the aisle, to put the patient at the center to give them the choice, as well as have the availability of the competition.

The concern I have—and I was at a statewide meeting in Wyoming with a number of our veterans and their families and I asked the simple question: How many believe, under the health care law as passed, that they are actually going to ultimately end up paying more for their health care? Every hand went up, every hand. Over 100 people there in Casper and over 100 hands went up. They all believe they are going to end up paying more under the President's health care plan than they would have had it not been passed. That is what we are seeing from a lot of the research as well, the admittance that the costs are going up even faster under the health care law than if it hadn't been passed.

Then we ask the critical question the Senator from Texas has referred to about the availability of care, the quality of care. If we asked the question: How many believe the availability of their care and the quality of their care under the President's new health care law will go down, again, every hand in the room went up.

These are all people who believe this health care law, crammed through Congress, crammed down the throats of the

American public at a time when they were shouting: No, we don't want this—the American people believe it made it worse and that they are going to end up paying more and getting less for something they didn't ask for at all.

The American public did have concerns from the beginning, which is what generated the whole discussion about health care and reform. What patients are looking for is the care they need, from the doctor they want, at a cost they can afford. Under the President's health care law, they are losing all three.

Mr. CORNYN. Mr. President, I thank the Senator from Wyoming for his response. I think that shows there is an alternative to this outsourcing of our responsibilities to try to make care more affordable to this group of unelected, unaccountable bureaucrats and cutting provider payments, which actually limits access to health care.

But I tell my colleague from Wyoming, I had an experience a couple years ago visiting with some folks at Whole Foods, the grocery chain that is headquartered in Austin, TX, where I live. John Mackey, the CEO, is very proud of this. They vote each year on their health care plan. What they have chosen—the employees choose year after year—is a high-deductible insurance coverage for catastrophic losses, but then to cover the rest of their care it is a health savings plan that actually Whole Foods makes contributions into, which is owned by the worker and could then be used to pay for their health care for their regular sort of routine needs.

I remember sitting at the table with a number of the workers and talking about why they like this alternative so much, and it is clear: Because it gave them the choices we all would want for ourselves and our families in terms of the doctor we want and the kinds of treatment we want, and it provided incentives because people were spending not the government's money, some sort of a credit card they would never see the bill for, but they were spending their own money in their health savings account; thus, realigning incentives for not only providers but also for consumers in a way that creates more transparency, more choices, and the kind of market discipline to hold down the costs.

I ask my colleague, my impression is, while there was great division in Congress over the passage of the Patient Protection and Affordable Care Act, what some people call ObamaCare—60 Democrats voted for it, 40 Republicans voted against it in the Senate—that on this issue, on the IPAB, Independent Payment Advisory Board, there actually is bipartisan support, particularly in the House Energy and Commerce Committee, to take out that particular provision because people now, on further examination, have seen how it could actually backfire in limiting people's access to health care.

I would ask my colleague, does he see a way for us, on a bipartisan basis, to narrowly address that provision while we continue to wait on the Supreme Court of the United States to rule on the constitutionality of the individual mandate? We don't know how things, such as the State-based insurance exchanges, will operate and the subsidies and whether those are going to be affordable. But on the narrow issue of repealing the Independent Payment Advisory Board, does he see the possibility for bipartisan support for that?

Mr. BARRASSO. I believe there is going to be bipartisan support. We see bipartisan support in the House. I would like to see bipartisan support in the Senate. When you look at what fundamentally this board does, they make recommendations, and it is practically impossible for the recommendations not to automatically become law. We were elected to make laws, not having independent parties make the laws. American patients are going to be forced to accept whatever this unelected board's recommendations are. It is very hard for Congress to override. I expect, in a bipartisan way, people would say: Let's completely eliminate this board, which I know the Senator's legislation is designed to do.

If American patients, people all across the country, suffer from the recommendations of the board, the way the law is written, they cannot challenge this unelected board in court. Americans have a right to challenge things but not this unelected board, as was written into the health care law.

Those are the sorts of issues I hear about when people say: What if I can't get a doctor? What if I can't get the care I need because of the decisions made by the board?

This fundamentally gets to the issue of the whole health care law, which took $500 billion from our seniors on Medicare not to save and strengthen Medicare but to start a whole new government program for someone else. This board, which I think we should eliminate and which I think is going to be hurtful for our seniors, is the group responsible for making the sorts of very challenging cuts from our seniors on Medicare—again, not to help save Medicare but to start a program for someone else, which is why this program is even more unpopular today than it was the day it was passed.

I do believe we have a bipartisan reason to eliminate this, and that is why I am supporting this legislation.

Mr. CORNYN. I would like to ask my colleague one final question. Whenever we talk about reforming, saving, and securing Medicare so we can keep the promise we made to seniors that when people reach the appropriate age, they can actually qualify for this benefit and it actually will be there for them—and people do, in fact, pay into this fund, and they expect to get their money's worth back—sometimes the charge is made that various reform proposals will destroy Medicare as we know it.

I would like to ask the Senator from Wyoming, a medical doctor by profession, whether Medicare as we know it, as currently constructed under the President's health care bill, with this IPAB provision in place—does it have any chance of survival as it currently operates now with this new board of unelected, unaccountable bureaucrats setting prices and limiting access? Because doctors and hospitals simply cannot afford to provide the service at that cost. Doesn't that have the potential to radically transform Medicare as people have come to know it?

Mr. BARRASSO. My view is that people will still get a Medicare card in the mail, but whether there will be doctors or hospitals or nurse-practitioners or others who will accept that card is the bigger concern. Because of what this board may do and is likely to do under the demands of the health care law, those on Medicare today and those coming onto Medicare may have a harder and harder time finding a doctor and a hospital to care for them.

Let's face it, today about 10,000 baby boomers will turn 65. Yesterday about 10,000 baby boomers turned 65. Tomorrow about 10,000 baby boomers will turn 65. We need to make sure Medicare is there and secure for the current generation as well as the next generation and generations to come.

My concern is that this board, which I know my colleague is trying to repeal and which I am trying to repeal, is going to make it that much harder for our seniors to receive the care they need from a doctor they want at a cost they can afford.

Mr. CORNYN. Mr. President, as we approach the 2-year anniversary of the Patient Protection and Affordable Care Act—otherwise known as ObamaCare—there are a lot of things you are going to hear from across the street at the Supreme Court of the United States on the constitutional challenge to this individual mandate, which is a very important constitutional question for the Supreme Court to decide—whether there is any limit to the power of the Federal Government when it comes to forcing you to buy a product approved by the government and penalizing you if you do not do it, whether that is within the constitutional power of the Congress under the commerce clause. Then there are other important questions about the workability of the law, the affordability of the law.

I think today we can just see if we could work together in a bipartisan way to repeal the IPAB requirement. Senator REID is the only one, as the majority leader, who can bring it to the floor, but hopefully, in light of the bipartisan support this has on the House side, he will see fit to do that. I certainly encourage him. I know Senator BARRASSO will encourage him to do that. I hope we can do this and help ensure that people, when they qualify for Medicare, do not just get a card but actually have a good chance—I should say better than a good chance—they will be able to find a doctor who will treat them for the price the government is willing to pay.

Mr. BARRASSO. I thank the Senator for the efforts on his part to repeal this terrible idea that was a fundamental part of the President's proposal. It is one reason I think the health care law is even more unpopular today than the day it was passed and signed into law almost 2 years ago.

I yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. JOHNSON. 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. JOHNSON. I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. The Senator is recognized.

HONORING OUR ARMED FORCES

WISCONSIN CASUALTIES

Mr. JOHNSON of Wisconsin. Mr. President, I come to the floor today to pay tribute to America's sons and daughters who have fallen in the line of duty—citizens of this great Nation who gave their lives to preserve the liberties upon which America was founded, the finest among us who, because they cherished peace, risked their lives by becoming warriors on our behalf.

What could be more sacrificial than the lives our service men and women choose to lead? They love America, so they spend long years separated from their loved ones, deployed in faraway lands. They revere freedom, so they sacrifice their own so that we may be free. They defend our right to live as individuals by yielding their own individuality in that noble cause. They value life, yet bravely ready themselves to lay down their own in humble service to their comrades-in-arms, their families, and their Nation.

For more than 234 years, our service men and women have served as guardians of our freedom. The cost of that vigilance has been high. Since the Revolutionary War, more than 42 million men and women have served in our military and more than 1 million of those selfless heroes have given their lives. Wisconsin has borne its share of that great sacrifice. Since statehood, 27,000 of Wisconsin's sons and daughters have died in military service. Since September 11, 2001, we have lost 143 brave souls with ties to Wisconsin. Since I took office last January, 13 more have perished. Statistics cannot possibly convey the weight of these losses. After all, statistics are merely numbers that could never fully communicate the qualities of these fine men and women whose promising lives were cut far too short. Statistics say nothing of their unfulfilled hopes and dreams. So instead of numbers such as 1 million, 27,000, 143, or even 13, I would like to ask everyone to think for a moment about a much smaller but still staggering number, the number 1.

Each of these men and women was a loved one cherished by family and friends. Each was a loss to their community and to this great Nation. Each paid a price that we must never forget. We must also remember the sacrifice made was not theirs alone. Every family member and friend left behind experiences profound loss, sadness, and grief. The tragedy multiplies; it is not contained. For those left behind, the pain may slowly subside, but the wound will never heal.

Two weeks ago I had the privilege of bearing witness to the sacrifice of one of Wisconsin's fallen heroes and the courage of those he left behind. On February 22, a grateful Nation laid 1LT David Johnson of Mayville, WI, to his final rest at Arlington National Cemetery. I was honored to join David's loving and proud parents Laura and Andrew, his sister Emily, and his brothers Matthew and Michael as they said their final goodbyes. Out of sheer coincidence Michael was already scheduled to intern in my office this week and is with us today. It is fitting that we acknowledge his loss and sacrifice.

The Johnson family loved their brother and son. They loved him dearly and our hearts go out to them. I pray that they find God's peace and comfort today and in the tough times ahead as they deal with this overwhelming and tragic loss.

Lieutenant Johnson was only 24 years old when he died of injuries suffered after encountering an improvised explosion device on January 25 while leading his men in Kandahar Province, Afghanistan.

In addition to Lieutenant Johnson, today I would also like to pay tribute to the other Wisconsin heroes who gallantly gave their lives since I took office last January.

Since then Wisconsin has lost SSgt Jordan Bear, U.S. Army. Staff Sergeant Bear, age 25, of Elton, WI, died March 1, 2012, in Kandahar Province, Afghanistan; SSgt Joseph J. Altmann, U.S. Army. Staff Sergeant Altmann, age 27, of Marshfield, WI, died December 25, 2011, in Kunar Province, Afghanistan; SPC Jakob J. Roelli, U.S. Army. Specialist Roelli, age 24, of Darlington, WI, died September 21, 2011, in Kandahar Province, Afghanistan; SGT Garrick L. Eppinger Jr., U.S. Army Reserve. Sergeant Eppinger, age 25, of Appleton, WI, died September 17, 2011, in Parwan Province, Afghanistan; SGT Chester D. Stoda, U.S. Army. Sergeant Stoda, age 32, of Black River Falls, WI, died September 2, 2011, while on recreational leave from duties in support of the war in Afghanistan; CPL Michael C. Nolen, U.S. Marines. Corporal Nolen, age 22, of Spring Valley, WI, died June 27, 2011, in Helmand Province, Afghanistan; SPC Tyler R. Kreinz, U.S. Army. Specialist Kreinz, age 21, of Beloit, WI, died June 18, 2011, in Uruzgan Province, Afghanistan; Private Ryan J. Larson, U.S. Army. Private Larson, age 19, of Friendship, WI, died June 15, 2011, in Kandahar Province, Afghanistan; SGT Matthew D. Hermanson, U.S. Army. Sergeant Hermanson, age 22, of Appleton, WI, died April 28, 2011, in Wardak Province, Afghanistan; SPC Paul J. Atim, U.S. Army. Specialist Atim, age 27, of Green Bay, WI, died April 16, 2011, in Nimroz Province, Afghanistan; CPL Justin D. Ross, U.S. Army. Corporal Ross, age 22, of Green Bay, WI, died March 26, 2011, in Helmand Province, Afghanistan; Finally, 1LT Darren M. Hidalgo, U.S. Army. First Lieutenant Hidalgo, age 24, of Waukesha, WI, died February 20, 2011, in Kandahar Province, Afghanistan.

May God bless and comfort their loved ones with peace. May he watch over those who have answered the call and are serving today and those who will serve in the future. May God bless America.

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

The PRESIDING OFFICER. The clerk will call the roll of the Senate.

The legislative clerk called the roll.

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

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

HONORING DOUG AND SAMANTHA LEVINSON

Mr. NELSON of Florida. Mr. President, this Friday will mark 5 years since FBI agent Bob Levinson disappeared while on a business trip as a retired FBI agent. He was on a business trip to Kish Island in the Persian Gulf. It is a part of Iran. That is 5 long years that his wife Christine has been without a husband and 5 long years that her seven children have been without their father.

Over those 5 years I have spoken so many times about Bob—a retired FBI agent and a resident of south Florida—from the floor of the Senate and so many other venues. Just yesterday I met with his wife Christine after she joined FBI Director Robert Mueller and Deputy Director Sean Joyce in announcing a $1 million reward for information leading to Bob's safe return. So in southwest Asia billboards will soon start to appear announcing that $1 million reward, and it is in southwest Asia that we know Bob is being held.

Today I wish to talk about his children because tomorrow in Miami the Society of Former Special Agents of the FBI will honor Bob's two youngest children—his son Doug and his daughter Samantha, both of whom, along with their other siblings, have persevered through this very difficult time.

Doug was in the seventh grade when Bob disappeared. This year he will graduate from high school, on his way to college. He has excelled academically and athletically and has grown to almost his father's height. Bob will be shocked at how tall Doug is, but he will be even more proud of all that his son has accomplished.

Samantha, Bob's daughter, was in high school when Bob disappeared. In

just a few weeks she will graduate from college. Samantha has been a resident adviser and a proud member of her sorority. She interned at Disney where she hopes to work after graduation. Again, when her father returns, he will be so proud.

To honor Bob's children, and standing in solidarity with one of their own, the Society of Former Special Agents of the FBI will award to Doug and Samantha scholarships to assist with the cost of college. I thank that society and those agents who have protected us so much over the years. I thank them for their service and for their kindness. I congratulate Doug and Samantha for all they have accomplished under such very difficult circumstances.

To Christine Levinson, this heroic woman who has stood so strong in the midst of great adversity for 5 years—I say to Christine and her children that this government will not rest, none of us will rest until we have brought Bob home. I look forward, as do so many, to that day of celebrating with them and celebrating with all of Bob's friends and his former colleagues.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll of the Senate.

The legislative clerk proceeded to call the roll.

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

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

The Senator is recognized.

Mr. ENZI. Mr. President, first, I want to say how important roads and bridges are. We are on the highway bill, and that is one of the main advantages the United States has had—having excellent transportation. Of course, that is particularly important in my own State because we want people to be able to get to the first national park, which is Yellowstone National Park, and another gorgeous park, the Grand Teton National Park, and a place called Fossil Butte National Monument, where people can actually fish for 60 million-year-old fish. We have a spot in the middle of the State where people can help dig up dinosaur bones—and if you dig one out by yourself, you get it named after you—or the first national monument, Devils Tower, which is up in the northeast corner. And, of course, we are a corridor between those Western States too. So we know how important roads and bridges are. We need to do that, and we need to do it now, but we should do it the right way.

So I want to refer to an amendment I have filed, No. 1645. My amendment is very simple and straightforward. It would allow the gas tax to be adjusted with inflation—not with the price of gas, with inflation. This is not a new idea, and it certainly is not a very popular discussion point, but this is the debate the Senate needs to have.

The long-term viability of the highway trust fund is incredibly important to our States. The underlying proposal the Senate is debating would pay for transportation and infrastructure projects and programs for the next 2 years, but it does not address the future of these programs, nor do the financing proposals fit within the timeframe of the bill. I have serious objections to paying for 2 years of spending with 10 years of revenue.

Let me stop on that issue for a moment. We are spending money in 2 years that it will take us 10 years to generate. How can we tell the American people we are serious about the deficit and serious about spending when we allow money to be spent five times as fast as it comes in?

If the Senate wants to keep the highway programs viable through a trust fund instead of subjected to the general fund, which any accountant or banker would say is bankrupt, we need to either cut spending or generate more revenue. Those are the two choices.

A lot of work has gone into the bill before the Senate. Four committees have worked on it. Four committees have filed amendments that have been included in the version we are seeing. I appreciate that many of my colleagues are trying to reduce the mandates on the States as well as consolidate and eliminate programs. That is good. Those are steps we need to take. Even with some serious streamlining, however, the highway trust fund will not have the revenues needed to meet the current obligations of the fund. We can certainly give States more flexibility in how they prioritize the Federal funds they receive.

We should not and cannot ignore that with this bill we are just buying time. Buying time is something the Federal Government has been doing for decades, and that has gotten us into this serious financial mess. We are buying time with borrowed money. The borrowing is pretty dubious, and some of it is from countries we would rather not be borrowing from.

I want to share some charts with you. You may only be able to discern what I say, and what I say is what appears in the Senate RECORD, not the charts.

These have a lot of numbers on them. I am an accountant, so I get excited over numbers. Too many numbers, but it still makes the point. What we have is the highway trust fund balances, starting in 1993, which was the last time we passed the gas tax. That was 18.3 cents. This column shows the total revenue received. For the most part they have been going up, which means more gas has been bought.

But here are the expenditures, and you will see what effect that has had on the closing balance in the trust fund. We have had quite a few years when there was some money in there—right after 1993 when the gas tax more closely matched the cost of construction, and as we get out here in 2001, we can see that it drops significantly and keeps dropping. At balance, at the end of 2012, it is going to be $11.4 billion. Of course, we are spending more than that just in this one bill.

So next year it will be a minus $2.8 billion and $18.7 billion, and then $34.7 billion. Those are deficits I am talking about, deficits in the trust fund, which means in those years we are going to have to get the money from somewhere else. It winds up in 2016 at being a $50.7 billion deficit to the trust fund. That is what we are doing generally with all of our accounting, but it shows up here in something that I do not think anybody in America denies is absolutely necessary. We have to have roads and bridges.

So if my amendment were enacted, what kind of an adjustment to the tax rate would we see? If this amendment had been enacted last year, in 2011, this January—the tax does not go into effect until the year after the inflation is measured. This January the tax would have increased by one-half of one penny—one-half of one penny. The price of a gallon fluctuates more than that on a daily basis. In fact, I was watching on television the other night, and the lady was showing the high price of gas, and she showed a sign out in front of the pumps. Just as she was about to leave, she said: Wait a minute. While I have been talking, the price has gone up 20 cents.

So we are seeing some huge changes there, but not with the gas tax. If we had enacted the indexing in 1993, the last time Congress adjusted the gas tax, there would have been an increase of 11 cents in the gasoline tax over 19 years. Excluding the one-tenth of 1 cent that is added to the base tax rate for the leaking underground storage tanks, the rate would adjust from 18.3 cents a gallon in 1993 to 29½ cents per gallon today.

That is what this chart shows. It shows the amount of inflation there was each of those years, so the amounts the gas tax would have gone up in each of those years to provide a fund that would actually help us with building the roads and bridges, and it would be at 29.5 cents per gallon today.

In that same timeframe gasoline prices have risen from $1 per gallon to $3.50 per gallon or more. It was $4 in the example I was giving off the television. If we had enacted indexing in 2005 under the last highway bill, there would have been only a 3½-cents-per-gallon adjustment. I estimate there would have been increased revenue in the highway trust fund by over $18 billion from the gas tax alone.

So this is the chart that shows what would have happened if we had indexed it in 2005, what the CPI index would have been and what the adjustment would have been. So that would have been a change of 3.5 cents per gallon, hardly noticeable in the price of gas we have today. But the trust fund would have had $18 billion, which we need to be able to spend. Very important.

In 1993 the gas tax of 18.3 cents was included in the $1 of gas, and there was

also State taxes included in the $1 gasoline price, 18 cents out of a dollar. Now the 18 cents is part of $4 a gallon.

Don't you think construction costs have increased based on the cost of a gallon of gas alone? Remember, the gas tax is what paid for roads and bridges but cannot anymore, causing us to use very bad financing methods—stealing from pension funds with no way to pay it back, using 10 years' of projected revenue to pay for 2 years' of construction.

What do we do for the money in 2 years? Roads and bridges will always need construction. Our economy runs on construction. The construction industry has mixed feelings about my proposed amendment. They are for it as long as it does not bring the bill down. My intent is not to bring the bill down but, rather, to make it a viable bill. Of course, my amendment will not make it a viable bill all by itself. The Bowles-Simpson Commission deficit report said we needed to increase the gas tax by 5 cents a year for 3 years to have a viable fund.

Here are the quotes from that deficit commission. The President appointed the deficit commission. They looked at everything, and on highways and bridges alone, this is what they came up with: 15-cent-per-gallon increase in the gas tax over a 3-year period; limit spending to match the revenues the trust fund collects. That is what we are failing to do with this current bill.

Once fully implemented, a 15-cent increase would generate an additional $24 to $27 billion per year for the highway trust fund. Each 1-cent increase would generate about $1.6 to $1.8 billion per year. That is from that deficit commission that was trying to figure out how to get ourselves out of the hole we are in right now. This is what they came up with just for the highway fund.

So with my amendment, it indexes with inflation. It does not start until next year. It is just a way to test the waters to see if there is enough courage in this body to take a very minimal step. My amendment does not solve the shortfall of the highway trust fund, nor would it fully pay for this legislation. It is just a small step in the right direction. It is a step in getting the highway trust fund back to what it was created to be, a dedicated pot of money to pay for the roads, funded by those who use the roads.

We need to take this step and a lot of other steps if we are going to fix our money problems and fund programs as intended. The National Commission on Fiscal Responsibility and Reform—that is that Simpson-Bowles Commission—supported a 15-cent increase in the gas tax to be gradually adjusted over a 3-year period. Once fully implemented, a 15-cent increase, as I said, would provide $24 to $27 billion per year. That is what we need for roads and bridges.

The Commission also recommended that Congress enact a limitation so that the spending could not go beyond revenues. That seems like a fairly commonsense approach. Spend only what we generate. We could use that around here. Of course, that principle is something we need to enact in the overall budgeting in Washington.

Let's be clear. The tax rate and gas prices are two very separate issues. Folks might think that as the price of fuel goes up, so does the Federal gas tax. That is not true. Whether the price of gas is $1 per gallon or $4 per gallon, the Federal tax remains the same. Again, the fund collected 18.3 cents from every dollar of gas in 1993. Construction costs have increased, and now we only collect the same 18.3 cents for a $4 gallon of gas. If we were being successful with some alternate means of transportation, the amount of gas would go down as people used those other ones, but it is not.

I am sensitive to the fact that the gas prices are high right now. I am always looking for ideas on how we can work to bring those prices down. With the distances we have to travel in Wyoming alone, high fuel prices have a disproportionate effect on the residents of my State.

The President said there is not a silver bullet to bring the prices down. That is certainly true if we look at his administration's policies, having done everything possible to increase the price of fuel. While there might not be a silver bullet, there are a number of actions that will make a real difference.

One reason gas prices are high is that the supply is limited, and tensions in the Middle East have further strained that supply and encouraged speculators.

To fix the supply problem, we should be producing American energy wherever it is possible. Instead of blocking production the President should be encouraging us to develop American energy in Alaska and off the Outer Continental Shelf and on Federal land. Yes, production is up, but it is not from Federal lands. That is shut down. It is coming from private land where a permit does not take a lifetime of investment and delay. Federal lands are down 12 percent in production. We should be enacting policies that encourage energy production on public lands in Wyoming and other Western States rather than relying on oil from the Middle East and Venezuela.

President Obama should approve the Keystone XL Pipeline so we can get as much supply as possible from friendly nations such as Canada before they feel forced to sell it all to China, who is buying up energy worldwide. China understands that in 20 years the country with the energy will have the power. I am not talking about electrical power; I am talking about world power.

Gas prices are high because of the regulatory uncertainty created by the administration's relentless pursuit of policies that are designed to make energy more expensive under the guise of halting climate change. Rather than arguing over new taxes for the oil and gas industry, we should be working to rein in the Environmental Protection Agency to stop those regulations that make it impossible for businesses to plan.

We have a permitting problem. When I hear the lecture about the number of acres leased for exploration but not being drilled, I get angry. I am usually not angry. Leased parcels include land that has no oil. When you buy a lease, you buy a package, and then you drill where the oil or gas is within that package. Also, there are millions of acres ready to be drilled, but the leaseholder cannot get the bureaucrats to turn loose the permits.

Of course, Energy Secretary Chu recently confirmed that his energy policy is to create conservation by having our gas prices reach the same level as Europe. Well, unless we do something with the gas tax at his desired $7 a gallon, we will still only get 18.3 cents a gallon for the critical highway fund.

If we were really trying to match cost to construct with revenue, the radical suggestion would be for the gas user fee—and it is a user fee. If you do not drive on the roads, you do not need to buy the gas. You do not need to pay the tax. So it is a user fee. But it would be a percentage of the cost of a gallon of gas if we were really being radical.

But be clear, we are not doing that. We are probably not doing any of this. We need to do everything we can to lower gas prices. I am working to do just that. In fact, we are debating some of these issues on this legislation because the majority refuses to debate them using regular order. However, the issue of gas prices is entirely separate from the issue of determining how we should pay for highways.

We have set up a trust fund that is supposed to take care of road and bridge needs. I might mention that changing the formula to miles driven would just be to increase the gas user fee while hiding the increase. That is not the way to do it. We should be honest about whatever kind of an increase we are putting on this user fee. That is the wrong way to do it. If we do not add more revenue to the trust fund, we should cut our spending to the amount of money we have in the trust fund. That is, again, what the Simpson-Bowles report said.

I know there a lot of sensitivities in talking about the rate of gas tax or any other tax. There is no doubt that individuals and businesses are still stressed in this economy and are struggling to make ends meet. People in rural States such as Wyoming have few options. They have to drive long distances for many of their needs. Several of my colleagues have said to me: This just is not the time to be talking about the gas tax.

I must ask: When will the time be right? Members of Congress do not want to tackle this topic when the economy is strong nor do they want to tackle the topic when we have economic challenges. When revenues to

the highway trust fund were meeting the needs of the highway program, no one wanted to consider that there might be a time when the revenue could not keep up with the needs to maintain our highway system.

We are pennies away from insolvency of the highway trust fund. When is the right time to talk about the revenue stream for the highway trust fund? We need to start today. My amendment is a small step to address the long-term viability of the highway trust fund. It is a small step to get us moving toward living within our means and maintaining our roads with the money we have not the money we wish we had.

I probably cannot get a vote on this minimal increase, but it does test the water. I would be happy to revise my amendment to any reasonable level that Senators would support. We cannot continue to kick this conversation down the road for another 2 years. We cannot lie to our constituents about the state of the highway trust fund. We should not steal from other trust funds, and we should not do unapproved long-term financing for short-term projects. We have a mechanism to pay for the road programs, a dedicated funding stream paid for by those who use the roads.

I hope my colleagues will take a hard look at my amendment, take a look at the plan under Simpson-Bowles, and study the numerous ideas out there. Let's have a real debate on how to preserve this dedicated funding for our roads.

In Wyoming, we have an optional sales tax for projects by communities and counties. The construction project is stated, and the people get to vote for this increase in their taxes. As long as the money is used to pay for the promised projects, the voters continue to approve additional projects with additional taxes. It has happened for 30 years in Wyoming. People will allow focused taxes for what they know they need if they believe that is what it will be spent for. And I say they know the needs for roads and bridges.

When is it the wrong time to do the right thing? I believe most everyone in this Chamber knows this is the right thing. Most of our constituents will see it that way too. A vocal few won't, but the reason congressional approval is at a record low is because so many live in fear of taking the votes that will fix the problems. We have a chance to change that with this amendment. I hope my colleagues will take a serious look at it and fund the highway fund the way it was intended.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

BENEFITS OF FREE ENTERPRISE

Mr. KYL. Mr. President, last week I came to the floor to talk about how free enterprise helps people achieve earned success and thus helps them pursue true happiness. Today I want to talk about another moral benefit of free enterprise—its effectiveness in reducing poverty and promoting economic mobility.

This is an important conversation to have since President Obama has made income and class inequality the centerpieces of his reelection campaign. For example, in his Osawatomie, KS, speech last year, he said:

> This is a make-or-break moment for the middle class and all those who are fighting to get into the middle class. I believe that this country succeeds when everyone gets a fair shot, when everyone does their fair share, and when everyone plays by the same rules.

He followed up with similar themes in the 2012 State of the Union speech, saying that he believes in ''an America where hard work paid off, responsibility was rewarded, and anyone could make it if they tried—no matter who you were, where you came from, or how you started out.''

Of course, these are quintessential American values in no dispute. But the President's soaring rhetoric is at odds with his main policy, which is to achieve greater economic equality not by equal opportunity but through forced redistribution of wealth. For example, the President has proposed a litany of tax increases, such as the so-called Buffet rule, higher marginal income tax rates, and higher taxes on investment. New taxes don't lift anybody, but they do tear some people down.

The President also proposes more government spending to redistribute the new tax dollars collected. Redistributionist programs have a role, of course, as government safety nets. They help, for example, people who are ill temporarily, down on their luck, or not able-bodied. But, unfortunately, they do not cure poverty. If they did, poverty would no longer exist in America.

The only permanent cure for poverty and the only system capable of producing massive increases in economic mobility is free enterprise. Senator MARK RUBIO put it well when he said that ''the free enterprise system has lifted more people out of poverty than all the government anti-poverty programs combined.'' As we will see in a moment, economic data confirms this is true.

As Arthur Brooks and Peter Wehner wrote in their book called ''Wealth and Justice: The Morality of Democratic Capitalism,'' before the rise of free enterprise; that is, for most of human history, life was ''bleak, cruel and short.'' Life expectancy was low, infant mortality was high, disease was rampant, and food was scarce. Education was only for the wealthy. Indeed, the wealthy were the only people who lived in relative comfort.

But the emergence of free enterprise roughly two centuries ago helped to change all that. As the free enterprise system took root, particularly in Western Europe, protectionist measures eased, trade increased, and businesses accumulated capital to grow and create new jobs. People pursued their self-interests free of state coercion or corruption, and the economic benefits flowed to every strata of society. As Brooks and Wehner note, ''Markets, precisely because they are wealth generating, also end up being wealth distributing.''

By every universal measure, life has improved dramatically in free market societies. Literacy, basic living standards, and life expectancy have increased, while disease and starvation have plummeted. Child labor has been eradicated. As free enterprise has spread during the last two centuries, the world's average per capita income has skyrocketed by about 10 times. These are major moral achievements. Yes, some people are richer than others, and that is true in all nations whether characterized as market economies or not. But where it exists, free enterprise has helped make the poor make tremendous gains, and they continue to climb. In the modern era of globalization, we have seen this on an unprecedented scale. Since 1970, as economic freedom has grown in developing countries such as China and India, the number of people living on $1 a day has plunged by 80 percent, according to a recent study.

What about President Obama's arguments that free enterprise has harmed middle-class prosperity? Over the past quarter century, economic studies have shown otherwise. Indeed, as Hoover Institution fellow Henry Nau pointed out in a recent Wall Street Journal article, middle-income earners have become richer and many have leaped into the upper-middle class. Between 1980 and 2007, a period Nau calls ''the Great Expansion,'' the United States grew by more than 3 percent per year and created more than 50 million new jobs, ''massively expanding a middle class of workers,'' in Nau's words.

Nau continues:

> Per capita income increased by 65 percent, and household income went up substantially in all income categories. . . . In the past three decades, households making more than $105,000 in inflation-adjusted dollars doubled to 24 percent from 11 percent.

These are remarkable increases in wealth. What policies produced this expansion? Again quoting Nau:

> Precisely the free-market policies of deregulation and lower marginal income-tax rates that [President] Obama decries.

If the President wants to increase class mobility and prosperity and build on the successes of the ''Great Expansion,'' then he must turn away from

the statist policies that have dominated his 3 years in office. As Brooks and Wehner write:

The answer is not less capitalism, it is better capitalists.

And I would add, that includes the President and his advisers.

Most fundamentally, our policies must reward hard work and merit for the simple reason that people are more successful and industrious when they get to keep more of the fruits of their labor.

That is what we call earned success. Their prosperity flows to others when they open businesses, create jobs and new products, compete for workers, raise wages, and invest their profits, which can then be lent to other entrepreneurs. But when market forces are restricted—when taxes are too high and regulations are too stifling—entrepreneurship loses its appeal. If people think outcomes are predetermined by the government, they don't have incentives to compete.

A 2005 study by economists Alberto Alesina and George-Marios Angeletos underscores the point. They found that beliefs about meritocratic rewards are self-fulfilling. They concluded that if a society thinks people have a right to enjoy the fruits of their effort, it will choose low taxes and have lower tolerance for redistribution. Effort will be high in these places. Conversely, they found that if citizens believe the system is rigged and that luck and connections, not merit, are the key determinants of success, then they will demand forced wealth redistribution and effort will be lower in these places.

Simply put, if people think the system is inherently unfair, it will wind up that way. That is precisely what has happened in countries such as Spain and Greece, where outcomes are divorced from effort, and, to a large measure, bureaucrats and special interests dictate who gets economic rewards.

Since everyone does better when effort is rewarded, then protecting merit-based success is a moral issue. Indeed, the first American immigrants left countries with too little opportunity for advancement to come here and earn rewards based on merit and be the masters of their own destiny. Polls have shown that, over the years, Americans have not grown tired of the merit-based system but instinctively support it. U2 singer Bono colorfully explained why individual determinism in America is so great:

In America, the guy looks up at the mansion on the hill and says, ''One day, if I really work hard, I am going to live in the mansion on the hill.'' In Dublin, they look at the mansion on the hill and say, ''One day I'm going to get that [guy].''

Free markets breed a culture of aspiration and mobility, in which people reject the politics of envy and instead focus on their own advancement and their own success. If our goal is to foster such a positive culture of achievement, then we must eschew class warfare in favor of the free-market policies that have done so much to boost prosperity both at home and abroad.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BLUNT. 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. BLUNT. Mr. President, I wish to speak on the amendment I have offered with my friend, Senator CASEY from Pennsylvania, on the highway bill, amendment No. 1540.

In my State, and I think in the whole country, the question we hear over and over again is: Where are the private sector jobs? What can we do to get the economy back on track?

There are very few places the Federal Government can create private sector jobs. One of the few places we can do that is in public works, such as the highway bill, where most of the work to build a new bridge or a new highway is done by competitive bid and by private sector employers and private sector employees. While we probably take a different approach to how we get there, I think all of us understand it is critical we work together to find common ground to create jobs and to create economic growth.

This infrastructure bill could be—and I hope it turns out to be—a good start. There is no doubt that infrastructure is the foundation of our economy. Quality transportation is vital to connect people and communities, to connect people to the places they work, to connect the products they make to the places they need to go. That doesn't happen without a good infrastructure program and one that maintains and expands as needs to be the infrastructure that we have. I am very hopeful this bill can provide that additional element to getting our economy back on track.

At the heart of the problem for small towns and for local governments in so many States, and particularly in Missouri, is the bridge system that is not part of the Federal structure. It is the so-called off-system bridge network, where local communities are responsible for bridges.

Missouri has perhaps more bridges than any other State. I was in one of our counties just recently where the county itself—and we have 115 counties. So unlike some of the Western States, the counties aren't huge. They are designed to be compact, and people could get across them in the 1820s and 1830s in 1 day, before automobiles. So we have lots of counties, and 1 of them has 148 bridges. Our smallest county by population, with only 4,000 people, has 100 bridges. So every 40 people in that county are essentially responsible for maintaining a bridge, and bridges are expensive. That off-system bridge network carries schoolbuses, emergency vehicles, lots of agricultural products, families going about their daily routine. Without those bridges, that local infrastructure doesn't work.

What we are suggesting and calling for in this amendment is simply to continue the current policy. I am not talking about any new money for bridges. We are not talking about any new program for bridges. But the bill itself doesn't continue the 15 percent of the bridge funds that has been allocated for some time now to local government. This would continue to have that same 15 percent going to local governments.

There are almost 600,000 bridges in the country—more than 590,000, and 50 percent of those are considered off-system, and approximately 28 percent of that 50 percent are currently considered deficient. Thirty-two percent of the bridges in Missouri in the off-bridge system are considered deficient. They either aren't adequate for the traffic they now carry or are in need of repairs. One out of three bridges in our State needs an investment.

The new penalty section of the underlying bill that would replace the current off-system bridge program makes that program even more uncertain at times when communities and job creators need it the most. Without our amendment, States would only have to sustain the previous number of deficient bridges every other year in order to avoid investing in their off-system bridges. It is a formula that doesn't work. It might work in big communities that have lots of miles that they maintain, but I doubt that. I think this makes an inconsistent investment in bridges all over the country.

Our amendment ensures that counties are not left bearing the full responsibility of these off-system bridges. If they are left bearing that full responsibility, many of these bridges will not be fixed. This has been a major source of funding for counties working on bridges. This amendment would give States and counties the proper tools and resources and the assurance of a steady flow of funding in order to invest in the Nation's bridges.

Additionally, the amendment establishes a procedure where the Transportation Secretary can rescind this requirement if State and local officials determine they have inadequate needs to justify these expenditures. In other words, if they can't justify spending the money in their State, then the Federal Government clearly doesn't have to allocate that 15 percent to local communities and to States for the off-system program.

When I listen to community leaders, and certainly when I listen to county commissioners, this is a topic that comes up in most of our counties with great concern. The counties where it doesn't come up wouldn't have to apply for the money. That 15 percent, allocated appropriately, will make a big difference.

Community leaders and job creators are looking for things that allow them

to prepare for a more certain future. They need the ability to look beyond 6 months or 1 year to plan and anticipate how they are going to repair bridges, which bridges they are going to look at this year, which bridges they will then put off until next year. But right now, they would have no way of knowing whether there would be any Federal assistance to these communities. We need to be sure we provide this certainty for off-system bridges if we are going to promote job creation and economic development. We have to work together in the Nation's Capital to make smart investments in our Nation's transportation system if we are going to provide communities and job creators with greater certainty to prepare for the future.

I wish to thank Senator CASEY for his hard work on this issue. I am glad to join him on this amendment. It is critical to the State of Missouri and many other States. The National Association of Counties, the National League of Cities, the National Conference of Mayors, the National Association of County Engineers, the American Public Works Association, the National Association of Regional Councils, and the National Association of Development Officials are all in support of this amendment. I hope we have it included in the amendments we get to vote on, and I urge my colleagues to join in this bipartisan effort to create more certainty for local governments.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Tennessee.

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

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

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

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

WIND TURBINE SUBSIDIES

Mr. ALEXANDER. Madam President, today in the Wall Street Journal there coincidentally was an editorial on the subject about which I speak, and this was entitled ''Republicans Blow With the Wind. Another industry wants to keep its tax subsidies.'' It is about the possibility that the Senate will be asked—maybe as early as the next few days during the debate on the Transportation bill—to extend yet 1 more year the Federal taxpayers' subsidy for large wind turbines.

I would like to take a few minutes to say why I don't believe we should do that, and I ask unanimous consent that following my remarks the Wall Street Journal editorial be printed in the RECORD.

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

(See exhibit 1.)

Mr. ALEXANDER. Madam President, I believe it is time for Congress to stop the Big Wind gravy train. Subsidies for developers of huge wind turbines will cost taxpayers $14 billion over 5 years, between 2009 and 2013, according to the Joint Tax Committee and the Treasury Department. This is more than the special tax breaks for Big Oil, which Congress should also end. $6 billion of these Big Wind subsidies will come from the production tax credit for renewable energy, which Congress temporarily enacted in 1992. The prospect for the expiration of this tax break at the end of this year has filled the Capitol with lobbyists hired by investors wealthy enough to profit from the tax breaks. President Obama even wants to make these tax credits permanent. According to the Wall Street Journal, this is a ''make or break moment'' for wind power companies.

There are three reasons the Big Wind subsidies should go the way of the $5 billion annual ethanol subsidy, which Congress allowed to expire last year. First, we cannot afford it. The Federal Government borrows 40 cents of every dollar it spends. It cannot justify such a subsidy, especially for what the Nobel Prize-winning U.S. Energy Secretary calls a ''mature technology.''

Second, wind turbines produce a relatively puny amount of expensive, unreliable electricity. Wind produces 2.3 percent of our electricity, less than 8 percent of our pollution-free electricity. One alternative is natural gas, which is abundant, cheap, and very clean. Another alternative is nuclear. Reactors power our Navy and produce 70 percent of our pollution-free electricity. Using windmills to power a country that uses one-fourth of all of the world's electricity world would be the energy equivalent of going to war in sailboats.

Finally, these massive turbines too often destroy the environment in the name of saving the environment. When wind advocate T. Boone Pickens was asked whether he would put turbines on his Texas ranch, Mr. Pickens answered: No, they're ugly.

A new documentary movie, ''Windfall,'' chronicles upstate New York residents debating whether to build giant turbines in their town. A New York Times review of this film reported this:

> Turbines are huge: Some are 40 stories tall, with 130-foot blades weighing seven tons and spinning at 150 miles per hour. They can fall over or send parts flying; struck by lightning, say, they can catch fire. Their 24/7 rotation emits nerve-racking low frequencies (like a pulsing disco) amplified by rain and moisture, and can generate a disorienting strobe effect in sunlight. Giant flickering shadows can tarnish a sunset's glow on a landscape.

Let's consider the three arguments one by one. First, the money. For all we hear about Big Oil, you may be surprised to learn that special tax breaks for Big Wind are greater. During the 5 years from 2009 to 2013, Federal subsidies for Big Wind equal $14 billion. I am only counting the production tax credit and the cash grants that the 2009 stimulus law offered to wind developers in lieu of the tax credit. An analysis of that stimulus cash grant program by Greenwire found that 64 percent of the 50 highest dollar grants awarded—or about $2.7 billion—went to projects that had begun construction before the stimulus measures started.

Steve Ellis, the vice president of Taxpayers for Common Sense, told Greenwire:

> It's essentially funding economic activity that already would have occurred. So it's just a pure subsidy.

According to President Obama's new budget, Big Oil receives multiple tax subsidies. Doing away with them would save about $4.7 billion a year in fiscal year 2013 or about $22 billion over 5 years it says. So far it sounds like Big Oil with $22 billion, is bigger in subsidies than Big Wind with $14 billion. But here is the catch: Many of the subsidies that the President is attacking oil companies for receiving are regular tax provisions that are the same or similar to those other industries receive. For example, Xerox, Microsoft, and Caterpillar all benefit from tax provisions like the manufacturing tax credit, amortization or depreciation of used equipment that the President is counting as Big Oil subsidies.

Of course, wind energy companies also benefit from many similar tax provisions. But the production tax credit that benefits wind is in addition to the regular Tax Code provisions that benefit many companies. So the only way to make a fair comparison is to look only at subsidies that mostly benefit only oil or only wind, and by that measure wind gets more breaks than oil.

The Heritage Foundation has done an analysis showing that if Big Oil received the same type of production tax credit as Big Wind, then the taxpayer would be paying Big Oil about $50 per barrel of oil when adjusted for today's prices. According to a 2008 Energy Information Administration report, Big Wind received an $18.82 federal subsidy per megawatt hour, 25 times as much as per megawatt hour as subsidies for all other forms of electricity production combined.

The production tax credit became law in 1992. Its goal was to jump-start renewable energy production. While it is advertised as a tax credit for renewable energy, according to the Joint Committee on Taxation, 75 percent of the credit goes to wind developers. Here is how it works: For every kilowatt hour of electricity produced from wind, turbine owners receive 2.2 cents in a tax credit. For example, if a Texas utility buys electricity from a wind developer at 6 cents a kilowatt hour, the Federal taxpayer will pay the developer another 2.2 cents per kilowatt hour. This 2.2-cent subsidy continues

for the first 10 years that the turbine is in service. This 2.2-cent credit is worth 3.4 cents per kilowatt hour in cash savings on the tax return of a wealthy investor. Wind developers often sell their tax credits to Wall Street banks or big corporations or other investors who have large incomes. They create what is called a tax equity deal in order to lower or even eliminate taxes. This is the scheme our President, who is championing economic fairness, would like to make permanent.

Energy expert Daniel Yergin, the Pulitzer prize winner, says the price of oil during 2011, when adjusted for inflation, is higher than at any time since 1860. It therefore makes no sense whatsoever to give special tax breaks to Big Oil. Neither does it make sense to extend special tax breaks to Big Wind, a mature technology. For every $3 saved by eliminating these wasteful subsidies, I would spend $2 to reduce the Federal debt and $1 to double research for new forms of cheap, clean energy for our country.

The second problem with electricity produced from wind is there is not much of it, and since the wind blows when it wants to, and for the most part, it cannot be stored, it is not reliable. For this reason the claims in newspapers about how much electricity wind produces are misleading because of the difference between the capacity of an energy plant and its actual production.

Daniel Yergin says the U.S. installed capacity for wind power grew at an average annual rate of 40 percent between 2005 and 2009. In terms of absolute capacity, Yergin writes in his book The Quest, that growth in capacity was the equivalent to adding 25 new nuclear plants. But Yergin writes: In terms of actual generation of electricity, it was more like adding nine reactors. This is because nuclear plants operate 90 percent of the time while wind turbines operate about one-third of the time.

As an example, the Tennessee Valley Authority constructed a 29-megawatt wind farm at Buffalo Mountain at a cost of $60 million. It is the only wind farm in the Southeast.

We read in the papers about a 29-megawatt wind farm, but that is not its real output. In practice, Buffalo Mountain has only generated electricity 19 percent of the time, since the wind doesn't blow very much in the Southeast. So this wind farm, sounding like a 29-megawatt power plant, only generates 6 megawatts. TVA considers Buffalo Mountain to be a failed experiment. In fact, looking for wind power in the Southeast is a little like looking for hydropower in the desert.

So one problem with this Big Wind subsidy is that it has encouraged developers to build wind projects in places where the wind doesn't blow or the wind doesn't blow.

Finally, there is the question of whether in the name of saving the environment wind turbines are destroying the environment. These are not your grandma's windmills. They are taller than the Statue of Liberty, their blades are as long as a football field, and their blinking lights can be seen for 20 miles. Not everyone agrees with T. Boone Pickens that they are ugly but, when these towers move from television advertisements into your neighborhood, you might agree with Mr. Pickens. Energy sprawl is the term conservation groups use to describe the march of 45-story wind turbines onto the landscape of ''America the Beautiful.''

If the United States generated 20 percent of our electricity from wind, as some have suggested, that would cover an area the size of West Virginia with 186,000 wind turbines. It would also be necessary to build 12,000 new miles of transmission lines.

The late Ted Kennedy and his successor Senator SCOTT BROWN have both complained about how a wind farm the size of Manhattan Island will clutter the ocean landscape around Nantucket Island.

Robert Bryce told the Wall Street Journal that the noise of turbines, the ''infra sound'' issue, is the most problematic for the wind industry. ''They want to dismiss it out of hand, but the low frequency noise is very disturbing,'' he explains. ''I interviewed people all over, and they all complained with identical words and descriptions about the problems they were feeling from the noise.''

Theodore Roosevelt was our greatest conservation President, and his greatest passion was for birds. Birds must think wind turbines are Cuisinarts in the sky.

Last month, two golden eagles were found dead at California's Pine Tree wind farm, bringing the total count of dead golden eagles at that wind farm to eight carcasses. And the Los Angeles Times reports that the U.S. Fish and Wildlife Service ''has determined that the six golden eagles found dead earlier at the 2-year-old wind farm in Kern County were struck by blades from some of the 90 turbines spread across the 8,000 acres at the site.'' That puts the death rate per turbine at the Pine Tree wind farm at three times higher than at California's Altamont Pass Wind Resource Area, which has 5,000 turbines that kill 67 golden eagles each year.

Apparently eagle killing has gotten so commonplace that the U.S. Department of the Interior will grant wind developers hunting licenses for eagles. In Goodhue County, MN, a company wants to build 48 turbines on 50 square miles of land, and to do that it has applied for an ''eagle take'' permit which will allow it to kill a certain number of eagles before facing penalties.

I have figured out how such a hunting license squares with federal laws that will put you in prison or fine you if you kill migratory birds or eagles. Nor have I figured out how it squares with the Fish and Wildlife Service fining Exxon $600,000 in 2009 when oil development harmed protected birds. Do not the same laws protecting birds apply to both Big Wind and Big Oil?

Surely, there are appropriate places for wind power in a country that needs clean electricity and that has learned the value of a diverse set of energy sources. But if reliable, cheap, and clean electricity without energy sprawl is our goal, then four nuclear reactors—each occupying 1 square mile—would equal the production of a row of 50-story wind turbines strung along the entire 2,178-mile length of the Appalachian Trail from Georgia to Maine.

According to Benjamin Zycher at the American Enterprise Institute, a 1,000-megawatt natural gas powerplant would take up about 15 acres while a comparable wind farm would take up 48,000 to 60,000 acres. And, of course, even if someone built all of those turbines, you would still need the nuclear or gas plants for when the wind doesn't blow.

Our energy policy should to be, first, double the $5 billion Federal energy budget for research on new forms of cheap, clean, reliable energy. I am talking about such research for the 500-mile battery for electric cars, for commercial uses of carbon captured from coal plants, solar power installed at less than $1 a watt, or even offshore wind turbines.

Second, we should strictly limit and support a handful of jumpstart research and development projects to take new technologies from their research and development phase to the commercial phase. I am thinking here of projects like ARPA-E, modeled after the Defense Department's DARPA, that led to the internet, stealth, and other remarkable technologies. Or the 5-year program for small modular nuclear reactors.

Third, we should end wasteful, long-term, special tax breaks such as those for Big Oil and Big Wind. The savings from ending those subsidies should be used to double clean energy research and to reduce our Federal debt.

For a strong country, we need large amounts of cheap, reliable, clean energy, and we need a balanced budget. This is an energy policy that could help us do both.

EXHIBIT 1

REPUBLICANS BLOW WITH THE WIND

ANOTHER INDUSTRY WANTS TO KEEP ITS TAXPAYER SUBSIDIES

Congress finally ended decades of tax credits for ethanol in December, a small triumph for taxpayers. Now comes another test as the wind-power industry lobbies for a $7 billion renewal of its production tax credit.

The renewable energy tax credit—mostly for wind and solar power—started in 1992 as a ''temporary'' benefit for an infant industry. Twenty years later, the industry wants another four years on the dole, and Senator Jeff Bingaman of New Mexico has introduced a national renewable-energy mandate so consumers will be required to buy wind and solar power no matter how high the cost.

The truth is that those giant wind turbines from Maine to California won't turn without burning through billions upon billions of taxpayer dollars. In 2010 the industry received

some $5 billon in subsidies for nearly every stage of wind production.

The ''1603 grant program'' pays up to 30% of the construction costs for renewable energy plants (a subsidy that ended last year but which President Obama calls for reviving in his budget). Billions in Department of Energy grants and loan guarantees also finance the operating costs of these facilities. Wind producers then get the 2.2% tax credit for every kilowatt of electricity generated.

Because wind-powered electricity is so expensive, more than half of the 50 states have passed renewable energy mandates that require utilities to purchase wind and solar power—a de facto tax on utility bills. And don't forget subsidies to build transmission lines to deliver wind power to the electric grid.

What have taxpayers received for this multibillion-dollar ''investment''? The latest Department of Energy figures indicate that wind and solar power accounted for a mere 1.5% of U.S. energy production in 2010. DOE estimates that by 2035 wind will provide a still trivial 3.9% of U.S. electricity.

Even that may be too optimistic because of the natural gas boom that has produced a happy supply shock and cut prices by more than half. Most economic models forecasting that renewable energy will become price competitive are based on predictions of natural gas prices at well above $6 per million cubic feet, more than twice the current cost.

The most dishonest claim is that wind and solar deserve to be wards of the state because the oil and gas industry has also received federal support. That's the $4 billion a year in tax breaks for oil and gas (which all manufacturers receive), but the oil and gas industry still pays tens of billions in federal taxes every year.

Wind and solar companies are net tax beneficiaries. Taxpayers would save billions of dollars if wind and solar produced no energy at all. A July 2011 Energy Department study found that oil, natural gas and coal received an average of 64 cents of subsidy per megawatt hour in 2010. Wind power received nearly 100 times more, or $56.29 per megawatt hour.

Most Congressional Democrats will back anything with the green label. But Republican support for big wind is a pure corporate welfare play that violates free-market principles. Last week six Republican Senators—John Boozman of Arkansas, Scott Brown of Massachusetts, Charles Grassley of Iowa, John Hoeven of North Dakota, Jerry Moran of Kansas and John Thune of South Dakota—signed a letter urging their colleagues to extend the production tax credit.

''It is clear that the wind industry currently requires tax incentives'' and that continuing that federal aid can help the industry ''move towards a market-based system,'' said the letter. What's the ''market-based'' timetable—100 years? In the House 18 Republicans have joined the 70–Member wind pork caucus. Someone should remind them that in 2008 and 2010 the wind lobby gave 71% of its PAC money to Democrats.

Here's a better idea. Kill all energy subsidies—renewable and nonrenewable, starting with the wind tax credit, and use the savings to shave two or three percentage points off America's corporate income tax. Kansas Congressman Mike Pompeo has a bill to do so. This would do more to create jobs than attempting to pick energy winners and losers. Mandating that American families and businesses use expensive electricity doesn't create jobs. It destroys them.

Mr. ALEXANDER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 6:30 p.m.

Thereupon, the Senate, at 5:03 p.m., recessed until 6:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. BENNET).

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. MERKLEY). The Senator from Pennsylvania.

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

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

MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT—Continued

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

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

CAPITAL FORMATION

Mr. TOOMEY. Mr. President, it is probably clear to all of us that the American people have a very high level of frustration with the lack of productivity of this Congress. The fact is, when we go home to our respective States, I am sure we are all hearing what I heard last week as I traveled across Pennsylvania. People ask me: Why can't you guys work together? Why can't you get something done? Why does it seem there is so much partisan bickering that you can't come together even on simple things that could help grow this economy, help make progress in these very difficult times?

Well, on this front I think we have some good news, and I am delighted to talk about this tonight. I hope this early sign of good news reaches fruition and we actually have a meaningful accomplishment soon in this body as well as the other body.

Specifically, I am referring to the work that has been coming together of late on a series of capital formation bills that will help small and growing companies raise the capital they need to expand, to hire new workers, to help improve our economy and give us a healthier economy with the job growth we badly need.

In particular, I want to thank House majority leader ERIC CANTOR. Congressman CANTOR took the step of pulling together a series of separate bills and putting them together in a package—a capital formation package. There is very broad support for this package in the House. I think under his leadership it is very likely to pass the House and will present a tremendous opportunity for us because there is broad bipartisan support for these commonsense reforms that will help companies raise capital and grow.

The bipartisan support includes the President of the United States. Much to his credit, the President—I believe just yesterday—issued a formal Statement of Administrative Policy indicating his full support for the passage of the measure that Leader CANTOR is proposing in the House. Many of these proposals come from the work that the President initiated. Some of them are included in the startup America jobs plan that the President proposed. Some of them were recommended by commissions that the President assembled. The President spoke about the need for enhancing small- and medium-sized companies' access to capital in his State of the Union Address. So I think the President has been very clear and very strong in his support as the House Republican leadership has been.

In this body I think the leadership on both sides of the aisle has indicated support. The majority leader and the minority leader have both indicated their support for moving in this direction. The chairman and the ranking member of the Banking Committee have expressed a desire to move forward with the capital formation package, and there is wide support among outside groups. In fact, there is very broad support and very little opposition. The support includes support of entrepreneurs, whether they be from convenience stores, financial services firms, or high-tech firms.

In Pennsylvania, the life science companies feel very strongly about this because for them access to capital is a huge challenge. It is the absolutely essential precondition for their growth, and they are not alone. Manufacturers generally, supermarkets, all kinds of trade associations, the support for these kinds of capital foundation bills is very broad.

I want to touch specifically on three of the bills that I have been working on for quite some time now, and I am very hopeful and optimistic. First of all, these three bills are among six bills. The House companion version of these bills is in the package that Leader CANTOR has proposed, and I believe there is broad support in this body for these bills as well.

The first I want to refer to is a bill that I have introduced with Senator TESTER. It is S. 1544, and it is called the Small Company Capital Formation Act. It is more commonly known as the reg A bill. What it does is lift the current ceiling on the amount of money that a business can raise under the regulation provision of the securities law. That is a provision that allows a small

company to issue a modest amount of debt or equity without being subject to the full range of very costly regulations. The limit has been at $5 million for many years, and the bill that Senator TESTER and I have proposed would raise that limit to $50 million. It has not been updated in almost two decades, and there is no question that raising the ceiling would allow a lot of companies that need to raise substantially more than $5 million the ability to do so and to thereby grow.

This is something the President has supported as well, and it passed the House by a pretty stunning margin of 421 to 1. It was not very controversial. I don't think it is controversial here, so I am glad this bill is included in this package in the House.

The second bill I would like to mention is S. 1824, the Toomey-Carper bill. It has to do with the limit on the number of shareholders a closely held company can have without triggering the full SEC compliance. Currently, that limit is at 500 shareholders. If you reach 500 or go above 500, then you are treated as a public company such as ExxonMobile for reporting purposes. That might have been appropriate many years ago, but in the modern era where communication is so much easier, access to information is so much greater and so much faster, the necessary information for shareholders can be distributed more broadly, more quickly, more easily, it is high time we raised that limit from 500 to 2,000 as this bill would do.

I appreciate Senator CARPER's support for this legislation.

This is a bill that has a companion measure in the House that was raised at the House Financial Services Committee. They voted on it. They voted by voice vote and approved it. By voice vote that means, generally speaking, there is no opposition and nobody bothered with the rollcall vote because everybody supported it. That is a big, broad committee that represents virtually every constituency in the House of Representatives, and it was passed by a voice vote. This has very strong and broad support.

The third bill I want to mention is S. 1933, the Schumer-Toomey bill. The technical name is Reopening American Capital Markets to Emerging Growth Companies Act. We call this more colloquially the on-ramp bill. The reason we call it that is because we think of it as an on-ramp to becoming a publicly traded company, a path to launching an IPO that will facilitate this.

There has been a big reduction in the number of IPOs that occur in the United States. The IPO, initial public offering, is the process by which a private company becomes a public company. It can be a very substantial opportunity to raise capital. As I mentioned earlier, when companies raise capital, they put that money to work by expanding and hiring new workers. An IPO is a hugely important step in a company's progress and almost invariably follows a substantial increase in hiring, and that is why this is so important.

One of the reasons companies are slower to go public now than they were in the past is because we in Congress created a much more expensive set of regulations when a company does go public. Part of that is the Sarbanes-Oxley bill, and certain features within Sarbanes-Oxley are enormously complex and expensive to comply with.

Our bill says if you are a relatively small company—specifically, less than $1 billion in revenues or less than $700 million in public float, the amount of stock that is traded, then you can do an IPO without having to comply with all of the Sarbanes-Oxley regulations immediately. Over time you will have to comply if you exceed those thresholds that I mentioned, or within 5 years. In any case, you have to comply as everybody else does, but at least you have the opportunity to grow and the ability to afford the expense that is associated with it.

A companion measure to this bill—an identical version in the House was considered by the House Financial Services Committee, and that passed just a week ago. It passed the Financial Services Committee by a vote of 54 to 1. This is not very controversial. This has very broad bipartisan support, and this is the kind of legislation that is going to help businesses grow. I cannot stress enough the link between raising capital and growing one's company and hiring new workers. Capital and jobs are completely linked. What these bills will do, together with the other bills that make the broader package, is they will encourage a wealthier economy, stronger job growth, and more people working.

Let me stress one other aspect about this that I think is important to note. This came out at a hearing we had earlier this week on this very topic; that is, for many small companies, young companies, growing companies, there are a number of steps along the way to becoming a larger and more successful company, employing more people.

There are a number of steps along the way in raising capital that can start with an angel investor, followed by venture capital, followed by private equity, followed by maybe a securities issuance, followed by an IPO. This sequence of capital-raising is very important. If you facilitate any one step along the way, as these bills would, the experts who came and testified before our committee confirmed that by facilitating one step along the way, you facilitate the capital-raising at the earlier steps because what happens is the investors are more confident they will have the opportunity to liquidate their investment at a later stage if they see that the regulations have been made more amenable to that liquidation further down the road. So even if a company is not yet necessarily poised, for instance, to do the IPO, the fact that the IPO is easier to achieve when that company gets there increases their chance of raising money now through other vehicles, through other sources, and therefore increases their ability to grow.

I am very enthusiastic, as my colleagues can tell, about this legislation—certainly the three bills I have been working on and the other bills as well, which are a perfect complement to this and really constitute a portfolio of bills that will facilitate portfolio-raising across the board.

I thank my Democratic cosponsors of these particular bills, including Senators TESTER, CARPER, and SCHUMER, for working with me. I also wish to commend Leader MCCONNELL for his leadership and Senator REID for his, as well as Ranking Member SHELBY and Chairman JOHNSON. I think what our constituents have been telling us for a long time is they want to see us working together and doing what is right for our country, for our economy, for job growth. This is a wonderful opportunity to do that.

I think it is quite likely that a package of these bills is going to pass the House very soon. I hope some comparable measure will pass in the Senate. The President has already indicated he supports it and wants to sign it. I don't think we should waste any time at all in passing the legislation that will be good for small and medium-sized businesses and good for their ability to grow and hire more workers.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, first of all, I don't think apologies are in order. We have been doing the best we can for several days now. We have a typical agreement, not one that either side jumps for joy about. In the near future, we are going to be able to finish this important piece of legislation.

Mr. President, I ask unanimous consent that the motion to recommit be withdrawn; that the pending second-degree amendment be withdrawn; that the Reid of Nevada amendment No. 1761 be agreed to; that the bill, as amended, be considered original text for the purposes of further amendment; that the following amendments be the only first-degree amendments remaining in order to S. 1813:

Vitter No. 1535; Baucus or designee relative to rural schools; Collins No. 1660; Coburn No. 1738; Nelson of Florida, Shelby, Landrieu No. 1822, with a modification in order if agreed to by Senators Nelson of Florida, Shelby, Landrieu, and Baucus; Wyden No. 1817; Hoeven No. 1537; Levin No. 1818;

McConnell or designee with a side-by-side to Stabenow No. 1812; Stabenow No. 1812; Demint No. 1589; Menendez-Burr No. 1782; DeMint No. 1756; Coats No. 1517; Brown of Ohio No. 1819; Blunt No. 1540; Merkley No. 1653; Portman No. 1736; Klobuchar No. 1617; Corker No. 1785, with a modification; Shaheen No. 1678; Portman No. 1742; Corker No. 1810; Carper No. 1670; Hutchison No. 1568; McCain No. 1669, modified with changes at the desk; Alexander No. 1779; Boxer No. 1816; and Paul No. 1556; that on Thursday, March 8, at a time to be determined by the majority leader, after consultation with the Republican leader, the Senate proceed to votes in relation to the amendments in the order listed; that the following amendments be subject to a 60-vote affirmative threshold: Vitter No. 1535; Baucus or designee relative to rural schools; Collins No. 1660; Coburn No. 1738; Nelson of Florida-Shelby-Landrieu No. 1822; Wyden No. 1817; Hoeven No. 1537; McConnell or designee side-by-side to Stabenow No. 1812; Stabenow No. 1812; DeMint No. 1589; Menendez-Burr No. 1782; that there be no other amendments in order to the bill or the amendments listed other than the managers' package and there be no points of order or motions in order to any of these amendments other than budget points of order and the applicable motions to waive; that it be in order for a managers' package to be considered and, if approved by the managers and the two leaders, the managers' package be agreed to; further, the bill, as amended, then be read the third time and the Senate proceed to a vote on passage of the bill, as amended, and if the bill is passed, it be held at the desk; finally, that when the Senate receives the House companion to S. 1813, as determined by the two leaders, it be in order for the majority leader to proceed to its immediate consideration, strike all after the enacting clause and insert the text of S. 1813, as passed by the Senate, in lieu thereof; that the House bill, as amended, be read the third time, a statutory pay-go statement be read, if needed, and the bill, as amended, be passed, the motions to reconsider be considered made and laid upon the table; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

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

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

ADDITIONAL STATEMENTS

FREDERICK COUNTY, MD CHAMBER OF COMMERCE

● Mr. CARDIN. Mr. President, I wish to recognize the 100th anniversary of the Frederick County Chamber of Commerce, the first chartered chamber in the United States. When the United States Chamber of Commerce was formed at a conference held by President Taft in April 1912, four delegates from the Maryland's Frederick County Board of Trade were in attendance. Inspired by the conference, the Frederick County Board of Trade applied for membership to the newly formed chamber the very next day.

The newly renamed Frederick County Chamber of Commerce committed itself to serving the business interests of Frederick County. During the ravages of the Great Depression, the chamber was a beacon of hope, advocating for Federal work programs and organizing the Community Chest, now known as the United Way of Frederick County.

Over the past 100 years, the Frederick County Chamber of Commerce has successfully promoted economic vitality in Frederick, and has been a crucial partner to countless local businesses and organizations. The Frederick Arts Council and the Tourism Council of Frederick County were both chamber initiatives that grew into independently successful organizations. The Chamber has also been a leader in promoting women and minority-owned businesses. In 1969, the chamber worked with the NAACP to form the People's Opportunity and Information Center, and in 1997 they welcomed their first female president.

Today, the Frederick County Chamber of Commerce works with nearly 1,000 member businesses to expand Frederick County's economy and improve the quality of life for Frederick County residents. By bringing business leaders together to tackle challenges and proactively plan for the future, the Frederick County Chamber of Commerce has strengthened the community and the region.

I ask my colleagues to join me in congratulating the Frederick County Chamber of Commerce on 100 years of leadership and advocacy on behalf of the businesses and citizens of Frederick County.●

REMEMBERING MINNESOTA SENATOR GARY KUBLY

● Mr. FRANKEN. Mr. President, I would like to take a few minutes to remember the life of Minnesota Senator Gary Kubly, who died on Friday, March 2, after a battle with Lou Gehrig's disease.

Gary was a model Midwestern politician—one who worked hard, but quietly, on behalf of his constituents. He was a strong voice for the rural communities that he served, communities whose struggles continue to mount and are shared across this country. He cared deeply about issues from agriculture and rural development to education and the environment.

In 2010, Gary was diagnosed with amyotrophic lateral sclerosis, more commonly known as Lou Gehrig's disease. As a Lutheran pastor, Gary met his diagnosis with strong faith and determination. He chose to continue his work in public service, always putting his constituents first.

Gary wasn't the stereotypical politician whom many disparage so often in today's discourse. He kept his head down and just worked for the people who elected him, reaching across ideological boundaries to do his job. In his 16 years in the Minnesota House and Senate, he didn't seek out the limelight. He simply served as a voice for rural Minnesota, and he was remarkably effective.

We in this body have a lot to learn from Gary's style of legislating. Minnesota benefited greatly from his work, and we have lost a hard-working public servant and friend.

I would like to conclude with a prayer that Gary read at a Minnesota Farmers Union convention in 2010, which I think is a perfect reflection of his values:

Creator God, Redeemer Son and Indwelling Spirit, we thank You for bringing us together this weekend. Be with us as we attempt to move our industry forward in ways that benefit the people of our State and Nation.

Help us to see that the decisions we make in caring for the land, marketing local foods, sustaining our resources for all of these things are part and parcel of our call as Your people to care for our neighbor.

Help us to embrace once again the values of community that allow us to see our neighbors in the same light that You see them for You have created all of us in equal standing before You.

Move us from our tendency to isolate ourselves from one another to seeing our neighbors as benefactors along with us of Your love and grace.

Bless us now as we received these gifts of nourishment from Your hand that we might be sustained in our call to care for our neighbor coupled with our own call to farm the land You have given into our keeping.

In Your strong name, Amen.●

TRIBUTE TO ASSISTANT POLICE CHIEF MARCY KORGENSKI

● Mr. LEE. Mr. President, today I wish to recognize the career of Assistant Police Chief Marcy Korgenski, who is retiring after 30 years with the Ogden Police Department and was the first female to hold the position in Ogden's history.

A graduate of both Weber State University and the FBI National Academy, Chief Korgenski first joined Ogden's police force in 1982 as a patrol officer.

She helped to found the department's gang unit in 1991, and, rising through the ranks, she became a sergeant in 1995 and a lieutenant in 1999. In 2010, Korgenski was promoted to assistant police chief, a position she had earned with hard work throughout her career.

As assistant chief, Korgenski has been in charge of the department's Investigation Division, training and records operations, and selective enforcement. She has also directed officers assigned to the Weber-Morgan Narcotics Strike Force, established and managed the Ogden Police Apprentice Program, and joined prosecutors in establishing a special investigator for Hispanic victims of domestic violence. Using her experience to teach others, Korgenski trained members of the Volunteers in Policing program in techniques to assist local police in keeping residents safe.

In 2011, Korgenski was awarded the Ogden/Weber Chamber Women in Business Committee's ATHENA award, which recognizes individuals who demonstrate excellence, initiative, and creativity in their profession. When interviewed about the award, Korgenski said that she encourages women to ''dream the impossible dream.''

Korgenski has also received her department's Distinguished Service Award, the Mattie Harris Spirit of the American Woman Award, and the Rotary Club's Outstanding Selfless Dedication and Public Service Award.

Beyond her professional accomplishments, Korgenski is very active in her community. She is involved with the Ogden Area Youth Alliance, the American Cancer Society Relay for Life, the Special Olympics of Utah, and the Domestic Violence Coalition for Weber County. She also serves on the Swanson Foundation Advisory Board, the Ogden Noon Exchange Club Executive Board, Weber Sate's Child and Family Services Advisory Board, and the GOAL Foundation, and is a trustee for Youth Impact, a nonprofit organization dedicated to helping at-risk youths. Her decision to retire was made in part to devote even more time to her volunteering efforts.

I join Ogden Mayor Mike Caldwell in saying that Marcy Korgenski's service to the public will be missed. Her career is a testament to the accomplishments of hardworking women everywhere, and I congratulate her on her many achievements and 30 years of excellence in her field.●

RECOGNIZING BAXTER BREWING COMPANY

● Ms. SNOWE. Mr. President, throughout the 112th Congress, I have consistently implored my colleagues to remember the value of our Nation's small businesses. These enterprising firms are the key to job creation. Nowhere is this more prevalent than in my home State of Maine, whose entrepreneurial spirit has remained vibrant as businesses continue to make headlines. Today I wish to recognize and commend Baxter Brewing Company, whose owner and founder, Luke Livingston, was recently named one of Forbes Magazine's 30 under 30 in the food and wine category.

A native of Auburn, ME, Luke began brewing while still in college at Clark University in Worcester, MA. Following college, although he was successfully employed, Luke's passion continued to remain in brewing. At 24, he decided it was time to take the leap, and quit his day job to develop a business plan for Baxter Brewing Company. In seeking to create a well-crafted business plan—particularly in such a tumultuous economy—Luke turned to counselors within the Maine Small Business Development Center, who provided him critical guidance that was instrumental in achieving his goal.

Now at age 27, Luke's dream has become a reality, as his business has quickly risen to the ranks of top micro-breweries. Baxter Brewing Company, began selling its product in January of 2011, and is located in a portion of newly renovated space at the Bates Mill Complex, a historic former textile mill in downtown Lewiston. Currently, the company offers three varieties of beer including a Stowaway India Pale Ale, IPA, Pamola Xtra Pale Ale, and its newest addition, the Amber Road. Unlike most craft beer producers, Luke sells his micro-brew in cans rather than glass bottles. By using cans, Baxter is able to utilize recycled materials while reducing shipping costs and providing fresher beer to their customers at the same time.

Recently, celebrating Baxter's first year anniversary, Luke's gamble has certainly paid off with expanding sales markets and multiple accolades for the young brewery. In the first year, the company sold slightly over 5,000 barrels of beer, making it one of 2011's most successful first year craft breweries. Accordingly, in addition to Luke's personal recognition by Forbes, Baxter Brewing is also being recognized by BevNet Magazine, an elite beverage trade magazine, as the New Brewery of the Year.

As Baxter Brewing Company continues to expand further into Massachusetts and New Hampshire, this small business offers incredible insight into how young entrepreneurs can triumph in today's economy. Luke's ambition and zealous commitment to his craft have provided a remarkable pathway to success. I am proud to extend my congratulations to Luke and everyone at Baxter Brewing for their richly deserved honors, and offer my best wishes for their future endeavors.●

MESSAGES FROM THE HOUSE

At 10:49 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4105. An act to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

ENROLLED BILL SIGNED

At 6:47 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4105. An act to apply the countervailing duty provisions of the Tariff Act of 1930 to nonmarket economy countries, and for other purposes.

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

MEASURES DISCHARGED

The following bill was discharged from the Committee on Finance, and referred as follows:

S. 2152. A bill to promote United States policy objectives in Syria, including the departure from power of President Bashar Assad and his family, the effective transition to a democratic, free, and secure country, and the promotion of a prosperous future in Syria; to the Committee on Foreign Relations.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2173. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 7, 2012, she had presented to the President of the United States the following enrolled bill:

S. 1710. An act to designate the United States courthouse located at 222 West 7th Avenue, Anchorage, Alaska, as the James M. Fitzgerald United States Courthouse.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5223. A communication from the Secretary of the Department of Agriculture, transmitting pursuant to law, the 2011 Packers and Stockyards Program Annual Report; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5224. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, a report relative to the Department of Defense taking essential steps to award multiyear contracts for nine ARLEIGH BURKE Class Guided Missile Destroyers in fiscal years 2013 through 2017, in the second quarter of fiscal year 2013; to the Committee on Armed Services.

EC–5225. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics), transmitting, pursuant to law, an annual report on operations of

the National Defense Stockpile (NDS) for fiscal year 2011; to the Committee on Armed Services.

EC–5226. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2012–0017—2012–0027); to the Committee on Foreign Relations.

EC–5227. A communication from the Chairman of the Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Board's semiannual Monetary Policy Report to Congress; to the Committee on Banking, Housing, and Urban Affairs.

EC–5228. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a report relative to the progress made in licensing and constructing the Alaska Natural Gas Pipeline; to the Committee on Energy and Natural Resources.

EC–5229. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Weatherization Assistance for Low-Income Persons: Maintaining the Privacy of Applicants for and Recipients of Services'' (RIN1904–AC16) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Energy and Natural Resources.

EC–5230. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report relative to the North Slope Science Initiative; to the Committee on Energy and Natural Resources.

EC–5231. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Removal of Oman from the Restricted Destinations List'' ((RIN3150–AJ06) (NRC–2011–0264)) received in the Office of the President of the Senate on February 29, 2012; to the Committee on Environment and Public Works.

EC–5232. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Regulation of Fuels and Fuel Additives: Identification of Additional Qualifying Renewable Fuel Pathways Under the Renewable Fuel Standard Program'' (FRL No. 9642–3) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Environment and Public Works.

EC–5233. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, the 2012 Trade Policy Agenda and 2011 Annual Report of the President of the United States on the Trade Agreements Program; to the Committee on Finance.

EC–5234. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annual Price Inflation Adjustments for Passenger Automobiles First Placed in Service or Leased in 2012'' (Rev. Proc. 2012–23) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Finance.

EC–5235. A communication from the Secretary of Education, transmitting, pursuant to law, the Annual Performance Report of the Department of Education for fiscal year 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–5236. A communication from the Assistant General Counsel for Regulatory Services, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Disability and Rehabilitation Research Project—Center on Knowledge Translation for Disability and Rehabilitation Research'' (CFDA No. 84.133A–13) received in the Office of the President of the Senate on February 28, 2012; to the Committee on Health, Education, Labor, and Pensions.

EC–5237. A communication from the Acting Director, Office of Management and Budget, Executive Office the President, transmitting, proposed legislation entitled ''Reforming and Consolidating Government Act of 2012''; to the Committee on Homeland Security and Governmental Affairs.

EC–5238. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2005–57, Introduction'' (FAC 2005–57) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5239. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2012–004, United States-Korea Free Trade Agreement'' (FAC 2005–57) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5240. A communication from the Chief Acquisition Officer, Office of Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; FAR Case 2005–57, Small Entity Compliance Guide'' (FAC 2005–57) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Homeland Security and Governmental Affairs.

EC–5241. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–318 ''Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011''; to the Committee on Homeland Security and Governmental Affairs.

EC–5242. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 19–313 ''Streetscape Reconstruction Temporary Act of 2012''; to the Committee on Homeland Security and Governmental Affairs.

EC–5243. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled ''Fiscal Year 2010 Report to Congress on Funding Needs For Contract Support Cost of Self-Determination Awards''; to the Committee on Indian Affairs.

EC–5244. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Agency, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Schedules of Controlled Substances; Extension of Temporary Placement of Five Synthetic Cannabinoids Into Schedule I of the Controlled Substances Act'' (Docket No. DEA–345) received in the Office of the President of the Senate on February 29, 2012; to the Committee on the Judiciary.

EC–5245. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Drug and Drug-Related Supply Promotion by Pharmaceutical Company Representatives at VA Facilities'' (RIN2900–AN42) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Veterans' Affairs.

EC–5246. A communication from the Director of the Regulation Policy and Management Office of the General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Exempting In-home Video Telehealth from Copayments'' (RIN2900–AO26) received in the Office of the President of the Senate on March 5, 2012; to the Committee on Veterans' Affairs.

EC–5247. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of an officer authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–5248. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Compulsory Reporting Points; Alaska'' ((RIN2120–AA66) (Docket No. FAA–2010–1398)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5249. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Restricted Areas R–3704A and R–3704B; Fort Knox, KY'' ((RIN2120–AA66) (Docket No. FAA–2011–1274)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5250. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class C Airspace; Springfield, MO; Lincoln, NE; Grand Rapids, MI'' ((RIN2120–AA66) (Docket No. FAA–2011–1406)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5251. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Altus AFB, OK'' ((RIN2120–AA66) (Docket No. FAA–2011–0630)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5252. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Jackson, MI'' ((RIN2120–AA66) (Docket No. FAA–2011–1143)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5253. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class D Airspace; Saginaw, MI'' ((RIN2120–AA66) (Docket No. FAA–2011–1144)) received during adjournment of the Senate in the Office of the

President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5254. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Iverness, FL'' ((RIN2120–AA66) (Docket No. FAA–2011–0540)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5255. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Rugby, ND'' ((RIN2120–AA66) (Docket No. FAA–2011–0433)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5256. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Portsmouth, OH'' ((RIN2120–AA66) (Docket No. FAA–2011–0850)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5257. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Greenfield, IA'' ((RIN2120–AA66) (Docket No. FAA–2011–0846)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5258. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Galbraith Lake, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0865)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5259. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Rockingham, NC'' ((RIN2120–AA66) (Docket No. FAA–2011–1146)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5260. A communication from the Senior Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Kwigillingok, AK'' ((RIN2120–AA66) (Docket No. FAA–2011–0881)) received during adjournment of the Senate in the Office of the President of the Senate on February 21, 2012; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–66. A concurrent resolution adopted by the Senate of the State of North Dakota respectfully applies for an amendments convention to the Constitution of the United States to be called for the purpose of proposing an amendment that provides that an increase in the federal debt requires approval from a majority of the legislatures of the separate states; to the Committee on the Judiciary.

SENATE CONCURRENT RESOLUTION NO. 4007

A concurrent resolution providing for the application for an amendments convention to the Constitution of the United States to be called for the purpose of proposing an amendment that provides that an increase in the federal debt requires approval from a majority of the legislatures of the separate states.

WHEREAS, Article V of the Constitution of the United States provides authority for a convention to be called by the Congress of the United States for the purpose of proposing amendments to the Constitution of the United States upon application of two-thirds of the legislatures of the several states—an amendments convention; and

WHEREAS, the North Dakota Legislative Assembly favors the proposal and ratification of an amendment to the Constitution of the United States that provides that an increase in the federal debt requires approval from a majority of the legislatures of the separate states; Now, therefore, be it

Resolved by the Senate of North Dakota, the House of Representatives Concurring Therein: That the Sixty-second Legislative Assembly of the state of North Dakota respectfully applies for an amendments convention to the Constitution of the United States to be called for the purpose of proposing an amendment that provides that an increase in the federal debt requires approval from a majority of the legislatures of the separate states; and be it further

Resolved, that the amendments convention contemplated by this application must be focused entirely upon and exclusively limited to the subject matter of proposing for ratification an amendment to the Constitution of the United States providing that an increase in the federal debt requires approval from a majority of the legislatures of the separate states; and be it further

Resolved, that this application constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made application for an equivalently limited amendments convention; and be it further

Resolved, that the Secretary of State forward copies of this resolution to the President of the United States Senate, to the Speaker of the United States House of Representatives, to each member of the North Dakota Congressional Delegation, and to the presiding officers of each house of the several state legislatures, requesting their cooperation in applying for the amendments convention limited to the subject matter contemplated by this application.

POM–67. A resolution adopted by the Legislature of Rockland County, New York, requesting that the United States Congress pass bill H.R. 1084 and S. 587—The Fracturing Responsibility and Awareness of Chemicals (FRAC) Act; to the Committee on Environment and Public Works.

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. CONRAD (for himself, Mr. WICKER, Ms. KLOBUCHAR, Mr. JOHNSON of South Dakota, Mr. COCHRAN, Mr. INHOFE, Ms. LANDRIEU, Mr. TESTER, Mr. CRAPO, Mr. RISCH, Mr. MORAN, Mr. UDALL of New Mexico, and Mr. BAUCUS):

S. 2166. A bill to amend the Safe Drinking Water Act to reauthorize technical assistance to small public water systems, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MERKLEY:

S. 2167. A bill to increase the employment of Americans by requiring State workforce agencies to certify that employers are actively recruiting Americans and that Americans are not qualified or available to fill the positions that the employer wants to fill with H–2B nonimmigrants; to the Committee on the Judiciary.

By Mr. BLUMENTHAL (for himself, Mr. DURBIN, and Mr. HARKIN):

S. 2168. A bill to amend the National Labor Relations Act to modify the definition of supervisor; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MCCONNELL (for himself and Mr. PAUL):

S. 2169. A bill to require the Director of the Bureau of Prisons to be appointed by and with the advice and consent of the Senate; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. LEVIN, and Mr. LEE):

S. 2170. A bill to amend the provisions of title 5, United States Code, which are commonly referred to as the ''Hatch Act'' to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title; to the Committee on Homeland Security and Governmental Affairs.

By Mr. PRYOR (for himself and Mr. BLUNT):

S. 2171. A bill to enhance the promotion of exports of United States goods and services, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. SNOWE (for herself, Mrs. GILLIBRAND, Ms. LANDRIEU, Mr. BENNET, Mrs. SHAHEEN, Ms. MIKULSKI, and Ms. MURKOWSKI):

S. 2172. A bill to remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. DEMINT (for himself, Mr. COBURN, Mr. HATCH, Mr. LEE, Mr. PAUL, Mr. TOOMEY, Mr. VITTER, and Mr. RISCH):

S. 2173. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. CARDIN, Mr. LEVIN, and Mr. COONS):

S. Res. 390. A resolution honoring the life and legacy of the Honorable Donald M. Payne; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. SCHUMER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. 1301

At the request of Mr. LEAHY, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 1301, a bill to authorize appropriations for fiscal years 2012 through 2015 for the Trafficking Victims Protection Act of 2000, to enhance measures to combat trafficking in persons, and for other purposes.

S. 1425

At the request of Mr. DEMINT, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1425, a bill to amend the National Labor Relations Act to ensure fairness in election procedures with respect to collective bargaining representatives.

S. 1440

At the request of Mr. ALEXANDER, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1440, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 1544

At the request of Mr. TESTER, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 1544, a bill to amend the Securities Act of 1933 to require the Securities and Exchange Commission to exempt a certain class of securities from such Act.

S. 1591

At the request of Mrs. GILLIBRAND, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1591, a bill to award a Congressional Gold Medal to Raoul Wallenberg, in recognition of his achievements and heroic actions during the Holocaust.

S. 1598

At the request of Mr. MANCHIN, his name was added as a cosponsor of S. 1598, a bill to amend the Commodity Exchange Act to prevent excessive speculation in commodity markets and excessive speculative position limits on energy contracts, and for other purposes.

S. 1770

At the request of Mrs. GILLIBRAND, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1770, a bill to prohibit discrimination in adoption or foster case placements based on the sexual orientation, gender identity, or marital status of any prospective adoptive or foster parent, or the sexual orientation or gender identity of the child involved.

S. 1935

At the request of Mrs. HAGAN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1935, a bill to require the Secretary of the Treasury to mint coins in recognition and celebration of the 75th anniversary of the establishment of the March of Dimes Foundation.

S. 1970

At the request of Mr. MERKLEY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1970, a bill to amend the securities laws to provide for registration exemptions for certain crowdfunded securities, and for other purposes.

S. 2090

At the request of Mr. AKAKA, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 2090, a bill to amend the Indian Law Enforcement Reform Act to extend the period of time provided to the Indian Law and Order Commission to produce a required report, and for other purposes.

S. 2112

At the request of Mr. BEGICH, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2112, a bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents.

S. 2125

At the request of Mr. WYDEN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 2125, a bill to amend title XVIII of the Social Security Act to modify the designation of accreditation organizations for orthotics and prosthetics, to apply accreditation and licensure requirements to suppliers of such devices and items for purposes of payment under the Medicare program, and to modify the payment rules for such devices and items under such program to account for practitioner qualifications and complexity of care.

S. 2128

At the request of Mr. TESTER, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2128, a bill to amend the Balanced Budget and Emergency Deficit Control Act of 1985 to clarify that all veterans programs are exempt from sequestration, and for other purposes.

S. 2142

At the request of Mr. CASEY, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2142, a bill to permit employees to request, and to ensure employers consider requests for, flexible work terms and conditions, and for other purposes.

S. 2150

At the request of Ms. SNOWE, the names of the Senator from Idaho (Mr. CRAPO), the Senator from Nebraska (Mr. JOHANNS), the Senator from South Dakota (Mr. THUNE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2150, a bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security income program.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from South Carolina (Mr. DEMINT), the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

S. RES. 385

At the request of Mr. VITTER, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from North Carolina (Mr. BURR) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. Res. 385, a resolution condemning the Government of Iran for its continued persecution, imprisonment, and sentencing of Youcef Nadarkhani on the charge of apostasy.

S. RES. 386

At the request of Mr. BLUMENTHAL, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 386, a resolution calling for free and fair elections in Iran, and for other purposes.

AMENDMENT NO. 1739

At the request of Mrs. MURRAY, the names of the Senator from Minnesota (Ms. KLOBUCHAR) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of amendment No. 1739 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1769

At the request of Mr. DEMINT, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 1769 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1789

At the request of Mr. DEMINT, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of amendment No. 1789 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

AMENDMENT NO. 1804

At the request of Mr. HARKIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of amendment No. 1804 intended to be proposed to S. 1813, a bill to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL (for himself and Mr. PAUL):

S. 2169. A bill to require the Director of the Bureau of Prisons to be appointed by and with the advice and consent of the Senate; to the Committee on the Judiciary.

Mr. MCCONNELL. 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. 2169

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 ''Federal Prisons Accountability Act of 2012''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Director of the Bureau of Prisons leads a law enforcement component of the Department of Justice with a budget that exceeds $6,500,000,000 for fiscal year 2012.

(2) With the exception of the Federal Bureau of Investigation, the Bureau of Prisons has the largest operating budget of any unit within the Department of Justice.

(3) The Director of the Bureau of Prisons oversees and is responsible for the welfare of more than 216,000 Federal inmates in 117 facilities.

(4) The Director of the Bureau of Prisons supervises more than 37,000 employees, many of whom operate in hazardous environments that involve regular interaction with violent offenders.

(5) The Director of the Bureau of Prisons also serves as the chief operating officer for Federal Prisons Industries, a wholly owned government enterprise of 98 prison factories that directly competes against the private sector, including small businesses, for Government contracts.

(6) Within the Department of Justice, in addition to those officials who oversee litigating components, the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Director of the Bureau of Justice Assistance, the Director of the Bureau of Justice Statistics, the Director of the Community Relations Service, the Director of the Federal Bureau of Investigation, the Director of the National Institute of Justice, the Director of the Office for Victims of Crime, the Director of the Office on Violence Against Women, the Administrator of the Drug Enforcement Administration, the Deputy Administrator of the Drug Enforcement Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the United States Marshals Service, 94 United States Marshals, the Inspector General of the Department of Justice, and the Special Counsel for Immigration Related Unfair Employment Practices, are all appointed by the President by and with the advice and consent of the Senate.

(7) Despite the significant budget of the Bureau of Prisons and the vast number of people under the responsibility of the Director of the Bureau of Prisons, the Director is not appointed by and with the advice and consent of the Senate.

SEC. 3. DIRECTOR OF THE BUREAU OF PRISONS.

(a) IN GENERAL.—Section 4041 of title 18, United States Code, is amended by striking ''appointed by and serving directly under the Attorney General.'' and inserting the following: ''who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall serve directly under the Attorney General.''.

(b) INCUMBENT.—Notwithstanding the amendment made by subsection (a), the individual serving as the Director of the Bureau of Prisons on the date of enactment of this Act may serve as the Director of the Bureau of Prisons until the date that is 3 months after the date of enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the ability of the President to appoint the individual serving as the Director of the Bureau of Prisons on the date of enactment of this Act to the position of the Director of the Bureau of Prisons in accordance with section 4041 of title 18, United States Code, as amended by subsection (a).

By Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. LEVIN, and Mr. LEE):

S. 2170. A bill to amend the provisions of title 5, United States Code, which are commonly referred to as the ''Hatch Act'' to eliminate the provision preventing certain State and local employees from seeking elective office, clarify the application of certain provisions to the District of Columbia, and modify the penalties which may be imposed for certain violations under subchapter III of chapter 73 of that title; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce the Hatch Act Modernization Act of 2012. I am pleased that Senators LIEBERMAN, LEVIN, and LEE have joined as cosponors.

The Hatch Act restricts political activity of Federal employees, District of Columbia employees, and certain other state and local employees. Originally enacted in 1939, the Hatch Act has not been amended since 1993.

The Hatch Act plays two very important roles. First, it ensures that the government works for American citizens regardless of the political party controlling the White House or Congress. Second, the Hatch Act protects Federal employees in the workplace. Specifically, the Hatch Act restricts Federal employees' partisan political action in order to protect them for being coerced to participate in political activities in the workplace. This is essential to the merit-based system that currently exists.

In 2007, I chaired a hearing of the Senate Subcommittee of Oversight of Government Management, the Federal Workforce, and the District of Columbia, which examined whether enhancements or clarifications to the Hatch Act were necessary. Since that time, I have considered what changes to the law would be appropriate, while being mindful that the Hatch Act represents a careful balance intended to shield employees from pressure to use federal time and money for partisan gain, while also protecting employees' personal freedoms of choice and expression.

The legislation I am introducing today makes common sense changes to the Hatch Act. First, it would grant State and local employees the freedom to run for partisan elective office. Under current law, state and local employees are permitted to run for nonpartisan elective office, but are prohibited from running for partisan elective office. This can lead to confusing and inconsistent rules in different locations, depending on whether a particular elective office is categorized as partisan or non-partisan. This change will also save the government money, as the Office of Special Counsel would not be required to spend valuable time and resources investigating the hundreds of complaints it receives each year on this issue.

The legislation would also modify the Hatch Act's draconian penalty provisions. The Hatch Act currently provides for a presumed penalty of termination for any violation of the law, regardless of its severity. Under the law, it is possible that a federal employee could lose his or her job for inadvertently sending an email at work containing improper political content or hanging a picture on his or her wall during a campaign season. My bill would amend these provisions of the Hatch Act to allow the Merit Systems Protection Board, which adjudicates Hatch Act complaints in the federal government, to impose a range of penalties, from termination to a reprimand, depending on the nature of the offense involved.

Finally, the legislation would ensure that employees of the District of Columbia are subject to the same restrictions on political activity that currently apply to all other state and local employees. Under present law, District of Columbia employees are subject to the Hatch Act provisions that apply to federal employees, rather than those that apply to employees of States and localities.

I urge my colleagues to support this important 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. 2170

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 ''Hatch Act Modernization Act of 2012''.

SEC. 2. PERMITTING STATE AND LOCAL EMPLOYEES TO BE CANDIDATES FOR ELECTIVE OFFICE.

(a) IN GENERAL.—Section 1502(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by adding ''or'' after the semicolon;

(2) in paragraph (2), by striking ''purposes; or'' and inserting ''purposes.''; and

(3) by striking paragraph (3).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REFERENCE TO STATE AND LOCAL OFFICIALS.—Section 1502 of title 5, United States Code, is amended by striking subsection (c).

(2) NONPARTISAN CANDIDACIES.—

(A) IN GENERAL.—Section 1503 of title 5, United States Code, is repealed.

(B) TABLE OF SECTIONS.—The table of sections for chapter 15 of title 5, United States Code, is amended by striking the item relating to section 1503.

SEC. 3. APPLICABILITY OF PROVISIONS RELATING TO STATE AND LOCAL EMPLOYEES.

(a) STATE OR LOCAL AGENCY.—Section 1501(2) of title 5, United States Code, is amended by inserting '', or the District of Columbia, or an agency or department thereof'' before the semicolon.

(b) STATE OR LOCAL OFFICER OR EMPLOYEE.—Section 1501(4) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by—

''(i) a State or political subdivision thereof;

''(ii) the District of Columbia; or

''(iii) a recognized religious, philanthropic, or cultural organization.''.

(c) MERIT SYSTEMS PROTECTION BOARD ORDERS.—Section 1506(a)(2) of title 5, United States Code, is amended by inserting ''(or in the case of the District of Columbia, in the District of Columbia)'' after ''the same State''.

(d) PROVISIONS RELATING TO FEDERAL EMPLOYEES MADE INAPPLICABLE.—Section 7322(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by adding ''or'' at the end;

(2) in subparagraph (B), by striking ''or'' at the end;

(3) by striking subparagraph (C); and

(4) by striking ''services;'' and inserting ''services or an individual employed or holding office in the government of the District of Columbia;''.

SEC. 4. HATCH ACT PENALTIES FOR FEDERAL EMPLOYEES.

Chapter 73 of title 5, United States Code, is amended by striking section 7326 and inserting the following:

''§ 7326. Penalties

''An employee or individual who violates section 7323 or 7324 shall be subject to removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.''.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 30 days after the date of enactment of this Act.

(b) APPLICABILITY RULE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by section 4 shall apply with respect to any violation occurring before, on, or after the effective date of this Act.

(2) EXCEPTION.—The amendment made by section 4 shall not apply with respect to an alleged violation if, before the effective date of this Act—

(A) the Special Counsel has presented a complaint for disciplinary action, under section 1215 of title 5, United States Code, with respect to the alleged violation; or

(B) the employee alleged to have committed the violation has entered into a signed settlement agreement with the Special Counsel with respect to the alleged violation.

By Ms. SNOWE (for herself, Mrs. GILLIBRAND, Ms. LANDRIEU, Mr. BENNET, Mrs. SHAHEEN, Ms. MIKULSKI, and Ms. MURKOWSKI):

S. 2172. A bill to remove the limit on the anticipated award price for contracts awarded under the procurement program for women-owned small business concerns, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today, at the onset of Women's History Month, along with my colleagues Senators GILLIBRAND, LANDRIEU, BENNET, SHAHEEN, MIKULSKI, and MURKOWSKI to introduce the Fairness in Women-Owned Small Business Contracting Act. The purpose of the bill is to remove inequities that exist in the women-owned small business contracting program, when compared to other socio-economic programs.

As former Chair and now Ranking Member of the Senate Committee on Small Business and Entrepreneurship, I have long championed women entrepreneurship and have urged both past and present Administrations to implement the woman-owned small business, WOSB, Federal contracting program, which was enacted into law 10 years ago. On March 4, 2010, the Small Business Administration, SBA, finally proposed a workable rule to implement the women's procurement program. I am pleased to report that today there is a functional WOSB contracting program, however, the program lacks the critical elements that the SBA's 8(a), historically underutilized business zones, and the service-disabled veteran-owned government contracting programs include.

To remedy this, our bipartisan bill will help provide tools women need to compete fairly in the Federal contracting arena by allowing for receipt of non-competitive contracts, when circumstances allow. Moreover, the legislation would eliminate a restriction on the dollar amount of a contract that a WOSB can compete for, thus putting them on a level playing field with the other socio-economic contracting programs.

Women-owned small businesses have yet to receive their fair share of the Federal marketplace. In fact, our government has never achieved its goal of five percent of contracts going to WOSBs, achieving only 4.04 percent in fiscal year 2010. Our bill would greatly assist Federal agencies in achieving the small business goaling requirement for WOSBs.

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. 2172

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 ''Fairness in Women-Owned Small Business Contracting Act of 2012''.

SEC. 2. PROCUREMENT PROGRAM FOR WOMEN-OWNED SMALL BUSINESS CONCERNS.

Section 8(m) of the Small Business Act (15 U.S.C. 637(m)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking ''who are economically disadvantaged'';

(B) in subparagraph (C), by striking ''paragraph (3)'' and inserting ''paragraph (4)'';

(C) by striking subparagraph (D); and

(D) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) by adding at the end the following:

''(7) SOLE SOURCE CONTRACTS.—A contracting officer may award a sole source contract under this subsection to a small business concern owned and controlled by women under the same conditions as a sole source contract may be awarded to a qualified HUBZone small business concern under section 31(b)(2)(A).''.

SEC. 3. STUDY AND REPORT ON REPRESENTATION OF WOMEN.

Section 29 of the Small Business Act (15 U.S.C. 656) is amended by adding at the end the following:

''(o) STUDY AND REPORT ON REPRESENTATION OF WOMEN.—

''(1) STUDY.—The Administrator shall periodically conduct a study to identify any United States industry, as defined under the North American Industry Classification System, in which women are underrepresented.

''(2) REPORT.—Not later than 5 years after the date of enactment of this subsection, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) conducted during the 5-year period ending on the date of the report.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 390—HONORING THE LIFE AND LEGACY OF THE HONORABLE DONALD M. PAYNE

Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. CARDIN, Mr. LEVIN, and Mr. COONS) submitted the following resolution; which was considered and agreed to:

S. RES. 390

Whereas the Honorable Donald M. Payne was born in Newark, New Jersey on July 16, 1934, graduated from Barringer High School in Newark and Seton Hall University in South Orange, New Jersey, and pursued graduate studies at Springfield College in Massachusetts;

Whereas the Honorable Donald M. Payne was an educator in the Newark and Passaic, New Jersey public schools and was an executive at Prudential Financial and at Urban Data Systems Inc;

Whereas the Honorable Donald M. Payne became the first African American national president of the YMCA in 1970 and served as Chairman of the World Refugee and Rehabilitation Committee of the YMCA from 1973 to 1981;

Whereas the Honorable Donald M. Payne served 3 terms on the Essex County Board of Chosen Freeholders and 3 terms on the Newark Municipal Council;

Whereas, in 1988, the Honorable Donald M. Payne became the first African American elected to the United States House of Representatives from the State of New Jersey;

Whereas the people of New Jersey overwhelmingly reelected the Honorable Donald M. Payne 11 times, most recently in 2010, when the Honorable Donald M. Payne was elected to represent the Tenth Congressional District of New Jersey for a 12th term;

Whereas the Honorable Donald M. Payne was a tireless advocate for his constituents, bringing significant economic development to Essex, Hudson, and Union Counties in New Jersey;

Whereas, as a senior member of the Committee on Education and the Workforce of the House of Representatives, the Honorable Donald M. Payne was a leading advocate for public schools, college affordability, and workplace protections;

Whereas, as a senior member of the Committee on Foreign Affairs of the House of Representatives, the Chairman and Ranking Member of the Subcommittee on Africa, Global Health, and Human Rights, and a member of the Subcommittee on the Western Hemisphere, the Honorable Donald M. Payne led efforts to restore democracy and human rights around the world, including in Northern Ireland and Sudan;

Whereas the Honorable Donald M. Payne was a leader in the field of global health, cofounding the Malaria Caucus, and helping to secure passage of a bill authorizing $50,000,000 for the prevention and treatment of HIV/AIDS, tuberculosis, and malaria;

Whereas the Honorable Donald M. Payne served as Chairman of the Congressional Black Caucus Foundation and previously as Chairman of the Congressional Black Caucus;

Whereas, in March 2012, the United States Agency for International Development launched the Donald M. Payne Fellowship Program to attract outstanding young people to careers in international development;

Whereas the Honorable Donald M. Payne served on the boards of directors of the National Endowment for Democracy, TransAfrica, the Discovery Channel Global Education Partnership, the Congressional Award Foundation, the Boys and Girls Clubs of Newark, the Newark Day Center, and the Newark YMCA;

Whereas the Honorable Donald M. Payne was the recipient of numerous honors and awards, including honorary doctorates from multiple universities;

Whereas the Honorable Donald M. Payne passed away on March 6, 2012, and is survived by 3 children, 4 grandchildren, and 1 great-grandchild; and

Whereas the Honorable Donald M. Payne's long history of service will have an enduring impact on people in New Jersey, across the United States, and around the world: Now, therefore, be it

Resolved, That the Senate—

(1) expresses profound sorrow at the death of the Honorable Donald M. Payne, United States Representative for the Tenth Congressional District of New Jersey;

(2) conveys the condolences of the Senate to the family of the Honorable Donald M. Payne; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the House of Representatives and the family of the Honorable Donald M. Payne.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1809. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table.

SA 1810. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1811. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1812. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1813. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1814. Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1815. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1816. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1817. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1818. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1819. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1820. Mr. WYDEN (for himself and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1821. Mr. CARDIN (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1822. Mr. NELSON of Florida (for himself, Mrs. SHAHEEN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1813, supra; which was ordered to lie on the table.

SA 1823. Mr. REID (for Mr. HARKIN (for himself, Mr. BURR, Mr. ENZI, Mr. CASEY, Mr. LIEBERMAN, and Ms. COLLINS)) proposed an amendment to the bill S. 1855, to amend the Public Health Service Act to reauthorize various programs under the Pandemic and All-Hazards Preparedness Act.

TEXT OF AMENDMENTS

SA 1809. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE V—BANKRUPTCY VENUE REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the ''Chapter 11 Bankruptcy Venue Reform Act of 2012''.

SEC. 502. AMENDMENTS.

Section 1408 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Except'',

(2) by inserting ''and subsection (b) of this section'' after ''this title'', and

(3) by adding at the end the following:

''(b) A case under chapter 11 of title 11 in which the person that is the subject of the case is a corporation may be commenced only in the district court for the district—

''(1) in which the principal place of business in the United States, or principal assets in the United States, of such corporation have been located for 1 year immediately preceding such commencement, or for a longer portion of such 1-year period than the principal place of business in the United States, or principal assets in the United States, of such corporation were located in any other district; or

''(2) in which there is pending a case under chapter 11 of title 11 concerning an affiliate of such corporation, if the affiliate in such pending case directly or indirectly owns, controls, or holds with power to vote more than 50 percent of the outstanding voting securities of such corporation.''.

SEC. 503. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11 of the United States Code on or after the date of enactment of this Act.

SA 1810. Mr. CORKER submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

SEC. _____. LIMITATION ON EXPENDITURES.

Notwithstanding any other provision of law, if the Secretary determines for any fiscal year that the estimated governmental receipts required to carry out transportation programs and projects under this Act and amendments made by this Act (as projected by the Secretary of the Treasury) does not produce a positive balance in the Highway Trust Fund available for those programs and projects for the fiscal year, each amount made available for such a program or project shall be reduced by the pro rata percentage required to reduce the aggregate amount required to carry out those programs and projects to an amount equal to that available for those programs and projects in the Highway Trust Fund for the fiscal year.

SA 1811. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page _____, between lines _____ and _____, insert the following:

SEC. ___. APPROVAL OF THE AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF PALAU.

(a) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term ''Agreement'' means the Agreement and appendices signed by the United States and the Republic of Palau on September 3, 2010.

(2) COMPACT OF FREE ASSOCIATION.—The term ''Compact of Free Association'' means the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note; Public Law 99–658).

(b) RESULTS OF COMPACT REVIEW.—

(1) IN GENERAL.—Title I of Public Law 99–658 (48 U.S.C. 1931 et seq.) is amended by adding at the end the following:

''SEC. 105. RESULTS OF COMPACT REVIEW.

''(a) IN GENERAL.—The Agreement and appendices signed by the United States and the Republic of Palau on September 3, 2010 (referred to in this section as the 'Agreement'), in connection with section 432 of the Compact of Free Association between the Government of the United States of America and the Government of Palau (48 U.S.C. 1931 note; Public Law 99–658) (referred to in this section as the 'Compact of Free Association'), are approved—

''(1) except for the extension of Article X of the Agreement Regarding Federal Programs and Services, and Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association; and

''(2) subject to the provisions of this section.

''(b) WITHHOLDING OF FUNDS.—If the Agreement becomes effective during fiscal year 2012, and if during the period beginning on September 30, 2011, and ending on the effective date of the Agreement, the Republic of Palau withdraws an amount greater than $5,000,000 from the trust fund established under section 211(f) of the Compact of Free Association, amounts payable under sections 1, 2(a), 3, and 4(a) of the Agreement shall be withheld from the Republic of Palau until the date on which the Republic of Palau reimburses the trust fund for the amount withdrawn that exceeds $5,000,000.

''(c) FUNDING FOR CERTAIN PROVISIONS UNDER SECTION 105 OF COMPACT OF FREE ASSOCIATION.—On the date of enactment of this section, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior such sums as are necessary for the Secretary of the Interior to implement sections 1, 2(a), 3, 4(a), and 5 of the Agreement, which sums shall remain available until expended without any further appropriation.

''(d) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated—

''(1) to the Secretary of the Interior to subsidize postal services provided by the United States Postal Service to the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia $1,500,000 for each of fiscal years 2012 through 2024, to remain available until expended; and

''(2) to the head of each Federal entity described in paragraphs (1), (3), and (4) of section 221(a) of the Compact of Free Association (including the successor of each Federal entity) to carry out the responsibilities of the Federal entity under section 221(a) of the Compact of Free Association such sums as are necessary, to remain available until expended.''.

(2) OFFSET.—Section 3 of the Act of June 30, 1954 (68 Stat. 330, 82 Stat. 1213, chapter 423), is repealed.

(c) PAYMENT SCHEDULE; WITHHOLDING OF FUNDS; FUNDING.—

(1) INFRASTRUCTURE MAINTENANCE FUND.—Subsection (a) of section 2 of the Agreement shall be construed as though the subsection reads as follows:

''(a) The Government of the United States shall provide a grant of $2,000,000 for fiscal year 2012, a grant of $4,000,000 for fiscal year 2013, and a grant of $2,000,000 annually from the beginning of fiscal year 2014 through fiscal year 2024 to create a trust fund (the 'Infrastructure Maintenance Fund') to be used for the routine and periodic maintenance of major capital improvement projects financed by funds provided by the United States. The Government of the Republic of Palau will match the contributions made by the United States by making contributions of $150,000 to the Infrastructure Maintenance Fund on a quarterly basis for fiscal year 2012, by making contributions of $300,000 to the Infrastructure Maintenance Fund on a quarterly basis for fiscal year 2013, and contributions of $150,000 to the Infrastructure Maintenance Fund on a quarterly basis from the beginning of fiscal year 2014 through fiscal year 2024. Implementation of this subsection shall be carried out in accordance with the provisions of Appendix A to this Agreement.''.

(2) FISCAL CONSOLIDATION FUND.—Section 3 of the Agreement shall be construed as though the section reads as follows:

''SEC. 3. FISCAL CONSOLIDATION FUND.

''In addition to $411,000 already provided in 2012, the Government of the United States shall provide the Government of Palau $4,589,000 in fiscal year 2012 and $5,000,000 in fiscal year 2013 for deposit in an interest bearing account to be used to reduce government payment arrears of Palau. Implementation of this section shall be carried out in accordance with the provisions of Appendix B to this Agreement.''.

(3) DIRECT ECONOMIC ASSISTANCE.—Subsections (a) and (b) of section 4 of the Agreement shall be construed as though the subsections read as follows:

''(a) In addition to the economic assistance of $13,147,000 provided to the Government of Palau by the Government of the United States in each of fiscal years 2010, 2011, and 2012, and unless otherwise specified in this Agreement or in an Appendix to this Agreement, the Government of the United States shall provide the Government of Palau $81,750,000 in economic assistance as follows: $12,500,000 in fiscal year 2013; $12,000,000 in fiscal year 2014; $11,500,000 in fiscal year 2015; $10,000,000 in fiscal year 2016; $8,500,000 in fiscal year 2017; $7,250,000 in fiscal year 2018; $6,000,000 in fiscal year 2019; $5,000,000 in fiscal year 2020; $4,000,000 in fiscal year 2021; $3,000,000 in fiscal year 2022; and $2,000,000 in fiscal year 2023. Of the $13,147,000 in economic assistance already provided to the Government of Palau in 2012, $12,706,000 is for economic assistance while the remaining $411,000 is for the Fiscal Consolidation Fund. The funds provided in any fiscal year under this subsection for economic assistance shall be provided in 4 quarterly payments (30 percent in the first quarter, 30 percent in the second quarter, 20 percent in the third quarter, and 20 percent in the fourth quarter) unless otherwise specified in this Agreement or in an Appendix to this Agreement.

''(b) Notwithstanding the provisions of Compact section 211(f) and the Agreement Between the Government of the United States and the Government of Palau Regarding Economic Assistance Concluded Pursuant to Section 211(f) of the Compact of Free Association, with respect to fiscal year 2011 the Government of Palau did not exceed a $5,000,000 distribution from the Section 211(f) Fund and, with respect to fiscal years 2012 through fiscal year 2023 and except as otherwise agreed by the Government of the United States and the Government of Palau, the Government of Palau agrees not to exceed the following distributions from the Section 211(f) Fund: $5,000,000 annually beginning in fiscal year 2012 through fiscal year 2013; $5,250,000 in fiscal year 2014; $5,500,000 in fiscal year 2015; $6,750,000 in fiscal year 2016; $8,000,000 in fiscal year 2017; $9,000,000 in fiscal year 2018; $10,000,000 in fiscal year 2019; $10,500,000 in fiscal year 2020; $11,000,000 in fiscal year 2021; $12,000,000 in fiscal year 2022; and $13,000,000 in fiscal year 2023.''.

(4) INFRASTRUCTURE PROJECTS.—Section 5 of the Agreement shall be construed as though the section reads as follows:

''SEC. 5. INFRASTRUCTURE PROJECTS.

''The Government of the United States shall provide grants totaling $40,000,000 to the Government of Palau as follows: $8,000,000 annually in fiscal years 2012 through fiscal year 2014; $6,000,000 in fiscal year 2015; and $5,000,000 annually in fiscal years 2016 and 2017; towards 1 or more mutually agreed infrastructure projects in accordance with the provisions of Appendix C to this Agreement.''.

(d) CONTINUING PROGRAMS AND LAWS.—Section 105(f)(1)(B)(ix) of the Compact of Free Association Amendments Act of 2003 (48 U.S.C. 1921d(f)(1)(B)(ix)) is amended by striking ''2009'' and inserting ''2024''.

(e) PASSPORT REQUIREMENT.—Section 141 of Article IV of Title One of the Compact of Free Association shall be construed and applied as if it read as follows:

''SEC. 141. PASSPORT REQUIREMENT.

''(a) Any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5) or (a)(7)(B)(i)(II)), provided that the passport presented to satisfy section 212(a)(7)(B)(i)(I) of such Act is a valid unexpired machine-readable passport that satisfies the internationally accepted standard for machine readability—

''(1) a person who, on September 30, 1994, was a citizen of the Trust Territory of the Pacific Islands, as defined in title 53 of the Trust Territory Code in force on January 1, 1979, and has become and remains a citizen of Palau;

''(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

''(3) a naturalized citizen of Palau, who has been an actual resident of Palau for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

''(b) Such persons shall be considered to have the permission of the Secretary of Homeland Security of the United States to accept employment in the United States.

''(c) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for—

''(1) in statutes or regulations of the United States; or

''(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

''(d) Section 141(a) does not confer on a citizen of Palau the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.''.

SA 1812. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division D, insert the following:

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT EXISTING HOMES.

(a) IN GENERAL.—Paragraph (2) of section 25C(g) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR CERTAIN PLUG-IN ELECTRIC VEHICLES.

(a) IN GENERAL.—Subsection (f) of section 30 of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to vehicles acquired after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY.

(a) EXTENSION.—Paragraph (2) of section 30C(g) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011.'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2011.

SEC. _____. EXTENSION OF CELLULOSIC BIOFUEL PRODUCER CREDIT.

(a) IN GENERAL.—Subparagraph (H) of section 40(b)(6) of the Internal Revenue Code of 1986 is amended to read as follows:

''(H) APPLICATION OF PARAGRAPH.—

''(i) IN GENERAL.—This paragraph shall apply with respect to qualified cellulosic biofuel production after December 31, 2008, and before January 1, 2014.

''(ii) NO CARRYOVER TO CERTAIN YEARS AFTER EXPIRATION.—If this paragraph ceases to apply for any period by reason of clause (i), rules similar to the rules of subsection (e)(2) shall apply.''.

(b) CONFORMING AMENDMENT.—

(1) IN GENERAL.—Paragraph (2) of section 40(e) of the Internal Revenue Code of 1986 is amended by striking ''or subsection (b)(6)(H)''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in section 15321(b) of the Heartland, Habitat, and Horticulture Act of 2008.

SEC. _____. ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF THE CELLULOSIC BIOFUEL PRODUCER CREDIT, ETC.

(a) IN GENERAL.—Subclause (I) of section 40(b)(6)(E)(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(I) is derived by, or from, qualified feedstocks, and''.

(b) QUALIFIED FEEDSTOCK; SPECIAL RULES FOR ALGAE.—Paragraph (6) of section 40(b) of the Internal Revenue Code of 1986 is amended by redesignating subparagraphs (F), (G), and (H), as amended by this Act, as subparagraphs (H), (I), and (J), respectively, and by inserting after subparagraph (E) the following new subparagraphs:

''(F) QUALIFIED FEEDSTOCK.—For purposes of this paragraph, the term 'qualified feedstock' means—

''(i) any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, and

''(ii) any cultivated algae, cyanobacteria, or lemna.

''(G) SPECIAL RULES FOR ALGAE.—In the case of fuel which is derived by, or from, feedstock described in subparagraph (F)(ii) and which is sold by the taxpayer to another person for refining by such other person into a fuel which meets the requirements of subparagraph (E)(i)(II) and the refined fuel is not excluded under subparagraph (E)(iii)—

''(i) such sale shall be treated as described in subparagraph (C)(i),

''(ii) such fuel shall be treated as meeting the requirements of subparagraph (E)(i)(II) and as not being excluded under subparagraph (E)(iii) in the hands of such taxpayer, and

''(iii) except as provided in this subparagraph, such fuel (and any fuel derived from such fuel) shall not be taken into account under subparagraph (C) with respect to the taxpayer or any other person.''.

(c) ALGAE TREATED AS A QUALIFIED FEEDSTOCK FOR PURPOSES OF BONUS DEPRECIATION FOR BIOFUEL PLANT PROPERTY.—

(1) IN GENERAL.—Subparagraph (A) of section 168(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''solely to produce cellulosic biofuel'' and inserting ''solely to produce second generation biofuel (as defined in section 40(b)(6)(E))''.

(2) CONFORMING AMENDMENTS.—Subsection (l) of section 168 of such Code is amended—

(A) by striking ''cellulosic biofuel'' each place it appears in the text thereof and inserting ''second generation biofuel'',

(B) by striking paragraph (3) and redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively,

(C) by striking ''CELLULOSIC'' in the heading of such subsection and inserting ''SECOND GENERATION'', and

(D) by striking ''CELLULOSIC'' in the heading of paragraph (2) and inserting ''SECOND GENERATION''.

(d) CONFORMING AMENDMENTS.—

(1) Section 40 of the Internal Revenue Code of 1986, as amended by subsection (b), is amended—

(A) by striking ''cellulosic biofuel'' each place it appears in the text thereof and inserting ''second generation biofuel'',

(B) by striking ''CELLULOSIC'' in the headings of subsections (b)(6), (b)(6)(E), and (d)(3)(D) and inserting ''SECOND GENERATION'', and

(C) by striking ''CELLULOSIC'' in the headings of subsections (b)(6)(C), (b)(6)(D), (b)(6)(H), (d)(6), and (e)(3) and inserting ''SECOND GENERATION''.

(2) Clause (ii) of section 40(b)(6)(E) of such Code is amended by striking ''Such term shall not'' and inserting ''The term 'second generation biofuel' shall not''.

(3) Paragraph (1) of section 4101(a) of such Code is amended by striking ''cellulosic biofuel'' and inserting ''second generation biofuel''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels sold or used after the date of the enactment of this Act.

(2) APPLICATION TO BONUS DEPRECIATION.—The amendments made by subsection (c) shall apply to property placed in service after the date of the enactment of this Act.

SEC. _____. EXTENSION OF INCENTIVES FOR BIODIESEL AND RENEWABLE DIESEL.

(a) CREDITS FOR BIODIESEL AND RENEWABLE DIESEL USED AS FUEL.—Subsection (g) of section 40A of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EXCISE TAX CREDITS AND OUTLAY PAYMENTS FOR BIODIESEL AND RENEWABLE DIESEL FUEL MIXTURES.—

(1) Paragraph (6) of section 6426(c) of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(2) Subparagraph (B) of section 6427(e)(6) of such Code is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SEC. _____. EXTENSION OF PRODUCTION CREDIT FOR REFINED COAL.

(a) IN GENERAL.—Subparagraph (B) of section 45(d)(8) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to facilities placed in service after December 31, 2011.

SEC. _____. EXTENSION OF PRODUCTION CREDIT.

(a) IN GENERAL.—Section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2014'' each place it appears in paragraphs (2), (3), (4), (6), (7), (9), and (11) and inserting ''January 1, 2015''.

(b) WIND FACILITIES.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(c) INCREASED CREDIT AMOUNT FOR INDIAN COAL FACILITIES PLACED IN SERVICE BEFORE 2009.—Subparagraph (A) of section 45(e)(10) of the Internal Revenue Code of 1986 is amended by striking ''7-year period'' each place it appears and inserting ''8-year period''.

(d) CONFORMING AMENDMENTS.—Subsection (e) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009 is amended—

(1) by striking ''January 1, 2013'' in paragraph (1) and inserting ''January 1, 2014'', and

(2) by striking ''January 1, 2014'' in paragraph (2) and inserting ''January 1, 2015''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to facilities placed in service after December 31, 2012.

(2) INDIAN COAL.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT NEW HOMES.

(a) IN GENERAL.—Subsection (g) of section 45L of the Internal Revenue Code of 1986 is amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to homes acquired after December 31, 2011.

SEC. _____. EXTENSION OF CREDIT FOR ENERGY-EFFICIENT APPLIANCES.

(a) IN GENERAL.—Section 45M(b) of the Internal Revenue Code of 1986 is amended by striking ''2011'' each place it appears other than in the provisions specified in subsection (b), and inserting ''2011 or 2012''.

(b) PROVISIONS SPECIFIED.—The provisions of section 45M(b) of the Internal Revenue Code of 1986 specified in this subsection are subparagraph (C) of paragraph (1) and subparagraph (E) of paragraph (2).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2011.

SEC. _____. EXTENSION OF ELECTION OF INVESTMENT TAX CREDIT IN LIEU OF PRODUCTION CREDIT.

(a) IN GENERAL.—Clause (ii) of section 48(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking ''or 2013'' and inserting ''2013, or 2014''.

(b) WIND FACILITIES.—Clause (i) of section 48(a)(5)(C) of the Internal Revenue Code of 1986 is amended by striking ''Any qualified facility'' and all that follows and inserting ''Any facility which is—

''(I) a qualified facility (within the meaning of section 45) described in paragraph (1) of section 45(d) if such facility is placed in service in 2009, 2010, 2011, 2012, or 2013, or

''(II) a qualifying offshore wind facility, if such facility is placed in service in 2012, 2013, or 2014.''.

(c) QUALIFYING OFFSHORE WIND FACILITY.—Paragraph (5) of section 48(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(E) QUALIFYING OFFSHORE WIND FACILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualifying offshore wind facility' means an offshore facility using wind to produce electricity.

''(ii) OFFSHORE FACILITY.—The term 'offshore facility' means any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States,

the exclusive economic zone of the United States, and the Outer Continental Shelf of the United States. For purposes of the preceding sentence, the term 'United States' has the meaning given in section 638(1).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to facilities placed in service after December 31, 2011.

SEC. _____. EXPANSION OF QUALIFYING ADVANCED ENERGY PROJECT CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 48C(d)(1) of the Internal Revenue Code of 1986 is amended by striking ''$2,300,000,000'' and inserting ''$4,600,000,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. _____. EXTENSION OF SPECIAL ALLOWANCE FOR CELLULOSIC BIOFUEL PLANT PROPERTY.

(a) IN GENERAL.—Subparagraph (D) of section 168(l)(2) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 168(l) of the Internal Revenue Code of 1986, as redesignated by this Act, is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) by substituting 'January 1, 2014' for 'January 1, 2013' in clause (i) thereof, and''.

SEC. _____. EXTENSION OF SUSPENSION OF LIMITATION ON PERCENTAGE DEPLETION FOR OIL AND GAS FROM MARGINAL WELLS.

(a) IN GENERAL.—Clause (ii) of section 613A(c)(6)(H) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2012'' and inserting ''January 1, 2013''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SEC. _____. EXTENSION OF ALTERNATIVE FUELS EXCISE TAX CREDITS.

(a) IN GENERAL.—Sections 6426(d)(5), 6426(e)(3), and 6427(e)(6)(C) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2011'' and inserting ''December 31, 2012''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SEC. _____. EXTENSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.

(a) IN GENERAL.—Subsection (a) of section 1603 of division B of the American Recovery and Reinvestment Act of 2009, as amended by section 707 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, is amended—

(1) by striking ''or 2011'' in paragraph (1) and inserting ''2011, or 2012'', and

(2) in paragraph (2)—

(A) by striking ''after 2011'' and inserting ''after 2012'', and

(B) by striking ''or 2011'' and inserting ''2011, or 2012''.

(b) CONFORMING AMENDMENT.—Subsection (j) of section 1603 of division B of such Act, as so amended, is amended by striking ''2012'' and inserting ''2013''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2011.

SA 1813. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

SEC. ___. KEYSTONE XL PIPELINE.

(a) ADMINISTRATION.—

(1) IN GENERAL.—Except as otherwise specifically provided in this section, nothing in this section affects any applicable Federal requirements in connection with the Keystone XL pipeline (including facilities for the import of crude oil and other hydrocarbons at the United States-Canada Border at Phillips County, Montana).

(2) EXPEDITIOUS ANALYSES AND PERMIT DECISIONS.—In evaluating any new permit applications that may be submitted related to the Keystone XL pipeline and facilities described in paragraph (1) or in carrying out the activities described in this section, the President or a designee of the President shall—

(A) act as expeditiously as practicable and, to the maximum extent practicable and consistent with current law, use existing analyses relating to those pipeline and facilities, including the environmental impact statement issued by the Department of State regarding the Keystone XL pipeline on August 26, 2011; and

(B) issue a decision on any permit application not later than 90 days after the date on which all analyses and other actions required by current law and applicable Executive Orders are completed.

(b) PROHIBITION ON EXPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), no crude oil transported by the Keystone XL pipeline or facilities described in subsection (a)(1), or petroleum products derived from the crude oil, may be exported from the United States.

(2) WAIVERS.—The President may grant a waiver from the application of paragraph (1) if the President—

(A) determines that the waiver is necessary as the result of—

(i) national security; or

(ii) a natural or manmade disaster; or

(B) makes an express finding that the exports described in paragraph (1)—

(i) will not diminish the total quantity or quality of petroleum available in the United States; and

(ii) are in the national interest of the United States.

(c) USE OF UNITED STATES IRON, STEEL, AND MANUFACTURED GOODS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the construction, connection, operation, or maintenance of the Keystone XL pipeline and facilities described in subsection (a)(1) shall not be permitted unless all of the iron, steel, and manufactured goods used for the pipeline and facilities are produced in the United States.

(2) NONAPPLICATION.—Paragraph (1) shall not apply if the President or a delegate finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) iron, steel, and the applicable manufactured goods are not produced in the United States in sufficient and reasonably available quantities with a satisfactory quality; or

(C) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall pipeline and facilities by more than 25 percent.

(3) RATIONALE.—If the President or a delegate determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the President or delegate shall publish in the Federal Register a detailed written justification for the waiver.

(4) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with United States obligations under international agreements.

SA 1814. Mr. MERKLEY (for himself, Mr. TOOMEY, and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

SEC. ___. EXEMPTIONS FROM REQUIREMENTS FOR CERTAIN FARM VEHICLES.

(a) FEDERAL REQUIREMENTS.—A covered farm vehicle, including the individual operating that vehicle, shall be exempt from the following:

(1) Any requirement relating to commercial driver's licenses established under chapter 313 of title 49, United States Code.

(2) Any requirement relating to medical certificates established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 313 of title 49, United States Code.

(3) Any requirement relating to hours of service established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(4) Any requirement relating to vehicle inspection, repair, and maintenance established under—

(A) subchapter III of chapter 311 of title 49, United States Code; or

(B) chapter 315 of title 49, United States Code.

(b) STATE REQUIREMENTS.—

(1) IN GENERAL.—Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from any State requirement relating to the operation of that vehicle.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(3) STATE REQUIREMENTS.—Notwithstanding section (a) or any other provision of law, a State may enact and enforce safety requirements related to covered farm vehicles.

(c) COVERED FARM VEHICLE DEFINED.—

(1) IN GENERAL.—In this section, the term ''covered farm vehicle'' means a motor vehicle (including an articulated motor vehicle)—

(A) that—

(i) is traveling in the State in which the vehicle is registered or another State;

(ii) is operated by—

(I) a farm owner or operator;

(II) a ranch owner or operator; or

(III) an employee or family member of an individual specified in subclause (I) or (II);

(iii) is transporting to or from a farm or ranch—

(I) agricultural commodities;

(II) livestock; or

(III) machinery or supplies;

(iv) except as provided in paragraph (2), is not used in the operations of a for-hire motor carrier; and

(v) is equipped with a special license plate or other designation by the State in which the vehicle is registered to allow for identification of the vehicle as a farm vehicle by law enforcement personnel; and

(B) that has a gross vehicle weight rating or gross vehicle weight, whichever is greater, that is—

(i) 26,001 pounds or less; or

(ii) greater than 26,001 pounds and traveling within the State or within 150 air miles

of the farm or ranch with respect to which the vehicle is being operated.

(2) INCLUSION.—In this section, the term ''covered farm vehicle'' includes a motor vehicle that meets the requirements of paragraph (1) (other than paragraph (1)(A)(iv)) and is—

(A) operated pursuant to a crop share farm lease agreement;

(B) owned by a tenant with respect to that agreement; and

(C) transporting the landlord's portion of the crops under that agreement.

SA 1815. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 1314, after the matter following line 18, insert the following:

SEC. 330___. BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(3) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in paragraph (1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(A) addresses the public comments received under paragraph (1); and

(B) is published before the waiver takes effect.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in paragraph (1) to determine whether continuing such waiver is necessary.

(d) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

''(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

''(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

''(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

''(3) summarizes the monetary value of contracts awarded pursuant to each such waiver.''.

SA 1816. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

SEC. 15___. SENSE OF SENATE CONCERNING EXPEDITIOUS COMPLETION OF ENVIRONMENTAL REVIEWS, APPROVALS, LICENSING, AND PERMIT REQUIREMENTS.

It is the sense of the Senate that Federal agencies should—

(1) ensure that all applicable environmental reviews, approvals, licensing, and permit requirements under Federal law are completed on an expeditious basis following any disaster or emergency declared under Federal law, including—

(A) a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(B) an emergency declared by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); and

(2) use the shortest existing applicable process under Federal law to complete each review, approval, licensing, and permit requirement described in paragraph (1) following a disaster or emergency described in that paragraph.

SA 1817. Mr. WYDEN submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title I of division A, add the following:

SEC. ___. KEYSTONE XL PIPELINE.

(a) ADMINISTRATION.—

(1) IN GENERAL.—Except as otherwise specifically provided in this section, nothing in this section affects any applicable Federal requirements in connection with the Keystone XL pipeline (including facilities for the import of crude oil and other hydrocarbons at the United States-Canada Border at Phillips County, Montana).

(2) EXPEDITIOUS ANALYSES AND PERMIT DECISIONS.—In evaluating any new permit applications that may be submitted related to the Keystone XL pipeline and facilities described in paragraph (1) or in carrying out the activities described in this section, the President or a designee of the President shall—

(A) act as expeditiously as practicable and, to the maximum extent practicable and consistent with current law, use existing analyses relating to those pipeline and facilities, including the environmental impact statement issued by the Department of State regarding the Keystone XL pipeline on August 26, 2011; and

(B) issue a decision on any permit application not later than 90 days after the date on which all analyses and other actions required by current law and applicable Executive Orders are completed.

(b) PROHIBITION ON EXPORTS.—

(1) IN GENERAL.—Subject to paragraph (2), no crude oil produced in Canada and transported by the Keystone XL pipeline or facilities described in subsection (a)(1), or petroleum products derived from the crude oil, may be exported from the United States.

(2) WAIVERS.—The President may grant a waiver from the application of paragraph (1) if the President—

(A) determines that the waiver is necessary as the result of—

(i) national security; or

(ii) a natural or manmade disaster; or

(B) makes an express finding that the exports described in paragraph (1)—

(i) will not diminish the total quantity or quality of petroleum available in the United States; and

(ii) are in the national interest of the United States.

(c) USE OF UNITED STATES IRON, STEEL, AND MANUFACTURED GOODS.—

(1) IN GENERAL.—Subject to paragraphs (2) through (4), the construction, connection, operation, or maintenance of the Keystone XL pipeline and facilities described in subsection (a)(1) shall not be permitted unless all of the iron, steel, and manufactured goods used for the pipeline and facilities are produced in the United States.

(2) NONAPPLICATION.—Paragraph (1) shall not apply if the President or a delegate finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) iron, steel, and the applicable manufactured goods are not produced in the United States in sufficient and reasonably available quantities with a satisfactory quality; or

(C) inclusion of iron, steel, and manufactured goods produced in the United States will increase the cost of the overall pipeline and facilities by more than 25 percent.

(3) RATIONALE.—If the President or a delegate determines that it is necessary to waive the application of paragraph (1) based on a finding under paragraph (2), the President or delegate shall publish in the Federal Register a detailed written justification for the waiver.

(4) INTERNATIONAL AGREEMENTS.—This subsection shall be applied in a manner consistent with United States obligations under international agreements.

SA 1818. Mr. LEVIN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE _____—STOP TAX HAVEN ABUSE

SEC. _____. AUTHORIZING SPECIAL MEASURES AGAINST FOREIGN JURISDICTIONS, FINANCIAL INSTITUTIONS, AND OTHERS THAT SIGNIFICANTLY IMPEDE UNITED STATES TAX ENFORCEMENT.

Section 5318A of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 5318A. Special measures for jurisdictions, financial institutions, or international transactions that are of primary money laundering concern or significantly impede United States tax enforcement'';

(2) in subsection (a), by striking the subsection heading and inserting the following:

''(a) SPECIAL MEASURES TO COUNTER MONEY LAUNDERING AND EFFORTS TO SIGNIFICANTLY IMPEDE UNITED STATES TAX ENFORCEMENT.—'';

(3) in subsection (c)—

(A) by striking the subsection heading and inserting the following:

''(c) CONSULTATIONS AND INFORMATION TO BE CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS, TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRIMARY MONEY LAUNDERING CONCERN OR TO BE SIGNIFICANTLY IMPEDING UNITED STATES TAX ENFORCEMENT.—''; and

(B) by inserting at the end of paragraph (2) thereof the following new subparagraph:

''(C) OTHER CONSIDERATIONS.—The fact that a jurisdiction or financial institution is cooperating with the United States on implementing the requirements specified in chapter 4 of the Internal Revenue Code of 1986 may be favorably considered in evaluating whether such jurisdiction or financial institution is significantly impeding United States tax enforcement.'';

(4) in subsection (a)(1), by inserting ''or is significantly impeding United States tax enforcement'' after ''primary money laundering concern'';

(5) in subsection (a)(4)—

(A) in subparagraph (A)—

(i) by inserting ''in matters involving money laundering,'' before ''shall consult''; and

(ii) by striking ''and'' at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

''(B) in matters involving United States tax enforcement, shall consult with the Commissioner of the Internal Revenue, the Secretary of State, the Attorney General of the United States, and in the sole discretion of the Secretary, such other agencies and interested parties as the Secretary may find to be appropriate; and'';

(6) in each of paragraphs (1)(A), (2), (3), and (4) of subsection (b), by inserting ''or to be significantly impeding United States tax enforcement'' after ''primary money laundering concern'' each place that term appears;

(7) in subsection (b), by striking paragraph (5) and inserting the following:

''(5) PROHIBITIONS OR CONDITIONS ON OPENING OR MAINTAINING CERTAIN CORRESPONDENT OR PAYABLE-THROUGH ACCOUNTS OR AUTHORIZING CERTAIN PAYMENT CARDS.—If the Secretary finds a jurisdiction outside of the United States, 1 or more financial institutions operating outside of the United States, or 1 or more classes of transactions within or involving a jurisdiction outside of the United States to be of primary money laundering concern or to be significantly impeding United States tax enforcement, the Secretary, in consultation with the Secretary of State, the Attorney General of the United States, and the Chairman of the Board of Governors of the Federal Reserve System, may prohibit, or impose conditions upon—

''(A) the opening or maintaining in the United States of a correspondent account or payable-through account; or

''(B) the authorization, approval, or use in the United States of a credit card, charge card, debit card, or similar credit or debit financial instrument by any domestic financial institution, financial agency, or credit card company or association, for or on behalf of a foreign banking institution, if such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument, involves any such jurisdiction or institution, or if any such transaction may be conducted through such correspondent account, payable-through account, credit card, charge card, debit card, or similar credit or debit financial instrument.''; and

(8) in subsection (c)(1), by inserting ''or is significantly impeding United States tax enforcement'' after ''primary money laundering concern'';

(9) in subsection (c)(2)(A)—

(A) in clause (ii), by striking ''bank secrecy or special regulatory advantages'' and inserting ''bank, tax, corporate, trust, or financial secrecy or regulatory advantages'';

(B) in clause (iii), by striking ''supervisory and counter-money'' and inserting ''supervisory, international tax enforcement, and counter-money'';

(C) in clause (v), by striking ''banking or secrecy'' and inserting ''banking, tax, or secrecy''; and

(D) in clause (vi), by inserting '', tax treaty, or tax information exchange agreement'' after ''treaty'';

(10) in subsection (c)(2)(B)—

(A) in clause (i), by inserting ''or tax evasion'' after ''money laundering''; and

(B) in clause (iii), by inserting '', tax evasion,'' after ''money laundering''; and

(11) in subsection (d), by inserting ''involving money laundering, and shall notify, in writing, the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any such action involving United States tax enforcement'' after ''such action''.

SA 1819. Mr. BROWN of Ohio (for himself and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 1761 proposed by Mr. REID to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

On page 490, between lines 3 and 4, insert the following:

SEC. 1528. BUY AMERICA PROVISIONS.

Section 313 of title 23, United States Code, is amended by adding at the end the following:

''(g) APPLICATION TO HIGHWAY PROGRAMS.—The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title.''.

On page 900, between lines 9 and 10, insert the following:

''(10) APPLICATION TO TRANSIT PROGRAMS.—The requirements under this subsection shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.

On page 904, between lines 6 and 7, insert the following:

On page 1314, after the matter following line 18, insert the following:

SEC. 330___. BUY AMERICA WAIVER REQUIREMENTS.

(a) NOTICE AND COMMENT OPPORTUNITIES.—

(1) IN GENERAL.—If the Secretary receives a request for a waiver under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, the Secretary shall provide notice of, and an opportunity for public comment on, the request not later than 15 days before making a finding based on such request.

(2) NOTICE REQUIREMENTS.—Each notice provided under paragraph (1)—

(A) shall include the information available to the Secretary concerning the request, including the requestor's justification for such request; and

(B) shall be provided electronically, including on the official public Internet website of the Department.

(3) PUBLICATION OF DETAILED JUSTIFICATION.—If the Secretary issues a waiver pursuant to the authority granted under a provision referenced in paragraph (1), the Secretary shall publish, in the Federal Register, a detailed justification for the waiver that—

(A) addresses the public comments received under paragraph (1); and

(B) is published before the waiver takes effect.

(b) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.—This section shall be applied in a manner that is consistent with United States obligations under relevant international agreements.

(c) REVIEW OF NATIONWIDE WAIVERS.—Not later than 1 year after the date of the enactment of the Moving Ahead for Progress in the 21st Century Act, and at least once every 5 years thereafter, the Secretary shall review each standing nationwide waiver issued pursuant to the authority granted under any of the provisions referenced in paragraph (1) to determine whether continuing such waiver is necessary.

(d) BUY AMERICA REPORTING.—Section 308 of title 49, United States Code, is amended by inserting after subsection (c) the following:

''(d) Not later than February 1, 2013, and annually thereafter, the Secretary shall submit a report to Congress that—

''(1) specifies each highway, public transportation, or railroad project for which the Secretary issued a waiver from a Buy America requirement pursuant to the authority granted under section 313(b) of title 23, United States Code, or under section 24305(f)(4) or 24405(a)(2) of title 49, United States Code, during the preceding calendar year;

''(2) identifies the country of origin and product specifications for the steel, iron, or manufactured goods acquired pursuant to each of the waivers specified under paragraph (1); and

''(3) summarizes the monetary value of contracts awarded pursuant to each such waiver.''.

On page 1449, between lines 11 and 12, insert the following:

SEC. 36210. AMTRAK.

Section 24305(f) of title 49, United States Code, is amended by adding at the end the following:

''(5) The requirements under this subsection shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this chapter.''.

SA 1820. Mr. WYDEN (for himself and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. CREDIT TO HOLDERS OF TRIP BONDS.

(a) SHORT TITLE.—This section may be cited as the ''Transportation and Regional Infrastructure Project Bonds Act of 2012'' or ''TRIP Bonds Act''.

(b) IN GENERAL.—Subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 54G. TRIP BONDS.

''(a) TRIP BOND.—For purposes of this subpart, the term 'TRIP bond' means any bond issued as part of an issue if—

''(1) 100 percent of the available project proceeds of such issue are to be used for expenditures incurred after the date of the enactment of this section for 1 or more qualified projects pursuant to an allocation of such proceeds to such project or projects by a State infrastructure bank,

''(2) the bond is issued by a State infrastructure bank and is in registered form (within the meaning of section 149(a)),

''(3) the State infrastructure bank designates such bond for purposes of this section,

''(4) the term of each bond which is part of such issue does not exceed 30 years,

''(5) the issue meets the requirements of subsection (e),

''(6) the State infrastructure bank certifies that the State meets the State contribution requirement of subsection (h) with respect to such project, as in effect on the date of issuance, and

''(7) the State infrastructure bank certifies the State meets the requirement described in subsection (i).

''(b) QUALIFIED PROJECT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified project' means the capital improvements to any transportation infrastructure project of any governmental unit or other person, including roads, bridges, rail and transit systems, ports, and inland waterways proposed and approved by a State infrastructure bank, but does not include costs of operations or maintenance with respect to such project.

''(2) CERTAIN PROJECTS.—Such term also includes any flood damage risk reduction project with a completed Report of the Chief of Engineers, with the proceeds of issued bonds available for a State to provide to the United States Army Corps of Engineers (under section 5 of the Act entitled 'An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes,' approved June 22, 1936 (33 U.S.C. 701h)) funds in excess of any required non-Federal cost share for such project.

''(c) APPLICABLE CREDIT RATE.—In lieu of section 54A(b)(3), for purposes of section 54A(b)(2), the applicable credit rate with respect to an issue under this section is the rate equal to an average market yield (as of the day before the date of sale of the issue) on outstanding long-term corporate debt obligations (determined in such manner as the Secretary prescribes).

''(d) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) IN GENERAL.—The maximum aggregate face amount of bonds which may be designated under subsection (a) by any State infrastructure bank shall not exceed the TRIP bond limitation amount allocated to such bank under paragraph (3).

''(2) NATIONAL LIMITATION AMOUNT.—There is a TRIP bond limitation amount for each calendar year. Such limitation amount is—

''(A) $2,000,000,000 for 2013,

''(B) $3,000,000,000 for 2014,

''(C) $5,000,000,000 for 2015, and

''(D) except as provided in paragraph (4), zero thereafter.

''(3) ALLOCATIONS TO STATES.—The TRIP bond limitation amount for each calendar year shall be allocated by the Secretary among the States such that each State is allocated 2 percent of such amount.

''(4) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the TRIP bond limitation amount under paragraph (2) exceeds the amount of TRIP bonds issued during such year, such excess shall be carried forward to 1 or more succeeding calendar years as an addition to the TRIP bond limitation amount under paragraph (2) for such succeeding calendar year and until used by issuance of TRIP bonds.

''(e) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the State infrastructure bank reasonably expects—

''(A) at least 100 percent of the available project proceeds of such issue are to be spent for 1 or more qualified projects within the 5-year expenditure period beginning on such date,

''(B) to incur a binding commitment with a third party within the 12-month period beginning on such date—

''(i) to spend at least 10 percent of the proceeds of such issue, or

''(ii) to commence construction with respect to any qualified project or combination of qualified projects the costs of which account for at least 10 percent of the proceeds of such issue, and

''(C) to proceed with due diligence to complete such projects and to spend the proceeds of such issue.

''(2) RULES REGARDING CONTINUING COMPLIANCE AFTER 5-YEAR DETERMINATION.—To the extent that less than 100 percent of the available project proceeds of such issue are expended by the close of the 5-year expenditure period beginning on the date of issuance, the State infrastructure bank shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(f) RECAPTURE OF PORTION OF CREDIT WHERE CESSATION OF COMPLIANCE.—If any bond which when issued purported to be a TRIP bond ceases to be such a bond, the State infrastructure bank shall pay to the United States (at the time required by the Secretary) an amount equal to the sum of—

''(1) the aggregate of the credits allowable under section 54A with respect to such bond (determined without regard to section 54A(c)) for taxable years ending during the calendar year in which such cessation occurs and each succeeding calendar year ending with the calendar year in which such bond is redeemed by the bank, and

''(2) interest at the underpayment rate under section 6621 on the amount determined under paragraph (1) for each calendar year for the period beginning on the first day of such calendar year.

''(g) TRIP BONDS TRUST ACCOUNTS.—

''(1) IN GENERAL.—The following amounts shall be held in a TRIP Bonds Trust Account by each State infrastructure bank:

''(A) The proceeds from the sale of all bonds issued by such bank under this section.

''(B) The investment earnings on proceeds from the sale of such bonds.

''(C) 2 percent of the amount described in paragraph (2).

''(D) The amounts described in subsection (h).

''(E) Any earnings on any amounts described in subparagraph (A), (B), (C), or (D).

''(2) APPROPRIATION OF REVENUES.—There is hereby transferred to each TRIP Bonds Trust Account an amount equal to 2 percent of the lesser of—

''(A) the revenues resulting from the imposition of fees pursuant to section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) for fiscal years beginning after September 30, 2021, or

''(B) $10,000,000,000.

''(3) USE OF FUNDS.—Amounts in each TRIP Bonds Trust Account may be used only to pay costs of qualified projects and redeem TRIP bonds, except that amounts withdrawn from the TRIP Bonds Trust Account to pay costs of qualified projects may not exceed the proceeds from the sale of TRIP bonds described in subsection (a)(1).

''(4) USE OF REMAINING FUNDS IN TRIP BONDS TRUST ACCOUNT.—Upon the redemption of all TRIP bonds issued by the State infrastructure bank under this section, any remaining amounts in the TRIP Bonds Trust Account held by such bank shall be available to pay the costs of any qualified project in such State.

''(5) APPLICABILITY OF FEDERAL LAW.—The requirements of any Federal law, including titles 23, 40, and 49 of the United States Code, which would otherwise apply to projects to which the United States is a party or to funds made available under such law and projects assisted with those funds shall apply to—

''(A) funds made available under each TRIP Bonds Trust Account for similar qualified projects, other than contributions required under subsection (h), and

''(B) similar qualified projects assisted through the use of such funds.

''(6) INVESTMENT.—Subject to subsections (e) and (f), it shall be the duty of the State infrastructure bank to invest in investment grade obligations such portion of the TRIP Bonds Trust Account held by such Bank as is not, in the judgment of such bank, required to meet current withdrawals. To the maximum extent practicable, investments should be made in securities that support infrastructure investment at the State and local level.

''(h) STATE CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the State contribution requirement of this subsection is met with respect to any qualified project if the State infrastructure bank has received for deposit into the TRIP Bonds Trust Account held by such bank from 1 or more States, not later than the date of issuance of the bond, the first of 10 equal annual installments constituting one-tenth of the contributions of not less than 20 percent (or such smaller percentage for such State as determined under section 120(b) of title 23, United States Code) of the cost of the qualified project.

''(2) STATE CONTRIBUTIONS MAY NOT INCLUDE FEDERAL FUNDS.—For purposes of this subsection, State contributions shall not be derived, directly or indirectly, from Federal funds, including any transfers from the Highway Trust Fund under section 9503.

''(3) REQUIREMENTS IN LIEU OF ANY OTHER MATCHING CONTRIBUTION REQUIREMENTS.—For purposes of subsection (g)(5), the State contribution requirement of this subsection shall be in lieu of any other State matching contribution requirement under any other Federal law.

''(i) UTILIZATION OF UPDATED CONSTRUCTION TECHNOLOGY FOR QUALIFIED PROJECTS.—For purposes of subsection (a)(7), the requirement of this subsection is met if the appropriate State agency relating to the qualified project is utilizing updated construction technologies.

''(j) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) STATE INFRASTRUCTURE BANK.—

''(A) IN GENERAL.—The term 'State infrastructure bank' means a State infrastructure bank established under section 610 of title 23,

United States Code, and includes a joint venture among 2 or more State infrastructure banks. Such term also includes, during the period beginning on the date of the enactment of this section and ending on the last day of the first Federal fiscal year that begins after such date of enactment, with respect to any State that has not established a State infrastructure bank prior to such date of enactment, the State Department of Transportation of such State.

''(B) SPECIAL AUTHORITY.—Notwithstanding any other provision of law, a State infrastructure bank shall be authorized to perform any of the functions necessary to carry out the purposes of this section, including the making of direct grants to qualified projects from available project proceeds of TRIP bonds issued by such bank.

''(2) CREDITS MAY BE TRANSFERRED.—Nothing in any law or rule of law shall be construed to limit the transferability of the credit or bond allowed by this section through sale and repurchase agreements.

''(3) PROHIBITION ON USE OF HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, no funds derived from the Highway Trust Fund established under section 9503 shall be used to pay for credits under this section.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 54A(d) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''or'' at the end of subparagraph (D),

(B) by inserting ''or'' at the end of subparagraph (E),

(C) by inserting after subparagraph (E) the following new subparagraph:

''(F) a TRIP bond,'', and

(D) by inserting ''(paragraphs (3), (4), and (6), in the case of a TRIP bond)'' after ''and (6)''.

(2) Subparagraph (C) of section 54A(d)(2) of such Code is amended by striking ''and'' at the end of clause (iv), by striking the period at the end of clause (v) and inserting '', and'', and by adding at the end the following new clause:

''(vi) in the case of a TRIP bond, a purpose specified in section 54G(a)(1).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart I of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 54G. TRIP bonds.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 2012.

(f) EXTENSION OF CUSTOMS USER FEES.—Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by adding at the end the following:

''(E)(i) Notwithstanding subparagraph (A), fees may be charged under paragraphs (9) and (10) of subsection (a) during the period beginning on October 1, 2021, and ending on October 1, 2023.

''(ii) Notwithstanding subparagraph (B)(i), fees may be charged under paragraphs (1) through (8) of subsection (a) during the period beginning on October 1, 2021, and ending on October 1, 2023.''.

(g) REDUCTION IN NATIONAL LIMITATION ON AMOUNT OF QUALIFIED ENERGY CONSERVATION BONDS DESIGNATED.—Subsection (d) of section 54D of the Internal Revenue Code of 1986 is amended by striking ''$3,200,000,000'' and inserting ''$1,200,000,000''.

SA 1821. Mr. CARDIN (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II of division D, insert the following:

SEC. _____. MODIFICATION AND EXTENSION OF ALTERNATIVE FUEL CREDIT.

(a) ALTERNATIVE FUEL CREDIT.—Paragraph (5) of section 6426(d) of the Internal Revenue Code of 1986 is amended by inserting '', and December 31, 2016, in the case of any sale or use involving liquefied petroleum gas'' after ''hydrogen''.

(b) ALTERNATIVE FUEL MIXTURE CREDIT.—Paragraph (3) of section 6426(e) of the Internal Revenue Code of 1986 is amended by inserting '', and December 31, 2016, in the case of any sale or use involving liquefied petroleum gas'' after ''hydrogen''.

(c) PAYMENTS RELATING TO ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—Paragraph (6) of section 6427(e) of the Internal Revenue Code of 1986 is amended—

(1) in subparagraph (C)—

(A) by striking ''subparagraph (D)'' in subparagraph (C) and inserting ''subparagraphs (D) and (E)'', and

(B) by striking ''and'' at the end thereof,

(2) by striking the period at the end of subparagraph (D) and inserting '', and'', and

(3) by adding at the end the following:

''(E) any alternative fuel or alternative fuel mixture (as so defined) involving liquefied petroleum gas sold or used after December 31, 2016.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to liquefied petroleum gas sold or used after the date of the enactment of this Act.

SEC. _____. EXTENSION AND MODIFICATION OF NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 30B(k) of the Internal Revenue Code of 1986 is amended by inserting ''(December 31, 2016, in the case of a vehicle powered by liquefied petroleum gas)'' before the period at the end.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. _____. EXTENSION OF ALTERNATIVE FUEL VEHICLE REFUELING PROPERTY CREDIT.

(a) IN GENERAL.—Subsection (g) of section 30C of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph:

''(2) in the case of property relating to liquefied petroleum gas, after December 31, 2016, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SA 1822. Mr. NELSON of Florida (for himself, Mrs. SHAHEEN, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I of division A, add the following:

Subtitle F—Gulf Coast Restoration

SEC. 1601. SHORT TITLE.

This subtitle may be cited as the ''Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012''.

SEC. 1602. GULF COAST RESTORATION TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ''Gulf Coast Restoration Trust Fund'' (referred to in this section as the ''Trust Fund''), consisting of such amounts as are deposited in the Trust Fund under this subtitle or any other provision of law.

(b) TRANSFERS.—The Secretary of the Treasury shall deposit in the Trust Fund an amount equal to 80 percent of all administrative and civil penalties paid by responsible parties after the date of enactment of this Act in connection with the explosion on, and sinking of, the mobile offshore drilling unit Deepwater Horizon pursuant to a court order, negotiated settlement, or other instrument in accordance with section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(c) EXPENDITURES.—Amounts in the Trust Fund, including interest earned on advances to the Trust Fund and proceeds from investment under subsection (d), shall—

(1) be available for expenditure, without further appropriation, solely for the purpose and eligible activities of this subtitle; and

(2) remain available until expended, without fiscal year limitation.

(d) INVESTMENT.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subtitle and the amendments made by this subtitle.

(e) ADMINISTRATION.—Not later than 180 days after the date of enactment of this Act, after providing notice and an opportunity for public comment, the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, shall establish such procedures as the Secretary determines to be necessary to deposit amounts in, and expend amounts from, the Trust Fund pursuant to this subtitle, including—

(1) procedures to assess whether the programs and activities carried out under this subtitle and the amendments made by this subtitle achieve compliance with applicable requirements, including procedures by which the Secretary of the Treasury may determine whether an expenditure by a Gulf Coast State or coastal political subdivision (as those terms are defined in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321)) pursuant to such a program or activity achieves compliance;

(2) auditing requirements to ensure that amounts in the Trust Fund are expended as intended; and

(3) procedures for identification and allocation of funds available to the Secretary under other provisions of law that may be necessary to pay the administrative expenses directly attributable to the management of the Trust Fund.

SEC. 1603. GULF COAST NATURAL RESOURCES RESTORATION AND ECONOMIC RECOVERY.

Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) in subsection (a)—

(A) in paragraph (25)(B), by striking ''and'' at the end;

(B) in paragraph (26)(D), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(27) the term 'Chairperson' means the Chairperson of the Council;

''(28) the term 'coastal political subdivision' means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or

borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;

''(29) the term 'Comprehensive Plan' means the comprehensive plan developed by the Council pursuant to subsection (t);

''(30) the term 'Council' means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);

''(31) the term 'Deepwater Horizon oil spill' means the blowout and explosion of the mobile offshore drilling unit Deepwater Horizon that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;

''(32) the term 'Gulf Coast ecosystem' means—

''(A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453), except that, in this section, the term 'coastal zones' includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government) that border the Gulf of Mexico;

''(B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and

''(C) all Federal waters in the Gulf of Mexico;

''(33) the term 'Gulf Coast State' means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

''(34) the term 'Trust Fund' means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.'';

(2) in subsection (s), by inserting ''except as provided in subsection (t)'' before the period at the end; and

(3) by adding at the end the following:

''(t) GULF COAST RESTORATION AND RECOVERY.—

''(1) STATE ALLOCATION AND EXPENDITURES.—

''(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast ecosystem in accordance with this subsection.

''(B) USE OF FUNDS.—

''(i) ELIGIBLE ACTIVITIES.—Amounts provided to the Gulf States under this subsection may only be used to carry out 1 or more of the following activities:

''(I) Coastal restoration projects and activities, including conservation and coastal land acquisition.

''(II) Mitigation of damage to, and restoration of, fish, wildlife, or natural resources.

''(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

''(IV) Programs to promote tourism in a Gulf Coast State, including recreational fishing.

''(V) Programs to promote the consumption of seafood produced from the Gulf Coast ecosystem.

''(VI) Programs to promote education regarding the natural resources of the Gulf Coast ecosystem.

''(VII) Planning assistance.

''(VIII) Workforce development and job creation.

''(IX) Improvements to or upon State parks located in coastal areas affected by the Deepwater Horizon oil spill.

''(X) Mitigation of the ecological and economic impact of outer Continental Shelf activities and the impacts of the Deepwater Horizon oil spill or promotion of the long-term ecological or economic recovery of the Gulf Coast ecosystem through the funding of infrastructure projects.

''(XI) Coastal flood protection and infrastructure directly affected by coastal wetland losses, beach erosion, or the impacts of the Deepwater Horizon oil spill.

''(XII) Administrative costs of complying with this subsection.

''(ii) LIMITATION.—

''(I) IN GENERAL.—Of the amounts received by a Gulf State under this subsection not more than 3 percent may be used for administrative costs eligible under clause (i)(XII).

''(II) PROHIBITION ON USE FOR IMPORTED SEAFOOD.—None of the funds made available under this subsection shall be used for any program to support or promote imported seafood or any seafood product that is not harvested from the Gulf Coast ecosystem.

''(C) COASTAL POLITICAL SUBDIVISIONS.—

''(i) IN GENERAL.—In the case of a State where the coastal zone includes the entire State—

''(I) 75 percent of funding shall be provided to the 8 disproportionally affected counties impacted by the Deepwater Horizon Oil Spill; and

''(II) 25 percent shall be provided to nondisproportionately impacted counties within the State.

''(ii) FLORIDA.—

''(I) DISPROPORTIONALLY AFFECTED COUNTIES.—Of the total amounts made available to counties in the State of Florida under clause (i)(I)—

''(aa) 10 percent shall be distributed equally among the 8 disproportionately affected counties; and

''(bb) 90 percent shall be distributed to the 8 disproportionately affected counties in accordance with the following weighted formula:

''(AA) 30 percent based on the weighted average of the county shoreline oiled.

''(BB) 30 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

''(CC) 20 percent based on the weighted average of the population of the county.

''(DD) 20 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

''(II) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

''(aa) 34 percent based on the weighted average of the population of the county.

''(bb) 33 percent based on the weighted average of the county per capita sales tax collections estimated for the fiscal year ending September 30, 2012.

''(cc) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

''(iii) LOUISIANA.—Of the total amounts made available to the State of Louisiana under this paragraph:

''(I) 70 percent shall be provided directly to the State in accordance with this subsection.

''(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

''(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

''(bb) 40 percent based on the weighted average of the population of the parish.

''(cc) 20 percent based on the weighted average of the land mass of the parish.

''(iv) CONDITIONS.—

''(I) LAND USE PLAN.—As a condition of receiving amounts allocated under clause (iii), the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

''(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this subsection shall meet all of the conditions in subparagraph (D).

''(D) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (E), or a coastal political subdivision shall—

''(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

''(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

''(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

''(II) carries out 1 or more of the activities described in subparagraph (B)(i);

''(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

''(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

''(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this subsection are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

''(iv) develop and submit a multiyear implementation plan for use of those funds.

''(E) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

''(i) ALABAMA.—

''(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

''(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

''(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

''(cc) The Chairman of the Baldwin County Commission.

''(dd) The President of the Mobile County Commission.

''(ee) The Mayor of the city of Bayou La Batre.

''(ff) The Mayor of the town of Dauphin Island.

''(gg) The Mayor of the city of Fairhope.

''(hh) The Mayor of the city of Gulf Shores.

''(ii) The Mayor of the city of Mobile.

''(jj) The Mayor of the city of Orange Beach.

''(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

''(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

''(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

''(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

''(F) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet 1 of the activities described in subparagraph (B)(i), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

''(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

''(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

''(G) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this subsection are met.

''(H) PUBLIC INPUT.—In meeting any condition of this subsection, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with 1 or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

''(I) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (D) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

''(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (D); and

''(ii) the applicable project or program carries out 1 or more of the activities described in subparagraph (B)(ii).

''(J) CONSULTATION WITH COUNCIL.—In carrying out this subsection, each Gulf Coast State shall seek the input of the Chairperson of the Council to identify large-scale projects that may be jointly supported by that Gulf Coast State and by the Council pursuant to the Comprehensive Plan with amounts provided under this subsection.

''(K) NON-FEDERAL MATCHING FUNDS.—

''(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State from the Trust Fund to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that meets the eligible use requirements under subparagraph (B)(i).

''(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

''(L) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this subsection, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State.

''(M) UNUSED FUNDS.—Any Funds not identified in an implementation plan by a State or coastal political subdivision in accordance with subparagraph (D)(iv) shall remain in the Trust Fund until such time as the State or coastal political subdivision to which the funds have been allocated develops and submits a plan identifying uses for those funds in accordance with subparagraph (D)(iv).

''(N) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this subsection, including the conditions of subparagraph (D), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

''(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

''(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 60 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

''(B) COUNCIL EXPENDITURES.—

''(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

''(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

''(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this subsection, not more than 3 percent may be used for administrative expenses, including staff.

''(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

''(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the 'Gulf Coast Ecosystem Restoration Council'.

''(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

''(I) The Chair of the Council on Environmental Quality.

''(II) The Secretary of the Interior.

''(III) The Secretary of the Army.

''(IV) The Secretary of Commerce.

''(V) The Administrator of the Environmental Protection Agency.

''(VI) The Secretary of Agriculture.

''(VII) The head of the department in which the Coast Guard is operating.

''(VIII) The Governor of the State of Alabama.

''(IX) The Governor of the State of Florida.

''(X) The Governor of the State of Louisiana.

''(XI) The Governor of the State of Mississippi.

''(XII) The Governor of the State of Texas.

''(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

''(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

''(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

''(vi) COUNCIL ACTIONS.—

''(I) IN GENERAL.—Subject to subclause (IV), significant actions by the Council shall require the affirmative vote of the Federal Chairperson and a majority of the State members to be effective.

''(II) INCLUSIONS.—Significant actions include but are not limited to—

''(aa) approval of a Comprehensive Plan and future revisions to a Comprehensive Plan;

''(bb) approval of State plans pursuant to paragraph (3)(B)(iv); and

''(cc) approval of reports to Congress pursuant to clause (vii)(X).

''(III) QUORUM.—A quorum of State members shall be required to be present for the Council to take any significant action.

''(IV) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraphs (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, is deemed to satisfy the requirements for affirmative votes under subclause (I).

''(V) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including votes on significant actions and associated deliberations, shall be made available to the public.

''(vii) DUTIES OF COUNCIL.—The Council shall—

''(I) develop the Comprehensive Plan, and future revisions to the Comprehensive Plan;

''(II) identify as soon as practicable the projects that—

''(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

''(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast ecosystem;

''(III) coordinate the development of consistent policies, strategies, plans, and activities by Federal agencies, State and local governments, and private sector entities for addressing the restoration and protection of the Gulf Coast ecosystem;

''(IV) establish such other advisory committee or committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

''(V) coordinate scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

''(VI) seek to ensure that all policies, strategies, plans, and activities for addressing the restoration of the Gulf Coast ecosystem are based on the best available physical, ecological, and economic data;

''(VII) make recommendations to address the particular needs of especially economically and socially vulnerable populations;

''(VIII) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in, a Gulf Coast State;

''(IX) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States;

''(X) submit to Congress an annual report that—

''(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast ecosystem;

''(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast ecosystem; and

''(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan; and

''(XI) submit to Congress a final report on the date on which all funds made available to the Council are expended.

''(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subsection, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

''(D) COMPREHENSIVE PLAN.—

''(i) PROPOSED PLAN.—

''(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(II) CONTENTS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

''(ii) PUBLICATION.—

''(I) INITIAL PLAN.—Not later than 1 year after date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President's Gulf Coast Restoration Task Force.

''(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded by a center of excellence or the Gulf Fisheries and Ecosystem Endowment established pursuant to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program under section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(IV) CONTENTS.—The initial Comprehensive Plan shall include—

''(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President's Gulf Coast Restoration Task Force;

''(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

''(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

''(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by Gulf Coast State.

''(V) PLAN UPDATES.—The Council shall update—

''(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subsection for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

''(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

''(iii) RESTORATION PRIORITIES.—Except for projects and programs described in subclause (IV)(bb), in selecting projects and programs to include on the 3-year list described in subclause (IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

''(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem, without regard to geographic location.

''(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

''(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

''(E) IMPLEMENTATION.—

''(i) IN GENERAL.—The Council, acting through the member agencies and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

''(ii) ADMINISTRATIVE RESPONSIBILITY.—

''(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

''(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(iii) COST SHARING.—

''(I) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision from the Trust Fund to satisfy the non-Federal share of the cost of carrying a project or program that—

''(aa) is authorized by other Federal law; and

''(bb) meets the criteria of subparagraph (D).

''(II) INCLUSION IN COMPREHENSIVE PLAN.—A project or program described in subclause (I) that meets the criteria for inclusion in the Comprehensive Plan described in subparagraph (D) shall be selected and adopted by the Council as part of the Comprehensive Plan in the manner described in subparagraph (D).

''(F) COORDINATION.—The Council and the Federal members of the Council may develop Memorandums of Understanding establishing integrated funding and implementation plans among the member agencies and authorities.

''(G) TERMINATION.—The Council shall terminate on the date on which the report described in subparagraph (C)(vii)(XI) is submitted to Congress.

''(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

''(A) IN GENERAL.—Except as provided in paragraph (4), of the total amount made available to the Council under paragraph (2) in any fiscal year from the Trust Fund, 50 percent shall be disbursed by the Council as follows:

''(i) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

''(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling as of April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

''(II) 40 percent based on the inverse proportion of the average distance from the Deepwater Horizon oil rig to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

''(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

''(ii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (i) shall be at least 5 percent of the total amounts made available under this paragraph.

''(B) APPROVAL OF PROJECTS AND PROGRAMS.—

''(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will improve

the ecosystems or economy of the Gulf Coast, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph which meet the following criteria:

''(I) All projects, programs, and activities included in that plan are eligible activities pursuant to paragraph (1)(B)(i).

''(II) The projects, programs, and activities included in that plan contribute to the overall economic and ecological recovery of the Gulf Coast.

''(III) The plan takes into consideration the Comprehensive Plan and is consistent with its goals and objectives, as described in paragraph (2)(B)(i).

''(ii) FUNDING.—

''(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i).

''(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (X) and (XI) of paragraph (1)(B)(i) if the plan certifies that—

''(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

''(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

''(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

''(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(E)(i);

''(II) in the State of Florida, a consortia of local political subdivisions that includes at least 1 representative of each disproportionally affected county;

''(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

''(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

''(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

''(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

''(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

''(i) provide the reasons for disapproval in writing; and

''(ii) consult with the State to address any identified deficiencies with the State plan.

''(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this subsection, any funds made available under this subsection shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this subsection.

''(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking such review.

''(4) AUTHORIZATION OF INTEREST TRANSFERS.—

''(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, an amount equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

''(i) 50 percent shall be transferred to the National Endowment for Oceans in subparagraph (B); and

''(ii) 50 percent shall be transferred to the Gulf of Mexico Research Endowment in subparagraph (C).

''(B) NATIONAL ENDOWMENT FOR THE OCEANS.—

''(i) ESTABLISHMENT.—

''(I) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'National Endowment for the Oceans', consisting of such amounts as may be appropriated or credited to the National Endowment for the Oceans.

''(II) INVESTMENT.—Amounts in the National Endowment for the Oceans shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and any interest on, and proceeds from, any such investment shall be available for expenditure in accordance with this subparagraph.

''(ii) TRUSTEE.—The trustee for the National Endowment for the Oceans shall be the Secretary of Commerce.

''(iii) ALLOCATION OF FUNDS.—

''(I) IN GENERAL.—Each fiscal year, the Secretary shall allocate, at a minimum, an amount equal to the interest earned by the National Endowment for the Oceans in the preceding fiscal year, and may distribute an amount equal to up to 10 percent of the total amounts in the National Endowment for the Oceans—

''(aa) to allocate funding to coastal states (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)) and affected Indian tribes;

''(bb) to make grants to regional ocean and coastal planning bodies; and

''(cc) to develop and implement a National Grant Program for Oceans and Coastal Waters.

''(II) PROGRAM ADJUSTMENTS.—Each fiscal year where the amount described in subparagraph (A)(i) does not exceed $100,000,000, the Secretary may elect to fund only the grant program established in subclause (I)(cc).

''(iv) ELIGIBLE ACTIVITIES.—Funds deposited in the National Endowment for the Oceans may be allocated by the Secretary only to fund grants for programs and activities intended to restore, protect, maintain, or understand living marine resources and their habitats and resources in ocean and coastal waters (as defined in section 304 of the Marine Resources and Engineering Development Act of 1966 (16 U.S.C. 1453)), including baseline scientific research, ocean observing, and other programs and activities carried out in coordination with Federal and State departments or agencies, that are consistent with Federal environmental laws and that avoid environmental degradation.

''(v) APPLICATION.—To be eligible to receive a grant under clause (iii)(I), an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary determines to be appropriate.

''(vi) FUNDING FOR COASTAL STATES.—The Secretary shall allocate funding among States as follows:

''(I) 50 percent of the funds shall be allocated equally among coastal States.

''(II) 25 percent of the funds shall be allocated based on tidal shoreline miles.

''(III) 25 percent of the funds shall be allocated based on the coastal population density of a coastal State.

''(IV) No State shall be allocated more than 10 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

''(V) No territory shall be allocated more than 1 percent of the total amount of funds available for allocation among coastal States for any fiscal year.

''(C) GULF OF MEXICO RESEARCH ENDOWMENT.—

''(i) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the 'Gulf of Mexico Research Endowment', to be administered by the Secretary of Commerce, solely for use in providing long-term funding in accordance with section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

''(ii) INVESTMENT.—Amounts in the Gulf of Mexico Research Endowment shall be invested in accordance with section 9602 of the Internal Revenue Code of 1986, and, after adjustment for inflation so as to maintain the value of the principal, any interest on, and proceeds from, any such investment shall be available for expenditure and shall be allocated in equal portions to the Gulf Coast Ecosystem Restoration Science, Monitoring, and Technology Program and Fisheries Endowment established in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.''.

SEC. 1604. GULF COAST ECOSYSTEM RESTORATION SCIENCE, OBSERVATION, MONITORING, AND TECHNOLOGY PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the National Oceanic and Atmospheric Administration.

(2) FISHERIES AND ECOSYSTEM ENDOWMENT.—The term ''Fisheries and Ecosystem Endowment'' means the endowment established by subsection (d).

(3) PROGRAM.—The term ''Program'' means the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program established by subsection (b).

(b) ESTABLISHMENT OF PROGRAM.—There is established within the National Oceanic and Atmospheric Administration a program to be known as the ''Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program'', to be carried out by the Administrator.

(c) CENTERS OF EXCELLENCE.—

(1) IN GENERAL.—In carrying out the Program, the Administrator, in consultation with other Federal agencies with expertise in the discipline of a center of excellence, shall make grants in accordance with paragraph (2) to establish and operate 5 centers of excellence, 1 of which shall be located in each of the States of Alabama, Florida, Louisiana, Mississippi, and Texas.

(2) GRANTS.—

(A) IN GENERAL.—The Administrator shall use the amounts made available to carry out this section to award competitive grants to nongovernmental entities and consortia in the Gulf Coast region (including public and private institutions of higher education) for the establishment of centers of excellence as described in paragraph (1).

(B) APPLICATION.—To be eligible to receive a grant under this paragraph, an entity or consortium described in subparagraph (A) shall submit to the Administrator an application at such time, in such manner, and containing such information as the Administrator determines to be appropriate.

(C) PRIORITY.—In awarding grants under this paragraph, the Administrator shall give priority to entities and consortia that demonstrate the ability to establish the broadest cross-section of participants with interest and expertise in any discipline described in

paragraph (3) on which the proposal of the center of excellence will be focused.

(3) DISCIPLINES.—Each center of excellence shall focus on science, technology, and monitoring in at least 1 of the following disciplines:

(A) Coastal and deltaic sustainability, restoration and protection; including solutions and technology that allow citizens to live safely and sustainably in a coastal delta.

(B) Coastal fisheries and wildlife ecosystem research and monitoring.

(C) Offshore energy development, including research and technology to improve the sustainable and safe development of energy resources.

(D) Sustainable and resilient growth, economic and commercial development in the Gulf Coast.

(E) Comprehensive observation, monitoring, and mapping of the Gulf of Mexico.

(4) COORDINATION WITH OTHER PROGRAMS.—The Administrator shall develop a plan for the coordination of projects and activities between the Program and other existing Federal and State science and technology programs in the States of Alabama, Florida, Louisiana, Mississippi, and Texas, as well as between the centers of excellence.

(d) ESTABLISHMENT OF FISHERIES AND ECOSYSTEM ENDOWMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Council shall establish a fishery and ecosystem endowment to ensure, to the maximum extent practicable, the long-term sustainability of the ecosystem, fish stocks, fish habitat and the recreational, commercial, and charter fishing industry in the Gulf of Mexico.

(2) EXPENDITURE OF FUNDS.—For each fiscal year, amounts made available to carry out this subsection may be expended for, with respect to the Gulf of Mexico—

(A) marine and estuarine research;

(B) marine and estuarine ecosystem monitoring and ocean observation;

(C) data collection and stock assessments;

(D) pilot programs for—

(i) fishery independent data; and

(ii) reduction of exploitation of spawning aggregations; and

(E) cooperative research.

(3) ADMINISTRATION AND IMPLEMENTATION.—The Fisheries and Ecosystem Endowment shall be administered by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Director of the United States Fish and Wildlife Service, with guidance provided by the Regional Gulf of Mexico Fishery Management Council.

(4) SPECIES INCLUDED.—The Fisheries and Ecosystem Endowment will include all marine, estuarine, aquaculture, and fish and wildlife species in State and Federal waters of the Gulf of Mexico.

(5) RESEARCH PRIORITIES.—In distributing funding under this subsection, priority shall be given to integrated, long-term projects that—

(A) build on, or are coordinated with, related research activities; and

(B) address current or anticipated marine ecosystem, fishery, or wildlife management information needs.

(6) DUPLICATION AND COORDINATION.—In carrying out this subsection, the Administrator shall seek to avoid duplication of other research and monitoring activities and coordinate with existing research and monitoring programs, including the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 et seq.).

(e) FUNDING.—

(1) IN GENERAL.—Except as provided in subsection (t)(4) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), of the total amount made available for each fiscal year for the Gulf Coast Restoration Trust Fund established under section 1602, 5 percent shall be allocated in equal portions to the Program and Fisheries and Ecosystem Endowment established by this section.

(2) ADMINISTRATIVE EXPENSES.—Of the amounts received by the National Oceanic and Atmospheric Administration to carry out this section, not more than 3 percent may be used for administrative expenses.

SEC. 1605. EFFECT.

(a) IN GENERAL.—Nothing in this subtitle or any amendment made by this subtitle—

(1) supersedes or otherwise affects any provision of Federal law, including, in particular, laws providing recovery for injury to natural resources under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and laws for the protection of public health and the environment; or

(2) applies to any fine collected under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) for any incident other than the Deepwater Horizon oil spill.

(b) USE OF FUNDS.—Funds made available under this subtitle may be used only for eligible activities specifically authorized by this subtitle.

Subtitle G—Land and Water Conservation Fund

SEC. 1701. LAND AND WATER CONSERVATION FUND.

(a) AUTHORIZATION.—Section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–5) is amended—

(1) in the matter preceding subsection (a), by striking ''September 30, 2015'' and inserting ''September 30, 2022''; and

(2) in subsection (c)(1), by striking ''through September 30, 2015'' and inserting ''September 30, 2022''.

(b) FUNDING.—Section 3 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-6) is amended to read as follows:

''SEC. 3. AVAILABILITY OF FUNDS.

''(a) FUNDING.—

''(1) FISCAL YEARS 2013 AND 2014.—For each of fiscal years 2013 and 2014—

''(A) $700,000,000 of amounts covered into the fund under section 2 shall be available for expenditure, without further appropriation or fiscal year limitation, to carry out the purposes of this Act; and

''(B) the remainder of amounts covered into the fund shall be available subject to appropriations, which may be made without fiscal year limitation.

''(2) FISCAL YEARS 2015 THROUGH 2022.—For each of fiscal years 2015 through 2022, amounts covered into the fund under section 2 shall be available for expenditure to carry out the purposes of this Act subject to appropriations, which may be made without fiscal year limitation.

''(b) USES.—Amounts made available for obligation or expenditure from the fund may be obligated or expended only as provided in this Act.

''(c) WILLING SELLERS.—In using amounts made available under subsection (a)(1)(A), the Secretary shall only acquire land or interests in land by purchase, exchange, or donation from a willing seller.

''(d) ADDITIONAL AMOUNTS.—Amounts made available under subsection (a)(1)(A) shall be in addition to amounts made available to the fund under section 105 of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note; Public Law 109–432).

''(e) ALLOCATION AUTHORITY.—Appropriation Acts may provide for the allocation of amounts covered into the fund under section 2.''.

(c) ALLOCATION OF FUNDS.—Section 5 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–7) is amended—

(1) in the first sentence, by inserting ''or expenditures'' after ''appropriations'';

(2) in the second sentence—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by inserting before the period at the end the following: '', including the amounts to be allocated from the fund for Federal and State purposes''; and

(3) by striking ''Those appropriations from'' and all that follows through the end of the section.

(d) CONFORMING AMENDMENTS.—Section 6(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(b)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''or expended'' after ''appropriated'';

(2) in paragraph (1)—

(A) by inserting ''or expenditures'' after ''appropriations''; and

(B) by striking ''; and'' and inserting a period; and

(3) in the first sentence of paragraph (2), by inserting ''or expenditure'' after ''appropriation''.

(e) PUBLIC ACCESS.—Section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by inserting ''or expended'' after ''appropriated''; and

(B) in paragraph (3), by inserting ''or expenditures'' after ''such appropriations'';

(2) in subsection (b)—

(A) in the first sentence, by inserting ''or expenditures'' after ''Appropriations''; and

(B) in the proviso, by inserting ''or expenditures'' after ''appropriations'';

(3) in the first sentence of subsection (c)(1)—

(A) by inserting ''or expended'' after ''appropriated''; and

(B) by inserting ''or expenditures'' after ''appropriations''; and

(4) by adding at the end the following:

''(d) PUBLIC ACCESS.—Not less than 1.5 percent of the annual authorized funding amount shall be made available each year for projects that secure recreational public access to existing Federal public land for hunting, fishing, and other recreational purposes.''.

Subtitle H—Offsets

SEC. 1801. DELAY IN APPLICATION OF WORLDWIDE INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2020'' and inserting ''December 31, 2021.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 1802.

SA 1823. Mr. REID (for Mr. HARKIN (for himself, Mr. BURR, Mr. ENZI, Mr. CASEY, Mr. LIEBERMAN, and Ms. COLLINS)) proposed an amendment to the bill S. 1855, to amend the Public Health Service Act to reauthorize various programs under the Pandemic and All-Hazards Preparedness Act; as follows:

On page 80, line 18, insert ''medical and public health'' before ''needs of children''.

On page 80, lines 19 and 20, strike '', including public health emergencies''.

On page 82, between lines 5 and 6, insert the following:

''(G) the Administrator of the Federal Emergency Management Agency;''.

On page 82, line 6, strike ''(G) at least two'' and insert ''(H) at least two non-Federal''.

On page 82, line 9, strike ''(H)'' and insert ''(I)''.

On page 82, line 13, strike ''(I)'' and insert ''(J)''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on March 7, 2012, at 9:30 a.m. in room SH 216 of the Hart Senate Office Building.

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

COMMITTEE ON ARMED SERVICES

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 7, 2012, at 9 a.m.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Wednesday, March 7, 2012, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''Priorities, Plans, and Progress of the Nation's Space Program.''

The PRESIDING OFFICER. Without objection, it is so ordered

COMMITTEE ON FINANCE

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 7, 2012, at 10 a.m. in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''The President's 2012 Trade Agenda.''

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

COMMITTEE ON THE JUDICIARY

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 7, 2012, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Examining Lending Discrimination Practices and Foreclosure Abuses.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session on March 7, 2012, in room SD–50 of the Dirksen Senate Office Building beginning at 10 a.m.

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

SPECIAL COMMITTEE ON AGING

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on March 7, 2012, at 2 p.m. in room 562 of the Dirksen Senate Office Building to conduct a hearing entitled ''Opportunities for Savings: Removing Obstacles for Small Business.''

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

SUBCOMMITTEE ON OCEANS, ATMOSPHERE, FISHERIES, AND THE COAST GUARD

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 7, 2012, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''The President's Fiscal Year 2013 Budget Proposals for the Coast Guard and the National Oceanic and Atmospheric Administration.''

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

SUBCOMMITTEE ON WATER AND POWER

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on March 7, 2012, at 2:30 p.m., in room 366 of the Dirksen Senate Office Building.

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

PRIVILEGES OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Hannah Breul, who is a detailee from the Department of Energy working on the staff of the Committee on Energy and Natural Resources this year, be granted floor privileges during today's session of the Senate.

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

Mr. JOHNSON. Mr. President, I ask unanimous consent that Michael Johnson from my office be granted the privilege of the floor during today's session.

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

Mr. ENZI. Mr. President, I ask unanimous consent that James Ward from my office be granted floor privileges for the duration of today's session.

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

Mr. MERKLEY. Mr. President, I ask unanimous consent that my intern, B.J. Westlund, be granted privileges of the floor for the balance of today's session.

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

PANDEMIC AND ALL-HAZARDS PREPAREDNESS ACT REAUTHORIZATION OF 2011

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 263.

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

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1855) to amend the Public Health Service Act to reauthorize various programs under the Pandemic and All-Hazards Preparedness Act.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Pandemic and All-Hazards Preparedness Act Reauthorization of 2011''.

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

TITLE I—STRENGTHENING NATIONAL PREPAREDNESS AND RESPONSE FOR PUBLIC HEALTH EMERGENCIES

SEC. 101. NATIONAL HEALTH SECURITY STRATEGY.

(a) IN GENERAL.—Section 2802 of the Public Health Service Act (42 U.S.C. 300hh–1) is amended—

(1) in subsection (a)(1), by striking ''2009'' and inserting ''2014''; and

(2) in subsection (b)—

(A) in paragraph (3)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''facilities), and trauma care'' and inserting ''facilities and which may include dental health facilities), and trauma care, critical care,''; and

''(II) by inserting ''(including related availability, accessibility, and coordination)'' after ''public health emergencies'';

''(ii) in subparagraph (A), by inserting ''and trauma'' after ''medical'';

''(iii) in subparagraph (D), by inserting ''(which may include such dental health assets)'' after ''medical assets'';

''(iv) by adding at the end the following:

''(F) Optimizing a coordinated and flexible approach to the medical surge capacity of hospitals, other healthcare facilities, and trauma care (which may include trauma centers) and emergency medical systems.'';

''(B) in paragraph (4)—

''(i) in subparagraph (A), by inserting '', including the unique needs and considerations of individuals with disabilities,'' after ''medical needs of at-risk individuals''; and

''(ii) in subparagraph (B), by inserting ''the'' before ''purpose of this section''; and

''(C) by adding at the end the following:

''(7) COUNTERMEASURES.—

''(A) Promoting strategic initiatives to advance countermeasures to diagnose, mitigate, prevent, or treat harm from any biological agent or toxin, chemical, radiological, or nuclear agent or agents, whether naturally occurring, unintentional, or deliberate.

''(B) For purposes of this paragraph the term 'countermeasures' has the same meaning as the terms 'qualified countermeasures' under section 319F–1, 'qualified pandemic and epidemic products' under section 319F–3, and 'security countermeasures' under section 319F–2.

''(8) MEDICAL AND PUBLIC HEALTH COMMUNITY RESILIENCY.—Strengthening the ability of States, local communities, and tribal communities to prepare for, respond to, and be resilient in the event of public health emergencies, whether naturally occurring, unintentional, or deliberate by—

''(A) optimizing alignment and integration of medical and public health preparedness and response planning and capabilities with and into routine daily activities; and

''(B) promoting familiarity with local medical and public health systems.''.

(b) AT-RISK INDIVIDUALS.—Section 2814 of the Public Health Service Act (42 U.S.C. 300hh–16) is amended—

(1) by striking paragraphs (5), (7), and (8);

(2) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(3) by inserting before paragraph (2) (as so redesignated), the following:

''(1) monitor emerging issues and concerns as they relate to medical and public health preparedness and response for at-risk individuals in the event of a public health emergency declared by the Secretary under section 319;'';

(4) in paragraph (2) (as so redesignated), by striking ''National Preparedness goal'' and inserting ''preparedness goals, as described in section 2802(b),''; and

(5) by inserting after paragraph (6), the following:

''(7) disseminate and, as appropriate, update novel and best practices of outreach to and care of at-risk individuals before, during, and following public health emergencies in as timely a manner as is practicable, including from the time a public health threat is identified; and

''(8) ensure that public health and medical information distributed by the Department of Health and Human Services during a public health emergency is delivered in a manner that takes into account the range of communication needs of the intended recipients, including at-risk individuals.''.

SEC. 102. ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE.

Section 2811 of the Public Health Service Act (42 U.S.C. 300hh–10) is amended—

(1) in subsection (b)(4), by adding at the end the following:

''(D) POLICY COORDINATION AND STRATEGIC DIRECTION.—Provide integrated policy coordination and strategic direction with respect to all matters related to Federal public health and medical preparedness and execution and deployment of the Federal response for public health emergencies and incidents covered by the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002, or any successor plan, before, during, and following public health emergencies.'';

(2) by striking subsection (c) and inserting the following:

''(c) FUNCTIONS.—The Assistant Secretary for Preparedness and Response shall—

''(1) have authority over and responsibility for—

''(A) the National Disaster Medical System (in accordance with section 301 of the Pandemic and All-Hazards Preparedness Act);

''(B) the Hospital Preparedness Cooperative Agreement Program pursuant to section 319C–2;

''(C) the Medical Reserve Corps pursuant to section 2813;

''(D) the Emergency System for Advance Registration of Volunteer Health Professionals pursuant to section 319I; and

''(E) administering grants and related authorities related to trauma care under parts A through C of title XII, such authority to be transferred by the Secretary from the Administrator of the Health Resources and Services Administration to such Assistant Secretary;

''(2) exercise the responsibilities and authorities of the Secretary with respect to the coordination of—

''(A) the Public Health Emergency Preparedness Cooperative Agreement Program pursuant to section 319C–1;

''(B) the Strategic National Stockpile; and

''(C) the Cities Readiness Initiative;

''(3) align and coordinate medical and public health grants and cooperative agreements as applicable to preparedness and response activities authorized under this Act, to the extent possible, including program requirements, timelines, and measurable goals, and in coordination with the Secretary of Homeland Security, to—

''(A) optimize and streamline medical and public health preparedness capabilities and the ability of local communities to respond to public health emergencies;

''(B) minimize duplication of efforts with regard to medical and public health preparedness and response programs; and

''(C) gather and disseminate best practices among grant and cooperative agreement recipients, as appropriate;

''(4) carry out drills and operational exercises, in coordination with the Department of Homeland Security, the Department of Defense, the Department of Veterans Affairs, and other applicable Federal departments and agencies, as necessary and appropriate, to identify, inform, and address gaps in and policies related to all-hazards medical and public health preparedness, including exercises based on—

''(A) identified threats for which countermeasures are available and for which no countermeasures are available; and

''(B) unknown threats for which no countermeasures are available; and

''(5) assume other duties as determined appropriate by the Secretary.''; and

(3) by adding at the end the following:

''(d) NATIONAL SECURITY PRIORITY.—The Secretary, acting through the Assistant Secretary for Preparedness and Response, shall on a periodic basis conduct meetings, as applicable and appropriate, with the Assistant to the President for National Security Affairs to provide an update on, and discuss, medical and public health preparedness and response activities pursuant to this Act and the Federal Food, Drug, and Cosmetic Act, including progress on the development, approval, clearance, and licensure of medical countermeasures.

''(e) PUBLIC HEALTH EMERGENCY MEDICAL COUNTERMEASURES ENTERPRISE STRATEGY AND IMPLEMENTATION PLAN.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, and every other year thereafter, the Secretary, acting through the Assistant Secretary for Preparedness and Response and in consultation with the Director of the Biomedical Advanced Research and Development Authority, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration, shall develop and submit to the appropriate committees of Congress a coordinated strategy and accompanying implementation plan for medical countermeasures to address chemical, biological, radiological, and nuclear threats. Such strategy and plan shall be known as the 'Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan'.

''(2) REQUIREMENTS.—The plan under paragraph (1) shall—

''(A) consider and reflect the full spectrum of medical countermeasure-related activities, including research, advanced research, development, procurement, stockpiling, deployment, and distribution;

''(B) identify and prioritize near-term, mid-term, and long-term priority qualified and security countermeasure (as defined in sections 319F–1 and 319F–2) needs and goals of the Federal Government according to chemical, biological, radiological, and nuclear threat or threats;

''(C) identify projected timelines, anticipated funding allocations, benchmarks, and milestones for each medical countermeasure priority under subparagraph (B), including projected needs with regard to replenishment of the Strategic National Stockpile;

''(D) be informed by the recommendations of the National Biodefense Science Board pursuant to section 319M;

''(E) report on advanced research and development awards and the date of the issuance of contract awards, including awards made through the special reserve fund (as defined in section 319F–2(c)(10));

''(F) identify progress made in meeting the goals, benchmarks, and milestones identified under subparagraph (C) in plans submitted subsequent to the initial plan;

''(G) identify the progress made in meeting the medical countermeasure priorities for at-risk individuals, (as defined in 2802(b)(4)(B)), as applicable under subparagraph (B), including with regard to the projected needs for related stockpiling and replenishment of the Strategic National Stockpile; and

''(H) be made publicly available.

''(3) GAO REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan under this subsection is issued by the Secretary, the Government Accountability Office shall conduct an independent evaluation and submit to the appropriate committees of Congress a report concerning such strategy and implementation plan.

''(B) CONTENT.—The report described in subparagraph (A) shall review and assess—

''(i) the near-term, mid-term, and long-term medical countermeasure needs and identified priorities of the Federal Government pursuant to subparagraphs (A) and (B) of paragraph (2);

''(ii) the activities of the Department of Health and Human Services with respect to advanced research and development pursuant to section 319L; and

''(iii) the progress made toward meeting the goals, benchmarks, and milestones identified in the Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan under this subsection.

''(f) INTERNAL MULTIYEAR PLANNING PROCESS.—The Secretary shall develop, and update on an annual basis, a coordinated 5-year budget plan based on the medical countermeasure priorities and goals described in subsection (e). Each such plan shall—

''(1) include consideration of the entire medical countermeasures enterprise, including—

''(A) basic research, advanced research and development;

''(B) approval, clearance, licensure, and authorized uses of products; and

''(C) procurement, stockpiling, maintenance, and replenishment of all products in the Strategic National Stockpile;

''(2) include measurable outputs and outcomes to allow for the tracking of the progress made toward identified goals;

''(3) identify medical countermeasure lifecycle costs to inform planning, budgeting, and anticipated needs within the continuum of the medical countermeasure enterprise consistent with section 319F–2; and

''(4) be made available to the appropriate committees of Congress upon request.

''(g) INTERAGENCY COORDINATION PLAN.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in coordination with the Secretary of Defense, shall submit to the appropriate committees of Congress a report concerning the manner in which the Department of Health and Human Services is coordinating with the Department of Defense regarding countermeasure activities to address chemical, biological, radiological, and nuclear threats. Such report shall include information with respect to—

''(1) the research, advanced research, development, procurement, stockpiling, and distribution of countermeasures to meet identified needs; and

''(2) the coordination of efforts between the Department of Health and Human Services and the Department of Defense to address countermeasure needs for various segments of the population.

''(h) PROTECTION OF NATIONAL SECURITY.—In carrying out subsections (e), (f), and (g), the Secretary shall ensure that information and items that could compromise national security are not disclosed.''.

SEC. 103. NATIONAL ADVISORY COMMITTEE ON CHILDREN AND DISASTERS.

Subtitle B of title XXVIII of the Public Health Service Act (42 U.S.C. 300hh et seq.) is amended by inserting after section 2811 the end the following:

''SEC. 2811A. NATIONAL ADVISORY COMMITTEE ON CHILDREN AND DISASTERS.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Homeland Security, shall establish an advisory committee to be known as the 'National Advisory Committee on Children and Disasters' (referred to in this section as the 'Advisory Committee').

''(b) DUTIES.—The Advisory Committee shall—

''(1) provide advice and consultation with respect to the activities carried out pursuant to section 2814, as applicable and appropriate;

''(2) evaluate and provide input with respect to the needs of children as they relate to preparation for, response to, and recovery from all-hazards, including public health emergencies; and

''(3) provide advice and consultation to States and territories with respect to State emergency preparedness and response activities and children, including related drills and exercises pursuant to the preparedness goals under section 2802(b).

''(c) ADDITIONAL DUTIES.—The Advisory Committee may provide advice and recommendations to the Secretary with respect to children and the medical and public health grants and cooperative agreements as applicable to preparedness and response activities authorized under this title and title III.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Secretary, in consultation with such other Secretaries as may be appropriate, shall appoint not to exceed 15 members to the Advisory Committee. In appointing such members, the Secretary shall ensure that the total membership of the Advisory Committee is an odd number.

''(2) REQUIRED MEMBERS.—The Secretary, in consultation with such other Secretaries as may be appropriate, may appoint to the Advisory Committee under paragraph (1) such individuals as may be appropriate to perform the duties described in subsections (b) and (c), which may include—

''(A) the Assistant Secretary for Preparedness and Response;

''(B) the Director of the Biomedical Advanced Research and Development Authority;

''(C) the Director of the Centers for Disease Control and Prevention;

''(D) the Commissioner of Food and Drugs;

''(E) the Director of the National Institutes of Health;

''(F) the Assistant Secretary of the Administration for Children and Families;

''(G) at least two health care professionals with expertise in pediatric medical disaster planning, preparedness, response, or recovery;

''(H) at least two representatives from State, local, territories, or tribal agencies with expertise in pediatric disaster planning, preparedness, response, or recovery; and

''(I) representatives from such Federal agencies (such as the Department of Education and the Department of Homeland Security) as determined necessary to fulfill the duties of the Advisory Committee, as established under subsections (b) and (c).

''(e) MEETINGS.—The Advisory Committee shall meet not less than biannually.

''(f) SUNSET.—The Advisory Committee shall terminate on the date that is 5 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011.''.

SEC. 104. MODERNIZATION OF THE NATIONAL DISASTER MEDICAL SYSTEM.

Section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), in clause (i) by inserting '', including at-risk individuals as applicable'' after ''victims of a public health emergency'';

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

(C) by inserting after subparagraph (B), the following:

''(C) CONSIDERATIONS FOR AT-RISK POPULATIONS.—The Secretary shall take steps to ensure that an appropriate specialized and focused range of public health and medical capabilities are represented in the National Disaster Medical System, which take into account the needs of at-risk individuals, in the event of a public health emergency.''.

''(D) ADMINISTRATION.—The Secretary may determine and pay claims for reimbursement for services under subparagraph (A) directly or through contracts that provide for payment in advance or by way of reimbursement.''; and

(2) in subsection (g), by striking ''such sums as may be necessary for each of the fiscal years 2007 through 2011'' and inserting ''$56,000,000 for each of fiscal years 2012 through 2016''.

SEC. 105. CONTINUING THE ROLE OF THE DEPARTMENT OF VETERANS AFFAIRS.

Section 8117(g) of title 38, United States Code, is amended by striking ''such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011'' and inserting ''$156,500,000 for each of fiscal years 2012 through 2016 to carry out this section''.

TITLE II—OPTIMIZING STATE AND LOCAL ALL-HAZARDS PREPAREDNESS AND RESPONSE

SEC. 201. IMPROVING STATE AND LOCAL PUBLIC HEALTH SECURITY.

(a) COOPERATIVE AGREEMENTS.—Section 319C–1 of the Public Health Service Act (42 U.S.C. 247d–3a) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A)—

(i) by striking clauses (i) and (ii) and inserting the following:

''(i) a description of the activities such entity will carry out under the agreement to meet the goals identified under section 2802, including with respect to chemical, biological, radiological, or nuclear threats, whether naturally occurring, unintentional, or deliberate;

''(ii) a description of the activities such entity will carry out with respect to pandemic influenza, as a component of the activities carried out under clause (i), and consistent with the requirements of paragraphs (2) and (5) of subsection (g);'';

(ii) in clause (iv), by striking ''and'' at the end; and

(iii) by adding at the end the following:

''(vi) a description of how, as appropriate, the entity may partner with relevant public and private stakeholders in public health emergency preparedness and response;

''(vii) a description of how the entity, as applicable and appropriate, will coordinate with State emergency preparedness and response plans in public health emergency preparedness, including State educational agencies (as defined in section 9101(41) of the Elementary and Secondary Education Act of 1965) and State child care lead agencies (as defined in section 658D of the Child Care and Development Block Grant Act); and

''(viii) in the case of entities that operate on the United States-Mexico border or the United States-Canada border, a description of the activities such entity will carry out under the agreement that are specific to the border area including disease detection, identification, and investigation, and preparedness and response activities related to emerging diseases and infectious disease outbreaks whether naturally-occurring or due to bioterrorism, consistent with the requirements of this section;''; and

(B) in subparagraph (C), by inserting '', including addressing the needs of at-risk individuals,'' after ''capabilities of such entity'';

(2) in subsection (g)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) include outcome goals representing operational achievements of the National Preparedness Goals developed under section 2802(b) with respect to all-hazards, including chemical, biological, radiological, or nuclear threats; and''; and

(B) in paragraph (2)(A), by adding at the end the following: ''The Secretary shall periodically update, as necessary and appropriate, such pandemic influenza plan criteria and shall require the integration of such criteria into the benchmarks and standards described in paragraph (1).'';

(3) in subsection (i)—

(A) in paragraph (1)(A)—

(i) by striking ''$824,000,000 for fiscal year 2007'' and inserting ''$632,900,000 for fiscal year 2012''; and

(ii) by striking ''such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$632,900,000 for each of fiscal years 2013 through 2016''; and

(B) by adding at the end the following:

''(7) AVAILABILITY OF COOPERATIVE AGREEMENT FUNDS.—

''(A) IN GENERAL.—Amounts provided to an eligible entity under a cooperative agreement under subsection (a) for a fiscal year and remaining unobligated at the end of such year shall remain available to such entity for the next fiscal year for the purposes for which such funds were provided.

''(B) FUNDS CONTINGENT ON ACHIEVING BENCHMARKS.—The continued availability of funds under subparagraph (A) with respect to an entity shall be contingent upon such entity achieving the benchmarks and submitting the pandemic influenza plan as described in subsection (g).''; and

(4) in subsection (j), by striking paragraph (3).

(b) VACCINE TRACKING AND DISTRIBUTION.—Section 319A(e) of the Public Health Service Act

(42 U.S.C. 247d–1(e)) is amended by striking ''such sums for each of fiscal years 2007 through 2011'' and inserting ''$30,800,000 for each of fiscal years 2012 through 2016''.

(c) GAO REPORT.—Section 319C-1 of the Public Health Service Act (42 U.S.C. 247d–3a) is amended by adding at the end the following:

''(l) GAO REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011, the Government Accountability Office shall conduct an independent evaluation, and submit to the appropriate committees of Congress a report, concerning Federal programs at the Department of Health and Human Services that support medical and public health preparedness and response programs at the State and local levels.

''(2) CONTENT.—The report described in paragraph (1) shall review and assess—

''(A) the extent to which grant and cooperative agreement requirements and goals have been met by recipients;

''(B) the extent to which such grants and cooperative agreements have supported medical and public health preparedness and response goals pursuant to section 2802(b), as appropriate and applicable;

''(C) whether recipients or the Department of Health and Human Services have identified any factors that may impede a recipient's ability to achieve programmatic goals and requirements; and

''(D) instances in which funds may not have been used appropriately, in accordance with grant and cooperative agreement requirements, and actions taken to address inappropriate expenditures.''.

SEC. 202. HOSPITAL PREPAREDNESS AND MEDICAL SURGE CAPACITY.

(a) ALL-HAZARDS PUBLIC HEALTH AND MEDICAL RESPONSE CURRICULA AND TRAINING.—Section 319F(a)(5)(B) of the Public Health Service Act (42 U.S.C. 247d–6(a)(5)(B)) is amended by striking ''public health or medical'' and inserting ''public health, medical, or dental''.

(b) ENCOURAGING HEALTH PROFESSIONAL VOLUNTEERS.—

(1) EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF VOLUNTEER HEALTH PROFESSIONALS.—Section 319I(k) of the Public Health Service Act (42 U.S.C. 247d–7b(k)) is amended by striking ''$2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2011'' and inserting ''$5,900,000 for each of fiscal years 2012 through 2016''.

(2) VOLUNTEERS.—Section 2813 of the Public Health Service Act (42 U.S.C. 300hh–15) is amended—

(A) in subsection (d)(2), by adding at the end the following: ''Such training exercises shall, as appropriate and applicable, incorporate the needs of at-risk individuals in the event of a public health emergency.''; and

(B) in subsection (i), by striking ''$22,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$11,900,000 for each of fiscal years 2012 through 2016''.

(c) PARTNERSHIPS FOR STATE AND REGIONAL PREPAREDNESS TO IMPROVE SURGE CAPACITY.—Section 319C–2 of the Public Health Service Act (42 U.S.C. 247d–3b) is amended—

(1) in subsection (b)(1)(A)(ii), by striking ''centers, primary'' and inserting ''centers, community health centers, primary'';

(2) by striking subsection (c) and inserting the following:

''(c) USE OF FUNDS.—An award under subsection (a) shall be expended for activities to achieve the preparedness goals described under paragraphs (1), (3), (4), (5), and (6) of section 2802(b) with respect to all-hazards, including chemical, biological, radiological, or nuclear threats.'';

(3) by striking subsection (g) and inserting the following:

''(g) COORDINATION.—

''(1) LOCAL RESPONSE CAPABILITIES.—An eligible entity shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities of relevant local Metropolitan Medical Response Systems, local Medical Reserve Corps, the local Cities Readiness Initiative, and local emergency plans.

''(2) NATIONAL COLLABORATION.—Partnerships consisting of one or more eligible entities under this section may, to the extent practicable, collaborate with other partnerships consisting of one or more eligible entities under this section for purposes of national coordination and collaboration with respect to activities to achieve the preparedness goals described under paragraphs (1), (3), (4), (5), and (6) of section 2802(b).''; and

(4) in subsection (j)—

(A) in paragraph (1), by striking ''$474,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$378,000,000 for each of fiscal years 2012 through 2016''; and

(B) by adding at the end the following:

''(4) AVAILABILITY OF COOPERATIVE AGREEMENT FUNDS.—

''(A) IN GENERAL.—Amounts provided to an eligible entity under a cooperative agreement under subsection (a) for a fiscal year and remaining unobligated at the end of such year shall remain available to such entity for the next fiscal year for the purposes for which such funds were provided.

''(B) FUNDS CONTINGENT ON ACHIEVING BENCHMARKS.—The continued availability of funds under subparagraph (A) with respect to an entity shall be contingent upon such entity achieving the benchmarks and submitting the pandemic influenza plan as required under subsection (i).''.

SEC. 203. ENHANCING SITUATIONAL AWARENESS AND BIOSURVEILLANCE.

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting ''poison control centers,'' after ''hospitals,'';

(B) in paragraph (2), by inserting before the period the following: '', allowing for coordination to maximize all-hazards medical and public health preparedness and response and to minimize duplication of effort''; and

(C) in paragraph (3), by inserting before the period the following: ''and update such standards as necessary'';

(2) in subsection (d)—

(A) in the subsection heading, by striking ''PUBLIC HEALTH SITUATIONAL AWARENESS'' and inserting ''MODERNIZING PUBLIC HEALTH SITUATIONAL AWARENESS AND BIOSURVEILLANCE'';

(B) in paragraph (1)—

(i) by striking ''Pandemic and All-Hazards Preparedness Act'' and inserting ''Pandemic and All-Hazards Preparedness Act Reauthorization of 2011''; and

(ii) by inserting '', novel emerging threats,'' after ''disease outbreaks'';

(C) by striking paragraph (2) and inserting the following:

''(2) STRATEGY AND IMPLEMENTATION PLAN.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011, the Secretary shall submit to the appropriate committees of Congress, a coordinated strategy and an accompanying implementation plan that identifies and demonstrates the measurable steps the Secretary will carry out to—

''(A) develop, implement, and evaluate the network described in paragraph (1), utilizing the elements described in paragraph (3); and

''(B) modernize and enhance biosurveillance activities.'';

(D) in paragraph (3)(D), by inserting ''community health centers, health centers'' after ''poison control,'';

(E) in paragraph (5), by striking subparagraph (A) and inserting the following:

''(A) utilize applicable interoperability standards as determined by the Secretary, and in consultation with the Office of the National Coordinator for Health Information Technology, through a joint public and private sector process;''; and

(F) by adding at the end the following:

''(6) CONSULTATION WITH THE NATIONAL BIODEFENSE SCIENCE BOARD.—In carrying out this section consistent with section 319M, the National Biodefense Science Board shall provide expert advice and guidance, including recommendations, regarding the measurable steps the Secretary should take to modernize and enhance biosurveillance activities pursuant to the efforts of the Department of Health and Humans Services to ensure comprehensive, real-time all-hazards biosurveillance capabilities. In complying with the preceding sentence, the National Biodefense Science Board shall—

''(A) identify the steps necessary to achieve a national biosurveillance system for human health, with international connectivity, where appropriate, that is predicated on State, regional, and community level capabilities and creates a networked system to allow for two-way information flow between and among Federal, State, and local government public health authorities and clinical health care providers;

''(B) identify any duplicative surveillance programs under the authority of the Secretary, or changes that are necessary to existing programs, in order to enhance and modernize such activities, minimize duplication, strengthen and streamline such activities under the authority of the Secretary, and achieve real-time and appropriate data that relate to disease activity, both human and zoonotic; and

''(C) coordinate with applicable existing advisory committees of the Director of the Centers for Disease Control and Prevention, including such advisory committees consisting of representatives from State, local, and tribal public health authorities and appropriate public and private sector health care entities and academic institutions, in order to provide guidance on public health surveillance activities.'';

(3) in subsection (e)(5), by striking ''4 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act'' and inserting ''3 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011'';

(4) in subsection (g), by striking ''such sums as may be necessary in each of fiscal years 2007 through 2011'' and inserting ''$160,121,000 for each of fiscal years 2012 through 2016''; and

(5) by adding at the end the following:

''(h) DEFINITION.—For purposes of this section the term 'biosurveillance' means the process of gathering near real-time, biological data that relates to disease activity and threats to human or zoonotic health, in order to achieve early warning and identification of such health threats, early detection and prompt ongoing tracking of health events, and overall situational awareness of disease activity.''.

TITLE III—ENHANCING MEDICAL COUNTERMEASURE REVIEW

SEC. 301. SPECIAL PROTOCOL ASSESSMENT.

Section 505(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(5)(B)) is amended by striking ''size of clinical trials intended'' and all that follows through ''. The sponsor or applicant'' and inserting the following: ''size—

''(i)(I) of clinical trials intended to form the primary basis of an effectiveness claim; or

''(II) in the case where human efficacy studies are not ethical or feasible, of animal and any associated clinical trials which, in combination, are intended to form the primary basis of an effectiveness claim; or

''(ii) with respect to an application for approval of a biological product under section

351(k) of the Public Health Service Act, of any necessary clinical study or studies. The sponsor or applicant''.

SEC. 302. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''sections 505, 510(k), and 515 of this Act'' and inserting ''any provision of this Act'';

(B) in paragraph (2)(A), by striking ''under a provision of law referred to in such paragraph'' and inserting ''under a provision of law in section 505, 510(k), or 515 of this Act or section 351 of the Public Health Service Act''; and

(C) in paragraph (3), by striking ''a provision of law referred to in such paragraph'' and inserting ''a provision of law referred to in paragraph (2)(A)'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''EMERGENCY'' and inserting ''EMERGENCY OR THREAT JUSTIFYING EMERGENCY AUTHORIZED USE'';

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''may declare an emergency'' and inserting ''may make a declaration that the circumstances exist'';

(ii) in subparagraph (A), by striking ''specified'';

(iii) in subparagraph (B)—

(I) by striking ''specified''; and

(II) by striking ''; or'' and inserting a semicolon;

(iv) by amending subparagraph (C) to read as follows:

''(C) a determination by the Secretary that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of United States citizens abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or''; and

(v) by adding at the end the following:

''(D) the identification of a material threat pursuant to section 319F–2 of the Public Health Service Act sufficient to affect national security or the health and security of United States citizens living abroad.'';

(C) in paragraph (2)(A)—

(i) by amending clause (ii) to read as follows:

''(ii) a change in the approval status of the product such that the circumstances described in subsection (a)(2) have ceased to exist.'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(D) in paragraph (4), by striking ''advance notice of termination, and renewal under this subsection.'' and inserting '', and advance notice of termination under this subsection. The Secretary shall make any renewal under this subsection available on the Internet Web site of the Food and Drug Administration.''; and

(E) by adding at the end the following:

''(5) EXPLANATION BY SECRETARY.—If an authorization under this section with respect to an unapproved product has been in effect for more than 1 year, the Secretary shall provide in writing to the sponsor of such product, an explanation of the scientific, regulatory, or other obstacles to approval, licensure, or clearance of such product, including specific actions to be taken by the Secretary and the sponsor to overcome such obstacles.'';

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''the Assistant Secretary for Preparedness and Response,'' after ''consultation with'';

(ii) by striking ''Health and'' and inserting ''Health, and''; and

(iii) by striking ''circumstances of the emergency involved'' and inserting ''applicable circumstances described in subsection (b)(1)'';

(B) in paragraph (1), by striking ''specified'' and inserting ''referred to''; and

(C) in paragraph (2)(B), by inserting '', taking into consideration the material threat posed by the agent or agents identified in a declaration under subsection (b)(1)(D), if applicable'' after ''risks of the product'';

(4) in subsection (d)(3), by inserting '', to the extent practicable given the circumstances of the emergency,'' after ''including'';

(5) in subsection (e)—

(A) in paragraph (1)(A), by striking ''circumstances of the emergency'' and inserting ''applicable circumstances described in subsection (b)(1)'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''manufacturer of the product'' and inserting ''person'';

(II) by striking ''circumstances of the emergency'' and inserting ''applicable circumstances described in subsection (b)(1)''; and

(III) by inserting at the end before the period ''or in paragraph (1)(B)'';

(ii) in subparagraph (B)(i), by inserting before the period at the end '', except as provided in section 564A with respect to authorized changes to the product expiration date''; and

(iii) by amending subparagraph (C) to read as follows:

''(C) In establishing conditions under this paragraph with respect to the distribution and administration of the product for the unapproved use, the Secretary shall not impose conditions that would restrict distribution or administration of the product when done solely for the approved use.''; and

(C) by amending paragraph (3) to read as follows:

''(3) GOOD MANUFACTURING PRACTICE; PRESCRIPTION.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the applicable circumstances described in subsection (b)(1)—

''(A) requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501 or 520(f)(1), and including relevant conditions prescribed with respect to the product by an order under section 520(f)(2);

''(B) requirements established under section 503(b); and

''(C) requirements established under section 520(e).'';

(6) in subsection (g)—

(A) in the subsection heading, by inserting ''REVIEW AND'' before ''REVOCATION'';

(B) in paragraph (1), by inserting after the period at the end the following: ''As part of such review, the Secretary shall regularly review the progress made with respect to the approval, licensure, or clearance of—

''(A) an unapproved product for which an authorization was issued under this section; or

''(B) an unapproved use of an approved product for which an authorization was issued under this section.''; and

(C) by amending paragraph (2) to read as follows:

''(2) REVISION AND REVOCATION.—The Secretary may revise or revoke an authorization under this section if—

''(A) the circumstances described under subsection (b)(1) no longer exist;

''(B) the criteria under subsection (c) for issuance of such authorization are no longer met; or

''(C) other circumstances make such revision or revocation appropriate to protect the public health or safety.'';

(7) in subsection (h)(1), by adding after the period at the end the following: ''The Secretary shall make any revisions to an authorization under this section available on the Internet Web site of the Food and Drug Administration.''; and

(8) by adding at the end of subsection (j) the following:

''(4) Nothing in this section shall be construed as authorizing a delay in the review or other consideration by the Food and Drug Administration of any application pending before the Administration for a countermeasure or product referred to in subsection (a).''.

(b) EMERGENCY USE OF MEDICAL PRODUCTS.—Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by inserting after section 564 the following:

''SEC. 564A. EMERGENCY USE OF MEDICAL PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PRODUCT.—The term 'eligible product' means a product that—

''(A) is approved or cleared under this chapter or licensed under section 351 of the Public Health Service Act;

''(B)(i) is intended for use to prevent, diagnose, or treat a disease or condition involving a biological, chemical, radiological, or nuclear agent or agents, including a product intended to be used to prevent or treat pandemic influenza; or

''(ii) is intended for use to prevent, diagnose, or treat a serious or life-threatening disease or condition caused by a product described in clause (i); and

''(C) is intended for use during the circumstances under which—

''(i) a determination described in subparagraph (A), (B), or (C) of section 564(b)(1) has been made by the Secretary of Homeland Security, the Secretary of Defense, or the Secretary, respectively; or

''(ii) the identification of a material threat described in subparagraph (D) of section 564(b)(1) has been made pursuant to section 319F–2 of the Public Health Service Act.

''(2) PRODUCT.—The term 'product' means a drug, device, or biological product.

''(b) EXTENSION OF EXPIRATION DATE.—

''(1) AUTHORITY TO EXTEND EXPIRATION DATE.—The Secretary may extend the expiration date of an eligible product in accordance with this subsection.

''(2) EXPIRATION DATE.—For purposes of this subsection, the term 'expiration date' means the date established through appropriate stability testing required by the regulations issued by the Secretary to ensure that the product meets applicable standards of identity, strength, quality, and purity at the time of use.

''(3) EFFECT OF EXTENSION.—Notwithstanding any other provision of this Act or the Public Health Service Act, if the expiration date of an eligible product is extended in accordance with this section, the introduction or delivery for introduction into interstate commerce of such product after the expiration date provided by the manufacturer and within the duration of such extension shall not be deemed to render the product—

''(A) an unapproved product; or

''(B) adulterated or misbranded under this Act.

''(4) DETERMINATIONS BY SECRETARY.—Before extending the expiration date of an eligible product under this subsection, the Secretary shall determine—

''(A) that extension of the expiration date will help protect public health;

''(B) that any extension of expiration is supported by scientific evaluation that is conducted or accepted by the Secretary;

''(C) what changes to the product labeling, if any, are required or permitted, including whether and how any additional labeling communicating the extension of the expiration date

may alter or obscure the labeling provided by the manufacturer; and

''(D) that any other conditions that the Secretary deems appropriate have been met.

''(5) SCOPE OF EXTENSION.—With respect to each extension of an expiration date granted under this subsection, the Secretary shall determine—

''(A) the batch, lot, or unit to which such extension shall apply;

''(B) the duration of such extension; and

''(C) any conditions to effectuate such extension that are necessary and appropriate to protect public health or safety.

''(c) CURRENT GOOD MANUFACTURING PRACTICE.—

''(1) IN GENERAL.—The Secretary may, when the circumstances of a domestic, military, or public health emergency or material threat described in subsection (a)(1)(C) so warrant, authorize, with respect to an eligible product, deviations from current good manufacturing practice requirements otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including requirements under section 501 or 520(f)(1) or applicable conditions prescribed with respect to the eligible product by an order under section 520(f)(2).

''(2) EFFECT.—Notwithstanding any other provision of this Act or the Public Health Service Act, an eligible product shall not be considered an unapproved product and shall not be deemed adulterated or misbranded under this Act because, with respect to such product, the Secretary has authorized deviations from current good manufacturing practices under paragraph (1).

''(d) EMERGENCY USE INSTRUCTIONS.—

''(1) IN GENERAL.—The Secretary, acting through an appropriate official within the Department of Health and Human Services, may create and issue emergency use instructions to inform health care providers or individuals to whom an eligible product is to be administered concerning such product's approved, licensed, or cleared conditions of use.

''(2) EFFECT.—Notwithstanding any other provisions of this Act or the Public Health Service Act, a product shall not be considered an unapproved product and shall not be deemed adulterated or misbranded under this Act because of the issuance of emergency use instructions under paragraph (1) with respect to such product or the introduction or delivery for introduction of such product into interstate commerce accompanied by such instructions—

''(A) during an emergency response to an actual emergency that is the basis for a determination described in subsection (a)(1)(C)(i); or

''(B) by a government entity (including a Federal, State, local, and tribal government entity), or a person acting on behalf of such a government entity, in preparation for an emergency response.''.

(c) RISK EVALUATION AND MITIGATION STRATEGIES.—Section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1), is amended—

(1) in subsection (f), by striking paragraph (7); and

(2) by adding at the end the following:

''(k) WAIVER IN PUBLIC HEALTH EMERGENCIES.—The Secretary may waive any requirement of this section with respect to a qualified countermeasure (as defined in section 319F–1(a)(2) of the Public Health Service Act) to which a requirement under this section has been applied, if the Secretary determines that such waiver is required to mitigate the effects of, or reduce the severity of, the circumstances under which—

''(1) a determination described in subparagraph (A), (B), or (C) of section 564(b)(1) has been made by the Secretary of Homeland Security, the Secretary of Defense, or the Secretary, respectively; or

''(2) the identification of a material threat described in subparagraph (D) of section 564(b)(1) has been made pursuant to section 319F–2 of the Public Health Service Act.''.

(d) PRODUCTS HELD FOR EMERGENCY USE.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended by inserting after section 564A, as added by subsection (b), the following:

''SEC. 564B. PRODUCTS HELD FOR EMERGENCY USE.

''It is not a violation of any section of this Act or of the Public Health Service Act for a government entity (including a Federal, State, local, and tribal government entity), or a person acting on behalf of such a government entity, to introduce into interstate commerce a product (as defined in section 564(a)(4)) intended for emergency use, if that product—

''(1) is intended to be held and not used; and

''(2) is held and not used, unless and until that product—

''(A) is approved, cleared, or licensed under section 505, 510(k), or 515 of this Act or section 351 of the Public Health Service Act;

''(B) is authorized for investigational use under section 505 or 520 of this Act or section 351 of the Public Health Service Act; or

''(C) is authorized for use under section 564.''.

SEC. 303. DEFINITIONS.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4) is amended by striking ''The Secretary, in consultation'' and inserting the following:

''(a) DEFINITIONS.—In this section—

''(1) the term 'countermeasure' means a qualified countermeasure, a security countermeasure, and a qualified pandemic or epidemic product;

''(2) the term 'qualified countermeasure' has the meaning given such term in section 319F–1 of the Public Health Service Act;

''(3) the term 'security countermeasure' has the meaning given such term in section 319F–2 of such Act; and

''(4) the term 'qualified pandemic or epidemic product' means a product that meets the definition given such term in section 319F–3 of the Public Health Service Act and—

''(A) that has been identified by the Department of Health and Human Services or the Department of Defense as receiving funding directly related to addressing chemical, biological, radiological or nuclear threats, including pandemic influenza; or

''(B) is included under this paragraph pursuant to a determination by the Secretary.

''(b) GENERAL DUTIES.—The Secretary, in consultation''.

SEC. 304. ENHANCING MEDICAL COUNTERMEASURE ACTIVITIES.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 303, is further amended—

(1) in the section heading, by striking ''**technical assistance**'' and inserting ''countermeasure development, review, and technical assistance'';

(2) in subsection (b), by striking the subsection heading and all that follows through ''shall establish'' and inserting the following:

''(b) GENERAL DUTIES.—In order to accelerate the development, stockpiling, approval, licensure, and clearance of qualified countermeasures, security countermeasures, and qualified pandemic or epidemic products, the Secretary, in consultation with the Assistant Secretary for Preparedness and Response, shall—

''(1) ensure the appropriate involvement of Food and Drug Administration personnel in interagency activities related to countermeasure advanced research and development, consistent with sections 319F, 319F–1, 319F–2, 319F–3, and 319L of the Public Health Service Act;

''(2) ensure the appropriate involvement and consultation of Food and Drug Administration personnel in any flexible manufacturing activities carried out under section 319L of the Public Health Service Act, including with respect to meeting regulatory requirements set forth in this Act;

''(3) promote countermeasure expertise within the Food and Drug Administration by—

''(A) ensuring that Food and Drug Administration personnel involved in reviewing countermeasures for approval, licensure, or clearance are informed by the Assistant Secretary for Preparedness and Response on the material threat assessment conducted under section 319F–2 of the Public Health Service Act for the agent or agents for which the countermeasure under review is intended;

''(B) training Food and Drug Administration personnel regarding review of countermeasures for approval, licensure, or clearance;

''(C) holding public meetings at least twice annually to encourage the exchange of scientific ideas; and

''(D) establishing protocols to ensure that countermeasure reviewers have sufficient training or experience with countermeasures;

''(4) maintain teams, composed of Food and Drug Administration personnel with expertise on countermeasures, including specific countermeasures, populations with special clinical needs (including children and pregnant women that may use countermeasures, as applicable and appropriate), classes or groups of countermeasures, or other countermeasure-related technologies and capabilities, that shall—

''(A) consult with countermeasure experts, including countermeasure sponsors and applicants, to identify and help resolve scientific issues related to the approval, licensure, or clearance of countermeasures, through workshops or public meetings;

''(B) improve and advance the science relating to the development of new tools, standards, and approaches to assessing and evaluating countermeasures—

''(i) in order to inform the process for countermeasure approval, clearance, and licensure; and

''(ii) with respect to the development of countermeasures for populations with special clinical needs, including children and pregnant women, in order to meet the needs of such populations, as necessary and appropriate; and

''(5) establish''; and

(3) by adding at the end the following:

''(c) DEVELOPMENT AND ANIMAL MODELING PROCEDURES.—

''(1) AVAILABILITY OF ANIMAL MODEL MEETINGS.—To facilitate the timely development of animal models and support the development, stockpiling, licensure, approval, and clearance of countermeasures, the Secretary shall, not later than 180 days after the enactment of this subsection, establish a procedure by which a sponsor or applicant that is developing a countermeasure for which human efficacy studies are not ethical or practicable, and that has an approved investigational new drug application or investigational device exemption, may request and receive—

''(A) a meeting to discuss proposed animal model development activities; and

''(B) a meeting prior to initiating pivotal animal studies.

''(2) PEDIATRIC MODELS.—To facilitate the development and selection of animal models that could translate to pediatric studies, any meeting conducted under paragraph (1) shall include discussion of animal models for pediatric populations, as appropriate.

''(d) REVIEW AND APPROVAL OF COUNTERMEASURES.—

''(1) MATERIAL THREAT.—When evaluating an application or submission for approval, licensure, or clearance of a countermeasure, the Secretary shall take into account the material threat posed by the chemical, biological, radiological, or nuclear agent or agents identified under section 319F–2 of the Public Health Service Act for which the countermeasure under review is intended.

''(2) REVIEW EXPERTISE.—When practicable and appropriate, teams of Food and Drug Administration personnel reviewing applications or submissions described under paragraph (1) shall

include a reviewer with sufficient training or experience with countermeasures pursuant to the protocols established under subsection (b)(3)(D).''.

SEC. 305. REGULATORY MANAGEMENT PLANS.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 304, is further amended by adding at the end the following:

''(e) REGULATORY MANAGEMENT PLAN.—

''(1) DEFINITION.—In this subsection, the term 'eligible countermeasure' means—

''(A) a security countermeasure with respect to which the Secretary has entered into a procurement contract under section 319F-2(c) of the Public Health Service Act; or

''(B) a countermeasure with respect to which the Biomedical Advanced Research and Development Authority has provided funding under section 319L of the Public Health Service Act for advanced research and development.

''(2) REGULATORY MANAGEMENT PLAN PROCESS.—The Secretary, in consultation with the Assistant Secretary for Preparedness and Response and the Director of the Biomedical Advanced Research and Development Authority, shall establish a formal process for obtaining scientific feedback and interactions regarding the development and regulatory review of eligible countermeasures by facilitating the development of written regulatory management plans in accordance with this subsection.

''(3) SUBMISSION OF REQUEST AND PROPOSED PLAN BY SPONSOR OR APPLICANT.—

''(A) IN GENERAL.—A sponsor or applicant of an eligible countermeasure may initiate the process described under paragraph (2) upon submission of written request to the Secretary. Such request shall include a proposed regulatory management plan.

''(B) TIMING OF SUBMISSION.—A sponsor or applicant may submit a written request under subparagraph (A) after the eligible countermeasure has an investigational new drug or investigational device exemption in effect.

''(C) RESPONSE BY SECRETARY.—The Secretary shall direct the Food and Drug Administration, upon submission of a written request by a sponsor or applicant under subparagraph (A), to work with the sponsor or applicant to agree on a regulatory management plan within a reasonable time not to exceed 90 days. If the Secretary determines that no plan can be agreed upon, the Secretary shall provide to the sponsor or applicant, in writing, the scientific or regulatory rationale why such agreement cannot be reached.

''(4) PLAN.—The content of a regulatory management plan agreed to by the Secretary and a sponsor or applicant shall include—

''(A) an agreement between the Secretary and the sponsor or applicant regarding developmental milestones that will trigger responses by the Secretary as described in subparagraph (B);

''(B) performance targets and goals for timely and appropriate responses by the Secretary to the triggers described under subparagraph (A), including meetings between the Secretary and the sponsor or applicant, written feedback, decisions by the Secretary, and other activities carried out as part of the development and review process; and

''(C) an agreement on how the plan shall be modified, if needed.

''(5) MILESTONES AND PERFORMANCE TARGETS.—The developmental milestones described in paragraph (4)(A) and the performance targets and goals described in paragraph (4)(B) shall include—

''(A) feedback from the Secretary regarding the data required to support the approval, clearance, or licensure of the eligible countermeasure involved;

''(B) feedback from the Secretary regarding the data necessary to inform any authorization under section 564;

''(C) feedback from the Secretary regarding the data necessary to support the positioning and delivery of the eligible countermeasure, including to the Strategic National Stockpile;

''(D) feedback from the Secretary regarding the data necessary to support the submission of protocols for review under section 505(b)(5)(B);

''(E) feedback from the Secretary regarding any gaps in scientific knowledge that will need resolution prior to approval, licensure, or clearance of the eligible countermeasure, and plans for conducting the necessary scientific research;

''(F) identification of the population for which the countermeasure sponsor or applicant seeks approval, licensure, or clearance, and the population for which desired labeling would not be appropriate, if known; and

''(G) as necessary and appropriate, and to the extent practicable, a plan for demonstrating safety and effectiveness in pediatric populations, and for developing pediatric dosing, formulation, and administration with respect to the eligible countermeasure, provided that such plan would not delay authorization under section 564, approval, licensure, or clearance for adults.

''(6) PRIORITIZATION.—If the Commissioner of Food and Drugs determines that resources are not available to establish regulatory management plans under this section for all eligible countermeasures for which a request is submitted under paragraph (3)(A), the Director of the Biomedical Advanced Research and Development Authority, in consultation with the Commissioner of Food and Drugs, shall prioritize which eligible countermeasures may receive regulatory managements plans, and in doing so shall give priority to eligible countermeasures that are security countermeasures.''.

SEC. 306. REPORT.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 305, is further amended by adding at the end the following:

''(f) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that details the countermeasure development and review activities of the Food and Drug Administration, including—

''(1) with respect to the development of new tools, standards, and approaches to assess and evaluate countermeasures—

''(A) the identification of the priorities of the Food and Drug Administration and the progress made on such priorities; and

''(B) the identification of scientific gaps that impede the development or approval, licensure, or clearance of countermeasures for populations with special clinical needs, including children and pregnant women, and the progress made on resolving these challenges;

''(2) with respect to countermeasures for which a regulatory management plan has been agreed upon under subsection (e), the extent to which the performance targets and goals set forth in subsection (e)(4)(B) and the regulatory management plan has been met, including, for each such countermeasure—

''(A) whether the regulatory management plan was completed within the required timeframe, and the length of time taken to complete such plan;

''(B) whether the Secretary adhered to the timely and appropriate response times set forth in such plan; and

''(C) explanations for any failure to meet such performance targets and goals;

''(3) the number of regulatory teams established pursuant to subsection (b)(4), the number of products, classes of products, or technologies assigned to each such team, and the number of, type of, and any progress made as a result of consultations carried out under subsection (b)(4)(A);

''(4) an estimate of resources obligated to countermeasure development and regulatory assessment, including Center specific objectives and accomplishments;

''(5) the number of countermeasure applications submitted, the number of countermeasures approved, licensed, or cleared, the status of remaining submitted applications, and the number of each type of authorization issued pursuant to section 564; and

''(6) the number of written requests for a regulatory management plan submitted under subsection (e)(3)(A), the number of regulatory management plans developed, and the number of such plans developed for security countermeasures.''.

SEC. 307. PEDIATRIC MEDICAL COUNTERMEASURES.

(a) PEDIATRIC STUDIES OF DRUGS.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsection (d), by adding at the end the following:

''(5) CONSULTATION.—With respect to a drug that is a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act), a security countermeasure (as defined in section 319F–2 of the Public Health Service Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of the Public Health Service Act), the Secretary shall solicit input from the Assistant Secretary for Preparedness and Response regarding the need for and, from the Director of the Biomedical Advanced Research and Development Authority regarding the conduct of, pediatric studies under this section.''; and

(2) in subsection (n)(1), by adding at the end the following:

''(C) For a drug that is a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act), a security countermeasure (as defined in section 319F–2 of the Public Health Service Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of such Act), in addition to any action with respect to such drug under subparagraph (A) or (B), the Secretary shall notify the Assistant Secretary for Preparedness and Response and the Director of the Biomedical Advanced Research and Development Authority of all pediatric studies in the written request issued by the Commissioner of Food and Drugs.''.

(b) ADDITION TO PRIORITY LIST CONSIDERATIONS.—Section 409I of the Public Health Service Act (42 U.S.C. 284m) is amended—

(1) by striking subsection (a)(2) and inserting the following:

''(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary—

''(A) shall consider—

''(i) therapeutic gaps in pediatrics that may include developmental pharmacology, pharmacogenetic determinants of drug response, metabolism of drugs and biologics in children, and pediatric clinical trials;

''(ii) particular pediatric diseases, disorders or conditions where more complete knowledge and testing of therapeutics, including drugs and biologics, may be beneficial in pediatric populations; and

''(iii) the adequacy of necessary infrastructure to conduct pediatric pharmacological research, including research networks and trained pediatric investigators; and

''(B) may consider the availability of qualified countermeasures (as defined in section 319F–1), security countermeasures (as defined in section 319F–2), and qualified pandemic or epidemic products (as defined in section 319F–3) to address the needs of pediatric populations, in consultation with the Assistant Secretary for Preparedness and Response, consistent with the purposes of this section.''; and

(2) in subsection (b), by striking ''subsection (a)'' and inserting ''paragraphs (1) and (2)(A) of subsection (a)''.

(c) ADVICE AND RECOMMENDATIONS OF THE PEDIATRIC ADVISORY COMMITTEE REGARDING COUNTERMEASURES FOR PEDIATRIC POPULATIONS.—Subsection (b)(2) of section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subparagraph (C), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(D) the development of countermeasures (as defined in section 565(a) of the Federal Food, Drug, and Cosmetic Act) for pediatric populations.''.

TITLE IV—ACCELERATING MEDICAL COUNTERMEASURE ADVANCED RESEARCH AND DEVELOPMENT

SEC. 401. BIOSHIELD.

(a) REAUTHORIZATION OF THE SPECIAL RESERVE FUND.—Section 319F–2(c) of the Public Health Service Act (42 U.S.C. 247d-6b(c)) is amended by adding at the end the following:

''(11) REAUTHORIZATION OF THE SPECIAL RESERVE FUND.—In addition to amounts otherwise appropriated, there are authorized to be appropriated for the special reserve fund, $2,800,000,000 for the fiscal years 2014 through 2018.

''(12) REPORT.—Not later than 30 days after any date on which the Secretary determines that the amount of funds in the special reserve fund available for procurement is less than $1,500,000,000, the Secretary shall submit to the appropriate committees of Congress a report detailing the amount of such funds available for procurement and the impact such reduction in funding will have—

''(A) in meeting the security countermeasure needs identified under this section; and

''(B) on the biennial Public Health Emergency Medical Countermeasures Enterprise and Strategy Implementation Plan (pursuant to section 2811(d)).''.

(b) PROCUREMENT OF COUNTERMEASURES.—Section 319F–2(c) of the Public Health Service Act (42 U.S.C. 247d–6b(c)) is amended—

(1) in paragraph (1)(B)(i)(III)(bb), by striking ''eight years'' and inserting ''10 years'';

(2) in paragraph (5)(B)(ii), by striking ''eight years'' and inserting ''10 years'';

(3) in paragraph (7)(C)—

(A) in clause (i)(I), by inserting ''including advanced research and development,'' after ''as may reasonably be required,'';

(B) in clause (ii)—

(i) in subclause (III), by striking ''eight years'' and inserting ''10 years''; and

(ii) by striking subclause (IX) and inserting the following:

''(IX) CONTRACT TERMS.—The Secretary, in any contract for procurement under this section—

''(aa) may specify—

''(AA) the dosing and administration requirements for the countermeasure to be developed and procured;

''(BB) the amount of funding that will be dedicated by the Secretary for advanced research, development, and procurement of the countermeasure; and

''(CC) the specifications the countermeasure must meet to qualify for procurement under a contract under this section; and

''(bb) shall provide a clear statement of defined Government purpose limited to uses related to a security countermeasure, as defined in paragraph (1)(B).''; and

(C) by adding at the end the following:

''(viii) FLEXIBILITY.—In carrying out this section, the Secretary may, consistent with the applicable provisions of this section, enter into contracts and other agreements that are in the best interest of the Government in meeting identified security countermeasure needs, including with respect to reimbursement of the cost of advanced research and development as a reasonable, allowable, and allocable direct cost of the contract involved.'';

(4) in paragraph (9)(B), by inserting before the period the following: '', except that this subparagraph shall not be construed to prohibit the use of such amounts as otherwise authorized in this title''; and

(5) in paragraph (10), by adding at the end the following:

''(C) ADVANCED RESEARCH AND DEVELOPMENT.—For purposes of this paragraph, the term 'advanced research and development' shall have the meaning given such term in section 319L(a).''.

SEC. 402. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.

(a) DUTIES.—Section 319L(c)(4) of the Public Health Service Act (42 U.S.C. 247d–7e(c)(4)) is amended—

(1) in subparagraph (B)(iii), by inserting ''(which may include advanced research and development for purposes of fulfilling requirements under the Federal Food, Drug, and Cosmetic Act or section 351 of this Act)'' after ''development''; and

(2) in subparagraph (D)(iii), by striking ''and vaccine manufacturing technologies'' and inserting ''vaccine manufacturing technologies, dose sparing technologies, efficacy increasing technologies, and platform technologies''.

(b) STRATEGIC PUBLIC-PRIVATE PARTNERSHIP.—Section 319L(c)(4) of the Public Health Service Act (42 U.S.C. 247d-7e(c)(4)) is amended by adding at the end the following:

''(E) STRATEGIC INVESTOR.—

''(i) IN GENERAL.—To support the purposes described in paragraph (2), the Secretary, acting through the Director of BARDA, may enter into an agreement (including through the use of grants, contracts, cooperative agreements, or other transactions as described in paragraph (5)) with an independent, non-profit entity to—

''(I) foster and accelerate the development and innovation of medical countermeasures and technologies that may assist advanced research and development of qualified countermeasures and qualified pandemic or epidemic products, including strategic investment through the use of venture capital practices and methods;

''(II) promote the development of new and promising technologies that address urgent medical countermeasure needs, as identified by the Secretary;

''(III) address unmet public health needs that are directly related to medical countermeasure requirements, such as novel antimicrobials for multidrug resistant organisms and multiuse platform technologies for diagnostics, prophylaxis, vaccines, and therapeutics; and

''(IV) provide expert consultation and advice to foster viable medical countermeasure innovators, including helping qualified countermeasure innovators navigate unique industry challenges with respect to developing chemical, biological, radiological, and nuclear countermeasure products.

''(ii) ELIGIBILITY.—

''(I) IN GENERAL.—To be eligible to enter into an agreement under clause (i) an entity shall—

''(aa) be an independent, non-profit entity not otherwise affiliated with the Department of Health and Human Services;

''(bb) have a demonstrated record of being able to create linkages between innovators and investors and leverage such partnerships and resources for the purpose of addressing identified strategic needs of the Federal Government;

''(cc) have experience in promoting novel technology innovation;

''(dd) be problem driven and solution focused based on the needs, requirements, and problems identified by the Secretary under clause (iv);

''(ee) demonstrate the ability, or the potential ability, to promote the development of medical countermeasure products; and

''(ff) demonstrate expertise, or the capacity to develop or acquire expertise, related to technical and regulatory considerations with respect to medical countermeasures.

''(II) PARTNERING EXPERIENCE.—In selecting an entity with which to enter into an agreement under clause (i), the Secretary shall place a high value on the demonstrated experience of the entity in partnering with the Federal Government to meet identified strategic needs.

''(iii) NOT AGENCY.—An entity that enters into an agreement under clause (i) shall not be deemed to be a Federal agency for any purpose, including for any purpose under title 5, United States Code.

''(iv) DIRECTION.—Pursuant to an agreement entered into under this subparagraph, the Secretary, acting through the Director of BARDA, shall provide direction to the entity that enters into an agreement under clause (i). As part of this agreement the Director of BARDA shall—

''(I) communicate the medical countermeasure needs, requirements, and problems to be addressed by the entity under the agreement;

''(II) develop a description of work to be performed by the entity under the agreement;

''(III) provide technical feedback and appropriate oversight over work carried out by the entity under the agreement, including subsequent development and partnerships consistent with the needs and requirements set forth in this subparagraph;

''(IV) ensure fair consideration of products developed under the agreement in order to maintain competition to the maximum practical extent, as applicable and appropriate under applicable provisions of this section; and

''(V) ensure, as a condition of the agreement—

''(aa) a comprehensive set of policies that demonstrate a commitment to transparency and accountability;

''(bb) protection against conflicts of interest through a comprehensive set of policies that address potential conflicts of interest, ethics, disclosure, and reporting requirements;

''(cc) that the entity provides monthly accounting on the use of funds provided under such agreement; and

''(dd) that the entity provides on a quarterly basis, reports regarding the progress made toward meeting the identified needs set forth in the agreement.

''(v) SUPPLEMENT NOT SUPPLANT.—Activities carried out under this subparagraph shall supplement, and not supplant, other activities carried out under this section.

''(vi) NO ESTABLISHMENT OF ENTITY.—To prevent unnecessary duplication and target resources effectively, nothing in this subparagraph shall be construed to authorize the Secretary to establish within the Department of Health and Human Services a strategic investor entity.

''(vii) TRANSPARENCY AND OVERSIGHT.—Upon request, the Secretary shall provide to Congress the information provided to the Secretary under clause (iv)(V)(dd).

''(viii) INDEPENDENT EVALUATION.—Not later than 4 years after the date of enactment of this subparagraph, the Government Accountability Office shall conduct an independent evaluation, and submit to the Secretary and the appropriate committees of Congress a report, concerning the activities conducted under this subparagraph. Such report shall include recommendations with respect to any agreement or activities carried out pursuant to this subparagraph.

''(ix) SUNSET.—This subparagraph shall have no force or effect after September 30, 2016.''.

(c) TRANSACTION AUTHORITIES.—Section 319L(c)(5) of the Public Health Service Act (42 U.S.C. 247d–7e(c)(5)) is amended by adding at the end the following:

''(G) GOVERNMENT PURPOSE.—In awarding contracts, grants, and cooperative agreements under this section, the Secretary shall provide a clear statement of defined Government purpose related to activities included in subsection (a)(6)(B) for a qualified countermeasure or qualified pandemic or epidemic product.''.

(d) FUND.—Paragraph (2) of section 319L(d) of the Public Health Service Act (42 U.S.C. 247d–7e(d)(2)) is amended to read as follows:

''(2) FUNDING.—To carry out the purposes of this section, there is authorized to be appropriated to the Fund $415,000,000 for each of fiscal years 2012 through 2016, such amounts to remain available until expended.''.

(e) CONTINUED INAPPLICABILITY OF CERTAIN PROVISIONS.—Section 319L(e)(1)(C) of the Public Health Service Act (42 U.S.C. 247d–7e(e)(1)(C)) is amended by striking ''7 years'' and inserting ''10 years''.

(f) EXTENSION OF LIMITED ANTITRUST EXEMPTION.—Section 405(b) of the Pandemic and All-Hazards Preparedness Act (42 U.S.C. 247d–6a note) is amended by striking ''6-year'' and inserting ''10-year''.

(g) INDEPENDENT EVALUATION.—Section 319L of the Public Health Service Act (42 U.S.C. 247d–7e) is amended by adding at the end the following:

''(f) INDEPENDENT EVALUATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Government Accountability Office shall conduct an independent evaluation of the activities carried out to facilitate flexible manufacturing capacity pursuant to this section.

''(2) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Government Accountability Office shall submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under paragraph (1). Such report shall review and assess—

''(A) the extent to which flexible manufacturing capacity under this section is dedicated to chemical, biological, radiological, and nuclear threats;

''(B) the activities supported by flexible manufacturing initiatives; and

''(C) the ability of flexible manufacturing activities carried out under this section to—

''(i) secure and leverage leading technical expertise with respect to countermeasure advanced research, development, and manufacturing processes; and

''(ii) meet the surge manufacturing capacity needs presented by novel and emerging threats, including chemical, biological, radiological and nuclear agents.''.

(h) DEFINITIONS.—

(1) QUALIFIED COUNTERMEASURE.—Section 319F–1(a)(2)(A) of the Public Health Service Act (42 U.S.C. 247d–6a(a)(2)(A)) is amended—

(A) in the matter preceding clause (i), by striking ''to—'' and inserting ''—'';

(B) in clause (i)—

(i) by striking ''diagnose'' and inserting ''to diagnose''; and

(ii) by striking ''; or'' and inserting a semicolon;

(C) in clause (ii)—

(i) by striking ''diagnose'' and inserting ''to diagnose''; and

(ii) by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(iii) is a product or technology intended to enhance the use or effect of a drug, biological product, or device described in clause (i) or (ii).''.

(2) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—Section 319F–3(i)(7)(A) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(7)(A)) is amended—

(A) in clause (i)(II), by striking ''; or'' and inserting '';'';

(B) in clause (ii), by striking ''; and'' and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) a product or technology intended to enhance the use or effect of a drug, biological product, or device described in clause (i) or (ii); and''.

(3) TECHNICAL AMENDMENTS.—Section 319F–3(i) of the Public Health Service Act (42 U.S.C. 247d–6d(i)) is amended—

(A) in paragraph (1)(C), by inserting '', 564A, or 564B'' after ''564''; and

(B) in paragraph (7)(B)(iii), by inserting '', 564A, or 564B'' after ''564''.

SEC. 403. STRATEGIC NATIONAL STOCKPILE.

(a) IN GENERAL.—Section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''consistent with section 2811'' before ''by the Secretary to be appropriate''; and

(ii) by inserting before the period at the end the following: ''and shall submit such review annually to the appropriate Congressional committees of jurisdiction to the extent that disclosure of such information does not compromise national security''; and

(B) in paragraph (2)—

(i) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(ii) by inserting after subparagraph (D), the following:

''(E) identify and address the potential depletion and ensure appropriate replenishment of medical countermeasures, including those currently in the stockpile;''; and

(2) in subsection (f)(1), by striking ''$640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006'' and inserting ''$522,486,000 for each of fiscal years 2012 through 2016''.

(b) REPORT ON POTASSIUM IODIDE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate Committees of Congress a report regarding the stockpiling of potassium iodide. Such report shall include—

(1) an assessment of the availability of potassium iodide at Federal, State, and local levels; and

(2) a description of the extent to which such activities and policies provide public health protection in the event of a nuclear incident, whether unintentional or deliberate, including an act of terrorism.

SEC. 404. NATIONAL BIODEFENSE SCIENCE BOARD.

Section 319M(a) of the Public Health Service Act (42 U.S.C. 247d–f(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (D)—

(i) in the matter preceding clause (i), by striking ''five'' and inserting ''six'';

(ii) in clause (i), by striking ''and'' at the end;

(iii) in clause (ii), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(iii) one such member shall be an individual with pediatric subject matter expertise; and

''(iv) one such member shall be a State, tribal, territorial, or local public health official.''; and

(B) by adding at the end the following flush sentence:

''Nothing in this paragraph shall preclude a member of the Board from satisfying two or more of the requirements described in subparagraph (D).'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) provide any recommendation, finding, or report provided to the Secretary under this paragraph to the appropriate committees of Congress.''; and

(3) in paragraph (8), by adding at the end the following: ''Such chairperson shall serve as the deciding vote in the event that a deciding vote is necessary with respect to voting by members of the Board.''.

Mr. REID. Mr. President, I ask unanimous consent that the Harkin amendment, which is at desk, be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read the third time and passed, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The amendment (No. 1823) was agreed to, as follows:

(Purpose: To make certain technical corrections)

On page 80, line 18, insert ''medical and public health'' before ''needs of children''.

On page 80, lines 19 and 20, strike '', including public health emergencies''.

On page 82, between lines 5 and 6, insert the following:

''(G) the Administrator of the Federal Emergency Management Agency;''.

On page 82, line 6, strike ''(G) at least two'' and insert ''(H) at least two non-Federal''.

On page 82, line 9, strike ''(H)'' and insert ''(I)''.

On page 82, line 13, strike ''(I)'' and insert ''(J)''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 1855), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1855

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 ''Pandemic and All-Hazards Preparedness Act Reauthorization of 2011''.

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

(a) IN GENERAL.—Section 2802 of the Public Health Service Act (42 U.S.C. 300hh–1) is amended—

(1) in subsection (a)(1), by striking ''2009'' and inserting ''2014''; and

(2) in subsection (b)—

(A) in paragraph (3)—

(i) in the matter preceding subparagraph (A)—

(I) by striking ''facilities), and trauma care'' and inserting ''facilities and which may include dental health facilities), and trauma care, critical care,''; and

(II) by inserting ''(including related availability, accessibility, and coordination)'' after ''public health emergencies'';

(ii) in subparagraph (A), by inserting ''and trauma'' after ''medical'';

(iii) in subparagraph (D), by inserting ''(which may include such dental health assets)'' after ''medical assets'';

(iv) by adding at the end the following:

''(F) Optimizing a coordinated and flexible approach to the medical surge capacity of hospitals, other healthcare facilities, and trauma care (which may include trauma centers) and emergency medical systems.'';

(B) in paragraph (4)—

(i) in subparagraph (A), by inserting '', including the unique needs and considerations of individuals with disabilities,'' after ''medical needs of at-risk individuals''; and

(ii) in subparagraph (B), by inserting ''the'' before ''purpose of this section''; and

(C) by adding at the end the following:

''(7) COUNTERMEASURES.—

''(A) Promoting strategic initiatives to advance countermeasures to diagnose, mitigate, prevent, or treat harm from any biological agent or toxin, chemical, radiological, or nuclear agent or agents, whether naturally occurring, unintentional, or deliberate.

''(B) For purposes of this paragraph the term 'countermeasures' has the same meaning as the terms 'qualified countermeasures' under section 319F–1, 'qualified pandemic and epidemic products' under section 319F–3, and 'security countermeasures' under section 319F–2.

''(8) MEDICAL AND PUBLIC HEALTH COMMUNITY RESILIENCY.—Strengthening the ability of States, local communities, and tribal communities to prepare for, respond to, and be resilient in the event of public health emergencies, whether naturally occurring, unintentional, or deliberate by—

''(A) optimizing alignment and integration of medical and public health preparedness and response planning and capabilities with and into routine daily activities; and

''(B) promoting familiarity with local medical and public health systems.''.

(b) AT-RISK INDIVIDUALS.—Section 2814 of the Public Health Service Act (42 U.S.C. 300hh–16) is amended—

(1) by striking paragraphs (5), (7), and (8);

(2) by redesignating paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(3) by inserting before paragraph (2) (as so redesignated), the following:

''(1) monitor emerging issues and concerns as they relate to medical and public health preparedness and response for at-risk individuals in the event of a public health emergency declared by the Secretary under section 319;'';

(4) in paragraph (2) (as so redesignated), by striking ''National Preparedness goal'' and inserting ''preparedness goals, as described in section 2802(b),''; and

(5) by inserting after paragraph (6), the following:

''(7) disseminate and, as appropriate, update novel and best practices of outreach to and care of at-risk individuals before, during, and following public health emergencies in as timely a manner as is practicable, including from the time a public health threat is identified; and

''(8) ensure that public health and medical information distributed by the Department of Health and Human Services during a public health emergency is delivered in a manner that takes into account the range of communication needs of the intended recipients, including at-risk individuals.''.

SEC. 102. ASSISTANT SECRETARY FOR PREPAREDNESS AND RESPONSE.

Section 2811 of the Public Health Service Act (42 U.S.C. 300hh–10) is amended—

(1) in subsection (b)(4), by adding at the end the following:

''(D) POLICY COORDINATION AND STRATEGIC DIRECTION.—Provide integrated policy coordination and strategic direction with respect to all matters related to Federal public health and medical preparedness and execution and deployment of the Federal response for public health emergencies and incidents covered by the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002, or any successor plan, before, during, and following public health emergencies.'';

(2) by striking subsection (c) and inserting the following:

''(c) FUNCTIONS.—The Assistant Secretary for Preparedness and Response shall—

''(1) have authority over and responsibility for—

''(A) the National Disaster Medical System (in accordance with section 301 of the Pandemic and All-Hazards Preparedness Act);

''(B) the Hospital Preparedness Cooperative Agreement Program pursuant to section 319C–2;

''(C) the Medical Reserve Corps pursuant to section 2813;

''(D) the Emergency System for Advance Registration of Volunteer Health Professionals pursuant to section 319I; and

''(E) administering grants and related authorities related to trauma care under parts A through C of title XII, such authority to be transferred by the Secretary from the Administrator of the Health Resources and Services Administration to such Assistant Secretary;

''(2) exercise the responsibilities and authorities of the Secretary with respect to the coordination of—

''(A) the Public Health Emergency Preparedness Cooperative Agreement Program pursuant to section 319C–1;

''(B) the Strategic National Stockpile; and

''(C) the Cities Readiness Initiative;

''(3) align and coordinate medical and public health grants and cooperative agreements as applicable to preparedness and response activities authorized under this Act, to the extent possible, including program requirements, timelines, and measurable goals, and in coordination with the Secretary of Homeland Security, to—

''(A) optimize and streamline medical and public health preparedness capabilities and the ability of local communities to respond to public health emergencies;

''(B) minimize duplication of efforts with regard to medical and public health preparedness and response programs; and

''(C) gather and disseminate best practices among grant and cooperative agreement recipients, as appropriate;

''(4) carry out drills and operational exercises, in coordination with the Department of Homeland Security, the Department of Defense, the Department of Veterans Affairs, and other applicable Federal departments and agencies, as necessary and appropriate, to identify, inform, and address gaps in and policies related to all-hazards medical and public health preparedness, including exercises based on—

''(A) identified threats for which countermeasures are available and for which no countermeasures are available; and

''(B) unknown threats for which no countermeasures are available; and

''(5) assume other duties as determined appropriate by the Secretary.''; and

(3) by adding at the end the following:

''(d) NATIONAL SECURITY PRIORITY.—The Secretary, acting through the Assistant Secretary for Preparedness and Response, shall on a periodic basis conduct meetings, as applicable and appropriate, with the Assistant to the President for National Security Affairs to provide an update on, and discuss, medical and public health preparedness and response activities pursuant to this Act and the Federal Food, Drug, and Cosmetic Act, including progress on the development, approval, clearance, and licensure of medical countermeasures.

''(e) PUBLIC HEALTH EMERGENCY MEDICAL COUNTERMEASURES ENTERPRISE STRATEGY AND IMPLEMENTATION PLAN.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, and every other year thereafter, the Secretary, acting through the Assistant Secretary for Preparedness and Response and in consultation with the Director of the Biomedical Advanced Research and Development Authority, the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration, shall develop and submit to the appropriate committees of Congress a coordinated strategy and accompanying implementation plan for medical countermeasures to address chemical, biological, radiological, and nuclear threats. Such strategy and plan shall be known as the 'Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan'.

''(2) REQUIREMENTS.—The plan under paragraph (1) shall—

''(A) consider and reflect the full spectrum of medical countermeasure-related activities, including research, advanced research, development, procurement, stockpiling, deployment, and distribution;

''(B) identify and prioritize near-term, mid-term, and long-term priority qualified and security countermeasure (as defined in sections 319F–1 and 319F–2) needs and goals of the Federal Government according to chemical, biological, radiological, and nuclear threat or threats;

''(C) identify projected timelines, anticipated funding allocations, benchmarks, and milestones for each medical countermeasure priority under subparagraph (B), including projected needs with regard to replenishment of the Strategic National Stockpile;

''(D) be informed by the recommendations of the National Biodefense Science Board pursuant to section 319M;

''(E) report on advanced research and development awards and the date of the issuance of contract awards, including awards made through the special reserve fund (as defined in section 319F–2(c)(10));

''(F) identify progress made in meeting the goals, benchmarks, and milestones identified under subparagraph (C) in plans submitted subsequent to the initial plan;

''(G) identify the progress made in meeting the medical countermeasure priorities for at-risk individuals, (as defined in

2802(b)(4)(B)), as applicable under subparagraph (B), including with regard to the projected needs for related stockpiling and replenishment of the Strategic National Stockpile; and

''(H) be made publicly available.

''(3) GAO REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan under this subsection is issued by the Secretary, the Government Accountability Office shall conduct an independent evaluation and submit to the appropriate committees of Congress a report concerning such strategy and implementation plan.

''(B) CONTENT.—The report described in subparagraph (A) shall review and assess—

''(i) the near-term, mid-term, and long-term medical countermeasure needs and identified priorities of the Federal Government pursuant to subparagraphs (A) and (B) of paragraph (2);

''(ii) the activities of the Department of Health and Human Services with respect to advanced research and development pursuant to section 319L; and

''(iii) the progress made toward meeting the goals, benchmarks, and milestones identified in the Public Health Emergency Medical Countermeasures Enterprise Strategy and Implementation Plan under this subsection.

''(f) INTERNAL MULTIYEAR PLANNING PROCESS.—The Secretary shall develop, and update on an annual basis, a coordinated 5-year budget plan based on the medical countermeasure priorities and goals described in subsection (e). Each such plan shall—

''(1) include consideration of the entire medical countermeasures enterprise, including—

''(A) basic research, advanced research and development;

''(B) approval, clearance, licensure, and authorized uses of products; and

''(C) procurement, stockpiling, maintenance, and replenishment of all products in the Strategic National Stockpile;

''(2) include measurable outputs and outcomes to allow for the tracking of the progress made toward identified goals;

''(3) identify medical countermeasure lifecycle costs to inform planning, budgeting, and anticipated needs within the continuum of the medical countermeasure enterprise consistent with section 319F–2; and

''(4) be made available to the appropriate committees of Congress upon request.

''(g) INTERAGENCY COORDINATION PLAN.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in coordination with the Secretary of Defense, shall submit to the appropriate committees of Congress a report concerning the manner in which the Department of Health and Human Services is coordinating with the Department of Defense regarding countermeasure activities to address chemical, biological, radiological, and nuclear threats. Such report shall include information with respect to—

''(1) the research, advanced research, development, procurement, stockpiling, and distribution of countermeasures to meet identified needs; and

''(2) the coordination of efforts between the Department of Health and Human Services and the Department of Defense to address countermeasure needs for various segments of the population.

''(h) PROTECTION OF NATIONAL SECURITY.—In carrying out subsections (e), (f), and (g), the Secretary shall ensure that information and items that could compromise national security are not disclosed.''.

SEC. 103. NATIONAL ADVISORY COMMITTEE ON CHILDREN AND DISASTERS.

Subtitle B of title XXVIII of the Public Health Service Act (42 U.S.C. 300hh et seq.) is amended by inserting after section 2811 the end the following:

''SEC. 2811A. NATIONAL ADVISORY COMMITTEE ON CHILDREN AND DISASTERS.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Homeland Security, shall establish an advisory committee to be known as the 'National Advisory Committee on Children and Disasters' (referred to in this section as the 'Advisory Committee').

''(b) DUTIES.—The Advisory Committee shall—

''(1) provide advice and consultation with respect to the activities carried out pursuant to section 2814, as applicable and appropriate;

''(2) evaluate and provide input with respect to the medical and public health needs of children as they relate to preparation for, response to, and recovery from all-hazards; and

''(3) provide advice and consultation to States and territories with respect to State emergency preparedness and response activities and children, including related drills and exercises pursuant to the preparedness goals under section 2802(b).

''(c) ADDITIONAL DUTIES.—The Advisory Committee may provide advice and recommendations to the Secretary with respect to children and the medical and public health grants and cooperative agreements as applicable to preparedness and response activities authorized under this title and title III.

''(d) MEMBERSHIP.—

''(1) IN GENERAL.—The Secretary, in consultation with such other Secretaries as may be appropriate, shall appoint not to exceed 15 members to the Advisory Committee. In appointing such members, the Secretary shall ensure that the total membership of the Advisory Committee is an odd number.

''(2) REQUIRED MEMBERS.—The Secretary, in consultation with such other Secretaries as may be appropriate, may appoint to the Advisory Committee under paragraph (1) such individuals as may be appropriate to perform the duties described in subsections (b) and (c), which may include—

''(A) the Assistant Secretary for Preparedness and Response;

''(B) the Director of the Biomedical Advanced Research and Development Authority;

''(C) the Director of the Centers for Disease Control and Prevention;

''(D) the Commissioner of Food and Drugs;

''(E) the Director of the National Institutes of Health;

''(F) the Assistant Secretary of the Administration for Children and Families;

''(G) the Administrator of the Federal Emergency Management Agency;

''(H) at least two non-Federal health care professionals with expertise in pediatric medical disaster planning, preparedness, response, or recovery;

''(I) at least two representatives from State, local, territories, or tribal agencies with expertise in pediatric disaster planning, preparedness, response, or recovery; and

''(J) representatives from such Federal agencies (such as the Department of Education and the Department of Homeland Security) as determined necessary to fulfill the duties of the Advisory Committee, as established under subsections (b) and (c).

''(e) MEETINGS.—The Advisory Committee shall meet not less than biannually.

''(f) SUNSET.—The Advisory Committee shall terminate on the date that is 5 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011.''.

SEC. 104. MODERNIZATION OF THE NATIONAL DISASTER MEDICAL SYSTEM.

Section 2812 of the Public Health Service Act (42 U.S.C. 300hh–11) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), in clause (i) by inserting '', including at-risk individuals as applicable'' after ''victims of a public health emergency'';

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

(C) by inserting after subparagraph (B), the following:

''(C) CONSIDERATIONS FOR AT-RISK POPULATIONS.—The Secretary shall take steps to ensure that an appropriate specialized and focused range of public health and medical capabilities are represented in the National Disaster Medical System, which take into account the needs of at-risk individuals, in the event of a public health emergency.''.

''(D) ADMINISTRATION.—The Secretary may determine and pay claims for reimbursement for services under subparagraph (A) directly or through contracts that provide for payment in advance or by way of reimbursement.''; and

(2) in subsection (g), by striking ''such sums as may be necessary for each of the fiscal years 2007 through 2011'' and inserting ''$56,000,000 for each of fiscal years 2012 through 2016''.

SEC. 105. CONTINUING THE ROLE OF THE DEPARTMENT OF VETERANS AFFAIRS.

Section 8117(g) of title 38, United States Code, is amended by striking ''such sums as may be necessary to carry out this section for each of fiscal years 2007 through 2011'' and inserting ''$156,500,000 for each of fiscal years 2012 through 2016 to carry out this section''.

TITLE II—OPTIMIZING STATE AND LOCAL ALL-HAZARDS PREPAREDNESS AND RESPONSE

SEC. 201. IMPROVING STATE AND LOCAL PUBLIC HEALTH SECURITY.

(a) COOPERATIVE AGREEMENTS.—Section 319C–1 of the Public Health Service Act (42 U.S.C. 247d–3a) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (A)—

(i) by striking clauses (i) and (ii) and inserting the following:

''(i) a description of the activities such entity will carry out under the agreement to meet the goals identified under section 2802, including with respect to chemical, biological, radiological, or nuclear threats, whether naturally occurring, unintentional, or deliberate;

''(ii) a description of the activities such entity will carry out with respect to pandemic influenza, as a component of the activities carried out under clause (i), and consistent with the requirements of paragraphs (2) and (5) of subsection (g);'';

(ii) in clause (iv), by striking ''and'' at the end; and

(iii) by adding at the end the following:

''(vi) a description of how, as appropriate, the entity may partner with relevant public and private stakeholders in public health emergency preparedness and response;

''(vii) a description of how the entity, as applicable and appropriate, will coordinate with State emergency preparedness and response plans in public health emergency preparedness, including State educational agencies (as defined in section 9101(41) of the Elementary and Secondary Education Act of 1965) and State child care lead agencies (as defined in section 658D of the Child Care and Development Block Grant Act); and

''(viii) in the case of entities that operate on the United States-Mexico border or the

United States-Canada border, a description of the activities such entity will carry out under the agreement that are specific to the border area including disease detection, identification, and investigation, and preparedness and response activities related to emerging diseases and infectious disease outbreaks whether naturally-occurring or due to bioterrorism, consistent with the requirements of this section;''; and

(B) in subparagraph (C), by inserting '', including addressing the needs of at-risk individuals,'' after ''capabilities of such entity'';

(2) in subsection (g)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) include outcome goals representing operational achievements of the National Preparedness Goals developed under section 2802(b) with respect to all-hazards, including chemical, biological, radiological, or nuclear threats; and''; and

(B) in paragraph (2)(A), by adding at the end the following: ''The Secretary shall periodically update, as necessary and appropriate, such pandemic influenza plan criteria and shall require the integration of such criteria into the benchmarks and standards described in paragraph (1).'';

(3) in subsection (i)—

(A) in paragraph (1)(A)—

(i) by striking ''$824,000,000 for fiscal year 2007'' and inserting ''$632,900,000 for fiscal year 2012''; and

(ii) by striking ''such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$632,900,000 for each of fiscal years 2013 through 2016''; and

(B) by adding at the end the following:

''(7) AVAILABILITY OF COOPERATIVE AGREEMENT FUNDS.—

''(A) IN GENERAL.—Amounts provided to an eligible entity under a cooperative agreement under subsection (a) for a fiscal year and remaining unobligated at the end of such year shall remain available to such entity for the next fiscal year for the purposes for which such funds were provided.

''(B) FUNDS CONTINGENT ON ACHIEVING BENCHMARKS.—The continued availability of funds under subparagraph (A) with respect to an entity shall be contingent upon such entity achieving the benchmarks and submitting the pandemic influenza plan as described in subsection (g).''; and

(4) in subsection (j), by striking paragraph (3).

(b) VACCINE TRACKING AND DISTRIBUTION.—Section 319A(e) of the Public Health Service Act (42 U.S.C. 247d–1(e)) is amended by striking ''such sums for each of fiscal years 2007 through 2011'' and inserting ''$30,800,000 for each of fiscal years 2012 through 2016''.

(c) GAO REPORT.—Section 319C–1 of the Public Health Service Act (42 U.S.C. 247d–3a) is amended by adding at the end the following:

''(l) GAO REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011, the Government Accountability Office shall conduct an independent evaluation, and submit to the appropriate committees of Congress a report, concerning Federal programs at the Department of Health and Human Services that support medical and public health preparedness and response programs at the State and local levels.

''(2) CONTENT.—The report described in paragraph (1) shall review and assess—

''(A) the extent to which grant and cooperative agreement requirements and goals have been met by recipients;

''(B) the extent to which such grants and cooperative agreements have supported medical and public health preparedness and response goals pursuant to section 2802(b), as appropriate and applicable;

''(C) whether recipients or the Department of Health and Human Services have identified any factors that may impede a recipient's ability to achieve programmatic goals and requirements; and

''(D) instances in which funds may not have been used appropriately, in accordance with grant and cooperative agreement requirements, and actions taken to address inappropriate expenditures.''.

SEC. 202. HOSPITAL PREPAREDNESS AND MEDICAL SURGE CAPACITY.

(a) ALL-HAZARDS PUBLIC HEALTH AND MEDICAL RESPONSE CURRICULA AND TRAINING.—Section 319F(a)(5)(B) of the Public Health Service Act (42 U.S.C. 247d–6(a)(5)(B)) is amended by striking ''public health or medical'' and inserting ''public health, medical, or dental''.

(b) ENCOURAGING HEALTH PROFESSIONAL VOLUNTEERS.—

(1) EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF VOLUNTEER HEALTH PROFESSIONALS.—Section 319I(k) of the Public Health Service Act (42 U.S.C. 247d–7b(k)) is amended by striking ''$2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2011'' and inserting ''$5,900,000 for each of fiscal years 2012 through 2016''.

(2) VOLUNTEERS.—Section 2813 of the Public Health Service Act (42 U.S.C. 300hh–15) is amended—

(A) in subsection (d)(2), by adding at the end the following: ''Such training exercises shall, as appropriate and applicable, incorporate the needs of at-risk individuals in the event of a public health emergency.''; and

(B) in subsection (i), by striking ''$22,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$11,900,000 for each of fiscal years 2012 through 2016''.

(c) PARTNERSHIPS FOR STATE AND REGIONAL PREPAREDNESS TO IMPROVE SURGE CAPACITY.—Section 319C–2 of the Public Health Service Act (42 U.S.C. 247d–3b) is amended—

(1) in subsection (b)(1)(A)(ii), by striking ''centers, primary'' and inserting ''centers, community health centers, primary'';

(2) by striking subsection (c) and inserting the following:

''(c) USE OF FUNDS.—An award under subsection (a) shall be expended for activities to achieve the preparedness goals described under paragraphs (1), (3), (4), (5), and (6) of section 2802(b) with respect to all-hazards, including chemical, biological, radiological, or nuclear threats.'';

(3) by striking subsection (g) and inserting the following:

''(g) COORDINATION.—

''(1) LOCAL RESPONSE CAPABILITIES.—An eligible entity shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities of relevant local Metropolitan Medical Response Systems, local Medical Reserve Corps, the local Cities Readiness Initiative, and local emergency plans.

''(2) NATIONAL COLLABORATION.—Partnerships consisting of one or more eligible entities under this section may, to the extent practicable, collaborate with other partnerships consisting of one or more eligible entities under this section for purposes of national coordination and collaboration with respect to activities to achieve the preparedness goals described under paragraphs (1), (3), (4), (5), and (6) of section 2802(b).''; and

(4) in subsection (j)—

(A) in paragraph (1), by striking ''$474,000,000 for fiscal year 2007, and such sums as may be necessary for each of fiscal years 2008 through 2011'' and inserting ''$378,000,000 for each of fiscal years 2012 through 2016''; and

(B) by adding at the end the following:

''(4) AVAILABILITY OF COOPERATIVE AGREEMENT FUNDS.—

''(A) IN GENERAL.—Amounts provided to an eligible entity under a cooperative agreement under subsection (a) for a fiscal year and remaining unobligated at the end of such year shall remain available to such entity for the next fiscal year for the purposes for which such funds were provided.

''(B) FUNDS CONTINGENT ON ACHIEVING BENCHMARKS.—The continued availability of funds under subparagraph (A) with respect to an entity shall be contingent upon such entity achieving the benchmarks and submitting the pandemic influenza plan as required under subsection (i).''.

SEC. 203. ENHANCING SITUATIONAL AWARENESS AND BIOSURVEILLANCE.

Section 319D of the Public Health Service Act (42 U.S.C. 247d–4) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting ''poison control centers,'' after ''hospitals,'';

(B) in paragraph (2), by inserting before the period the following: '', allowing for coordination to maximize all-hazards medical and public health preparedness and response and to minimize duplication of effort''; and

(C) in paragraph (3), by inserting before the period the following: ''and update such standards as necessary'';

(2) in subsection (d)—

(A) in the subsection heading, by striking ''PUBLIC HEALTH SITUATIONAL AWARENESS'' and inserting ''MODERNIZING PUBLIC HEALTH SITUATIONAL AWARENESS AND BIOSURVEILLANCE'';

(B) in paragraph (1)—

(i) by striking ''Pandemic and All-Hazards Preparedness Act'' and inserting ''Pandemic and All-Hazards Preparedness Act Reauthorization of 2011''; and

(ii) by inserting '', novel emerging threats,'' after ''disease outbreaks'';

(C) by striking paragraph (2) and inserting the following:

''(2) STRATEGY AND IMPLEMENTATION PLAN.—Not later than 180 days after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011, the Secretary shall submit to the appropriate committees of Congress, a coordinated strategy and an accompanying implementation plan that identifies and demonstrates the measurable steps the Secretary will carry out to—

''(A) develop, implement, and evaluate the network described in paragraph (1), utilizing the elements described in paragraph (3); and

''(B) modernize and enhance biosurveillance activities.'';

(D) in paragraph (3)(D), by inserting ''community health centers, health centers'' after ''poison control,'';

(E) in paragraph (5), by striking subparagraph (A) and inserting the following:

''(A) utilize applicable interoperability standards as determined by the Secretary, and in consultation with the Office of the National Coordinator for Health Information Technology, through a joint public and private sector process;''; and

(F) by adding at the end the following:

''(6) CONSULTATION WITH THE NATIONAL BIODEFENSE SCIENCE BOARD.—In carrying out this section consistent with section 319M, the National Biodefense Science Board shall provide expert advice and guidance, including recommendations, regarding the measurable steps the Secretary should take to modernize and enhance biosurveillance activities pursuant to the efforts of the Department of Health and Humans Services to ensure comprehensive, real-time all-hazards biosurveillance capabilities. In complying with the

preceding sentence, the National Biodefense Science Board shall—

''(A) identify the steps necessary to achieve a national biosurveillance system for human health, with international connectivity, where appropriate, that is predicated on State, regional, and community level capabilities and creates a networked system to allow for two-way information flow between and among Federal, State, and local government public health authorities and clinical health care providers;

''(B) identify any duplicative surveillance programs under the authority of the Secretary, or changes that are necessary to existing programs, in order to enhance and modernize such activities, minimize duplication, strengthen and streamline such activities under the authority of the Secretary, and achieve real-time and appropriate data that relate to disease activity, both human and zoonotic; and

''(C) coordinate with applicable existing advisory committees of the Director of the Centers for Disease Control and Prevention, including such advisory committees consisting of representatives from State, local, and tribal public health authorities and appropriate public and private sector health care entities and academic institutions, in order to provide guidance on public health surveillance activities.'';

(3) in subsection (e)(5), by striking ''4 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act'' and inserting ''3 years after the date of enactment of the Pandemic and All-Hazards Preparedness Act Reauthorization of 2011'';

(4) in subsection (g), by striking ''such sums as may be necessary in each of fiscal years 2007 through 2011'' and inserting ''$160,121,000 for each of fiscal years 2012 through 2016''; and

(5) by adding at the end the following:

''(h) DEFINITION.—For purposes of this section the term 'biosurveillance' means the process of gathering near real-time, biological data that relates to disease activity and threats to human or zoonotic health, in order to achieve early warning and identification of such health threats, early detection and prompt ongoing tracking of health events, and overall situational awareness of disease activity.''.

TITLE III—ENHANCING MEDICAL COUNTERMEASURE REVIEW

SEC. 301. SPECIAL PROTOCOL ASSESSMENT.

Section 505(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(b)(5)(B)) is amended by striking ''size of clinical trials intended'' and all that follows through ''. The sponsor or applicant'' and inserting the following: ''size—

''(i)(I) of clinical trials intended to form the primary basis of an effectiveness claim; or

''(II) in the case where human efficacy studies are not ethical or feasible, of animal and any associated clinical trials which, in combination, are intended to form the primary basis of an effectiveness claim; or

''(ii) with respect to an application for approval of a biological product under section 351(k) of the Public Health Service Act, of any necessary clinical study or studies.

The sponsor or applicant''.

SEC. 302. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.

(a) IN GENERAL.—Section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–3) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''sections 505, 510(k), and 515 of this Act'' and inserting ''any provision of this Act'';

(B) in paragraph (2)(A), by striking ''under a provision of law referred to in such paragraph'' and inserting ''under a provision of law in section 505, 510(k), or 515 of this Act or section 351 of the Public Health Service Act''; and

(C) in paragraph (3), by striking ''a provision of law referred to in such paragraph'' and inserting ''a provision of law referred to in paragraph (2)(A)'';

(2) in subsection (b)—

(A) in the subsection heading, by striking ''EMERGENCY'' and inserting ''EMERGENCY OR THREAT JUSTIFYING EMERGENCY AUTHORIZED USE'';

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''may declare an emergency'' and inserting ''may make a declaration that the circumstances exist'';

(ii) in subparagraph (A), by striking ''specified'';

(iii) in subparagraph (B)—

(I) by striking ''specified''; and

(II) by striking ''; or'' and inserting a semicolon;

(iv) by amending subparagraph (C) to read as follows:

''(C) a determination by the Secretary that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of United States citizens abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or''; and

(v) by adding at the end the following:

''(D) the identification of a material threat pursuant to section 319F–2 of the Public Health Service Act sufficient to affect national security or the health and security of United States citizens living abroad.'';

(C) in paragraph (2)(A)—

(i) by amending clause (ii) to read as follows:

''(ii) a change in the approval status of the product such that the circumstances described in subsection (a)(2) have ceased to exist.'';

(ii) by striking subparagraph (B); and

(iii) by redesignating subparagraph (C) as subparagraph (B);

(D) in paragraph (4), by striking ''advance notice of termination, and renewal under this subsection.'' and inserting '', and advance notice of termination under this subsection. The Secretary shall make any renewal under this subsection available on the Internet Web site of the Food and Drug Administration.''; and

(E) by adding at the end the following:

''(5) EXPLANATION BY SECRETARY.—If an authorization under this section with respect to an unapproved product has been in effect for more than 1 year, the Secretary shall provide in writing to the sponsor of such product, an explanation of the scientific, regulatory, or other obstacles to approval, licensure, or clearance of such product, including specific actions to be taken by the Secretary and the sponsor to overcome such obstacles.'';

(3) in subsection (c)—

(A) in the matter preceding paragraph (1)—

(i) by inserting ''the Assistant Secretary for Preparedness and Response,'' after ''consultation with'';

(ii) by striking ''Health and'' and inserting ''Health, and''; and

(iii) by striking ''circumstances of the emergency involved'' and inserting ''applicable circumstances described in subsection (b)(1)'';

(B) in paragraph (1), by striking ''specified'' and inserting ''referred to''; and

(C) in paragraph (2)(B), by inserting '', taking into consideration the material threat posed by the agent or agents identified in a declaration under subsection (b)(1)(D), if applicable'' after ''risks of the product'';

(4) in subsection (d)(3), by inserting '', to the extent practicable given the circumstances of the emergency,'' after ''including'';

(5) in subsection (e)—

(A) in paragraph (1)(A), by striking ''circumstances of the emergency'' and inserting ''applicable circumstances described in subsection (b)(1)'';

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking ''manufacturer of the product'' and inserting ''person'';

(II) by striking ''circumstances of the emergency'' and inserting ''applicable circumstances described in subsection (b)(1)''; and

(III) by inserting at the end before the period ''or in paragraph (1)(B)'';

(ii) in subparagraph (B)(i), by inserting before the period at the end '', except as provided in section 564A with respect to authorized changes to the product expiration date''; and

(iii) by amending subparagraph (C) to read as follows:

''(C) In establishing conditions under this paragraph with respect to the distribution and administration of the product for the unapproved use, the Secretary shall not impose conditions that would restrict distribution or administration of the product when done solely for the approved use.''; and

(C) by amending paragraph (3) to read as follows:

''(3) GOOD MANUFACTURING PRACTICE; PRESCRIPTION.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the applicable circumstances described in subsection (b)(1)—

''(A) requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501 or 520(f)(1), and including relevant conditions prescribed with respect to the product by an order under section 520(f)(2);

''(B) requirements established under section 503(b); and

''(C) requirements established under section 520(e).'';

(6) in subsection (g)—

(A) in the subsection heading, by inserting ''REVIEW AND'' before ''REVOCATION'';

(B) in paragraph (1), by inserting after the period at the end the following: ''As part of such review, the Secretary shall regularly review the progress made with respect to the approval, licensure, or clearance of—

''(A) an unapproved product for which an authorization was issued under this section; or

''(B) an unapproved use of an approved product for which an authorization was issued under this section.''; and

(C) by amending paragraph (2) to read as follows:

''(2) REVISION AND REVOCATION.—The Secretary may revise or revoke an authorization under this section if—

''(A) the circumstances described under subsection (b)(1) no longer exist;

''(B) the criteria under subsection (c) for issuance of such authorization are no longer met; or

''(C) other circumstances make such revision or revocation appropriate to protect the public health or safety.'';

(7) in subsection (h)(1), by adding after the period at the end the following: ''The Secretary shall make any revisions to an authorization under this section available on the Internet Web site of the Food and Drug Administration.''; and

(8) by adding at the end of subsection (j) the following:

''(4) Nothing in this section shall be construed as authorizing a delay in the review or other consideration by the Food and Drug Administration of any application pending before the Administration for a countermeasure or product referred to in subsection (a).''.

(b) EMERGENCY USE OF MEDICAL PRODUCTS.—Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by inserting after section 564 the following:

''SEC. 564A. EMERGENCY USE OF MEDICAL PRODUCTS.

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PRODUCT.—The term 'eligible product' means a product that—

''(A) is approved or cleared under this chapter or licensed under section 351 of the Public Health Service Act;

''(B)(i) is intended for use to prevent, diagnose, or treat a disease or condition involving a biological, chemical, radiological, or nuclear agent or agents, including a product intended to be used to prevent or treat pandemic influenza; or

''(ii) is intended for use to prevent, diagnose, or treat a serious or life-threatening disease or condition caused by a product described in clause (i); and

''(C) is intended for use during the circumstances under which—

''(i) a determination described in subparagraph (A), (B), or (C) of section 564(b)(1) has been made by the Secretary of Homeland Security, the Secretary of Defense, or the Secretary, respectively; or

''(ii) the identification of a material threat described in subparagraph (D) of section 564(b)(1) has been made pursuant to section 319F–2 of the Public Health Service Act.

''(2) PRODUCT.—The term 'product' means a drug, device, or biological product.

''(b) EXTENSION OF EXPIRATION DATE.—

''(1) AUTHORITY TO EXTEND EXPIRATION DATE.—The Secretary may extend the expiration date of an eligible product in accordance with this subsection.

''(2) EXPIRATION DATE.—For purposes of this subsection, the term 'expiration date' means the date established through appropriate stability testing required by the regulations issued by the Secretary to ensure that the product meets applicable standards of identity, strength, quality, and purity at the time of use.

''(3) EFFECT OF EXTENSION.—Notwithstanding any other provision of this Act or the Public Health Service Act, if the expiration date of an eligible product is extended in accordance with this section, the introduction or delivery for introduction into interstate commerce of such product after the expiration date provided by the manufacturer and within the duration of such extension shall not be deemed to render the product—

''(A) an unapproved product; or

''(B) adulterated or misbranded under this Act.

''(4) DETERMINATIONS BY SECRETARY.—Before extending the expiration date of an eligible product under this subsection, the Secretary shall determine—

''(A) that extension of the expiration date will help protect public health;

''(B) that any extension of expiration is supported by scientific evaluation that is conducted or accepted by the Secretary;

''(C) what changes to the product labeling, if any, are required or permitted, including whether and how any additional labeling communicating the extension of the expiration date may alter or obscure the labeling provided by the manufacturer; and

''(D) that any other conditions that the Secretary deems appropriate have been met.

''(5) SCOPE OF EXTENSION.—With respect to each extension of an expiration date granted under this subsection, the Secretary shall determine—

''(A) the batch, lot, or unit to which such extension shall apply;

''(B) the duration of such extension; and

''(C) any conditions to effectuate such extension that are necessary and appropriate to protect public health or safety.

''(c) CURRENT GOOD MANUFACTURING PRACTICE.—

''(1) IN GENERAL.—The Secretary may, when the circumstances of a domestic, military, or public health emergency or material threat described in subsection (a)(1)(C) so warrant, authorize, with respect to an eligible product, deviations from current good manufacturing practice requirements otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including requirements under section 501 or 520(f)(1) or applicable conditions prescribed with respect to the eligible product by an order under section 520(f)(2).

''(2) EFFECT.—Notwithstanding any other provision of this Act or the Public Health Service Act, an eligible product shall not be considered an unapproved product and shall not be deemed adulterated or misbranded under this Act because, with respect to such product, the Secretary has authorized deviations from current good manufacturing practices under paragraph (1).

''(d) EMERGENCY USE INSTRUCTIONS.—

''(1) IN GENERAL.—The Secretary, acting through an appropriate official within the Department of Health and Human Services, may create and issue emergency use instructions to inform health care providers or individuals to whom an eligible product is to be administered concerning such product's approved, licensed, or cleared conditions of use.

''(2) EFFECT.—Notwithstanding any other provisions of this Act or the Public Health Service Act, a product shall not be considered an unapproved product and shall not be deemed adulterated or misbranded under this Act because of the issuance of emergency use instructions under paragraph (1) with respect to such product or the introduction or delivery for introduction of such product into interstate commerce accompanied by such instructions—

''(A) during an emergency response to an actual emergency that is the basis for a determination described in subsection (a)(1)(C)(i); or

''(B) by a government entity (including a Federal, State, local, and tribal government entity), or a person acting on behalf of such a government entity, in preparation for an emergency response.''.

(c) RISK EVALUATION AND MITIGATION STRATEGIES.—Section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1), is amended—

(1) in subsection (f), by striking paragraph (7); and

(2) by adding at the end the following:

''(k) WAIVER IN PUBLIC HEALTH EMERGENCIES.—The Secretary may waive any requirement of this section with respect to a qualified countermeasure (as defined in section 319F–1(a)(2) of the Public Health Service Act) to which a requirement under this section has been applied, if the Secretary determines that such waiver is required to mitigate the effects of, or reduce the severity of, the circumstances under which—

''(1) a determination described in subparagraph (A), (B), or (C) of section 564(b)(1) has been made by the Secretary of Homeland Security, the Secretary of Defense, or the Secretary, respectively; or

''(2) the identification of a material threat described in subparagraph (D) of section 564(b)(1) has been made pursuant to section 319F–2 of the Public Health Service Act.''.

(d) PRODUCTS HELD FOR EMERGENCY USE.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended by inserting after section 564A, as added by subsection (b), the following:

''SEC. 564B. PRODUCTS HELD FOR EMERGENCY USE.

''It is not a violation of any section of this Act or of the Public Health Service Act for a government entity (including a Federal, State, local, and tribal government entity), or a person acting on behalf of such a government entity, to introduce into interstate commerce a product (as defined in section 564(a)(4)) intended for emergency use, if that product—

''(1) is intended to be held and not used; and

''(2) is held and not used, unless and until that product—

''(A) is approved, cleared, or licensed under section 505, 510(k), or 515 of this Act or section 351 of the Public Health Service Act;

''(B) is authorized for investigational use under section 505 or 520 of this Act or section 351 of the Public Health Service Act; or

''(C) is authorized for use under section 564.''.

SEC. 303. DEFINITIONS.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4) is amended by striking ''The Secretary, in consultation'' and inserting the following:

''(a) DEFINITIONS.—In this section—

''(1) the term 'countermeasure' means a qualified countermeasure, a security countermeasure, and a qualified pandemic or epidemic product;

''(2) the term 'qualified countermeasure' has the meaning given such term in section 319F–1 of the Public Health Service Act;

''(3) the term 'security countermeasure' has the meaning given such term in section 319F–2 of such Act; and

''(4) the term 'qualified pandemic or epidemic product' means a product that meets the definition given such term in section 319F–3 of the Public Health Service Act and—

''(A) that has been identified by the Department of Health and Human Services or the Department of Defense as receiving funding directly related to addressing chemical, biological, radiological or nuclear threats, including pandemic influenza; or

''(B) is included under this paragraph pursuant to a determination by the Secretary.

''(b) GENERAL DUTIES.—The Secretary, in consultation''.

SEC. 304. ENHANCING MEDICAL COUNTERMEASURE ACTIVITIES.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 303, is further amended—

(1) in the section heading, by striking ''**TECHNICAL ASSISTANCE**'' and inserting ''**COUNTERMEASURE DEVELOPMENT, REVIEW, AND TECHNICAL ASSISTANCE**'';

(2) in subsection (b), by striking the subsection heading and all that follows through ''shall establish'' and inserting the following:

''(b) GENERAL DUTIES.—In order to accelerate the development, stockpiling, approval, licensure, and clearance of qualified countermeasures, security countermeasures, and qualified pandemic or epidemic products,

the Secretary, in consultation with the Assistant Secretary for Preparedness and Response, shall—

''(1) ensure the appropriate involvement of Food and Drug Administration personnel in interagency activities related to countermeasure advanced research and development, consistent with sections 319F, 319F–1, 319F–2, 319F–3, and 319L of the Public Health Service Act;

''(2) ensure the appropriate involvement and consultation of Food and Drug Administration personnel in any flexible manufacturing activities carried out under section 319L of the Public Health Service Act, including with respect to meeting regulatory requirements set forth in this Act;

''(3) promote countermeasure expertise within the Food and Drug Administration by—

''(A) ensuring that Food and Drug Administration personnel involved in reviewing countermeasures for approval, licensure, or clearance are informed by the Assistant Secretary for Preparedness and Response on the material threat assessment conducted under section 319F–2 of the Public Health Service Act for the agent or agents for which the countermeasure under review is intended;

''(B) training Food and Drug Administration personnel regarding review of countermeasures for approval, licensure, or clearance;

''(C) holding public meetings at least twice annually to encourage the exchange of scientific ideas; and

''(D) establishing protocols to ensure that countermeasure reviewers have sufficient training or experience with countermeasures;

''(4) maintain teams, composed of Food and Drug Administration personnel with expertise on countermeasures, including specific countermeasures, populations with special clinical needs (including children and pregnant women that may use countermeasures, as applicable and appropriate), classes or groups of countermeasures, or other countermeasure-related technologies and capabilities, that shall—

''(A) consult with countermeasure experts, including countermeasure sponsors and applicants, to identify and help resolve scientific issues related to the approval, licensure, or clearance of countermeasures, through workshops or public meetings;

''(B) improve and advance the science relating to the development of new tools, standards, and approaches to assessing and evaluating countermeasures—

''(i) in order to inform the process for countermeasure approval, clearance, and licensure; and

''(ii) with respect to the development of countermeasures for populations with special clinical needs, including children and pregnant women, in order to meet the needs of such populations, as necessary and appropriate; and

''(5) establish''; and

(3) by adding at the end the following:

''(c) DEVELOPMENT AND ANIMAL MODELING PROCEDURES.—

''(1) AVAILABILITY OF ANIMAL MODEL MEETINGS.—To facilitate the timely development of animal models and support the development, stockpiling, licensure, approval, and clearance of countermeasures, the Secretary shall, not later than 180 days after the enactment of this subsection, establish a procedure by which a sponsor or applicant that is developing a countermeasure for which human efficacy studies are not ethical or practicable, and that has an approved investigational new drug application or investigational device exemption, may request and receive—

''(A) a meeting to discuss proposed animal model development activities; and

''(B) a meeting prior to initiating pivotal animal studies.

''(2) PEDIATRIC MODELS.—To facilitate the development and selection of animal models that could translate to pediatric studies, any meeting conducted under paragraph (1) shall include discussion of animal models for pediatric populations, as appropriate.

''(d) REVIEW AND APPROVAL OF COUNTERMEASURES.—

''(1) MATERIAL THREAT.—When evaluating an application or submission for approval, licensure, or clearance of a countermeasure, the Secretary shall take into account the material threat posed by the chemical, biological, radiological, or nuclear agent or agents identified under section 319F–2 of the Public Health Service Act for which the countermeasure under review is intended.

''(2) REVIEW EXPERTISE.—When practicable and appropriate, teams of Food and Drug Administration personnel reviewing applications or submissions described under paragraph (1) shall include a reviewer with sufficient training or experience with countermeasures pursuant to the protocols established under subsection (b)(3)(D).''.

SEC. 305. REGULATORY MANAGEMENT PLANS.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 304, is further amended by adding at the end the following:

''(e) REGULATORY MANAGEMENT PLAN.—

''(1) DEFINITION.—In this subsection, the term 'eligible countermeasure' means—

''(A) a security countermeasure with respect to which the Secretary has entered into a procurement contract under section 319F–2(c) of the Public Health Service Act; or

''(B) a countermeasure with respect to which the Biomedical Advanced Research and Development Authority has provided funding under section 319L of the Public Health Service Act for advanced research and development.

''(2) REGULATORY MANAGEMENT PLAN PROCESS.—The Secretary, in consultation with the Assistant Secretary for Preparedness and Response and the Director of the Biomedical Advanced Research and Development Authority, shall establish a formal process for obtaining scientific feedback and interactions regarding the development and regulatory review of eligible countermeasures by facilitating the development of written regulatory management plans in accordance with this subsection.

''(3) SUBMISSION OF REQUEST AND PROPOSED PLAN BY SPONSOR OR APPLICANT.—

''(A) IN GENERAL.—A sponsor or applicant of an eligible countermeasure may initiate the process described under paragraph (2) upon submission of written request to the Secretary. Such request shall include a proposed regulatory management plan.

''(B) TIMING OF SUBMISSION.—A sponsor or applicant may submit a written request under subparagraph (A) after the eligible countermeasure has an investigational new drug or investigational device exemption in effect.

''(C) RESPONSE BY SECRETARY.—The Secretary shall direct the Food and Drug Administration, upon submission of a written request by a sponsor or applicant under subparagraph (A), to work with the sponsor or applicant to agree on a regulatory management plan within a reasonable time not to exceed 90 days. If the Secretary determines that no plan can be agreed upon, the Secretary shall provide to the sponsor or applicant, in writing, the scientific or regulatory rationale why such agreement cannot be reached.

''(4) PLAN.—The content of a regulatory management plan agreed to by the Secretary and a sponsor or applicant shall include—

''(A) an agreement between the Secretary and the sponsor or applicant regarding developmental milestones that will trigger responses by the Secretary as described in subparagraph (B);

''(B) performance targets and goals for timely and appropriate responses by the Secretary to the triggers described under subparagraph (A), including meetings between the Secretary and the sponsor or applicant, written feedback, decisions by the Secretary, and other activities carried out as part of the development and review process; and

''(C) an agreement on how the plan shall be modified, if needed.

''(5) MILESTONES AND PERFORMANCE TARGETS.—The developmental milestones described in paragraph (4)(A) and the performance targets and goals described in paragraph (4)(B) shall include—

''(A) feedback from the Secretary regarding the data required to support the approval, clearance, or licensure of the eligible countermeasure involved;

''(B) feedback from the Secretary regarding the data necessary to inform any authorization under section 564;

''(C) feedback from the Secretary regarding the data necessary to support the positioning and delivery of the eligible countermeasure, including to the Strategic National Stockpile;

''(D) feedback from the Secretary regarding the data necessary to support the submission of protocols for review under section 505(b)(5)(B);

''(E) feedback from the Secretary regarding any gaps in scientific knowledge that will need resolution prior to approval, licensure, or clearance of the eligible countermeasure, and plans for conducting the necessary scientific research;

''(F) identification of the population for which the countermeasure sponsor or applicant seeks approval, licensure, or clearance, and the population for which desired labeling would not be appropriate, if known; and

''(G) as necessary and appropriate, and to the extent practicable, a plan for demonstrating safety and effectiveness in pediatric populations, and for developing pediatric dosing, formulation, and administration with respect to the eligible countermeasure, provided that such plan would not delay authorization under section 564, approval, licensure, or clearance for adults.

''(6) PRIORITIZATION.—If the Commissioner of Food and Drugs determines that resources are not available to establish regulatory management plans under this section for all eligible countermeasures for which a request is submitted under paragraph (3)(A), the Director of the Biomedical Advanced Research and Development Authority, in consultation with the Commissioner of Food and Drugs, shall prioritize which eligible countermeasures may receive regulatory managements plans, and in doing so shall give priority to eligible countermeasures that are security countermeasures.''.

SEC. 306. REPORT.

Section 565 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb–4), as amended by section 305, is further amended by adding at the end the following:

''(f) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this subsection, and annually thereafter, the Secretary shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that details the countermeasure development and review activities

of the Food and Drug Administration, including—

''(1) with respect to the development of new tools, standards, and approaches to assess and evaluate countermeasures—

''(A) the identification of the priorities of the Food and Drug Administration and the progress made on such priorities; and

''(B) the identification of scientific gaps that impede the development or approval, licensure, or clearance of countermeasures for populations with special clinical needs, including children and pregnant women, and the progress made on resolving these challenges;

''(2) with respect to countermeasures for which a regulatory management plan has been agreed upon under subsection (e), the extent to which the performance targets and goals set forth in subsection (e)(4)(B) and the regulatory management plan has been met, including, for each such countermeasure—

''(A) whether the regulatory management plan was completed within the required timeframe, and the length of time taken to complete such plan;

''(B) whether the Secretary adhered to the timely and appropriate response times set forth in such plan; and

''(C) explanations for any failure to meet such performance targets and goals;

''(3) the number of regulatory teams established pursuant to subsection (b)(4), the number of products, classes of products, or technologies assigned to each such team, and the number of, type of, and any progress made as a result of consultations carried out under subsection (b)(4)(A);

''(4) an estimate of resources obligated to countermeasure development and regulatory assessment, including Center specific objectives and accomplishments;

''(5) the number of countermeasure applications submitted, the number of countermeasures approved, licensed, or cleared, the status of remaining submitted applications, and the number of each type of authorization issued pursuant to section 564; and

''(6) the number of written requests for a regulatory management plan submitted under subsection (e)(3)(A), the number of regulatory management plans developed, and the number of such plans developed for security countermeasures.''.

SEC. 307. PEDIATRIC MEDICAL COUNTERMEASURES.

(a) PEDIATRIC STUDIES OF DRUGS.—Section 505A of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355a) is amended—

(1) in subsection (d), by adding at the end the following:

''(5) CONSULTATION.—With respect to a drug that is a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act), a security countermeasure (as defined in section 319F–2 of the Public Health Service Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of the Public Health Service Act), the Secretary shall solicit input from the Assistant Secretary for Preparedness and Response regarding the need for and, from the Director of the Biomedical Advanced Research and Development Authority regarding the conduct of, pediatric studies under this section.''; and

(2) in subsection (n)(1), by adding at the end the following:

''(C) For a drug that is a qualified countermeasure (as defined in section 319F–1 of the Public Health Service Act), a security countermeasure (as defined in section 319F–2 of the Public Health Service Act), or a qualified pandemic or epidemic product (as defined in section 319F–3 of such Act), in addition to any action with respect to such drug under subparagraph (A) or (B), the Secretary shall notify the Assistant Secretary for Preparedness and Response and the Director of the Biomedical Advanced Research and Development Authority of all pediatric studies in the written request issued by the Commissioner of Food and Drugs.''.

(b) ADDITION TO PRIORITY LIST CONSIDERATIONS.—Section 409I of the Public Health Service Act (42 U.S.C. 284m) is amended—

(1) by striking subsection (a)(2) and inserting the following:

''(2) CONSIDERATION OF AVAILABLE INFORMATION.—In developing and prioritizing the list under paragraph (1), the Secretary—

''(A) shall consider—

''(i) therapeutic gaps in pediatrics that may include developmental pharmacology, pharmacogenetic determinants of drug response, metabolism of drugs and biologics in children, and pediatric clinical trials;

''(ii) particular pediatric diseases, disorders or conditions where more complete knowledge and testing of therapeutics, including drugs and biologics, may be beneficial in pediatric populations; and

''(iii) the adequacy of necessary infrastructure to conduct pediatric pharmacological research, including research networks and trained pediatric investigators; and

''(B) may consider the availability of qualified countermeasures (as defined in section 319F–1), security countermeasures (as defined in section 319F–2), and qualified pandemic or epidemic products (as defined in section 319F–3) to address the needs of pediatric populations, in consultation with the Assistant Secretary for Preparedness and Response, consistent with the purposes of this section.''; and

(2) in subsection (b), by striking ''subsection (a)'' and inserting ''paragraphs (1) and (2)(A) of subsection (a)''.

(c) ADVICE AND RECOMMENDATIONS OF THE PEDIATRIC ADVISORY COMMITTEE REGARDING COUNTERMEASURES FOR PEDIATRIC POPULATIONS.—Subsection (b)(2) of section 14 of the Best Pharmaceuticals for Children Act (42 U.S.C. 284m note) is amended—

(1) in subparagraph (C), by striking the period and inserting ''; and''; and

(2) by adding at the end the following:

''(D) the development of countermeasures (as defined in section 565(a) of the Federal Food, Drug, and Cosmetic Act) for pediatric populations.''.

TITLE IV—ACCELERATING MEDICAL COUNTERMEASURE ADVANCED RESEARCH AND DEVELOPMENT

SEC. 401. BIOSHIELD.

(a) REAUTHORIZATION OF THE SPECIAL RESERVE FUND.—Section 319F–2(c) of the Public Health Service Act (42 U.S.C. 247d–6b(c)) is amended by adding at the end the following:

''(11) REAUTHORIZATION OF THE SPECIAL RESERVE FUND.—In addition to amounts otherwise appropriated, there are authorized to be appropriated for the special reserve fund, $2,800,000,000 for the fiscal years 2014 through 2018.

''(12) REPORT.—Not later than 30 days after any date on which the Secretary determines that the amount of funds in the special reserve fund available for procurement is less than $1,500,000,000, the Secretary shall submit to the appropriate committees of Congress a report detailing the amount of such funds available for procurement and the impact such reduction in funding will have—

''(A) in meeting the security countermeasure needs identified under this section; and

''(B) on the biennial Public Health Emergency Medical Countermeasures Enterprise and Strategy Implementation Plan (pursuant to section 2811(d)).''.

(b) PROCUREMENT OF COUNTERMEASURES.—Section 319F–2(c) of the Public Health Service Act (42 U.S.C. 247d–6b(c)) is amended—

(1) in paragraph (1)(B)(i)(III)(bb), by striking ''eight years'' and inserting ''10 years'';

(2) in paragraph (5)(B)(ii), by striking ''eight years'' and inserting ''10 years'';

(3) in paragraph (7)(C)—

(A) in clause (i)(I), by inserting ''including advanced research and development,'' after ''as may reasonably be required,'';

(B) in clause (ii)—

(i) in subclause (III), by striking ''eight years'' and inserting ''10 years''; and

(ii) by striking subclause (IX) and inserting the following:

''(IX) CONTRACT TERMS.—The Secretary, in any contract for procurement under this section—

''(aa) may specify—

''(AA) the dosing and administration requirements for the countermeasure to be developed and procured;

''(BB) the amount of funding that will be dedicated by the Secretary for advanced research, development, and procurement of the countermeasure; and

''(CC) the specifications the countermeasure must meet to qualify for procurement under a contract under this section; and

''(bb) shall provide a clear statement of defined Government purpose limited to uses related to a security countermeasure, as defined in paragraph (1)(B).''; and

(C) by adding at the end the following:

''(viii) FLEXIBILITY.—In carrying out this section, the Secretary may, consistent with the applicable provisions of this section, enter into contracts and other agreements that are in the best interest of the Government in meeting identified security countermeasure needs, including with respect to reimbursement of the cost of advanced research and development as a reasonable, allowable, and allocable direct cost of the contract involved.'';

(4) in paragraph (9)(B), by inserting before the period the following: '', except that this subparagraph shall not be construed to prohibit the use of such amounts as otherwise authorized in this title''; and

(5) in paragraph (10), by adding at the end the following:

''(C) ADVANCED RESEARCH AND DEVELOPMENT.—For purposes of this paragraph, the term 'advanced research and development' shall have the meaning given such term in section 319L(a).''.

SEC. 402. BIOMEDICAL ADVANCED RESEARCH AND DEVELOPMENT AUTHORITY.

(a) DUTIES.—Section 319L(c)(4) of the Public Health Service Act (42 U.S.C. 247d–7e(c)(4)) is amended—

(1) in subparagraph (B)(iii), by inserting ''(which may include advanced research and development for purposes of fulfilling requirements under the Federal Food, Drug, and Cosmetic Act or section 351 of this Act)'' after ''development''; and

(2) in subparagraph (D)(iii), by striking ''and vaccine manufacturing technologies'' and inserting ''vaccine manufacturing technologies, dose sparing technologies, efficacy increasing technologies, and platform technologies''.

(b) STRATEGIC PUBLIC-PRIVATE PARTNERSHIP.—Section 319L(c)(4) of the Public Health Service Act (42 U.S.C. 247d–7e(c)(4)) is amended by adding at the end the following:

''(E) STRATEGIC INVESTOR.—

''(i) IN GENERAL.—To support the purposes described in paragraph (2), the Secretary, acting through the Director of BARDA, may enter into an agreement (including through the use of grants, contracts, cooperative agreements, or other transactions as described in paragraph (5)) with an independent, non-profit entity to—

''(I) foster and accelerate the development and innovation of medical countermeasures

and technologies that may assist advanced research and development of qualified countermeasures and qualified pandemic or epidemic products, including strategic investment through the use of venture capital practices and methods;

''(II) promote the development of new and promising technologies that address urgent medical countermeasure needs, as identified by the Secretary;

''(III) address unmet public health needs that are directly related to medical countermeasure requirements, such as novel antimicrobials for multidrug resistant organisms and multiuse platform technologies for diagnostics, prophylaxis, vaccines, and therapeutics; and

''(IV) provide expert consultation and advice to foster viable medical countermeasure innovators, including helping qualified countermeasure innovators navigate unique industry challenges with respect to developing chemical, biological, radiological, and nuclear countermeasure products.

''(ii) ELIGIBILITY.—

''(I) IN GENERAL.—To be eligible to enter into an agreement under clause (i) an entity shall—

''(aa) be an independent, non-profit entity not otherwise affiliated with the Department of Health and Human Services;

''(bb) have a demonstrated record of being able to create linkages between innovators and investors and leverage such partnerships and resources for the purpose of addressing identified strategic needs of the Federal Government;

''(cc) have experience in promoting novel technology innovation;

''(dd) be problem driven and solution focused based on the needs, requirements, and problems identified by the Secretary under clause (iv);

''(ee) demonstrate the ability, or the potential ability, to promote the development of medical countermeasure products; and

''(ff) demonstrate expertise, or the capacity to develop or acquire expertise, related to technical and regulatory considerations with respect to medical countermeasures.

''(II) PARTNERING EXPERIENCE.—In selecting an entity with which to enter into an agreement under clause (i), the Secretary shall place a high value on the demonstrated experience of the entity in partnering with the Federal Government to meet identified strategic needs.

''(iii) NOT AGENCY.—An entity that enters into an agreement under clause (i) shall not be deemed to be a Federal agency for any purpose, including for any purpose under title 5, United States Code.

''(iv) DIRECTION.—Pursuant to an agreement entered into under this subparagraph, the Secretary, acting through the Director of BARDA, shall provide direction to the entity that enters into an agreement under clause (i). As part of this agreement the Director of BARDA shall—

''(I) communicate the medical countermeasure needs, requirements, and problems to be addressed by the entity under the agreement;

''(II) develop a description of work to be performed by the entity under the agreement;

''(III) provide technical feedback and appropriate oversight over work carried out by the entity under the agreement, including subsequent development and partnerships consistent with the needs and requirements set forth in this subparagraph;

''(IV) ensure fair consideration of products developed under the agreement in order to maintain competition to the maximum practical extent, as applicable and appropriate under applicable provisions of this section; and

''(V) ensure, as a condition of the agreement—

''(aa) a comprehensive set of policies that demonstrate a commitment to transparency and accountability;

''(bb) protection against conflicts of interest through a comprehensive set of policies that address potential conflicts of interest, ethics, disclosure, and reporting requirements;

''(cc) that the entity provides monthly accounting on the use of funds provided under such agreement; and

''(dd) that the entity provides on a quarterly basis, reports regarding the progress made toward meeting the identified needs set forth in the agreement.

''(v) SUPPLEMENT NOT SUPPLANT.—Activities carried out under this subparagraph shall supplement, and not supplant, other activities carried out under this section.

''(vi) NO ESTABLISHMENT OF ENTITY.—To prevent unnecessary duplication and target resources effectively, nothing in this subparagraph shall be construed to authorize the Secretary to establish within the Department of Health and Human Services a strategic investor entity.

''(vii) TRANSPARENCY AND OVERSIGHT.—Upon request, the Secretary shall provide to Congress the information provided to the Secretary under clause (iv)(V)(dd).

''(viii) INDEPENDENT EVALUATION.—Not later than 4 years after the date of enactment of this subparagraph, the Government Accountability Office shall conduct an independent evaluation, and submit to the Secretary and the appropriate committees of Congress a report, concerning the activities conducted under this subparagraph. Such report shall include recommendations with respect to any agreement or activities carried out pursuant to this subparagraph.

''(ix) SUNSET.—This subparagraph shall have no force or effect after September 30, 2016.''.

(c) TRANSACTION AUTHORITIES.—Section 319L(c)(5) of the Public Health Service Act (42 U.S.C. 247d–7e(c)(5)) is amended by adding at the end the following:

''(G) GOVERNMENT PURPOSE.—In awarding contracts, grants, and cooperative agreements under this section, the Secretary shall provide a clear statement of defined Government purpose related to activities included in subsection (a)(6)(B) for a qualified countermeasure or qualified pandemic or epidemic product.''.

(d) FUND.—Paragraph (2) of section 319L(d) of the Public Health Service Act (42 U.S.C. 247d–7e(d)(2)) is amended to read as follows:

''(2) FUNDING.—To carry out the purposes of this section, there is authorized to be appropriated to the Fund $415,000,000 for each of fiscal years 2012 through 2016, such amounts to remain available until expended.''.

(e) CONTINUED INAPPLICABILITY OF CERTAIN PROVISIONS.—Section 319L(e)(1)(C) of the Public Health Service Act (42 U.S.C. 247d–7e(e)(1)(C)) is amended by striking ''7 years'' and inserting ''10 years''.

(f) EXTENSION OF LIMITED ANTITRUST EXEMPTION.—Section 405(b) of the Pandemic and All-Hazards Preparedness Act (42 U.S.C. 247d–6a note) is amended by striking ''6-year'' and inserting ''10-year''.

(g) INDEPENDENT EVALUATION.—Section 319L of the Public Health Service Act (42 U.S.C. 247d–7e) is amended by adding at the end the following:

''(f) INDEPENDENT EVALUATION.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Government Accountability Office shall conduct an independent evaluation of the activities carried out to facilitate flexible manufacturing capacity pursuant to this section.

''(2) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Government Accountability Office shall submit to the appropriate committees of Congress a report concerning the results of the evaluation conducted under paragraph (1). Such report shall review and assess—

''(A) the extent to which flexible manufacturing capacity under this section is dedicated to chemical, biological, radiological, and nuclear threats;

''(B) the activities supported by flexible manufacturing initiatives; and

''(C) the ability of flexible manufacturing activities carried out under this section to—

''(i) secure and leverage leading technical expertise with respect to countermeasure advanced research, development, and manufacturing processes; and

''(ii) meet the surge manufacturing capacity needs presented by novel and emerging threats, including chemical, biological, radiological and nuclear agents.''.

(h) DEFINITIONS.—

(1) QUALIFIED COUNTERMEASURE.—Section 319F–1(a)(2)(A) of the Public Health Service Act (42 U.S.C. 247d–6a(a)(2)(A)) is amended—

(A) in the matter preceding clause (i), by striking ''to—'' and inserting ''—'';

(B) in clause (i)—

(i) by striking ''diagnose'' and inserting ''to diagnose''; and

(ii) by striking ''; or'' and inserting a semicolon;

(C) in clause (ii)—

(i) by striking ''diagnose'' and inserting ''to diagnose''; and

(ii) by striking the period at the end and inserting ''; or''; and

(D) by adding at the end the following:

''(iii) is a product or technology intended to enhance the use or effect of a drug, biological product, or device described in clause (i) or (ii).''.

(2) QUALIFIED PANDEMIC OR EPIDEMIC PRODUCT.—Section 319F–3(i)(7)(A) of the Public Health Service Act (42 U.S.C. 247d–6d(i)(7)(A)) is amended—

(A) in clause (i)(II), by striking ''; or'' and inserting '';'';

(B) in clause (ii), by striking ''; and'' and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) a product or technology intended to enhance the use or effect of a drug, biological product, or device described in clause (i) or (ii); and''.

(3) TECHNICAL AMENDMENTS.—Section 319F–3(i) of the Public Health Service Act (42 U.S.C. 247d–6d(i)) is amended—

(A) in paragraph (1)(C), by inserting '', 564A, or 564B'' after ''564''; and

(B) in paragraph (7)(B)(iii), by inserting '', 564A, or 564B'' after ''564''.

SEC. 403. STRATEGIC NATIONAL STOCKPILE.

(a) IN GENERAL.—Section 319F–2 of the Public Health Service Act (42 U.S.C. 247d–6b) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ''consistent with section 2811'' before ''by the Secretary to be appropriate''; and

(ii) by inserting before the period at the end the following: ''and shall submit such review annually to the appropriate Congressional committees of jurisdiction to the extent that disclosure of such information does not compromise national security''; and

(B) in paragraph (2)—

(i) by redesignating subparagraphs (E) through (H) as subparagraphs (F) through (I), respectively; and

(ii) by inserting after subparagraph (D), the following:

''(E) identify and address the potential depletion and ensure appropriate replenishment of medical countermeasures, including those currently in the stockpile;''; and

(2) in subsection (f)(1), by striking ''$640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006'' and inserting ''$522,486,000 for each of fiscal years 2012 through 2016''.

(b) REPORT ON POTASSIUM IODIDE.—Not later than 270 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the appropriate Committees of Congress a report regarding the stockpiling of potassium iodide. Such report shall include—

(1) an assessment of the availability of potassium iodide at Federal, State, and local levels; and

(2) a description of the extent to which such activities and policies provide public health protection in the event of a nuclear incident, whether unintentional or deliberate, including an act of terrorism.

SEC. 404. NATIONAL BIODEFENSE SCIENCE BOARD.

Section 319M(a) of the Public Health Service Act (42 U.S.C. 247d–f(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (D)—

(i) in the matter preceding clause (i), by striking ''five'' and inserting ''six'';

(ii) in clause (i), by striking ''and'' at the end;

(iii) in clause (ii), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

''(iii) one such member shall be an individual with pediatric subject matter expertise; and

''(iv) one such member shall be a State, tribal, territorial, or local public health official.''; and

(B) by adding at the end the following flush sentence:

''Nothing in this paragraph shall preclude a member of the Board from satisfying two or more of the requirements described in subparagraph (D).'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) provide any recommendation, finding, or report provided to the Secretary under this paragraph to the appropriate committees of Congress.''; and

(3) in paragraph (8), by adding at the end the following: ''Such chairperson shall serve as the deciding vote in the event that a deciding vote is necessary with respect to voting by members of the Board.''.

HONORING THE LIFE AND LEGACY OF THE HONORABLE DONALD M. PAYNE

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 390.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 390) honoring the life and legacy of the Honorable Donald M. Payne.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

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

The resolution (S. Res. 390) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 390

Whereas the Honorable Donald M. Payne was born in Newark, New Jersey on July 16, 1934, graduated from Barringer High School in Newark and Seton Hall University in South Orange, New Jersey, and pursued graduate studies at Springfield College in Massachusetts;

Whereas the Honorable Donald M. Payne was an educator in the Newark and Passaic, New Jersey public schools and was an executive at Prudential Financial and at Urban Data Systems Inc;

Whereas the Honorable Donald M. Payne became the first African American national president of the YMCA in 1970 and served as Chairman of the World Refugee and Rehabilitation Committee of the YMCA from 1973 to 1981;

Whereas the Honorable Donald M. Payne served 3 terms on the Essex County Board of Chosen Freeholders and 3 terms on the Newark Municipal Council;

Whereas, in 1988, the Honorable Donald M. Payne became the first African American elected to the United States House of Representatives from the State of New Jersey;

Whereas the people of New Jersey overwhelmingly reelected the Honorable Donald M. Payne 11 times, most recently in 2010, when the Honorable Donald M. Payne was elected to represent the Tenth Congressional District of New Jersey for a 12th term;

Whereas the Honorable Donald M. Payne was a tireless advocate for his constituents, bringing significant economic development to Essex, Hudson, and Union Counties in New Jersey;

Whereas, as a senior member of the Committee on Education and the Workforce of the House of Representatives, the Honorable Donald M. Payne was a leading advocate for public schools, college affordability, and workplace protections;

Whereas, as a senior member of the Committee on Foreign Affairs of the House of Representatives, the Chairman and Ranking Member of the Subcommittee on Africa, Global Health, and Human Rights, and a member of the Subcommittee on the Western Hemisphere, the Honorable Donald M. Payne led efforts to restore democracy and human rights around the world, including in Northern Ireland and Sudan;

Whereas the Honorable Donald M. Payne was a leader in the field of global health, cofounding the Malaria Caucus, and helping to secure passage of a bill authorizing $50,000,000 for the prevention and treatment of HIV/AIDS, tuberculosis, and malaria;

Whereas the Honorable Donald M. Payne served as Chairman of the Congressional Black Caucus Foundation and previously as Chairman of the Congressional Black Caucus;

Whereas, in March 2012, the United States Agency for International Development launched the Donald M. Payne Fellowship Program to attract outstanding young people to careers in international development;

Whereas the Honorable Donald M. Payne served on the boards of directors of the National Endowment for Democracy, TransAfrica, the Discovery Channel Global Education Partnership, the Congressional Award Foundation, the Boys and Girls Clubs of Newark, the Newark Day Center, and the Newark YMCA;

Whereas the Honorable Donald M. Payne was the recipient of numerous honors and awards, including honorary doctorates from multiple universities;

Whereas the Honorable Donald M. Payne passed away on March 6, 2012, and is survived by 3 children, 4 grandchildren, and 1 great-grandchild; and

Whereas the Honorable Donald M. Payne's long history of service will have an enduring impact on people in New Jersey, across the United States, and around the world: Now, therefore, be it

Resolved, That the Senate—

(1) expresses profound sorrow at the death of the Honorable Donald M. Payne, United States Representative for the Tenth Congressional District of New Jersey;

(2) conveys the condolences of the Senate to the family of the Honorable Donald M. Payne; and

(3) respectfully requests that the Secretary of the Senate transmit a copy of this resolution to the House of Representatives and the family of the Honorable Donald M. Payne.

DISCHARGE AND REFERRAL

Mr. REID. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2152, the Syria Democracy Transition Act of 2012, and the bill be referred to the Committee on Foreign Relations.

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

MEASURE READ THE FIRST TIME—S. 2173

Mr. REID. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows:

A bill (S. 2173) to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

Mr. REID. I ask for a second reading in order to place the bill on the calendar under rule XIV but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive a second reading on the next legislative day.

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, March 7, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

ORDERS FOR THURSDAY, MARCH 8, 2012

Mr. REID. Mr. President, I ask unanimous consent that when the Senate

completes its business today, it adjourn until Thursday, March 8, 2012, at 9:30 a.m; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate proceed to a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, and the majority will control the first half and the Republicans the final half; that following morning business, the Senate will resume consideration of S. 1813, the surface transportation bill.

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

PROGRAM

Mr. REID. Mr. President, so everyone understands, we have reached agreement to complete action on the surface transportation bill. Under the order we just entered, we can finish this tomorrow. It is a huge job. We have 30 amendments we have to dispose of, so there is no question that Senators should expect a number of votes tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask that it adjourn under the previous order.

There being no objection, the Senate, at 10:28 p.m., adjourned until Thursday, March 8, 2012, at 9:30 a.m.